

AN ACT

To amend sections 119.12, 4715.03, 4715.031, 4715.06, 4715.14, 4715.141, 4715.30, and 4753.06 and to enact sections 4715.032, 4715.033, 4715.034, 4715.035, 4715.036, 4715.037, 4715.038, 4715.039, 4715.0310, 4753.091, and 5111.0211 of the Revised Code and to contingently amend Section 3 of Sub. H.B. 190 of the 128th General Assembly to modify the laws governing investigations and hearings conducted by the State Dental Board, to modify the laws specifying when certain continuing education requirements for dental hygienists are applicable, to modify the laws governing the licensure of audiologists and speech-language pathologists, to modify the laws governing appeals of administrative adjudications, and to specify a situation in which a nursing facility is not required to submit a Medicaid claim for Medicare cost-sharing expenses.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 119.12, 4715.03, 4715.031, 4715.06, 4715.14, 4715.141, 4715.30, and 4753.06 be amended and sections 4715.032, 4715.033, 4715.034, 4715.035, 4715.036, 4715.037, 4715.038, 4715.039, 4715.0310, 4753.091, and 5111.0211 of the Revised Code be enacted to read as follows:

Sec. 119.12. Any party adversely affected by any order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, or denying the issuance or renewal of a license or registration of a licensee, or revoking or suspending a license, or allowing the payment of a forfeiture under section 4301.252 of the Revised Code may appeal from the order of the agency to the court of common pleas of the county in which the place of business of the licensee is located or the county in which the

licensee is a resident, except that appeals from decisions of the liquor control commission, the state medical board, state chiropractic board, and board of nursing shall be to the court of common pleas of Franklin county. If any party appealing from the order is not a resident of and has no place of business in this state, the party may appeal to the court of common pleas of Franklin county.

Any party adversely affected by any order of an agency issued pursuant to any other adjudication may appeal to the court of common pleas of Franklin county, except that appeals from orders of the fire marshal issued under Chapter 3737. of the Revised Code may be to the court of common pleas of the county in which the building of the aggrieved person is located and except that appeals under division (B) of section 124.34 of the Revised Code from a decision of the state personnel board of review or a municipal or civil service township civil service commission shall be taken to the court of common pleas of the county in which the appointing authority is located or, in the case of an appeal by the department of rehabilitation and correction, to the court of common pleas of Franklin county.

This section does not apply to appeals from the department of taxation.

Any party desiring to appeal shall file a notice of appeal with the agency setting forth the order appealed from and ~~the grounds of the party's appeal stating that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law.~~ The notice of appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. ~~A copy of the~~ The notice of appeal shall also be filed by the appellant with the court. In filing a notice of appeal with the agency or court, the notice that is filed may be either the original notice or a copy of the original notice. Unless otherwise provided by law relating to a particular agency, notices of appeal shall be filed within fifteen days after the mailing of the notice of the agency's order as provided in this section. For purposes of this paragraph, an order includes a determination appealed pursuant to division (C) of section 119.092 of the Revised Code. The amendments made to this paragraph by Sub. H.B. 215 of the 128th general assembly are procedural, and this paragraph as amended by those amendments shall be applied retrospectively to all appeals pursuant to this paragraph filed before the effective date of those amendments but not earlier than May 7, 2009, which was the date the supreme court of Ohio released its opinion and judgment in *Medcorp, Inc. v. Ohio Dep't. of Job and Family Servs.* (2009), 121 Ohio St.3d 622.

The filing of a notice of appeal shall not automatically operate as a

suspension of the order of an agency. If it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal, the court may grant a suspension and fix its terms. If an appeal is taken from the judgment of the court and the court has previously granted a suspension of the agency's order as provided in this section, the suspension of the agency's order shall not be vacated and shall be given full force and effect until the matter is finally adjudicated. No renewal of a license or permit shall be denied by reason of the suspended order during the period of the appeal from the decision of the court of common pleas. In the case of an appeal from the state medical board or state chiropractic board, the court may grant a suspension and fix its terms if it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal and the health, safety, and welfare of the public will not be threatened by suspension of the order. This provision shall not be construed to limit the factors the court may consider in determining whether to suspend an order of any other agency pending determination of an appeal.

The final order of adjudication may apply to any renewal of a license or permit which has been granted during the period of the appeal.

Notwithstanding any other provision of this section, any order issued by a court of common pleas or a court of appeals suspending the effect of an order of the liquor control commission issued pursuant to Chapter 4301. or 4303. of the Revised Code that suspends, revokes, or cancels a permit issued under Chapter 4303. of the Revised Code or that allows the payment of a forfeiture under section 4301.252 of the Revised Code shall terminate not more than six months after the date of the filing of the record of the liquor control commission with the clerk of the court of common pleas and shall not be extended. The court of common pleas, or the court of appeals on appeal, shall render a judgment in that matter within six months after the date of the filing of the record of the liquor control commission with the clerk of the court of common pleas. A court of appeals shall not issue an order suspending the effect of an order of the liquor control commission that extends beyond six months after the date on which the record of the liquor control commission is filed with a court of common pleas.

