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Representatives Letson, Mecklenborg

Cosponsors: Representatives Hagan, Luckie, Fende, Mallory, Gardner, Lehner, Garland, Boyd, Yuko, Snitchler, Huffman, Bacon, Winburn, Amstutz, Batchelder, Beck, Belcher, Blair, Bolon, Book, Boose, Brown, Bubp, Burke, Combs, DeBose, DeGeeter, Derickson, Domenick, Dyer, Evans, Garrison, Gerberry, Goodwin, Hackett, Hall, Harris, Hite, Jordan, Lundy, McClain, McGregor, Newcomb, Oelslager, Patten, Ruhl, Sayre, Sears, Stebelton, Stewart, Uecker, Wagner, Zehringer

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A B I L L

To amend sections 119.12, 4715.03, 4715.031, 4715.06, 1
4715.14, 4715.141, 4715.24, 4715.25, and 4715.30 2
and to enact sections 4715.032, 4715.033, 3
4715.034, 4715.035, 4715.036, 4715.037, 4715.038, 4
4715.039, and 4715.0310 of the Revised Code to 5
modify the law governing investigations and 6
hearings conducted by the State Dental Board and 7
to require a person appealing an administrative 8
adjudication merely to state in the notice of 9
appeal that the order is not supported by 10
reliable, probative, and substantial evidence and 11
is not in accordance with law. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 119.12, 4715.03, 4715.031, 4715.06, 13
4715.14, 4715.141, 4715.24, 4715.25, and 4715.30 be amended and 14

sections 4715.032, 4715.033, 4715.034, 4715.035, 4715.036, 15
4715.037, 4715.038, 4715.039, and 4715.0310 of the Revised Code be 16
enacted to read as follows: 17

Sec. 119.12. Any party adversely affected by any order of an 18
agency issued pursuant to an adjudication denying an applicant 19
admission to an examination, or denying the issuance or renewal of 20
a license or registration of a licensee, or revoking or suspending 21
a license, or allowing the payment of a forfeiture under section 22
4301.252 of the Revised Code may appeal from the order of the 23
agency to the court of common pleas of the county in which the 24
place of business of the licensee is located or the county in 25
which the licensee is a resident, except that appeals from 26
decisions of the liquor control commission, the state medical 27
board, state chiropractic board, and board of nursing shall be to 28
the court of common pleas of Franklin county. If any party 29
appealing from the order is not a resident of and has no place of 30
business in this state, the party may appeal to the court of 31
common pleas of Franklin county. 32

Any party adversely affected by any order of an agency issued 33
pursuant to any other adjudication may appeal to the court of 34
common pleas of Franklin county, except that appeals from orders 35
of the fire marshal issued under Chapter 3737. of the Revised Code 36
may be to the court of common pleas of the county in which the 37
building of the aggrieved person is located and except that 38
appeals under division (B) of section 124.34 of the Revised Code 39
from a decision of the state personnel board of review or a 40
municipal or civil service township civil service commission shall 41
be taken to the court of common pleas of the county in which the 42
appointing authority is located or, in the case of an appeal by 43
the department of rehabilitation and correction, to the court of 44
common pleas of Franklin county. 45

This section does not apply to appeals from the department of 46
taxation. 47

Any party desiring to appeal shall file a notice of appeal 48
with the agency setting forth the order appealed from and ~~the~~ 49
~~grounds of the party's appeal~~ stating that the agency's order is 50
not supported by reliable, probative, and substantial evidence and 51
is not in accordance with law. The notice of appeal may, but need 52
not, set forth the specific grounds of the party's appeal beyond 53
the statement that the agency's order is not supported by 54
reliable, probative, and substantial evidence and is not in 55
accordance with law. A copy of the The notice of appeal shall also 56
be filed by the appellant with the court. In filing a notice of 57
appeal with the agency or court, the notice that is filed may be 58
either the original notice or a copy of the original notice. 59
Unless otherwise provided by law relating to a particular agency, 60
notices of appeal shall be filed within fifteen days after the 61
mailing of the notice of the agency's order as provided in this 62
section. For purposes of this paragraph, an order includes a 63
determination appealed pursuant to division (C) of section 119.092 64
of the Revised Code. The amendments made to this paragraph by Sub. 65
H.B. 215 of the 128th general assembly are procedural, and this 66
paragraph as amended by those amendments shall be applied 67
retrospectively to all appeals pursuant to this paragraph filed 68
prior to, on, or after the effective date of those amendments. 69

The filing of a notice of appeal shall not automatically 70
operate as a suspension of the order of an agency. If it appears 71
to the court that an unusual hardship to the appellant will result 72
from the execution of the agency's order pending determination of 73
the appeal, the court may grant a suspension and fix its terms. If 74
an appeal is taken from the judgment of the court and the court 75
has previously granted a suspension of the agency's order as 76
provided in this section, the suspension of the agency's order 77

shall not be vacated and shall be given full force and effect 78
until the matter is finally adjudicated. No renewal of a license 79
or permit shall be denied by reason of the suspended order during 80
the period of the appeal from the decision of the court of common 81
pleas. In the case of an appeal from the state medical board or 82
state chiropractic board, the court may grant a suspension and fix 83
its terms if it appears to the court that an unusual hardship to 84
the appellant will result from the execution of the agency's order 85
pending determination of the appeal and the health, safety, and 86
welfare of the public will not be threatened by suspension of the 87
order. This provision shall not be construed to limit the factors 88
the court may consider in determining whether to suspend an order 89
of any other agency pending determination of an appeal. 90

The final order of adjudication may apply to any renewal of a 91
license or permit which has been granted during the period of the 92
appeal. 93

