

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Veterinary Medical Licensing Board

Regulation/Package Title: 2015 Rules No Change

Rule Number(s): 4741-1-13, 4741-4-01, 4741-4-02, 4741-4-03, 4741-4-04, 4741-4-05,
OAC.

Date: _____

Rule Type:

| | |
|----------------------------------|---|
| <input type="checkbox"/> New | <input checked="" type="checkbox"/> 5-Year Review |
| <input type="checkbox"/> Amended | <input type="checkbox"/> Rescinded |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 are "No Change" rules filed in accordance with the five year rule review. The draft package of rules consists of rules pertaining to the practice of livestock veterinary medicine in the State of Ohio. The remainder of the rules relate to internal Board practices related to which staff can access confidential personal information (CPI). 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:

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Rule 4741-1-13 OAC is a rule that provides guidance for those individuals performing livestock veterinary medicine.

Rule 4741-4-01 OAC defines the terms utilized in section 1347.15 of the Revised Code related to confidential personal information.

Rule 4741-4-02 OAC establishes the procedures for accessing confidential personal information.

Rule 4741-4-03 OAC provides the valid reasons for accessing confidential personal information.

Rule 4741-4-04 OAC lists the federal or state statutes or regulations that apply.

Rule 4741-4-05 OAC provides the logging access to CPI in computerized personal information systems.

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 1347.15 ORC requires the Board to promulgate rules regarding accessing CPI.

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 no change rules provide guidelines to the Board staff and licensed practitioners for what the Board members believe are acceptable minimum standards of medical care as well as requirements for accessing and maintaining confidential information.

ORC 4741.01(B) defines the practice of veterinary medicine as follows:

(B) The "practice of veterinary medicine" means the practice of any person who performs any of the following actions:

- (1) Diagnoses, prevents, or treats any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition of any animal;*
- (2) Administers to or performs any medical or surgical technique on any animal that has any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition or performs a surgical procedure on any animal;*
- (3) Prescribes, applies, or dispenses any drug, medicine, biologic, anesthetic, or other therapeutic or diagnostic substance, or applies any apparatus for any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition of any animal;*
- (4) Uses complementary, alternative, and integrative therapies on animals;*
- (5) Renders professional advice or recommendation by any means, including telephonic or other electronic communication with regard to any activity described in divisions (B)(1) to (4) of this section;*
- (6) Represents the person's self, directly or indirectly, publicly or privately, as having the ability and willingness to perform an act described in divisions (B)(1) to (4) of this section;*
- (7) Uses any words, letters, abbreviations, or titles in such connection and under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine.*

Rule 4741-1-13 OAC relates to livestock management and was originally implemented to comply with ORC 4741.20(D) which states “*This chapter does not apply to:*

(D) A person who advises with respect to or performs acts which the state veterinary medical board by rule has prescribed as accepted management practices in connection with livestock production”.

The original rule was developed with input from the Ohio Veterinary Medical Association, the Ohio Department of Agriculture, and large animal practitioners with input from their clients. The Rule was also developed to provide guidance to a number of inquiries received by the Board for livestock veterinary practitioners, livestock business practice owners and livestock owners. At that time, there were a number of businesses going from farm to farm offering services such as ultrasounds, equine farrier services, etc. The Board researched what other states laws and regulations permit for similar situations. The Board reviewed the law regulating the Registered Veterinary Technician in Ohio and the duties they are permitted to perform as prescribed by ORC 4741.19(C):

(C) No person shall act as a registered veterinary technician unless the person is registered with the board on a biennial basis and pays the biennial registration fee. A registered veterinary technician registration expires biennially on the first day of March in the odd-numbered years and may be renewed in accordance with the standard renewal procedures contained in Chapter 4745. of the Revised Code upon payment of the biennial registration fee and fulfillment of ten continuing education hours during the two years immediately preceding renewal for registration. Each registered veterinary technician shall notify in writing the executive director of the board of any change in the registered veterinary technician's office address or employment within ninety days after the change has taken place.

(1) A registered veterinary technician operating under veterinary supervision may perform the following duties:

(a) Prepare or supervise the preparation of patients, instruments, equipment, and medications for surgery;

(b) Collect or supervise the collection of specimens and perform laboratory procedures as required by the supervising veterinarian;

(c) Apply wound dressings, casts, or splints as required by the supervising veterinarian;

(d) Assist a veterinarian in immunologic, diagnostic, medical, and surgical procedures;

(e) Suture skin incisions;

(f) Administer or supervise the administration of topical, oral, or parenteral medication under the direction of the supervising veterinarian;

(g) Other ancillary veterinary technician functions that are performed pursuant to the order and control and under the full responsibility of a licensed veterinarian.

(h) Any additional duties as established by the board in rule.

(2) A registered veterinary technician operating under direct veterinary supervision may perform all of the following:

(a) Induce and monitor general anesthesia according to medically recognized and appropriate methods;

(b) Dental prophylaxis, periodontal care, and extraction not involving sectioning of teeth or resection of bone or both of these;

(c) Equine dental procedures, including the floating of molars, premolars, and canine teeth; removal of deciduous teeth; and the extraction of first premolars or wolf teeth. The degree of supervision by a licensed veterinarian over the functions performed by the registered veterinary technician shall be consistent with the standards of generally accepted veterinary medical practices.