Notwithstanding any other provision of this section, any order issued by a court of common pleas suspending the effect of an order of the state medical board or state chiropractic board that limits, revokes, suspends, places on probation, or refuses to register or reinstate a certificate issued by the board or reprimands the holder of the certificate shall terminate not more than fifteen months after the date of the filing of a notice of appeal in the

court of common pleas, or upon the rendering of a final decision or order in the appeal by the court of common pleas, whichever occurs first.

Within thirty days after receipt of a notice of appeal from an order in any case in which a hearing is required by sections 119.01 to 119.13 of the Revised Code, the agency shall prepare and certify to the court a complete record of the proceedings in the case. Failure of the agency to comply within the time allowed, upon motion, shall cause the court to enter a finding in favor of the party adversely affected. Additional time, however, may be granted by the court, not to exceed thirty days, when it is shown that the agency has made substantial effort to comply. The record shall be prepared and transcribed, and the expense of it shall be taxed as a part of the costs on the appeal. The appellant shall provide security for costs satisfactory to the court of common pleas. Upon demand by any interested party, the agency shall furnish at the cost of the party requesting it a copy of the stenographic report of testimony offered and evidence submitted at any hearing and a copy of the complete record.

Notwithstanding any other provision of this section, any party desiring to appeal an order or decision of the state personnel board of review shall, at the time of filing a notice of appeal with the board, provide a security deposit in an amount and manner prescribed in rules that the board shall adopt in accordance with this chapter. In addition, the board is not required to prepare or transcribe the record of any of its proceedings unless the appellant has provided the deposit described above. The failure of the board to prepare or transcribe a record for an appellant who has not provided a security deposit shall not cause a court to enter a finding adverse to the board.

Unless otherwise provided by law, in the hearing of the appeal, the court is confined to the record as certified to it by the agency. Unless otherwise provided by law, the court may grant a request for the admission of additional evidence when satisfied that the additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the agency.

The court shall conduct a hearing on the appeal and shall give preference to all proceedings under sections 119.01 to 119.13 of the Revised Code, over all other civil cases, irrespective of the position of the proceedings on the calendar of the court. An appeal from an order of the state medical board issued pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code, or the state chiropractic board issued pursuant to section 4734.37 of the Revised Code, or the liquor control commission issued pursuant to Chapter 4301. or 4303. of the Revised Code

shall be set down for hearing at the earliest possible time and takes precedence over all other actions. The hearing in the court of common pleas shall proceed as in the trial of a civil action, and the court shall determine the rights of the parties in accordance with the laws applicable to a civil action. At the hearing, counsel may be heard on oral argument, briefs may be submitted, and evidence may be introduced if the court has granted a request for the presentation of additional evidence.

The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and any additional evidence the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of this finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The court shall award compensation for fees in accordance with section 2335.39 of the Revised Code to a prevailing party, other than an agency, in an appeal filed pursuant to this section.

The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. These appeals may be taken either by the party or the agency, shall proceed as in the case of appeals in civil actions, and shall be pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code. An appeal by the agency shall be taken on questions of law relating to the constitutionality, construction, or interpretation of statutes and rules of the agency, and, in the appeal, the court may also review and determine the correctness of the judgment of the court of common pleas that the order of the agency is not supported by any reliable, probative, and substantial evidence in the entire record.

The court shall certify its judgment to the agency or take any other action necessary to give its judgment effect.

Sec. 4715.03. (A) The state dental board shall organize by ~~the election~~ electing from its members ~~of a president and a secretary, and vice-secretary.~~ The secretary and vice-secretary shall be elected from the members of the board who are dentists. It shall hold meetings monthly at least eight months a year at such times and places as the board designates. A majority of the members of the board shall constitute a quorum. The board shall make such reasonable rules as it determines necessary pursuant to Chapter 119. of the Revised Code.

(B) A concurrence of a majority of the members of the board shall be required to ~~grant~~, do any of the following:

(1) Grant, refuse, suspend, place on probationary status, revoke, refuse to renew, or refuse to reinstate a license or censure a license holder or take any other action authorized under section 4715.30 of the Revised Code;

(2) Seek an injunction under section 4715.05 of the Revised Code;

(3) Enter into a consent agreement with a license holder;

(4) If the board develops and implements the quality intervention program under section 4715.031 of the Revised Code, refer a license holder to the program;

(5) Terminate an investigation conducted under division (D) of this section;

(6) Dismiss any complaint filed with the board.

(C)(1) The board shall adopt rules ~~establishing~~ in accordance with Chapter 119. of the Revised Code to do both of the following:

(a) Establish standards for the safe practice of dentistry and dental hygiene by qualified practitioners and shall, through its policies and activities, promote such practice-;

~~The board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing~~ (b) Establish universal blood and body fluid precautions that shall be used by each person licensed under this chapter who performs exposure prone invasive procedures. The

(2) The rules adopted under division (C)(1)(b) of this section shall define and establish requirements for universal blood and body fluid precautions that include the following:

~~(1)~~(a) Appropriate use of hand washing;

~~(2)~~(b) Disinfection and sterilization of equipment;

~~(3)~~(c) Handling and disposal of needles and other sharp instruments;

~~(4)~~(d) Wearing and disposal of gloves and other protective garments and devices.