Notwithstanding any other provision of this section, any 94
order issued by a court of common pleas or a court of appeals 95
suspending the effect of an order of the liquor control commission 96
issued pursuant to Chapter 4301. or 4303. of the Revised Code that 97
suspends, revokes, or cancels a permit issued under Chapter 4303. 98
of the Revised Code or that allows the payment of a forfeiture 99
under section 4301.252 of the Revised Code shall terminate not 100
more than six months after the date of the filing of the record of 101
the liquor control commission with the clerk of the court of 102
common pleas and shall not be extended. The court of common pleas, 103
or the court of appeals on appeal, shall render a judgment in that 104
matter within six months after the date of the filing of the 105
record of the liquor control commission with the clerk of the 106
court of common pleas. A court of appeals shall not issue an order 107
suspending the effect of an order of the liquor control commission 108
that extends beyond six months after the date on which the record 109

of the liquor control commission is filed with a court of common 110
pleas. 111

Notwithstanding any other provision of this section, any 112
order issued by a court of common pleas suspending the effect of 113
an order of the state medical board or state chiropractic board 114
that limits, revokes, suspends, places on probation, or refuses to 115
register or reinstate a certificate issued by the board or 116
reprimands the holder of the certificate shall terminate not more 117
than fifteen months after the date of the filing of a notice of 118
appeal in the court of common pleas, or upon the rendering of a 119
final decision or order in the appeal by the court of common 120
pleas, whichever occurs first. 121

Within thirty days after receipt of a notice of appeal from 122
an order in any case in which a hearing is required by sections 123
119.01 to 119.13 of the Revised Code, the agency shall prepare and 124
certify to the court a complete record of the proceedings in the 125
case. Failure of the agency to comply within the time allowed, 126
upon motion, shall cause the court to enter a finding in favor of 127
the party adversely affected. Additional time, however, may be 128
granted by the court, not to exceed thirty days, when it is shown 129
that the agency has made substantial effort to comply. The record 130
shall be prepared and transcribed, and the expense of it shall be 131
taxed as a part of the costs on the appeal. The appellant shall 132
provide security for costs satisfactory to the court of common 133
pleas. Upon demand by any interested party, the agency shall 134
furnish at the cost of the party requesting it a copy of the 135
stenographic report of testimony offered and evidence submitted at 136
any hearing and a copy of the complete record. 137

Notwithstanding any other provision of this section, any 138
party desiring to appeal an order or decision of the state 139
personnel board of review shall, at the time of filing a notice of 140
appeal with the board, provide a security deposit in an amount and 141

manner prescribed in rules that the board shall adopt in 142
accordance with this chapter. In addition, the board is not 143
required to prepare or transcribe the record of any of its 144
proceedings unless the appellant has provided the deposit 145
described above. The failure of the board to prepare or transcribe 146
a record for an appellant who has not provided a security deposit 147
shall not cause a court to enter a finding adverse to the board. 148

Unless otherwise provided by law, in the hearing of the 149
appeal, the court is confined to the record as certified to it by 150
the agency. Unless otherwise provided by law, the court may grant 151
a request for the admission of additional evidence when satisfied 152
that the additional evidence is newly discovered and could not 153
with reasonable diligence have been ascertained prior to the 154
hearing before the agency. 155

The court shall conduct a hearing on the appeal and shall 156
give preference to all proceedings under sections 119.01 to 119.13 157
of the Revised Code, over all other civil cases, irrespective of 158
the position of the proceedings on the calendar of the court. An 159
appeal from an order of the state medical board issued pursuant to 160
division (G) of either section 4730.25 or 4731.22 of the Revised 161
Code, or the state chiropractic board issued pursuant to section 162
4734.37 of the Revised Code, or the liquor control commission 163
issued pursuant to Chapter 4301. or 4303. of the Revised Code 164
shall be set down for hearing at the earliest possible time and 165
takes precedence over all other actions. The hearing in the court 166
of common pleas shall proceed as in the trial of a civil action, 167
and the court shall determine the rights of the parties in 168
accordance with the laws applicable to a civil action. At the 169
hearing, counsel may be heard on oral argument, briefs may be 170
submitted, and evidence may be introduced if the court has granted 171
a request for the presentation of additional evidence. 172

The court may affirm the order of the agency complained of in 173

the appeal if it finds, upon consideration of the entire record 174
and any additional evidence the court has admitted, that the order 175
is supported by reliable, probative, and substantial evidence and 176
is in accordance with law. In the absence of this finding, it may 177
reverse, vacate, or modify the order or make such other ruling as 178
is supported by reliable, probative, and substantial evidence and 179
is in accordance with law. The court shall award compensation for 180
fees in accordance with section 2335.39 of the Revised Code to a 181
prevailing party, other than an agency, in an appeal filed 182
pursuant to this section. 183

The judgment of the court shall be final and conclusive 184
unless reversed, vacated, or modified on appeal. These appeals may 185
be taken either by the party or the agency, shall proceed as in 186
the case of appeals in civil actions, and shall be pursuant to the 187
Rules of Appellate Procedure and, to the extent not in conflict 188
with those rules, Chapter 2505. of the Revised Code. An appeal by 189
the agency shall be taken on questions of law relating to the 190
constitutionality, construction, or interpretation of statutes and 191
rules of the agency, and, in the appeal, the court may also review 192
and determine the correctness of the judgment of the court of 193
common pleas that the order of the agency is not supported by any 194
reliable, probative, and substantial evidence in the entire 195
record. 196

The court shall certify its judgment to the agency or take 197
any other action necessary to give its judgment effect. 198

Sec. 4715.03. (A) The state dental board shall organize by 199
~~the election~~ electing from its members ~~of~~ a president ~~and a~~, 200
secretary, and vice-secretary. The secretary and vice-secretary 201
shall be elected from the members of the board who are dentists. 202
It shall hold meetings monthly at least eight months a year at 203
such times and places as the board designates. A majority of the 204

members of the board shall constitute a quorum. The board shall 205
make such reasonable rules as it determines necessary pursuant to 206
Chapter 119. of the Revised Code. 207

