



## Ohio Administrative Code

### Rule 4715-15-24 Witnesses.

Effective: April 7, 2005

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- (A) All witnesses at any administrative hearing or during any deposition in lieu of live testimony at hearing pursuant to rule 4715-15-21 of the Administrative Code shall testify under oath or affirmation.
- (B) A witness may be accompanied and advised by legal counsel. Participation by counsel for a witness other than the respondent is limited to protection of that witness' rights, and that legal counsel may neither examine nor cross-examine any witnesses.
- (C) Should a witness refuse to answer a question ruled proper at a hearing or disobey a subpoena, the state dental board may institute contempt proceedings pursuant to section 119.09 of the Revised Code.
- (D) The presiding attorney hearing examiner, because of his duties, shall not be a competent witness nor subject to deposition in any adjudication proceeding. Unless the testimony of a board member or an attorney hearing examiner is material to the factual allegations set forth in the notice of opportunity for hearing, board members and attorney hearing examiners shall not be competent witnesses nor subject to deposition in lieu of live testimony in any adjudication proceeding. Former board members shall not be competent witnesses nor subject to deposition in any adjudication proceeding in cases wherein the former board member had personal knowledge of the case or were privy to or ascertained information while serving as a board member. Evidence from other persons relating to the mental processes of the presiding attorney hearing examiner or board members shall not be admissible.
- (E) If the attorney hearing examiner/board member intends to serve as a witness, he/she shall recuse him/herself from presiding over, deliberating on, or ruling on the matter.
- (F) Any representative of record may move for a separation of witnesses. Expert witnesses shall not be separated.



(G) Each representative of record at a hearing shall inform the attorney hearing examiner of the identity of each potential witness for his case present in the hearing room. Failure to so identify potential witnesses may be grounds for their later disqualification as witnesses.

(H) No witnesses shall be permitted to testify as to the nature, extent, or propriety of disciplinary action to be taken by the board. A witness may, in the discretion of the attorney hearing examiner, testify as to an ultimate issue of fact.