(D) The board shall administer and enforce the provisions of this chapter. The board shall, in accordance with sections 4715.032 to 4715.035 of the Revised Code, investigate evidence which appears to show that any person has violated any provision of this chapter. Any person may report to the board under oath any information such person may have appearing to show a violation of any provision of this chapter. In the absence of bad faith, any person who reports such information or who testifies before the board in any disciplinary proceeding conducted pursuant to Chapter 119. of the Revised Code is not liable for civil damages as a result of making the report or providing testimony. If after investigation and reviewing the recommendation of the supervisory investigative panel issued pursuant to section 4715.034 of the Revised Code the board determines that there are

reasonable grounds to believe that a violation of this chapter has occurred, the board shall, except as provided in this chapter, conduct disciplinary proceedings pursuant to Chapter 119. of the Revised Code, seek an injunction under section 4715.05 of the Revised Code, enter into a consent agreement with a license holder, or provide for a license holder to participate in the quality intervention program established under section 4715.031 of the Revised Code if the board develops and implements that program. ~~The board shall not dismiss any complaint or terminate any investigation except by a majority vote of its members. For~~

For the purpose of any disciplinary proceeding or any investigation conducted under this division, the board may administer oaths, order the taking of depositions, issue subpoenas in accordance with section 4715.033 of the Revised Code, compel the attendance and testimony of persons at depositions, and compel the production of books, accounts, papers, documents, or other tangible things. The hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code. Notwithstanding section 121.22 of the Revised Code and except as provided in section 4715.036 of the Revised Code, proceedings of the board relative to the investigation of a complaint or the determination whether there are reasonable grounds to believe that a violation of this chapter has occurred are confidential and are not subject to discovery in any civil action.

(E)(1) The board shall examine or cause to be examined eligible applicants to practice dental hygiene. The board may distinguish by rule different classes of qualified personnel according to skill levels and require all or only certain of these classes of qualified personnel to be examined and certified by the board.

(2) The board shall administer a written jurisprudence examination to each applicant for a license to practice dentistry. The examination shall cover only the statutes and administrative rules governing the practice of dentistry in this state.

(F) In accordance with Chapter 119. of the Revised Code, the board shall adopt, and may amend or rescind, rules establishing the eligibility criteria, the application and permit renewal procedures, and safety standards applicable to a dentist licensed under this chapter who applies for a permit to employ or use conscious intravenous sedation. These rules shall include all of the following:

(1) The eligibility requirements and application procedures for an eligible dentist to obtain a conscious intravenous sedation permit;

(2) The minimum educational and clinical training standards required of

applicants, which shall include satisfactory completion of an advanced cardiac life support course;

- (3) The facility equipment and inspection requirements;
- (4) Safety standards;
- (5) Requirements for reporting adverse occurrences.

Sec. 4715.031. (A) The state dental board ~~shall~~ may develop and implement a quality intervention program. The board may propose that the holder of a license issued by the board participate in the program if the board determines pursuant to an investigation conducted under section 4715.03 of the Revised Code that there are reasonable grounds to believe the license holder has violated a provision of this chapter due to a clinical or communication problem that could be improved through participation in the program and determines that the license holder's participation in the program is appropriate. The board shall refer a license holder who agrees to participate in the program to an educational and assessment service provider selected by the board.

The (B) If the board develops and implements a quality intervention program, all of the following apply:

(1) The board shall select, by a concurrence of a majority of the board's members, educational and assessment service providers, which may include quality intervention program panels of case reviewers. A provider selected by the board to provide services to a license holder shall recommend to the board the educational and assessment services the license holder should receive under the program. The license holder may begin participation in the program if the board approves the services the provider recommends. The license holder shall not be required to participate in the program beyond one hundred eighty days from the date the license holder agrees to participate in the program under this division. The license holder shall pay the amounts charged by the provider for the services.

(2) The board shall monitor a license holder's progress in the program and determine whether the license holder has successfully completed the program. If the board determines that the license holder has successfully completed the program, it may continue to monitor the license holder, take other action it considers appropriate, or both. The additional monitoring, other action taken by the board, or both, shall not continue beyond one year from the date the license holder agrees to participate in the program under this division. If the board determines that the license holder has not successfully completed the program, it shall, as soon as possible thereafter, commence disciplinary proceedings against the license holder under section 4715.03 of the Revised Code.

(3) The board shall elect, from the board's members who are dentists, a coordinator to administer the quality intervention program.

(C) The board may adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program.

Sec. 4715.032. There is hereby created the supervisory investigative panel of the state dental board. The supervisory investigative panel shall consist solely of the board's secretary and vice-secretary. The supervisory investigative panel shall supervise all of the board's investigations.

Sec. 4715.033. (A) All subpoenas the state dental board seeks to issue with respect to an investigation shall, subject to division (B) of this section, be authorized by the supervisory investigative panel.

(B) Before the supervisory investigative panel authorizes the board to issue a subpoena, the panel shall consult with the office of the attorney general and determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the information sought pursuant to the subpoena is relevant to the alleged violation and material to the investigation.

(C)(1) Any subpoena to compel the production of records that the board issues after authorization by the supervisory investigative panel shall pertain to records that cover a reasonable period of time surrounding the alleged violation.

