



## Ohio Administrative Code

### Rule 4715-22-01 Volunteer's certificate issued to retired dentist or dental hygienist to provide free services to indigent and uninsured persons; immunity.

Effective: November 25, 2019

---

#### (A) Terms

(1) As used in this rule, "indigent and uninsured person" means a person who meets all of the following requirements:

(a) The person's income is not greater than two hundred per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with Section 673(2) of the "Omnibus Budget Reconciliation Act of 1981", 95 Stat. 511, 42 U.S.C. 9902, as amended.

(b) The person is not eligible to receive medical assistance under Chapter 5162. of the Revised Code, disability assistance medical assistance under Chapter 5115. of the Revised Code, or assistance under any other governmental health care program.

(c) Either of the following applies:

(i) The person is not a policy holder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(ii) The person is a policy holder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(2) As used in this rule, "health care facility or location: means a hospital, clinic, ambulatory surgical facility, office of a health care professional or associated group of health care professionals, training institution for health care professionals, or any other place where medical, dental or other health-related diagnosis, care, or treatment is provided to a person..



(3) As used in this rule, "nonprofit health care referral organization" means an entity that is not operated for profit and refers patients to, or arranges for the provision of, health-related diagnosis, care, or treatment by a health care professional or health care worker.

(4) As used in this rule, "operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection. "Operation" does not include routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.

(5) For purposes of this rule, a "health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.

(6) For purposes of the rule, a "volunteer" means an individual who provides any medical, dental, or other health-related care or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any health care facility or location, any nonprofit health care referral organization, or any other person or government entity.

(7) For the purposes of this rule, a person shall be considered "retired" from the practice of dentistry or dental hygiene if the person's license has been surrendered or allowed to expire with the intention of ceasing to practice as a dentist or dental hygienist for remuneration.

#### (B) Purpose

The state dental board may issue, without examination, a volunteer certificate to a person who is retired from practice so that the person may provide dental services to indigent and uninsured



persons at nonprofit shelters or health care facilities.

(C) Application

(1) An application for a volunteer's certificate shall include all of the following:

(a) A copy of the applicant's degree from dental college or school or dental hygiene college or school.

(b) One of the following, as applicable:

(i) A copy of the applicant's most recent license to practice dentistry or dental hygiene issued by a jurisdiction in the United States that licenses persons to practice dentistry or dental hygiene.

(ii) A copy of the applicant's most recent license equivalent to a license to practice dentistry or dental hygiene in one or more branches of the United States armed services that the United States government issued.

(2) Evidence of one of the following, as applicable:

(a) The applicant has maintained for at least ten years prior to retirement full licensure in good standing in any jurisdiction in the United States that licenses persons to practice dentistry or dental hygiene.

(b) The applicant has practiced as a dentist or dental hygienist in good standing for at least ten years prior to retirement in one or more branches of the United States armed services.

(D) Restrictions

(1) The holder of a volunteer certificate may provide dental services only on the premises of a nonprofit shelter or health care facility and only to indigent and uninsured persons.

(2) The holder shall not accept any form of remuneration for providing dental services while in possession of the certificate.



(3) Except in a dental emergency, the holder shall not perform any operation.

(4) The board may revoke a volunteer certificate on receiving proof satisfactory to the board that the holder has engaged in practice in this state outside the scope of the holder's certificate or that there are grounds for action against the person under section 4715.30 of the Revised Code.

(E) Renewal

(1) A volunteer certificate shall be valid for a period of three years, and may be renewed upon the application of the holder, unless the certificate was previously revoked under paragraph (D) of this rule. The board shall maintain a register of all persons who hold volunteer certificates. The board shall not charge a fee for issuing or renewing a certificate pursuant to this rule.

(2) To be eligible for renewal of a volunteer certificate, the holder of the certificate shall certify to the board completion of sixty hours of continuing dental education that meets the requirements of section 4715.141 of the Revised Code and the rules adopted under that section, or completion of eighteen hours of continuing dental hygiene education that meets the requirements of section 4715.25 of the Revised Code and the rules adopted under that section, as the case may be. The board may not renew a certificate if the holder has not complied with the appropriate continuing education requirements. The nonprofit shelter or health care facility in which the holder provides dental or dental hygiene services may pay for or reimburse the holder for any costs incurred in obtaining the required continuing education credits.

(3) The board shall issue to each person who qualifies under this section for a volunteer certificate a wallet certificate and a wall certificate that state that the certificate holder is authorized to provide dental services pursuant to the laws of this state. The holder shall keep the wallet certificate on the holder's person while providing dental services and shall display the wall certificate prominently in the nonprofit shelter or health care facility where the holder primarily practices.

