

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Veterinary Medical Licensing Board

Regulation/Package Title: Amended 2014 Rules

Rule Number(s): 4741-1-01, 4741-1-03, 4741-1-04, 4741-1-08, 4741-1-21, 4741-2-03, 4741-3-02, 4741-3-03, 4741-3-04, and 4741-3-05 OAC.

Date: _____

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☐ Rescinded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.** All of the rules in this package were subject to the five year review, except for Rule 4741-1-01 OAC regarding veterinary technician registration and Rule 4741-1-21 OAC regarding recordkeeping. The draft package of rules consists of rules pertaining to the practice of veterinary medicine in the State of Ohio. The draft rules are written in plain language so that a member of the public without additional medical education can understand the rules. The rules in this package contain:

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Rule 4741-1-01 OAC sets out the requirements for certification of a registered veterinary technician initial application as well as biennial renewal.

Rule 4741-1-03 OAC sets the minimum standards for stationary veterinary facilities.

Rule 4741-1-04 OAC sets out the requirements for licensure of a veterinarian.

Rule 4741-1-08 OAC provides the requirements for mobile veterinary practices and mobile veterinary practice facilities.

Rule 4741-1-21 OAC defines requirements for Recordkeeping.

Rule 4741-2-03 OAC states the requirements for obtaining and issuing a limited license for the practice of veterinary medicine in the State of Ohio.

Rule 4741-3-02 OAC defines terminology utilized in the rule related to the Veterinary Student Loan Repayment Program.

Rule 4741-3-03 OAC defines the Veterinary resource shortage area.

Rule 4741-3-04 OAC establishes the criteria for prioritizing underserved areas.

Rule 4741-3-05 OAC establishes the criteria for selection of applicants for the Veterinary Student Loan Repayment Program.

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. Section 4741.01(F) ORC authorizes the Board to adopt rules regulating the registration of a registered veterinary technician. ORC 4741.13 authorizes the Board to adopt rules for the provision of a limited license to practice veterinary medicine. ORC 4741.45 states that the Board shall adopt rules in accordance with specifications listed regarding the veterinary medical student loan program.

3. Does the regulation implement a federal requirement? No 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?

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. These rules (Rule 4741-1-01, 4741-1-04, 4741-2-03 and 4741-2-04 OAC) provide

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

guidelines to the Board staff and licensed practitioners for what the Board members believe are acceptable requirements for issuing certificates of licensure to registered veterinary technicians and veterinarians, as well as continuing education in maintaining licensure. The proposed change to this rule mirrors the requirements set out in ORC 4741.09 regarding qualifications for application to take examination and ORC 4741.12 for issuing licensees of reciprocity by inserting the language “of good moral character”. Additionally, since Rules 4741-1-01 and 4741-1-04 reference an application form, the application forms will be “incorporated by reference” and attached to the Rule as required by JCARR.

Rule 4741-1-03 OAC provides guidance for minimum standards for a stationary veterinary practice. The change to this rule would allow for the veterinary practice to utilize electronic means for having an up-to-date library on the premises. This action permits quick access for researching drug interactions or any other questions that the veterinarian may have when consulting on the best method of veterinary care.

Rule 4741-1-21 OAC is being amended to add anesthesia monitoring to be documented. The Board members have determined that the monitoring of the animal while receiving anesthesia is necessary to meet the minimal standard of veterinary medical care and that it needs to be documented that it was performed in the medical record.

Rules 4741-3-03 to 05 OAC deal with the Veterinary Medical Student Loan program which was created in legislation enacted in 2006. These rules were originated in 2009 and have their first five year review. After implementation of the program, a few minor recommendations were made by the Ohio Veterinary Medical Association (OVMA) to place more emphasis on the public health aspect as that appears to be where the greater need is for veterinarians currently. When the rules were first drafted five years ago, the focus by the board members was on large animal veterinary services.

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, and therefore, there will be compliance with the rules. The Board will track disciplinary actions to determine the type and frequency of any violations of the Rule.

Development of the Regulation

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

The Ohio Veterinary Medical Association, the Ohio Association of Veterinary Technicians, and licensed practitioners (veterinarians and RVTs).

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

The rules and proposed suggestions for change were first provided to the Ohio Veterinary Medical Association (OVMA) in July, 2013 via email. The rules proposed for five year review were listed in the July Board minutes (easily accessible on the Board web site). The OVMA representative attended the board meetings during discussion of the rules providing input. The rules for five year review and proposed revisions were discussed in the presentation to the registered veterinary technicians at their “Discovery” conference in October, 2013 by a board member.