(2)(a) Except as provided in division (C)(2)(b) of this section, the subpoena shall state that the person being subpoenaed has a reasonable period of time that is not less than three calendar days to comply with the subpoena.

(b) If the board's secretary determines that the person being subpoenaed represents a clear and immediate danger to the public health and safety, the subpoena shall state that the person being subpoenaed must immediately comply with the subpoena.

(D) On a person's failure to comply with a subpoena issued by the board and after reasonable notice to that person of the failure, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

Sec. 4715.034. (A) At any time during an investigation, the supervisory investigative panel may ask to meet with the individual who is the subject of the investigation. At the conclusion of the investigation, the panel shall recommend that the state dental board do one of the following:

(1) Pursue disciplinary action under section 4715.30 of the Revised Code;

(2) Seek an injunction under section 4715.05 of the Revised Code;

(3) Enter into a consent agreement if the subject of the investigation is a licensee;

(4) Refer the individual to the quality intervention program, if that program is developed and implemented under section 4715.031 of the Revised Code and the subject of the investigation is a licensee;

(5) Terminate the investigation.

(B) The supervisory investigative panel's recommendation shall be in writing and specify the reasons for the recommendation. Except as provided in section 4715.035 of the Revised Code, the panel shall make its recommendation not later than one year after the date the panel begins to supervise the investigation or, if the investigation pertains to an alleged violation of division (A)(7) of section 4715.30 of the Revised Code, not later than two years after the panel begins to supervise the investigation.

Once the panel makes its recommendation, the members of the panel shall not participate in any deliberations the board has on the case.

Sec. 4715.035. Both of the following periods of time shall not be counted for purposes of determining the time within which the supervisory investigative panel is required to make its recommendation to the state dental board under section 4715.034 of the Revised Code:

(A) The period during which the panel suspends the investigation of an individual because the individual is also the subject of a criminal investigation and the panel is asked to do so by the entity conducting the criminal investigation or the panel determines it is necessary to do so as a result of the criminal investigation.

(B) The period beginning when the board moves for an order compelling the production of persons or records, as permitted by division (D) of section 4715.033 of the Revised Code, and ending when either of the following occurs:

(1) The court renders a decision not to issue the order.

(2) The court renders a decision to issue the order and the person subject to the order produces the persons or records.

Sec. 4715.036. (A) As used in this section:

(1) "Personal identifying information" has the same meaning as in section 2913.49 of the Revised Code.

(2) "Confidential law enforcement investigatory record" has the same meaning as in section 149.43 of the Revised Code, except that it excludes information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity.

(B) If the state dental board notifies an applicant, license holder, or

other individual of an opportunity for a hearing pursuant to section 119.07 of the Revised Code, the board shall state in the notice that the individual is entitled to receive at least sixty days before the hearing, on the individual's request and as described in division (C) of this section, one copy of each item the board procures or creates in the course of its investigation on the individual. Such items may include, but are not limited to, the one or more complaints filed with the board; correspondence, reports, and statements; deposition transcripts; and patient dental records.

(C) On receipt of a request for copies of investigative items from an individual who is notified under division (B) of this section of an opportunity for a hearing, the board shall provide the copies to the individual in accordance with, and subject to, all of the following:

(1) The board shall provide the copies in a timely manner.

(2) The board may charge a fee for providing the copies, but the amount of the fee shall be set at a reasonable cost to the individual.

(3) Before providing the copies, the board shall determine whether the investigative items contain any personal identifying information regarding a complainant. If the board determines that the investigative items contain such personal identifying information, or any other information that would reveal the complainant's identity, the board shall redact the information from the copies it provides to the individual.

(4) The board shall not provide either of the following:

(a) Any information that is subject to the attorney-client privilege or work product doctrine, or that would reveal the investigatory processes or methods of investigation used by the board;

(b) Any information that would constitute a confidential law enforcement investigatory record.

(D) If a request for copies of investigative items is made pursuant to this section, the board in its scheduling of a hearing for the individual shall, notwithstanding section 119.07 of the Revised Code, schedule the hearing for a date that is at least sixty-one days after the board provides the individual with the copies of the items.

(E)(1) After the board notifies an individual of an opportunity for a hearing, the individual may ask the board to issue either or both of the following:

(a) A subpoena to compel the attendance and testimony of any witness at the hearing;

(b) A subpoena for the production of books, records, papers, or other tangible items.

(2) On receipt of an individual's request under division (E)(1) of this

section, the board shall issue the subpoena.

In the case of a subpoena for the production of books, records, papers, or other tangible items, the person or government entity subject to the subpoena shall comply with the subpoena at least thirty days prior to the date the individual's hearing is scheduled to be held.

Sec. 4715.037. (A) Notwithstanding the permissive nature of hearing referee or examiner appointments under section 119.09 of the Revised Code, the state dental board shall appoint, by a concurrence of a majority of its members, three referees or examiners to conduct the hearings the board is required to hold pursuant to sections 119.01 to 119.13 of the Revised Code. Referees or examiners appointed under this section shall be attorneys who have been admitted to the practice of law in this state. In making the appointments, the board shall not appoint an attorney who is a board employee or represents the board in any other manner.