(F) Immunity

(1) The holder of a volunteer certificate issued pursuant to this rule is subject to the immunity



provisions in section 2305.234 of the Revised Code.

(2) Subject to paragraphs (F)(5) and (F)(6)(c) of this rule, a dentist or dental hygienist who is a volunteer and complies with paragraph (F)(2)(a) of this rule is not liable in damages to any person or government entity in a tort or other civil action, including an action on a dental or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision of dental services at a nonprofit shelter or health care facility to an indigent and uninsured person of dental care or treatment, including the provision of samples of medicine and other medical products, unless the action or omission constitutes willful or wanton misconduct.

(a) To qualify for the immunity described in paragraph (F)(1) of this rule, a dentist or dental hygienist shall do all of the following prior to providing diagnosis, care, or treatment:

(i) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence;

(ii) Inform the person of the provisions of this rule, including notifying the person that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot hold the health care professional liable for damages in a tort or other civil action, including an action on a dental or other health-related claim, unless the action or omission of the health care professional constitutes willful or wanton misconduct;

(iii) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care or treatment subject to the provisions of this rule. A written waiver under this paragraph shall state clearly and in conspicuous type that the person or other individual who signs the waiver is signing it with full knowledge that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot bring a tort or other civil action, including an action on a dental or other health-related claim, against the health care professional unless the action or omission of the health care professional constitutes



willful or wanton misconduct.

(3) Subject to paragraphs (F)(5) and (F)(6)(c) of this rule, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a dental or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision of dental services to an indigent and uninsured person of dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes willful or wanton misconduct.

(4) Subject to paragraphs (F)(5) and (F)(6)(c) of this rule and to the extent that the registration requirements of section 3701.071 of the Revised Code apply, a health care facility or location associated with a dental or dental hygiene volunteer as described in paragraph (F)(2) of this rule or a health care worker as described in paragraph (A)(5) of this rule, or a nonprofit health care referral organization as described in paragraph (A)(3) of this rule is not liable in damages to any person or government entity in a tort or other civil action, including an action on a dental or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the dentist or dental hygienist or worker or nonprofit health care referral organization relative to the shelter or facility, dental or other health-related diagnosis, care or treatment provided to an indigent and uninsured person on behalf of or at the health care facility or location, unless the action or omission constitutes willful or wanton misconduct.

(5) Exemptions to immunity

(a) Except as provided in paragraph (F)(5)(b) of this rule, the immunities provided by paragraphs (F)(1) to (F)(4) of this rule are not available to a health care professional, health care worker, nonprofit health care referral organization, health care facility or location if, at the time of an alleged injury, death, or loss to person or property, the health care professional or health care workers involved are providing one of the following:

(i) Any dental or other health-related diagnosis, care, or treatment pursuant to a community service work order entered by a court under division (B) of section 2951.02 of the Revised Code as a condition of probation or other suspension of a term of imprisonment or imposed by a court as a community control sanction pursuant to sections 2929.15 and 2929.17 of the Revised Code.



(ii) Performance of an operation to which any one of the following applies:

(a) The operation requires the administration of deep sedation or general anesthesia,

(b) The operation is a procedure that is not typically performed in an office,

(c) The individual involved is a health care professional, and the operation is beyond the scope of practice or the education, training, and competence, as applicable, of the health care professional.

(b) Paragraph (F)(5)(a) of this rule does not apply when a health care professional or health care worker provides, diagnosis, care or treatment that is necessary to preserve the life of a person in a medical emergency.

(6) Miscellaneous legal considerations regarding immunity

(a) This rule does not create a new cause of action or substantive legal right against a health care professional, health care worker, or nonprofit shelter or health care facility.

(b) This rule does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location may be entitled in connection with the provision of emergency or other diagnosis, care, or treatment.

(c) This rule does not grant an immunity from tort or other civil liability to a health care facility or location for actions that are outside the scope of authority of health care professionals, health care workers, or nonprofit health care referral organization.

(d) This rule does not affect any legal responsibility of a health care professional or health care worker to comply with any applicable law of this state or rule of an agency of this state.

(e) This rule does not affect any legal responsibility of a nonprofit shelter or health care facility to comply with any applicable law of this state, rule of an agency of this state, rule of an agency of this



AUTHENTICATED,  
OHIO LEGISLATIVE SERVICE  
COMMISSION  
DOCUMENT #274267

state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety.