

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Veterinary Medical Licensing Board

Regulation/Package Title: 2012 Amended Rules

Rule Number(s): 4741-1-15, 4741-1-21, 4741-1-22 and 4741-2-01

Date: April 17, 2012

Rule Type:

☐ New

☒ Amended

☐ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Three of the rules contained in this package are in accordance with the five year rule review:

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Rule 4741-1-15 OAC lists the officers of the Board and their terms. The Board seeks to eliminate the office of second vice-president.

Rule 4741-1-21 OAC defines the practice of recordkeeping for veterinarians. The Board proposes to add the term “administered” for documentation of drugs provided to animals used for economic purposes.

Rule 4741-1-22 OAC deals with veterinarians participating in a vaccination clinic. The change would require all vaccination clinics to maintain vaccination records for a period of three years.

The remaining rule for amendment is:

Rule 4741-2-01 OAC which provides for the general provisions of veterinary business facility licenses. This is a relatively new rule that needed a minor change to apply to initial licenses for disciplinary purposes. Additionally, the term “knowing” in relation to violation would be removed.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

Section 4741.03(C)(9) ORC authorizes the board to adopt rules, in accordance with Chapter 119 of the Revised Code, which are necessary for its government and for the administration and enforcement of this chapter.

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? No
If yes, please briefly explain the source and substance of the federal requirement.

Not applicable

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The public purpose for these rules is to assure the public that licensed veterinarians and registered veterinary technicians (RVTs) are professional, trustworthy and competent practitioners. Additionally, the veterinary facility that is non-veterinarian owned would be held to the same standards. Rule 4741-1-15 OAC provides guidance to the Board members related to the succession of officers and their related term. The amended version would eliminate the second vice-president as the Board does not have enough members to fulfill that office. When

the terms of office changed in Section 4741.02 ORC in 2006 to three year terms, a second vice-president would not be beneficial. Rule 4741-1-21 OAC provides guidance for the documentation and maintenance of veterinary medical records. The Rule also provides guidance for who shall be provided a copy of the medical record. The amended change would require the veterinarian servicing animals for economic purposes on a herd basis to identify the drugs dispensed and administered. Rule 4741-1-22 OAC provides that a vaccination clinic sponsored by a city or general health district keep records for three years. The amended version will pertain to all vaccination clinics. This permits an animal owner to obtain the necessary documentation if needed. Rule 4741-2-01 OAC defines the requirements for a veterinary business facility license. A veterinary business facility license is issued to a veterinary business not fully owned by a currently licensed veterinarian and must meet certain requirements spelled out in state law. The amendment is to correct an oversight in the original version filed in 2007 in which initial licensure was overlooked in considering disciplinary action. Additionally, the term “knowing” would be deleted regarding a violation of Chapter 4741. of the Revised Code or rules established by the Board.

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

The Board will measure the success of these regulations as being written clearly and concisely so that the licensees and the public understand the rules.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The Ohio Veterinary Medical Association, the Ohio Association of Veterinary Technicians, and licensed practitioners (veterinarians, RVTs, and Veterinary business facility holders). The rules and proposed suggestions for change were placed in the Winter 2012 newsletter that went out to each veterinary renewal candidate in January, 2012 and to the listserve of RVTs and business facility holders in January 2012. Since a Veterinary Business Facility must have a supervising veterinarian on staff, the veterinarians were also asked to share the newsletter with their facilities. The newsletter was placed on the Board web site in January, 2012. Board representatives presented proposed changes to veterinarians and RVTs at the annual convention of the Ohio Veterinary Medical Association (OVMA) in February 2012. Board representatives also presented to RVTs at their annual conference of the Ohio Association of Veterinary Technicians (OAVT) in October, 2011. There is an assigned

representative from each association that also attends the Board monthly meetings and with whom the Board corresponds with monthly with the Agenda, etc.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

One of the proposed changes was to modify Rule 4741-1-21 OAC to include RVTs as requiring documentation. Jack Advent, Executive Director of the OVMA, attended the March, 2012 meeting to discuss this proposed change. The OVMA had received feedback that it might be an additional burden on the veterinarian. Since the RVT practiced at the direction of the veterinarian, it was the responsibility of the veterinarian to make sure the medical record was complete. The Board agreed. Another proposal that had been considered was drafting a rule related to the medical records when a veterinarian or veterinary facility suddenly closes its office. After some discussion with Mr. Advent, the Board agreed that a Board guideline would be the more appropriate and less burdensome on the veterinarian (small business owner). The four amended rules contained in this package were once again on March 21, 2012 emailed to Linda Heidenreich, representing OAVT and to Jack Advent of the OVMA. The Board received email verification from Ms. Heidenreich on March 28, 2012 and Jack Advent, on March 23, 2012, were not aware of any problems with the proposed rule changes. There were no emails, phone calls or other written comment to the Board regarding the proposed rules. The Board is in the process of posting the proposed rules on the Board's web site under "Important News" for any additional comment prior to filing the rules and sending an email to the listserv with notification of the proposed changes.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

The scientific data used for removing the office of second vice-president was calculated based on a board member's term on the Board. Regarding Rule 4741-2-01 related to Veterinary Business Facilities, the Board could not determine a scientific test for proving a "knowing violation". There was no other scientific data considered for the minor changes proposed as the rules are dictated by State Law.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

See the response in Question 8 regarding alternative regulations considered. It was felt that the minor changes proposed had minimal consequences to the licensees (as small business owners).

11. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No. Simply telling a veterinarian that medical records are required without providing direction would not provide the necessary continuance of care by a subsequent veterinarian as the current regulation requires.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation? There is no other State Agency that has the authority to regulate the licensure of veterinary medicine. There are rules promulgated by the Ohio Department of Agriculture regarding animals for economic purposes, however, they do not address veterinary medical records.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The proposed amended rules will go out to the listserve, the OVMA, and the OAVT prior to scheduling the public hearing. Additionally, there will be a link to register of ohio on the board's web site with notification of the proposed rules. If there are no comments at the public hearing, the rules will be final filed. Notification will go out to the listserve of the effective date of the rules and the register of Ohio. All information will be available on the Board's web site at www.ovmlb.ohio.gov.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community; Veterinarians, registered veterinary technicians and veterinary business facilities.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

In Rule 4741-1-15 OAC there is no adverse impact to eliminating an office holder of the board. In Rule 4741-1-21 OAC, the impact of documenting the veterinary medical care is crucial for the continuity of care of an animal. The veterinarian must prepare a medical record documenting the health status of an animal treated and any necessary data such that another veterinarian may follow the rationale and continue therapy if necessary. The record shall be dated and shall include all pertinent medical data such as vaccination, drug types and doses and all relevant medical and surgical procedures performed. The records shall identify the owner of the animal(s) and provide an address and telephone number or other means of contact. Medical records for companion animals are to include

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identifying information such as age, sex, species and breed or description and the animal's name, if known. Animals used for economic purposes that are treated on an individual basis shall be similarly identified. Animals used for economic purposes that are treated on a herd basis may be identified collectively, provided the treatment information is reflective of accepted medical practice for the species and lists doses of all drugs dispensed, and now, through the amended rule, all drugs administered. The Rule also identifies what constitutes a "medical record" and the length of time the records need to be maintained by the veterinary practice.

In Rule 4741-1-22 OAC, the veterinarian participating in a vaccination clinic sponsored by a city or general health district is required to maintain a vaccination record. The amended rule would require all veterinarians participating in any vaccination clinic to maintain vaccination records for a period of three years, which is consistent with Rule 4741-1-21 OAC regarding recordkeeping.

Rule 4741-2-01 OAC, applies to veterinary business facility licenses. The rule states that a facility must meet and comply with all requirements as set forth in Section 4741.28 ORC and rules adopted by the Board. Paragraph (D) was meant to mirror Section 4741.22 ORC which deals with discipline of the veterinarians and registered veterinary technicians. Paragraph (D) applies the same discipline to the veterinary business facility. The Board does not have jurisdiction over unlicensed individuals. The amended version would permit the board the authority to refuse to issue a license, a renewal, suspend or revoke a license, and /or impose a civil penalty of up to ten thousand dollars on a person who owns, operates or controls a veterinary business facility for any violation of Chapter 4741. of the Revised Code and/or rules established by the board in accordance with Chapter 119. of the Revised Code. The Rule goes on to list the violations. However, in (1), the rule should have restated the above sentence but instead states "for any knowing violation of Chapter 4741. of the Revised Code or rules established by the board...." The amended rule deletes the term "knowing" as there was no way to prove what a "knowing violation" actually was and would be too difficult for the responding Veterinary Business Facility to prove.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The expected adverse impact for recordkeeping for both the farm/large animal veterinarian and the vaccination clinic veterinarian is minimal, as far as time. There

is a cost for implementing and maintenance of medical records for a period of three years. There is no requirement for how the records are written or maintained. The records could be handwritten or could be placed in a computer software which will cause a variance in the cost associated with maintaining records. There is a cost associated with faxing medical records to the subsequent veterinarian. There may be a cost to providing the medical records to the owner of the animal, but the rule provides that the veterinarian may charge a reasonable cost for the reproduction of the records. The amended rule does not modify the cost impact of maintaining medical records.

There is no expected adverse impact from modifying the Election of Officer rule.

All discipline is governed by Section 119 of the Revised Code. Any violations discovered by the Board are noted in a Notice of Opportunity for a Hearing, at which time the entity is permitted to request a hearing. This would also occur if the individual is seeking initial licensure. There is no expected quantifiable adverse impact for the Veterinary Business Facility amended rule.

- 15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community? See the above response in 14.b.**

Regulatory Flexibility

- 16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

There is no waiver or alternative means of compliance with the four rules in this package. Implementing and maintaining veterinary medical records reinforces the Board's mission that the licensed individuals are professional, trustworthy and competent practitioners. The recordkeeping is a means of demonstrating that appropriate veterinary medical care was provided and for assuring continuity of care.

- 17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

There are no costs or fines associated with filing of documents contained within these rules. If there is a disciplinary violation, the Board would take into consideration a first-time offender and any other mitigating circumstances when deliberating on a disciplinary case.

- 18. What resources are available to assist small businesses with compliance of the regulation?**

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The Board has a working relationship with the associations representing veterinarians and registered veterinary technicians. The Board also maintains a listserve of interested parties. There is time placed on each monthly Board Agenda for the representatives of the Associations to speak regarding any issue of concern or awareness. The Board also permits other interested parties to address the Board regarding issues of concern or awareness. The Board has a web site that is updated frequently with important issues and resources, in addition to having the annual newsletter posted on the web site. The Board's contact information is as follows:

Mailing address:

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