(B)(1) Referees or examiners appointed under this section shall serve not more than the following number of consecutive one-year terms:

(a) In the case of the first initial appointee, three;

(b) In the case of the second initial appointee, four;

(c) In the case of the third initial appointee and all successor appointees, five.

(2) The board may not refuse to reappoint a referee or examiner before the referee or examiner has served the maximum number of terms applicable to the referee or examiner unless the referee or examiner does not seek to serve the maximum number of terms or the board, by a concurrence of a majority of its members, determines there is cause not to reappoint the referee or examiner.

(C) The board shall assign one referee or examiner appointed under this section to conduct each hearing. Assignments shall be made in the order the board receives requests for hearings without regard to the experience or background of a particular referee or examiner or the consideration of any factor other than whether the referee or examiner is available at the appropriate time.

Sec. 4715.038. A hearing referee or examiner assigned to conduct a hearing pursuant to section 4715.037 of the Revised Code shall hear and consider the oral and documented evidence introduced by the parties during the hearing. Not later than thirty days following the close of the hearing, the referee or examiner shall issue to the state dental board, in writing, proposed findings of fact and conclusions of law. Along with the proposed findings of fact and conclusions of law, the board shall be given copies of the record of the hearing and all exhibits and documents presented by the parties at the

hearing.

Sec. 4715.039. Prior to the state dental board's decision of a case, the board shall allow the parties or their counsel an opportunity to present oral arguments on the proposed findings of fact and conclusions of law issued by the hearing referee or examiner under section 4715.038 of the Revised Code. Not later than sixty days following the board's receipt of the proposed findings of fact and conclusions of law, or a date mutually agreed to by the board and the applicant for or holder of a certificate or license issued under this chapter, the board shall render a decision. The decision shall be in writing and contain findings of fact and conclusions of law.

Copies of the board's decision shall be delivered to the applicant, licensee, or certificate holder personally or by certified mail. The board's decision shall be considered final on the date personal delivery of the decision is made or the date the decision is mailed.

An individual may appeal a decision by the board in accordance with the procedure specified in Chapter 119. of the Revised Code.

Sec. 4715.0310. A notice of opportunity for a hearing issued by the state dental board pursuant to section 119.07 of the Revised Code and the name of the hearing referee or examiner the board assigns to a hearing pursuant to section 4715.037 of the Revised Code are public records under section 149.43 of the Revised Code.

Sec. 4715.06. Each member of the state dental board shall receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code for each day actually employed in the discharge of the official duties of the member, and the necessary expenses of the member. The secretary and vice-secretary shall ~~receive reimbursement~~ be reimbursed for necessary expenses incurred ~~by the secretary~~ in the discharge of the official duties of the secretary and vice-secretary, respectively. All vouchers of the board shall be approved by the board president or executive secretary, or both, as authorized by the board.

Sec. 4715.14. (A) Each person who is licensed to practice dentistry in Ohio shall, on or before the first day of January of each even-numbered year, register with the state dental board. The registration shall be made on a form prescribed by the board and furnished by the secretary, shall include the licensee's name, address, license number, and such other reasonable information as the board may consider necessary, and shall include payment of a biennial registration fee of two hundred forty-five dollars. Except as provided in division ~~(D)~~(E) of this section, this fee shall be paid to the treasurer of state. ~~All such registrations~~ Subject to division (C) of this section, a registration shall be in effect for the two-year period beginning on

the first day of January of the even-numbered year and ending on the last day of December of the following odd-numbered year, and shall be renewed in accordance with the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. ~~The failure of a licensee to renew the licensee's registration in accordance with this section shall result in an automatic suspension of the licensee's license to practice dentistry.~~

~~(B) Any dentist whose license has been suspended under this section may be reinstated by the payment of the biennial registration fee and in addition thereto eighty-one dollars to cover costs of the reinstatement; excepting that to any A licensed dentist who desires to temporarily retire from practice, and who has given the board notice in writing to that effect, the board shall grant be granted such a retirement, provided only that at that time all previous registration fees and additional costs of reinstatement have been paid.~~

(C) Not later than the thirty-first day of January of an even-numbered year, the board shall send a notice by certified mail to a dentist who fails to renew a license in accordance with division (A) of this section. The notice shall state all of the following:

(1) That the board has not received the registration form and fee described in that division;

(2) That the license shall remain valid and in good standing until the first day of April following the last day of December of the odd-numbered year in which the dentist was scheduled to renew if the dentist remains in compliance with all other applicable provisions of this chapter and any rule adopted under it;

(3) That the license may be renewed until the first day of April following the last day of December of the odd-numbered year in which the dentist was scheduled to renew by the payment of the biennial registration fee and an additional fee of one hundred dollars to cover the cost of late renewal;

(4) That unless the board receives the registration form and fee before the first day of April following the last day of December of the odd-numbered year in which the dentist was scheduled to renew, the board may, on or after the relevant first day of April, initiate disciplinary action against the dentist pursuant to Chapter 119. of the Revised Code;

(5) That a dentist whose license has been suspended as a result of disciplinary action initiated pursuant to division (C)(4) of this section may be reinstated by the payment of the biennial registration fee and an additional fee of three hundred dollars to cover the cost of reinstatement.