(B) A concurrence of a majority of the members of the board 208
shall be required to ~~grant~~, do any of the following: 209

(1) Grant, refuse, suspend, place on probationary status, 210
revoke, refuse to renew, or refuse to reinstate a license or 211
censure a license holder or take any other action authorized under 212
section 4715.30 of the Revised Code; 213

(2) Seek an injunction under section 4715.05 of the Revised 214
Code; 215

(3) Enter into a consent agreement with a license holder; 216

(4) If the board develops and implements the quality 217
intervention program under section 4715.031 of the Revised Code, 218
refer a license holder to the program; 219

(5) Terminate an investigation conducted under division (D) 220
of this section; 221

(6) Dismiss any complaint filed with the board. 222

(C) The board shall adopt rules establishing in accordance 223
with Chapter 119. of the Revised Code to do both of the following: 224

(1) Establish standards for the safe practice of dentistry 225
and dental hygiene by qualified practitioners and shall, through 226
its policies and activities, promote such practice-; 227

~~The board shall adopt rules in accordance with Chapter 119.~~ 228
~~of the Revised Code establishing~~ (2) Establish universal blood and 229
body fluid precautions that shall be used by each person licensed 230
under this chapter who performs exposure prone invasive 231
procedures. The rules shall define and establish requirements for 232
universal blood and body fluid precautions that include the 233
following: 234

+1)(a) Appropriate use of hand washing;	235
+2)(b) Disinfection and sterilization of equipment;	236
+3)(c) Handling and disposal of needles and other sharp instruments;	237 238
+4)(d) Wearing and disposal of gloves and other protective garments and devices.	239 240
(D) The board shall administer and enforce the provisions of this chapter. The board shall, <u>in accordance with sections</u> <u>4715.032 to 4715.035 of the Revised Code</u> , 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 <u>and reviewing the recommendation of the supervisory</u> <u>investigative panel issued pursuant to section 4715.034 of the</u> <u>Revised Code</u> the board determines that there are reasonable grounds to believe that a violation of this chapter has occurred, the board shall, <u>except as provided in this chapter</u> , conduct disciplinary proceedings pursuant to Chapter 119. of the Revised Code, <u>seek an injunction under section 4715.05 of the Revised</u> <u>Code, enter into a consent agreement with a license holder</u> , or provide for a license holder to participate in the quality intervention program established under section 4715.031 of the Revised Code <u>if the board develops and implements that program</u> . The board shall not dismiss any complaint or terminate any investigation except by a majority vote of its members. For	241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264
<u>For</u> the purpose of any disciplinary proceeding or any	265

investigation conducted under this division, the board may 266
administer oaths, order the taking of depositions, issue subpoenas 267
in accordance with section 4715.033 of the Revised Code, compel 268
the attendance and testimony of persons at depositions, and compel 269
the production of books, accounts, papers, documents, or other 270
tangible things. The hearings and investigations of the board 271
shall be considered civil actions for the purposes of section 272
2305.252 of the Revised Code. Notwithstanding section 121.22 of 273
the Revised Code and except as provided in section 4715.036 of the 274
Revised Code, proceedings of the board relative to the 275
investigation of a complaint or the determination whether there 276
are reasonable grounds to believe that a violation of this chapter 277
has occurred are confidential and are not subject to discovery in 278
any civil action. 279

(E)(1) The board shall examine or cause to be examined 280
eligible applicants to practice dental hygiene. The board may 281
distinguish by rule different classes of qualified personnel 282
according to skill levels and require all or only certain of these 283
classes of qualified personnel to be examined and certified by the 284
board. 285

(2) The board shall administer a written jurisprudence 286
examination to each applicant for a license to practice dentistry. 287
The examination shall cover only the statutes and administrative 288
rules governing the practice of dentistry in this state. 289

(F) In accordance with Chapter 119. of the Revised Code, the 290
board shall adopt, and may amend or rescind, rules establishing 291
the eligibility criteria, the application and permit renewal 292
procedures, and safety standards applicable to a dentist licensed 293
under this chapter who applies for a permit to employ or use 294
conscious intravenous sedation. These rules shall include all of 295
the following: 296

(1) The eligibility requirements and application procedures 297

for an eligible dentist to obtain a conscious intravenous sedation permit; 298
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(2) The minimum educational and clinical training standards required of applicants, which shall include satisfactory completion of an advanced cardiac life support course; 300
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(3) The facility equipment and inspection requirements; 303

(4) Safety standards; 304

(5) Requirements for reporting adverse occurrences. 305

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. 306
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~~The board shall select~~ If the board develops and implements the quality intervention program, the board shall do all of the following: 318
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(1) 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 321
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approves the services the provider recommends. The license holder 328
shall not be required to participate in the program beyond thirty 329
days from the date the license holder agrees to participate in the 330
program under this division. The license holder shall pay the 331
amounts charged by the provider for the services. 332

~~The board shall monitor~~ (2) Monitor a license holder's 333
progress in the program and determine whether the license holder 334
has successfully completed the program. If the board determines 335
that the license holder has successfully completed the program, it 336
may continue to monitor the license holder, take other action it 337
considers appropriate, or both. The additional monitoring, other 338
action taken by the board, or both, shall not continue beyond one 339
year from the date the license holder agrees to participate in the 340
program under this division. If the board determines that the 341
license holder has not successfully completed the program, it 342
shall, as soon as possible thereafter, commence disciplinary 343
proceedings against the license holder under section 4715.03 of 344
the Revised Code. 345

(3) Elect from the board's members who are dentists a 346
coordinator to administer the quality intervention program. 347

(B) The board may adopt rules in accordance with Chapter 119. 348
of the Revised Code to further implement the quality intervention 349
program. 350