The proposed rules were discussed at each board meeting in July, August, September and October. In October, OVMA provided suggested language for amending the proposed rules in this package which the Board took into consideration. After discussion, the Board accepted the proposed changes except for a suggestion to amend Rule 4741-1-14 OAC which would have been in conflict with the definition of “direct supervision” as defined in ORC 4741.01.

All of the rules for proposed filing were on the Agenda for the November 13, 2013 board meeting. OVMA had submitted recommended language to Chapter 3 of the 4741 which the Board accepted. Additionally, the Board modified the initial applications, removing the requirement for a notary seal when submitting an application for licensure.

The rules will be posted on the Board’s web site with the BIA for at least fifteen (15) business days with feedback to be provided to the Board and CSI.

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?

These particular rules have been in existence for many years and have proven effective in relaying accurate information to the veterinarians, registered veterinary technicians, and consumers. The rules provide needed guidance, especially in the area of licensure and practice standards. The rules required updating to incorporate modern technology (internet research) and to mirror the law. The Board tracks correspondence received and complaints filed to determine if changes are necessary to the rules or if additional guidance through newsletters or emails would suffice.

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?** The Board did review each rule to determine if amendments were needed or even if the rule was needed. The Board members agreed that each rule was necessary for the practice of veterinary medicine in the State of Ohio and amended the rule to reflect public safety.
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. The purpose of the rule is to provide guidance to the licensee and what documentation, etc. might be required to comply with the statute.
12. **What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?** The rules are specific to the license to practice veterinary medical practice. There is no other Agency that has the authority to regulate the licensure of veterinary medicine.
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.**

Any issues that might arise as a result of the rules will come before the Board members at one of their monthly meetings for discussion. For example, inquiries as to interpreting a rule in the actual practice of veterinary medicine will be placed on the Board Agenda under correspondence and reviewed by the Board members. Additionally, interested parties are able to request time on the Board Agenda to discuss issues that might arise as a result of how a rule is written. The discussion will then be reflected in the Board minutes which are posted monthly on the Board web site at www.ovmlb.ohio.gov. Additionally, any pertinent issues related to the rules are done in consultation with the appropriate representative from the OVMA, OAVT, the Department of Agriculture and/or The Ohio State University College of Veterinary Medicine. The Board will notify the licensees through its newsletter, post on the Board web site, through the associations (and their publications and web sites) and speaking engagements throughout the state. (These rules will be presented at the Midwest Veterinary Medical Conference in February, 2014 as well as highlighted in the 2014 Board newsletter edition).

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 and registered veterinary technicians

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

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

In Rule 4741-1-01 OAC, the requirement for certification is a completed application, a photograph of the applicant, a transcript showing satisfactory proof that the applicant has graduated from a board approved veterinary technology program, a registration fee, a passing score of 75 on the veterinary technician national examination (VTNE) and a criminal background check. In Rule 4741-1-04 OAC, the veterinarian must complete an application, graduate from an AVMA accredited veterinary program, Achieved a score of at least 75 on the National Board of Veterinary Medicine examination, submit to a criminal background check and pay a fee. As a new requirement of JCARR, the RVT application and applications for veterinary licensure will be attached to the rule. The fee has not increased and there is no increase in fees or time for complying with the rule.

Notwithstanding the fee for the license to practice veterinary medicine, the most important impact of any of the veterinary medical rules relates to the cost of the veterinary business. Depending on the type of veterinary medicine provide, the costs will be different. If the veterinary practice only operates as a spay/neuter clinic, there will not be a need for radiology equipment as they can outsource that. Therefore, the cost will be lower for operating that type of clinic versus an emergency veterinary facility which will need immediate lab results and therefore would need an in-house lab and x-ray equipment which costs thousands of dollars. (An xray unit alone costs over \$18,000). For instance there is a small veterinary practice in Cleveland for sale for \$1.1 million which includes the practice, equipment, inventory and real estate. However, another small animal practice in Cleveland, including equipment and inventory, is being offered for \$250,000. That does not include the staff that would be required to perform veterinary services and if critical care animals, requires 24 hour staffing, thus increasing the veterinarian's costs. The change to Rule 4741-1-03 OAC should decrease the cost to a veterinarian by permitting the veterinarian to utilize the internet as a current resource.