(D) Each dentist licensed to practice, whether a resident or not, shall

notify the secretary in writing of any change in the dentist's office address or employment within ten days after such change has taken place. On the first day of July of every even-numbered year, the secretary shall issue a printed roster of the names and addresses so registered.

~~(D)~~(E) Twenty dollars of each biennial registration fee shall be paid to the dentist loan repayment fund created under section 3702.95 of the Revised Code.

Sec. 4715.141. (A) Each licensed dentist shall complete biennially not less than forty hours of continuing dental education, which may include, but is not limited to, attendance at lectures, study clubs, college and postgraduate courses, or scientific sessions of conventions, research, graduate study, teaching, service as a clinician, or correspondence courses. Continuing dental education programs include, but are not limited to, programs that address any of the following:

(1) ~~Competency~~ Competency in treating patients who are medically compromised or who experience medical emergencies during the course of dental treatment;

(2) Knowledge of pharmaceutical products and the protocol of the proper use of medications;

(3) Competency to diagnose oral pathology;

(4) Awareness of currently accepted methods of infection control;

(5) Basic medical and scientific subjects including, but not limited to, biology, physiology, pathology, biochemistry, and pharmacology;

(6) Clinical and technological subjects including, but not limited to, clinical techniques and procedures, materials, and equipment;

(7) Subjects pertinent to health and safety.

Dentists shall earn continuing education credits at the rate of one-half credit for each twenty-five to thirty contact minutes of instruction and one credit hour for each fifty to sixty contact minutes of instruction.

(B) Programs meeting the general requirements of division (A) of this section may be developed and offered to dentists by any of the following agencies or organizations:

(1) National, state, district, or local dental associations affiliated with the American dental association or national dental association;

(2) Accredited dental colleges or schools;

(3) Other organizations, schools, or agencies approved by the state dental board.

(C) Each licensed dentist shall submit to the board at the time of biennial registration pursuant to section 4715.14 of the Revised Code a sworn affidavit, on a form acceptable to the state dental board, attesting that

~~he~~ the dentist has completed continuing education programs in compliance with this section and listing the date, location, sponsor, subject matter, and hours completed of the programs.

A licensed dentist shall retain in his records for a period of at least three years such receipts, vouchers, or certificates as may be necessary to document completion of continuing education programs. With cause, the board may request such documentation from licensed dentists, and the board may request such documentation from licensed dentists selected at random without cause.

(D) The board may excuse licensed dentists, as a group or as individuals, from all or any part of the requirements of this section because of an unusual circumstance, emergency, or special hardship.

~~(E) Failure to comply with the requirements of this section constitutes a failure to renew registration pursuant to section 4715.14 of the Revised Code~~ The board shall notify a dentist who fails to submit the affidavit required by division (C) of this section of both of the following:

(1) That the board has not received the affidavit;

(2) That unless the board receives the affidavit before the first day of April following the last day of December by which the dentist was required to submit the affidavit, the board may, on or after the relevant first day of April, initiate disciplinary action against the dentist pursuant to Chapter 119. of the Revised Code.

Sec. 4715.30. (A) ~~The~~ An applicant for or holder of a certificate or license issued under this chapter is subject to disciplinary action by the state dental board for any of the following reasons:

(1) Employing or cooperating in fraud or material deception in applying for or obtaining a license or certificate;

(2) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;

(3) Advertising services in a false or misleading manner or violating the board's rules governing time, place, and manner of advertising;

(4) Conviction of a misdemeanor committed in the course of practice or of any felony;

(5) Engaging in lewd or immoral conduct in connection with the provision of dental services;

(6) Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes, or conviction of violating any law of this state or the federal government regulating the possession, distribution, or use of any drug;

(7) Providing or allowing dental hygienists, expanded function dental

auxiliaries, or other practitioners of auxiliary dental occupations working under the certificate or license holder's supervision, or a dentist holding a temporary limited continuing education license under division (C) of section 4715.16 of the Revised Code working under the certificate or license holder's direct supervision, to provide dental care that departs from or fails to conform to accepted standards for the profession, whether or not injury to a patient results;

(8) Inability to practice under accepted standards of the profession because of physical or mental disability, dependence on alcohol or other drugs, or excessive use of alcohol or other drugs;

(9) Violation of any provision of this chapter or any rule adopted thereunder;

(10) Failure to use universal blood and body fluid precautions established by rules adopted under section 4715.03 of the Revised Code;

(11) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers dental services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider.

(12) Advertising that the certificate or license holder will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers dental services, would otherwise be required to pay.

(B) A manager, proprietor, operator, or conductor of a dental facility shall be subject to disciplinary action if any dentist, dental hygienist, expanded function dental auxiliary, or qualified personnel providing services in the facility is found to have committed a violation listed in division (A) of this section and the manager, proprietor, operator, or conductor knew of the violation and permitted it to occur on a recurring basis.

(C) Subject to Chapter 119. of the Revised Code, the board may take one or more of the following disciplinary actions if one or more of the grounds for discipline listed in divisions (A) and (B) of this section exist:

(1) Censure the license or certificate holder;

(2) Place the license or certificate on probationary status for such period of time the board determines necessary and require the holder to:

(a) Report regularly to the board upon the matters which are the basis of probation;

(b) Limit practice to those areas specified by the board;

(c) Continue or renew professional education until a satisfactory degree

of knowledge or clinical competency has been attained in specified areas.

(3) Suspend the certificate or license;

(4) Revoke the certificate or license.

Where the board places a holder of a license or certificate on probationary status pursuant to division (C)(2) of this section, the board may subsequently suspend or revoke the license or certificate if it determines that the holder has not met the requirements of the probation or continues to engage in activities that constitute grounds for discipline pursuant to division (A) or (B) of this section.

Any order suspending a license or certificate shall state the conditions under which the license or certificate will be restored, which may include a conditional restoration during which time the holder is in a probationary status pursuant to division (C)(2) of this section. The board shall restore the license or certificate unconditionally when such conditions are met.

(D) If the physical or mental condition of an applicant or a license or certificate holder is at issue in a disciplinary proceeding, the board may order the license or certificate holder to submit to reasonable examinations by an individual designated or approved by the board and at the board's expense. The physical examination may be conducted by any individual authorized by the Revised Code to do so, including a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife. Any written documentation of the physical examination shall be completed by the individual who conducted the examination.

Failure to comply with an order for an examination shall be grounds for refusal of a license or certificate or summary suspension of a license or certificate under division (E) of this section.

(E) If the board has reason to believe that ~~the~~ a license or certificate holder represents a clear and immediate danger to the public health and safety if the holder is allowed to continue to practice, or if the holder has failed to comply with an order under division (D) of this section, the board may apply to the court of common pleas of the county in which the holder resides for an order temporarily suspending the holder's license or certificate, without a prior hearing being afforded by the board, until the board conducts an adjudication hearing pursuant to Chapter 119. of the Revised Code. If the court temporarily suspends a holder's license or certificate, the board shall give written notice of the suspension personally or by certified mail to the license or certificate holder. Such notice shall include specific facts and reasons for finding a clear and immediate danger to the public health and safety and shall inform the license or certificate holder of the right to a hearing pursuant to Chapter 119. of the Revised

Code.

(F) Any holder of a certificate or license issued under this chapter who has pleaded guilty to, has been convicted of, or has had a judicial finding of eligibility for intervention in lieu of conviction entered against the holder in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been convicted of, or has had a judicial finding of eligibility for treatment or intervention in lieu of conviction entered against the holder in another jurisdiction for any substantially equivalent criminal offense, is automatically suspended from practice under this chapter in this state and any certificate or license issued to the holder under this chapter is automatically suspended, as of the date of the guilty plea, conviction, or judicial finding, whether the proceedings are brought in this state or another jurisdiction. Continued practice by an individual after the suspension of the individual's certificate or license under this division shall be considered practicing without a certificate or license. The board shall notify the suspended individual of the suspension of the individual's certificate or license under this division by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate or license is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the individual's certificate or license.

(G) Notwithstanding divisions (A)(11) and (12) of this section, sanctions shall not be imposed against any licensee who waives deductibles and copayments:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Such consent shall be made available to the board upon request.

(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

(H) In no event shall the board consider or raise during a hearing required by Chapter 119. of the Revised Code the circumstances of, or the fact that the board has received, one or more complaints about a person unless the one or more complaints are the subject of the hearing or resulted in the board taking an action authorized by this section against the person on a prior occasion.

Sec. 4753.06. No person is eligible for licensure as a speech-language pathologist or audiologist unless:

(A) The person has obtained a broad general education to serve as a background for the person's specialized academic training and preparatory professional experience. Such background may include study from among the areas of human psychology, sociology, psychological and physical development, the physical sciences, especially those that pertain to acoustic and biological phenomena, and human anatomy and physiology, including neuroanatomy and neurophysiology.

(B) If the person seeks licensure as a speech-language pathologist, the person submits to the board of speech-language pathology and audiology an official transcript demonstrating that the person has at least a master's degree in speech-language pathology or the equivalent as determined by the board. The person's academic credit must include course work accumulated in the completion of a well-integrated course of study approved by the board and delineated by rule dealing with the normal aspects of human communication, development and disorders thereof, and clinical techniques for the evaluation and the improvement or eradication of such disorders. The course work must have been completed at colleges or universities accredited by regional or national accrediting organizations recognized by the board.

(C) ~~If~~ Except as provided in division (F)(1)(b) of this section, if the person seeks licensure as an audiologist, the person submits to the board an official transcript demonstrating that the person has at least a doctor of audiology degree or the equivalent as determined by the board. The person's academic credit must include course work accumulated in the completion of a well-integrated course of study approved by the board and delineated by rules dealing with the normal aspects of human hearing, balance, and related development and clinical evaluation, audiologic diagnosis, and treatment of disorders of human hearing, balance, and related development. The course work must have been completed in an audiology program that is accredited by an organization recognized by the United States department of education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board.

(D) The person submits to the board evidence of the completion of appropriate, supervised clinical experience in the professional area, speech-language pathology or audiology, for which licensure is requested, dealing with a variety of communication disorders. The appropriateness of the experience shall be determined under rules of the board. This experience shall have been obtained in an accredited college or university, in a cooperating program of an accredited college or university, or in another

program approved by the board.

(E) The person submits to the board evidence that the person has passed the examination for licensure to practice speech-language pathology or audiology pursuant to division (B) of section 4753.05 of the Revised Code.