Sec. 4715.032. There is hereby created the supervisory 351
investigative panel of the state dental board. The supervisory 352
investigative panel shall consist solely of the board's secretary 353
and vice-secretary. The supervisory investigative panel shall 354
supervise all of the board's investigations. 355

Sec. 4715.033. (A) All subpoenas the state dental board 356
desires to issue with respect to an investigation shall, subject 357

to division (B) of this section, be authorized by the supervisory 358
investigative panel. 359

(B) Before the supervisory investigative panel authorizes the 360
board to issue a subpoena, the panel shall consult with the office 361
of the attorney general and determine whether there is probable 362
cause to believe that the complaint filed alleges a violation of 363
this chapter or any rule adopted under it and that the information 364
sought pursuant to the subpoena is relevant to the alleged 365
violation and material to the investigation. 366

(C)(1) Any subpoena to compel the production of records that 367
the board issues after authorization by the supervisory 368
investigative panel shall pertain to records that cover a 369
reasonable period of time surrounding the alleged violation. 370

(2)(a) Except as provided in division (C)(2)(b) of this 371
section, the subpoena shall state that the person being subpoenaed 372
has a reasonable period of time that is not less than three 373
calendar days to comply with the subpoena. 374

(b) If the board's executive director determines that the 375
person being subpoenaed represents a clear and immediate danger to 376
the public health and safety, the subpoena shall state that the 377
person being subpoenaed must immediately comply with the subpoena. 378

(D) On a person's failure to comply with a subpoena issued by 379
the board and after reasonable notice to that person of the 380
failure, the board may move for an order compelling the production 381
of persons or records pursuant to the Rules of Civil Procedure. 382

Sec. 4715.034. (A) The supervisory investigative panel may 383
ask to meet with the individual who is the subject of the 384
investigation at any time during the investigation of the 385
individual. At the conclusion of the investigation, the panel 386
shall recommend that the state dental board do one of the 387

<u>following:</u>	388
<u>(1) Pursue disciplinary action under section 4715.30 of the Revised Code;</u>	389 390
<u>(2) Seek an injunction under section 4715.05 of the Revised Code;</u>	391 392
<u>(3) Enter into a consent agreement if the subject of the investigation is a licensee;</u>	393 394
<u>(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;</u>	395 396 397 398
<u>(5) Terminate the investigation.</u>	399
<u>(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 supervisory investigative 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.</u>	400 401 402 403 404 405 406 407 408
<u>Once the panel makes a recommendation under this section, the secretary and vice-secretary of the board shall not participate in any deliberations the board has on the case.</u>	409 410 411
<u>Sec. 4715.035. If the supervisory investigative panel is supervising an investigation of an individual who is also the subject of a criminal investigation and the panel suspends the investigation because the panel is asked to do so by the entity conducting the criminal investigation or the panel determines that</u>	412 413 414 415 416

it is necessary to do so due to the criminal investigation, the 417
time during which the investigation is suspended shall not be 418
counted for purposes of determining the time within which the 419
panel is required to make its recommendation to the state dental 420
board under section 4715.034 of the Revised Code. 421

Sec. 4715.036. (A) As used in this section, "personal 422
identifying information" has the same meaning as in section 423
2913.49 of the Revised Code, except that it also includes the name 424
of an individual who submits a complaint to the state dental 425
board, the individual's job title, and the individual's job 426
responsibilities. 427

(B) If the state dental board notifies an individual who is 428
an applicant, license holder, or other individual of an 429
opportunity for a hearing pursuant to section 119.07 of the 430
Revised Code, the board shall state in the notice that the 431
individual is entitled to receive, on request and at no cost to 432
the individual, one copy of each item the board procures or 433
creates in the course of its investigation on the individual at 434
least sixty days prior to the hearing. Items may include, but are 435
not limited to, the complaint or complaints filed with the board; 436
correspondence, reports, and statements of any kind; deposition 437
transcripts; and patient dental records. 438

Before providing copies of investigative items under this 439
division, the board shall determine whether the items contain any 440
personal identifying information of an individual whose current or 441
future employment within any dental profession, either as a dental 442
professional regulated by the board or in a position related to 443
those professionals, could be adversely affected by disclosure of 444
the information. If the board determines that the investigative 445
items contain such personal identifying information, the board 446
shall redact the information from the copies of the items provided 447

under this division. 448

If a request for investigative items is made pursuant to this 449
division, the hearing shall, notwithstanding section 119.07 of the 450
Revised Code, be scheduled for a date that is at least sixty-one 451
days after the board provides the individual with the 452
investigative items. 453

(C) After the board notifies an individual of an opportunity 454
for a hearing, the board shall issue a subpoena, upon request by 455
either party, to compel the attendance and testimony of witnesses 456
at the hearing. 457

The board shall also issue a subpoena after the board 458
notifies an individual of an opportunity for a hearing, upon 459
request by either party, for the production of books, records, 460
papers, and other tangible items. The person or government entity 461
subject to such a subpoena shall comply with the subpoena at least 462
thirty days prior to the hearing. 463

Sec. 4715.037. (A) Notwithstanding the permissive nature of 464
hearing referee or examiner appointments under section 119.09 of 465
the Revised Code, the state dental board shall appoint, by a 466
concurrence of a majority of its members, five referees or 467
examiners to conduct the hearings the board is required to hold 468
pursuant to sections 119.01 to 119.13 of the Revised Code. 469
Referees or examiners appointed under this section shall be 470
attorneys who have been admitted to the practice of law in this 471
state. In making the appointments, the board shall not appoint an 472
attorney who is a board employee or represents the board in any 473
other manner. 474

(B)(1) Referees or examiners appointed under this section 475
shall serve no more than the following number of consecutive 476
one-year terms: 477

<u>(a) In the case of two of the initial appointees, eight;</u>	478
<u>(b) In the case of two other of the initial appointees, nine;</u>	479
<u>(c) In the case of the one other initial appointee and all</u>	480
<u>successor appointees, five.</u>	481
<u>(2) The board may not refuse to reappoint a referee or</u>	482
<u>examiner before the referee or examiner has served the maximum</u>	483
<u>number of terms applicable to the referee or examiner unless the</u>	484
<u>referee or examiner does not seek to serve the maximum number of</u>	485
<u>terms or the board, by a concurrence of a majority of its members,</u>	486
<u>determines there is cause not to reappoint the referee or</u>	487
<u>examiner.</u>	488
<u>(C) The board shall assign one referee or examiner appointed</u>	489
<u>under this section to conduct each hearing. Assignments shall be</u>	490
<u>made in the order the board receives requests for hearings without</u>	491
<u>regard to the experience or background of a particular referee or</u>	492
<u>examiner or the consideration of any factor other than whether the</u>	493
<u>referee or examiner is available at the appropriate time.</u>	494
<u>Sec. 4715.038. A hearing referee or examiner assigned to</u>	495
<u>conduct a hearing pursuant to section 4715.037 of the Revised Code</u>	496
<u>shall hear and consider the oral and documented evidence</u>	497
<u>introduced by the parties during the hearing. Not later than</u>	498
<u>thirty days following the close of the hearing, the referee or</u>	499
<u>examiner shall issue to the state dental board, in writing,</u>	500
<u>proposed findings of fact and conclusions of law. Along with the</u>	501
<u>proposed findings of fact and conclusions of law, the board shall</u>	502
<u>be given copies of the record of the hearing and all exhibits and</u>	503
<u>documents presented by the parties at the hearing.</u>	504
<u>Sec. 4715.039. Prior to the state dental board's decision of</u>	505
<u>a case, the board shall allow the parties or their counsel an</u>	506
<u>opportunity to present oral arguments on the proposed findings of</u>	507

fact and conclusions of law issued by the hearing referee or 508
examiner under section 4715.038 of the Revised Code. Not later 509
than sixty days following the board's receipt of the proposed 510
findings of fact and conclusions of law, or a date mutually agreed 511
to by the board and the applicant for or holder of a certificate 512
or license issued under this chapter, the board shall render a 513
decision. The decision shall be in writing and contain findings of 514
fact and conclusions of law. 515

Copies of the board's decision shall be delivered to the 516
applicant, licensee, or certificate holder personally or by 517
certified mail. The board's decision shall be considered final on 518
the date personal delivery of the decision is made or the date the 519
decision is mailed. 520

An individual may appeal a decision by the board in 521
accordance with the procedure specified in Chapter 119. of the 522
Revised Code. 523

Sec. 4715.0310. A notice of opportunity for a hearing issued 524
by the state dental board pursuant to section 119.07 of the 525
Revised Code and the name of the hearing referee or examiner the 526
board assigns to a hearing pursuant to section 4715.037 of the 527
Revised Code are public records under section 149.43 of the 528
Revised Code. 529

Sec. 4715.06. Each member of the state dental board shall 530
receive an amount fixed pursuant to division (J) of section 124.15 531
of the Revised Code for each day actually employed in the 532
discharge of the official duties of the member, and the necessary 533
expenses of the member. The secretary and vice-secretary shall 534
~~receive reimbursement~~ be reimbursed for necessary expenses 535
incurred by the secretary in the discharge of the official duties 536
of the secretary and vice-secretary, respectively. All vouchers of 537

the board shall be approved by the board president or executive 538
secretary, or both, as authorized by the board. 539

Sec. 4715.14. (A) Each person who is licensed to practice 540
dentistry in Ohio shall, on or before the first day of January of 541
each even-numbered year, register with the state dental board. The 542
registration shall be made on a form prescribed by the board and 543
furnished by the secretary, shall include the licensee's name, 544
address, license number, and such other reasonable information as 545
the board may consider necessary, and shall include payment of a 546
biennial registration fee of two hundred forty-five dollars. 547
Except as provided in division ~~(D)~~(E) of this section, this fee 548
shall be paid to the treasurer of state. ~~All such registrations~~ 549
Subject to division (C) of this section, a registration shall be 550
in effect for the two-year period beginning on the first day of 551
January of the even-numbered year and ending on the last day of 552
December of the following odd-numbered year, and shall be renewed 553
in accordance with the standard renewal procedure of sections 554
4745.01 to 4745.03 of the Revised Code. ~~The failure of a licensee~~ 555
~~to renew the licensee's registration in accordance with this~~ 556
~~section shall result in an automatic suspension of the licensee's~~ 557
~~license to practice dentistry.~~ 558

(B) ~~Any dentist whose license has been suspended under this~~ 559
~~section may be reinstated by the payment of the biennial~~ 560
~~registration fee and in addition thereto eighty one dollars to~~ 561
~~cover costs of the reinstatement; excepting that to any A licensed~~ 562
dentist who desires to temporarily retire from practice, and who 563
has given the board notice in writing to that effect, ~~the board~~ 564
shall ~~grant~~ be granted such a retirement, provided only that at 565
that time all previous registration fees and additional costs of 566
reinstatement have been paid. 567

(C) The board shall notify a dentist who fails to renew a 568

license in accordance with division (A) of this section of all of 569
the following: 570

(1) That the board has not received the registration form and 571
fee described in that division; 572

(2) That the license shall remain valid and in good standing 573
until the first day of June following the last day of December of 574
the odd-numbered year in which the dentist was scheduled to renew 575
if the dentist remains in compliance with all other applicable 576
provisions of this chapter and any rule adopted under it; 577

(3) That the license may be renewed until the first day of 578
June following the last day of December of the odd-numbered year 579
in which the dentist was scheduled to renew by the payment of the 580
biennial registration fee and an additional fee of eighty-one 581
dollars to cover the cost of late renewal; 582

(4) That unless the board receives the registration form and 583
fee before the first day of June following the last day of 584
December of the odd-numbered year in which the dentist was 585
scheduled to renew, the board may, on or after the relevant first 586
day of June, initiate disciplinary action against the dentist 587
pursuant to Chapter 119. of the Revised Code; 588

(5) That a dentist whose license has been suspended as a 589
result of disciplinary action initiated pursuant to division 590
(C)(4) of this section may be reinstated by the payment of the 591
biennial registration fee and an additional fee of two hundred 592
dollars to cover the cost of reinstatement. 593

(D) Each dentist licensed to practice, whether a resident or 594
not, shall notify the secretary in writing of any change in the 595
dentist's office address or employment within ten days after such 596
change has taken place. On the first day of July of every 597
even-numbered year, the secretary shall issue a printed roster of 598
the names and addresses so registered. 599

~~(D)~~(E) Twenty dollars of each biennial registration fee shall 600
be paid to the dentist loan repayment fund created under section 601
3702.95 of the Revised Code. 602

Sec. 4715.141. (A) Each licensed dentist shall complete 603
biennially not less than forty hours of continuing dental 604
education, which may include, but is not limited to, attendance at 605
lectures, study clubs, college and postgraduate courses, or 606
scientific sessions of conventions, research, graduate study, 607
teaching, service as a clinician, or correspondence courses. 608
Continuing dental education programs include, but are not limited 609
to, programs that address any of the following: 610

(1) ~~Competency~~ Competency in treating patients who are 611
medically compromised or who experience medical emergencies during 612
the course of dental treatment; 613

(2) Knowledge of pharmaceutical products and the protocol of 614
the proper use of medications; 615

(3) Competency to diagnose oral pathology; 616

(4) Awareness of currently accepted methods of infection 617
control; 618

(5) Basic medical and scientific subjects including, but not 619
limited to, biology, physiology, pathology, biochemistry, and 620
pharmacology; 621

(6) Clinical and technological subjects including, but not 622
limited to, clinical techniques and procedures, materials, and 623
equipment; 624

(7) Subjects pertinent to health and safety. 625

Dentists shall earn continuing education credits at the rate 626
of one-half credit for each twenty-five to thirty contact minutes 627
of instruction and one credit hour for each fifty to sixty contact 628
minutes of instruction. 629

(B) Programs meeting the general requirements of division (A) 630
of this section may be developed and offered to dentists by any of 631
the following agencies or organizations: 632

(1) National, state, district, or local dental associations 633
affiliated with the American dental association or national dental 634
association; 635

(2) Accredited dental colleges or schools; 636

(3) Other organizations, schools, or agencies approved by the 637
state dental board. 638

(C) Each licensed dentist shall submit to the board at the 639
time of biennial registration pursuant to section 4715.14 of the 640
Revised Code a sworn affidavit, on a form acceptable to the state 641
dental board, attesting that he has completed continuing education 642
programs in compliance with this section and listing the date, 643
location, sponsor, subject matter, and hours completed of the 644
programs. 645

A licensed dentist shall retain in his records for a period 646
of at least three years such receipts, vouchers, or certificates 647
as may be necessary to document completion of continuing education 648
programs. With cause, the board may request such documentation 649
from licensed dentists, and the board may request such 650
documentation from licensed dentists selected at random without 651
cause. 652

(D) The board may excuse licensed dentists, as a group or as 653
individuals, from all or any part of the requirements of this 654
section because of an unusual circumstance, emergency, or special 655
hardship. 656

~~(E) Failure to comply with the requirements of this section 657
constitutes a failure to renew registration pursuant to section 658
4715.14 of the Revised Code~~ The board shall notify a dentist who 659
fails to submit the affidavit required by division (C) of this 660

section of both of the following: 661

(1) That the board has not received the affidavit; 662

(2) That unless the board receives the affidavit before the 663
first day of June following the last day of December by which the 664
dentist was required to submit the affidavit, the board may, on or 665
after the relevant first day of June, initiate disciplinary action 666
against the dentist pursuant to Chapter 119. of the Revised Code. 667

Sec. 4715.24. (A) Each person who is licensed to practice as 668
a dental hygienist in Ohio shall, on or before the first day of 669
January of each even-numbered year, register with the state dental 670
board. The registration shall be made on a form prescribed by the 671
board and furnished by the secretary, shall include the licensee's 672
name, address, license number, and such other reasonable 673
information as the board may consider necessary, and shall include 674
payment of a biennial registration fee of one hundred five 675
dollars. This fee shall be paid to the treasurer of state. All 676
such registrations shall be in effect for the two-year period 677
beginning on the first day of January of each even-numbered year 678
and ending on the last day of December of the following 679
odd-numbered year, and shall be renewed in accordance with the 680
standard renewal procedure of sections 4745.01 to 4745.03 of the 681
Revised Code. ~~The failure of a licensee to renew registration in~~ 682
~~accordance with this section shall result in the automatic~~ 683
~~suspension of the licensee's license to practice as a dental~~ 684
~~hygienist.~~ 685

(B) ~~Any~~ The board shall notify a dental hygienist who fails 686
to renew a license in accordance with division (A) of this section 687
of all of the following: 688

(1) That the board has not received the registration form and 689
fee described in that division; 690

(2) That the license shall remain valid and in good standing until the first day of June following the last day of December of the odd-numbered year in which the dental hygienist was scheduled to renew if the dental hygienist 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 June following the last day of December of the odd-numbered year in which the dental hygienist was scheduled to renew by the payment of the biennial registration fee and an additional fee of eighty-one dollars to cover the cost of late renewal;

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

(5) That a dental hygienist whose license has been suspended under as a result of disciplinary action initiated pursuant to division (B)(4) of this section may be reinstated by the payment of the biennial registration fee and ~~in addition thereto~~ thirty-one an additional fee of two hundred dollars to cover the costs of reinstatement.

