

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Public Safety-Division of EMS

Regulation/Package Title: Complaints

Rule Number(s): 4765-10-01, 4765-10-02, 4765-10-03, 4765-10-05, 4765-10-06

Date: January 10, 2012

Rule Type:

☐ New

☒ 5-Year Review

☐ Amended

☐ Rescinded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.

Chapter 4765-10 of the Administrative Code (OAC) is authorized by section 4765.11 of the Revised Code (RC) and sets forth the procedures and parameters for handling complaints,

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conducting investigations, and issuing discipline related to EMS providers, EMS training institutions, and EMS instructors. Pursuant to a scheduled RC 119.032 five-year rule review, EMS proposes to file Chapter 4765-10 as "no change."

Rule 4765-10-01 sets forth definitions that pertain to discipline or sanctions issued to an EMS provider, an EMS training institute, or EMS instructor by the EMS Board.

Rule 4765-10-02 sets forth the procedures for handling complaints lodged with the Division of EMS and conducting investigations involving EMS providers, EMS training institutions or EMS instructors. The rule states that all complaints filed with the Board shall be investigated and all investigations shall be conducted to maintain confidentiality. This rule also provides that any Board member involved in the investigation at the state level or locally shall not participate in the adjudication of the case.

Rule 4765-10-03 sets forth the sanctions the EMS Board may levy against an EMS provider, EMS training institution, or EMS instructor for violating Chapter 4765 of the Revised Code or Chapters 4765-1 to 4765-xxx of the Administrative Codes. Sanctions include, issuance of a written reprimand, limiting of a certificate, denial of issuance of a certificate, denial of renewal of a certificate, suspension of a certificate, revocation of a certificate, and the imposition of a fine not to exceed one thousand dollars.

Rule 4765-10-05 sets forth the parameters for notification of disciplinary actions taken by the EMS Board. Notification must be provided to a person against whom a disciplinary action is levied and to any EMS organization(s) with whom the person is affiliated, if known.

Rule 4765-10-06 authorizes a medical director to limit the scope of practice of the EMS providers providing emergency medical services or withdrawing blood for evidence collection under the auspices of a *medical director's license*. Furthermore, the rule states that a medical director may not authorize an EMS provider to provide services beyond the scope of practice as set forth by the EMS Board.

2. **Please list the Ohio statute authorizing the Agency to adopt this regulation.** Sections 4765.11, 4765.38, and 4765.39 of the Revised Code.
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?**
The regulation does not implement a federal requirement.
4. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.** N/A.

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)?** Pursuant to RC sections 4765.11, 4765.18 and 4765.33, the EMS Board is statutorily required to promulgate rules in regard to issuing disciplinary sanctions to EMS providers, training institutions and instructors. Specifically, Chapter 4765-10 of the Administrative Code sets forth the standards, procedures, and controls that may be utilized by the EMS Board. This chapter ensures EMS providers, training institutions, and instructors are held to high standards of professionalism by the EMS Board. This chapter mandates that each person regulated by this chapter meets or exceeds the minimal qualifications to be certified and affords accountability to those receiving the services provided.
6. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?** The Division of EMS will investigate each and every complaint lodged and afford each person their due process rights. The number of investigations resulting in discipline is a means to measure success. Increased compliance will result in less disciplinary sanctions issued.

Development of the Regulation

7. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.** On or about January 17, 2012, the EMS Board assigned the rule review to its Policy and Regulation Subcommittee. The Committee reviewed the rules on January 17, 2012 and April 12, 2012. The Committee includes EMTs, registered nurses, program coordinators of training institutions, EMS Board members, and EMT instructors. The Committee's recommendation was to file the entire chapter as "no change."
8. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?** In February of 2012, Chapter 4765-10 was *posted to the Division of EMS' website with the information about the upcoming five-year rule review date and solicited public comment regarding the filing.* In November of 2012, Chapter 4765-10 was emailed via the *Division of EMS' list serve, which includes EMS providers, program directors of training institutions, trauma physicians, medical directors, registered nurses, and EMT instructors* in order to solicit input on the rules. No comments or input was received in response to the website posting or the email.
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?** There was no scientific data to be considered.

- 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?** No alternatives were considered since the EMS Board is obligated by Chapter 119 of the Revised Code to afford individuals their due process rights when violations of the referenced Revised and Administrative Codes occur.
- 11. Did the Agency specifically consider a performance-based regulation? Please explain.** No. OAC Chapter 4765-10 sets forth the procedures and parameters for handling complaints, conducting investigations, and issuing discipline related to EMS providers, EMS training institutions, and EMS instructors and does not offer the flexibility for performance-based regulations.
- 12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?** As EMS is the only division statutorily directed to administer these systems, only a review of RC Chapter 4765 and OAC 4765 was performed.
- 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.** As this is a *"no change" filing, there is no implementation needed at this time* outside of regularly scheduled staff training and evaluation. EMS policies are in place to ensure that all parties are treated equally and fairly.

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;**
 - b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
 - c. Quantify the expected adverse impact from the regulation.**

The scope of the impacted business community includes xxxx EMS providers, xx EMS training institutions, and xxx EMS instructors. EMS estimates that these rules will not result in any cost of compliance or adverse impact unless the EMS provider, training institution, or instructor becomes subject to disciplinary action. Disciplinary action, if invoked, may include fines up to \$1000 and/or limited authority to practice up to revocation. There are a limited number of EMS providers who are in violation, and therefore, the impact is minimal.

- 15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?** Pursuant to RC sections 4765.11, 4765.18 and

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4765.33, the EMS Board is statutorily required to promulgate rules in regard to issuing disciplinary sanctions to EMS providers, training institutions, and instructors. This requirement, in addition to EMS' intent to ensure high standards in a provider's professional conduct and delivery of emergency medical services, justifies the minimal adverse impact to the business community.

Regulatory Flexibility

- 16. Does the regulation provide any exemptions or alternative means of compliance for small businesses?** Although discipline is mandated if a violation is substantiated, such discipline is imposed at the discretion of the EMS Board. The Board carefully weighs each case that is presented.
- 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?** Each case will be reviewed to ensure compliance with section 119.14 of the Revised Code.
- 18. What resources are available to assist small businesses with compliance of the regulation?** *The Division of EMS' website contains an enforcement section* that provides the background and summarizes the details of its investigative policies and procedures. Additionally, all disciplinary action is posted to the website as a reference for providers.