(F) If the (1) In the case of either of the following, the person presents to the board written evidence that the person has obtained professional experience:

(a) The person seeks licensure as a speech-language pathologist;

(b) The person ~~submits to the board an application for~~ seeks licensure as an audiologist ~~and does not meet the requirements of division (C) of this section regarding a doctor of audiology degree, but~~ before January 1, 2006, ~~and meets~~ the person met the requirements of division (B) of this section regarding a master's degree in audiology as that division existed on December 31, 2005, ~~but not the requirements of division (C) of this section regarding a doctor of audiology degree or if the person seeks licensure as a speech-language pathologist, the person presents to the board written evidence that the person has obtained professional experience. The~~

(2) The professional experience shall be appropriately supervised as determined by board rule. The amount of professional experience shall be determined by board rule and shall be bona fide clinical work that has been accomplished in the major professional area, speech-language pathology or audiology, in which licensure is being sought. If the person seeks licensure as a speech-language pathologist, this experience shall not begin until the requirements of divisions (B), (D), and (E) of this section have been completed unless approved by the board. If the person seeks licensure as an audiologist, this experience shall not begin until the requirements of division (B) of this section, as that division existed on December 31, 2005, and divisions (D) and (E) of this section have been completed unless approved by the board. Before beginning the supervised professional experience pursuant to this section, the applicant for licensure to practice speech-language pathology or audiology shall obtain a conditional license pursuant to section 4753.071 of the Revised Code.

Sec. 4753.091. (A) A person licensed under this chapter may apply to the board of speech-language pathology and audiology to have the person's license classified as inactive. If a fee is charged under division (B) of this section, the person shall include the fee with the application.

If the person's license is in good standing, the person is not the subject of any complaint, the person is not the subject of an investigation or disciplinary action by the board, and the person meets any other requirements established by the board in rules adopted under this section,

the board shall classify the license as inactive. The inactive classification shall become effective on the date immediately following the date that the person's license is scheduled to expire.

(B) The board may charge a fee for classifying a license as inactive.

(C) During the period that a license is classified as inactive, the person may not engage in the practice of speech-language pathology or the practice of audiology, as applicable, in this state or make any representation to the public indicating that the person is actively licensed under this chapter.

(D) A person whose license has been classified as inactive may apply to the board to have the license reactivated. The board shall reactivate the license if the person meets the requirements established by the board in rules adopted under this section.

(E) The board's jurisdiction to take disciplinary action under this chapter is not removed or limited when a person's license is classified as inactive under this section.

(F) The board shall adopt rules as necessary for classifying a license as inactive and reactivating an inactive license. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.0211. As used in this section, "nursing facility" and "provider" have the same meanings as in section 5111.20 of the Revised Code.

The provider of a nursing facility is not required to submit a claim to the department of job and family services regarding the medicare cost-sharing expenses of a resident of the nursing facility who, under federal law, is eligible to have the medicaid program pay for a part of the cost-sharing expenses if the provider determines that, under rules adopted under section 5111.02 of the Revised Code, the nursing facility would not receive a medicaid payment for any part of the medicare cost-sharing expenses. In such a situation, a claim for the medicare cost-sharing expenses shall be considered to have been adjudicated at no payment.

SECTION 2. That existing sections 119.12, 4715.03, 4715.031, 4715.06, 4715.14, 4715.141, 4715.30, and 4753.06 of the Revised Code are hereby repealed.

SECTION 3. The amendment by this act to division (A) of section 4715.03 of the Revised Code requiring that the secretary of the State Dental Board be a dentist shall not apply to the secretary serving on the Board on the effective date of this section.

SECTION 4. That Section 3 of Sub. H.B. 190 of the 128th General Assembly be contingently amended to read as follows:

Sec. 3. (A) As used in this section, "registration period" has the same meaning as in section 4715.241 of the Revised Code, as enacted by ~~this act~~ Sub. H.B. 190 of the 128th General Assembly.

(B) ~~Notwithstanding~~ Both of the following apply with respect to the implementation of the provisions of section 4715.25 of the Revised Code, as amended by ~~this act~~ Sub. H.B. 190 of the 128th General Assembly, that increase from twelve to twenty-four the minimum number of hours of continuing education that a dental hygienist must certify to the State Dental Board when applying for a renewal of registration, ~~a dental hygienist whose registration expired on December 31, 2009;~~

(1) Notwithstanding those provisions, in the case of a dental hygienist who is seeking a registration renewal that is to be effective in the 2010-2011 registration period, the dental hygienist remains subject to the former requirement to certify completion of a minimum of twelve hours of continuing education when applying for a renewal of registration for the 2010 to 2011 registration period.

(2) In the case of a dental hygienist who is seeking a registration renewal that is to be effective in the 2012-2013 registration period, the dental hygienist is subject to the requirement of those provisions to certify completion of a minimum of twenty-four hours of continuing education.

SECTION 5. That existing Section 3 of Sub. H.B. 190 of the 128th General Assembly is hereby contingently repealed.

SECTION 6. The amendment by this act of Section 3 of Sub. H.B. 190 of the 128th General Assembly is contingent on the section becoming law.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 215

128th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____