(C) The license of a dental hygienist shall be exhibited in a conspicuous place in the room in which the dental hygienist practices. Each dental hygienist licensed to practice, whether a resident or not, shall notify the secretary in writing of any change in the dental hygienist's office address or employment within ten days after the change takes place.

Sec. 4715.25. (A) Every person licensed to practice as a dental hygienist and required to register with the state dental

board shall certify to the board at the time of applying for a 722
renewal of registration that in the two-year period preceding ~~two~~ 723
~~years~~ the registration period for which the renewal is sought the 724
registrant has completed a minimum of ~~twelve~~ twenty-four hours of 725
continuing dental hygiene education. Certification shall be made 726
upon the application for registration prescribed by the board 727
pursuant to section 4715.24 of the Revised Code. 728

Continuing education programs may be developed and offered to 729
dental hygienists by any of the following agencies or 730
organizations: 731

(1) National, state, district, or local dental hygienists' 732
associations affiliated with the American dental hygienists' 733
association; 734

(2) National, state, district, or local dental associations 735
affiliated with the American dental association or national dental 736
association; 737

(3) Accredited dental hygiene colleges or schools; 738

(4) Accredited dental colleges or schools; 739

(5) Other organizations, schools, paraprofessional programs, 740
or agencies approved by the state dental board. 741

(B) A licensed dental hygienist shall retain in ~~his~~ the 742
dental hygienist's records for a period of at least three years 743
such receipts, vouchers, or certificates as may be necessary to 744
document completion of continuing education programs. With cause, 745
the board may request such documentation from licensed dental 746
hygienists, and the board may request such documentation from 747
licensed dental hygienists at random without cause. 748

(C) The board may excuse licensed dental hygienists, as a 749
group or as individuals, from all or any part of the requirements 750
of this section because of an unusual circumstance, emergency, or 751

special hardship. 752

~~(D) Failure to comply with the requirements of this section~~ 753
~~constitutes a failure to renew registration pursuant to section~~ 754
~~4715.24 of the Revised Code~~ The board shall notify a dental 755
hygienist who fails to submit the certification required by 756
division (A) of this section of both of the following: 757

(1) That the board has not received the certification; 758

(2) That unless the board receives the certification before 759
the first day of June following the last day of December by which 760
the dental hygienist was required to submit the certification, the 761
board may, on or after the relevant first day of June, initiate 762
disciplinary action against the dental hygienist pursuant to 763
Chapter 119. of the Revised Code. 764

Sec. 4715.30. (A) ~~The~~ An applicant for or holder of a 765
certificate or license issued under this chapter is subject to 766
disciplinary action by the state dental board for any of the 767
following reasons: 768

(1) Employing or cooperating in fraud or material deception 769
in applying for or obtaining a license or certificate; 770

(2) Obtaining or attempting to obtain money or anything of 771
value by intentional misrepresentation or material deception in 772
the course of practice; 773

(3) Advertising services in a false or misleading manner or 774
violating the board's rules governing time, place, and manner of 775
advertising; 776

(4) Conviction of a misdemeanor committed in the course of 777
practice or of any felony; 778

(5) Engaging in lewd or immoral conduct in connection with 779
the provision of dental services; 780

(6) Selling, prescribing, giving away, or administering drugs	781
for other than legal and legitimate therapeutic purposes, or	782
conviction of violating any law of this state or the federal	783
government regulating the possession, distribution, or use of any	784
drug;	785
(7) Providing or allowing dental hygienists, expanded	786
function dental auxiliaries, or other practitioners of auxiliary	787
dental occupations working under the certificate or license	788
holder's supervision, or a dentist holding a temporary limited	789
continuing education license under division (C) of section 4715.16	790
of the Revised Code working under the certificate or license	791
holder's direct supervision, to provide dental care that departs	792
from or fails to conform to accepted standards for the profession,	793
whether or not injury to a patient results;	794
(8) Inability to practice under accepted standards of the	795
profession because of physical or mental disability, dependence on	796
alcohol or other drugs, or excessive use of alcohol or other	797
drugs;	798
(9) Violation of any provision of this chapter or any rule	799
adopted thereunder;	800
(10) Failure to use universal blood and body fluid	801
precautions established by rules adopted under section 4715.03 of	802
the Revised Code;	803
(11) Waiving the payment of all or any part of a deductible	804
or copayment that a patient, pursuant to a health insurance or	805
health care policy, contract, or plan that covers dental services,	806
would otherwise be required to pay if the waiver is used as an	807
enticement to a patient or group of patients to receive health	808
care services from that provider.	809
(12) Advertising that the certificate or license holder will	810
waive the payment of all or any part of a deductible or copayment	811

that a patient, pursuant to a health insurance or health care 812
policy, contract, or plan that covers dental services, would 813
otherwise be required to pay. 814

(B) A manager, proprietor, operator, or conductor of a dental 815
facility shall be subject to disciplinary action if any dentist, 816
dental hygienist, expanded function dental auxiliary, or qualified 817
personnel providing services in the facility is found to have 818
committed a violation listed in division (A) of this section and 819
the manager, proprietor, operator, or conductor knew of the 820
violation and permitted it to occur on a recurring basis. 821

(C) Subject to Chapter 119. of the Revised Code, the board 822
may take one or more of the following disciplinary actions if one 823
or more of the grounds for discipline listed in divisions (A) and 824
(B) of this section exist: 825

(1) Censure the license or certificate holder; 826

(2) Place the license or certificate on probationary status 827
for such period of time the board determines necessary and require 828
the holder to: 829

(a) Report regularly to the board upon the matters which are 830
the basis of probation; 831