If the Board members find a violation of the Rules, the Board could issue a Notice of Opportunity for a Hearing in accordance with ORC 119.01 to 119.13 which may involve penalties as established in ORC 4741.22.

and

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.

There has not been any increase in the licensure or renewal fees for RVTs or veterinarians for over 15 years. According to Section 4741.17 ORC, the cost for an initial and renewing license of a registered veterinary technician is \$35.00. In addition the cost of the VTNE is \$300.00 and \$350.00 for a paper VTNE application (*as quoted by the American Association of Veterinary State Boards*). The BCII criminal background check is \$22 and \$24 for the FBI background check (*BCII*) plus the processing fee from the company obtaining the prints or law enforcement agency.

The cost for an initial veterinary license based on examination, on or after the first day of March in an even numbered year is \$375.00 and on or after the first day of March in an odd numbered year is \$250.00 (ORC 4741.17(A)(1)). The cost for an initial license to practice veterinary medicine for an intern, resident in a veterinary specialty, or graduate student, is \$35.00 (ORC 4741.17(A)(2)). For an initial limited license to practice veterinary medicine for an instructor, researcher, or diagnostician, the cost is \$155 (ORC 4741.17(A)(3)). For a veterinary license by reciprocity issued on or after the first day of March in an even numbered year, \$425.00; and on or after the first day of March in an odd numbered year, \$300.00 (ORC 4741.17(A)(4)). For a provisional veterinary graduate license, the cost is \$100.00. The cost for the National Examination is \$570.00 (*National Board of Veterinary Medical Examiners web site*) and the cost for the NAVLE application through the State approval process is \$50.00 (ORC 4741.17(A)(13)). The criminal background check costs are the same as in the previous paragraph.

There is actually a cost benefit to initial applicants as Rule 4741-1-01 OAC and Rule 4741-1-04 OAC will eliminate the requirement for a notary seal on the application.

Due to the variety of types of veterinary medical practices (see above paragraph), it is difficult to ascertain a monetary figure for the operation of a stationary veterinary clinic, but it is above \$50,000 per year. A veterinary clinic must comply with the standards set out in Rule 4741-1-03 (stationary clinic) or Rule 4741-1-08 (mobile clinic). But some veterinary clinics do not perform surgeries, or some only perform spay and neuters and don't do regular checkups, etc. and others have intensive care units for critical care patients. But a typical veterinary clinic would have costs associated with having a stock of medication on site and the costs for storage, equipment costs, cleaning and hygienic costs, disposal costs for waste products

(syringes, etc.), radiology costs, laboratory costs, costs associated with the maintenance of medical records, billing costs, staff costs, insurance costs (professional, health, business), building maintenance costs and communication costs (IT, fax, phone). A mobile clinic's operational costs might be less depending on the services that the mobile clinic provides. Most mobile clinics perform well veterinary health check-ups and vaccinations only so their equipment and staff needs are less and therefore costs will be decreased from that of a stationary facility.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The Board is complying with the national standards established by the American Association of Veterinary State Boards for licensure of veterinarians and certification of veterinary technicians in the State of Ohio. By complying with national standards, the Board can accomplish its mission of public protection by ensuring that the licensees have met minimal standards. This also enables mobility of the veterinarian or RVT to seek licensure in another state that recognizes reciprocal licenses. The requirements for criminal record checks and issuing licenses are established in state law.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain. There is a waiver provision for continuing education for unusual circumstances during renewal. The request must be placed in writing and the continuing education hours must then be made up in the following renewal cycle. There are no other alternative means of compliance as the rules are dictated by the state law.

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?

Under Section 4741.17 ORC, there are established fees for late renewal. The Board does not typically discipline a licensee for a late renewal unless there has been a violation based on a written complaint filed with the Board related to substandard veterinary medical practice. As with all violations, the Board takes mitigating factors into consideration. Additionally, the Board will accept a letter on official military letterhead indicating that the licensee is on active duty with the armed forces. There are no late fees attributed to the military exemption (in fact there are NO fees for renewal of a license for an active military RVT or veterinarian). The Board exempts first-time renewers from the mandatory requirement of continuing education.

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

The Board has a working relationship with the associations representing veterinarians and registered veterinary technicians. There is time placed on each monthly Board Agenda for the representatives of these associations to speak regarding any issue 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:

77 South High St., 16th Floor

Columbus, OH 43215

614-644-5281

info@ovmlb.state.oh.us

www.ovmlb.ohio.gov