(b) Limit practice to those areas specified by the board; 832

(c) Continue or renew professional education until a 833
satisfactory degree of knowledge or clinical competency has been 834
attained in specified areas. 835

(3) Suspend the certificate or license; 836

(4) Revoke the certificate or license. 837

Where the board places a holder of a license or certificate 838
on probationary status pursuant to division (C)(2) of this 839
section, the board may subsequently suspend or revoke the license 840
or certificate if it determines that the holder has not met the 841

requirements of the probation or continues to engage in activities 842
that constitute grounds for discipline pursuant to division (A) or 843
(B) of this section. 844

Any order suspending a license or certificate shall state the 845
conditions under which the license or certificate will be 846
restored, which may include a conditional restoration during which 847
time the holder is in a probationary status pursuant to division 848
(C)(2) of this section. The board shall restore the license or 849
certificate unconditionally when such conditions are met. 850

(D) If the physical or mental condition of an applicant or a 851
license or certificate holder is at issue in a disciplinary 852
proceeding, the board may order the license or certificate holder 853
to submit to reasonable examinations by an individual designated 854
or approved by the board and at the board's expense. The physical 855
examination may be conducted by any individual authorized by the 856
Revised Code to do so, including a physician assistant, a clinical 857
nurse specialist, a certified nurse practitioner, or a certified 858
nurse-midwife. Any written documentation of the physical 859
examination shall be completed by the individual who conducted the 860
examination. 861

Failure to comply with an order for an examination shall be 862
grounds for refusal of a license or certificate or summary 863
suspension of a license or certificate under division (E) of this 864
section. 865

(E) If the board has reason to believe that ~~the~~ a license or 866
certificate holder represents a clear and immediate danger to the 867
public health and safety if the holder is allowed to continue to 868
practice, or if the holder has failed to comply with an order 869
under division (D) of this section, the board may apply to the 870
court of common pleas of the county in which the holder resides 871
for an order temporarily suspending the holder's license or 872
certificate, without a prior hearing being afforded by the board, 873

until the board conducts an adjudication hearing pursuant to 874
Chapter 119. of the Revised Code. If the court temporarily 875
suspends a holder's license or certificate, the board shall give 876
written notice of the suspension personally or by certified mail 877
to the license or certificate holder. Such notice shall include 878
specific facts and reasons for finding a clear and immediate 879
danger to the public health and safety and shall inform the 880
license or certificate holder of the right to a hearing pursuant 881
to Chapter 119. of the Revised Code. 882

(F) Any holder of a certificate or license issued under this 883
chapter who has pleaded guilty to, has been convicted of, or has 884
had a judicial finding of eligibility for intervention in lieu of 885
conviction entered against the holder in this state for aggravated 886
murder, murder, voluntary manslaughter, felonious assault, 887
kidnapping, rape, sexual battery, gross sexual imposition, 888
aggravated arson, aggravated robbery, or aggravated burglary, or 889
who has pleaded guilty to, has been convicted of, or has had a 890
judicial finding of eligibility for treatment or intervention in 891
lieu of conviction entered against the holder in another 892
jurisdiction for any substantially equivalent criminal offense, is 893
automatically suspended from practice under this chapter in this 894
state and any certificate or license issued to the holder under 895
this chapter is automatically suspended, as of the date of the 896
guilty plea, conviction, or judicial finding, whether the 897
proceedings are brought in this state or another jurisdiction. 898
Continued practice by an individual after the suspension of the 899
individual's certificate or license under this division shall be 900
considered practicing without a certificate or license. The board 901
shall notify the suspended individual of the suspension of the 902
individual's certificate or license under this division by 903
certified mail or in person in accordance with section 119.07 of 904
the Revised Code. If an individual whose certificate or license is 905
suspended under this division fails to make a timely request for 906

an adjudicatory hearing, the board shall enter a final order 907
revoking the individual's certificate or license. 908

(G) Notwithstanding divisions (A)(11) and (12) of this 909
section, sanctions shall not be imposed against any licensee who 910
waives deductibles and copayments: 911

(1) In compliance with the health benefit plan that expressly 912
allows such a practice. Waiver of the deductibles or copayments 913
shall be made only with the full knowledge and consent of the plan 914
purchaser, payer, and third-party administrator. Such consent 915
shall be made available to the board upon request. 916

(2) For professional services rendered to any other person 917
licensed pursuant to this chapter to the extent allowed by this 918
chapter and the rules of the board. 919

(H) Under no circumstances shall the board consider or raise 920
during a hearing required by Chapter 119. of the Revised Code any 921
action authorized under this section that the board took on a 922
prior occasion with respect to a person if the charges in the 923
subsequent action relate to events or circumstances that occurred 924
in the same time period and are of the same nature as the charges 925
in the prior action. 926

Section 2. That existing sections 119.12, 4715.03, 4715.031, 927
4715.06, 4715.14, 4715.141, 4715.24, 4715.25, and 4715.30 of the 928
Revised Code are hereby repealed. 929

Section 3. (A) As used in this section, "registration period" 930
means the two-year period during which a dental hygienist's 931
registration is in effect under section 4715.24 of the Revised 932
Code. 933

(B) Notwithstanding the provisions of section 4715.25 of the 934
Revised Code, as amended by this act, that increases from twelve 935
to twenty-four the minimum number of hours of continuing education 936

that a dental hygienist must certify to the State Dental Board 937
when applying for a renewal of registration, a dental hygienist 938
whose registration expires on December 31, 2009, remains subject 939
to the requirement to certify completion of a minimum of twelve 940
hours of continuing education when applying for a renewal of 941
registration for the 2010 to 2011 registration period. 942

Section 4. The amendment by this act to division (A) of 943
section 4715.03 of the Revised Code requiring that the secretary 944
of the State Dental Board be a dentist shall not apply to the 945
secretary serving on the Board on the effective date of this 946
section. 947