The Board members reviewed the regulation (OAC Rule 4741-1-14) prescribing the duties of an animal aide as defined in ORC 4741.01(G):

(G) "Animal aide" means a person who is employed by a licensed veterinarian and supervised by a licensed veterinarian or a registered veterinary technician to perform duties such as record keeping, animal restraint, and such other duties that the board, by rule, establishes. In adopting the rules, the board shall include rules regarding the degree of supervision required for each duty. The rules shall be consistent with generally accepted standards of veterinary medical practice.

4741-1-14 Animal aide duties.

(A) After appropriate training consistent with generally accepted standards of veterinary medical practice, an animal aide may under the supervision of a licensed veterinarian or registered veterinary technician:

1 Prepare patients, instruments, equipment, and medications for surgery, exclusive of anesthetic agents and controlled substances;

2 Collect and prepare voided specimens and perform laboratory procedures;

3 Administer topical, oral and subcutaneous medications exclusive of anesthetic agents and controlled substances;

4 Perform diagnostic radiographic procedures.

(B) After appropriate training consistent with generally accepted standards of veterinary medical practice, an animal aide may perform venipuncture for the purpose of collecting blood samples under the direct supervision of a licensed veterinarian.

After the Board members reviewed all of the above, they made a determination as to what was medically safe for an unlicensed individual to perform in the place of the owner on livestock. In a stationary veterinary facility, most of the duties listed in Rule 4741-1-13 OAC would have to be performed by a veterinarian or an RVT, or only by an unlicensed aide under the direct supervision of a veterinarian.

In the farm setting, in accordance with Rule 4741-1-13 OAC, the veterinarian can train the owner's agent to the more invasive tasks of castration, tail docking, non-surgical dehorning, intravenous fluid administration, pregnancy detection other than by rectal technique, medication and biological administration, except for those prohibited by law, and phlebotomy. These are skills that require using a needle or a scalpel/blade. Thus the Board members determined that training was necessary. The training only needs to be performed once. Training is not required for each individual animal that needs those skills performed.

There have not been any further inquiries regarding livestock management after the rule was implemented. The Board members have determined that no changes were needed upon their five year review.

Rules 4741-4-01 through 05 OAC were developed in response to ORC 1347.15 requiring all state agencies to promulgate and implement rules regarding accessing confidential personal information by agency staff.

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 tracks all correspondence and complaints to determine if there is a further need to implement or modify a rule or to educate practitioners through educational opportunities, the Board newsletter or via the web site.

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) were involved with the review of Rule 4741-1-13 OAC. No changes were recommended and therefore the rule was filed as a No Change rule. During the initial drafting of Rule 4741-1-13 OAC, there was input from a variety of individuals who would be impacted by the livestock rule including veterinary livestock businesses, The Ohio State University School of Veterinary Medicine, and the Ohio Department of Agriculture in addition to the associations already mentioned.

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

The rules for five year review were listed out and provided to the Board members and placed in the Board's minutes in July, 2014. The list of rules was also provided to the Ohio Veterinary

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Medical Association via email and placed on the Board's web site. There was no feedback related to "No change" rules.

The No Change rules were again reviewed by the Board members at their August, 2014 board meeting and it was determined to move forward with completing and submitting the Business Impact Analysis Form to the Common Sense Initiative Office. The rules were also featured in a presentation to the Ohio Association of Veterinary Technicians at their October conference. There are some RVTs and veterinarians who operate as independent business owners performing farm animal services such as blood draws, farrier, insemination or ultrasound services to livestock owners.

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 No Change rules have been in existence for five years. There have not been any comments received in the Board office regarding these rules. There has not been any violations of these rules that have been brought before the Board for consideration. The Board solicits input at the annual veterinary association conferences, through the associations, through the Board's web site and via the Board's newsletter. During the original development of the rules, the Board researched other state's veterinary medical practice acts, as well as sought input from large animal vendors and veterinarians who had sought inquiries from the Board for guidance.

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. In light of no inquiries or issues brought before the Board in the past five-years related to these rules, the Board did not make any changes.

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 veterinary actions, etc. might be required to comply with the statute. Veterinary medicine in herd management involves different techniques and assistance than a stationary veterinary office. Additionally, the CPI rules are mandated by statute. These rules are filed as no change due to there has been no evidence to suggest that a change is needed.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation? The No Change rules are specific to the license to practice

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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 or OAVT, the Department of Agriculture and/or The Ohio State University College of Veterinary Medicine.

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, as well as livestock owners and handlers.

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

Compliance with the No Change involves making sure that only licensed individuals are practicing veterinary medicine in the management of livestock and permits others to perform simpler tasks such as branding, hoof trimming, etc., The livestock management rule provides this guidance to veterinarians. The rule provides permissible tasks for any help and the "owner's agent". The veterinarian is responsible for training the owner's agent. The adverse impact to the veterinarian is the cost of licensure (\$155 for biennial renewal) and the time for instruction. There would also be the time and expense of training of the livestock handler to the livestock owner. The veterinarian must establish a valid veterinary-client-patient relationship (VCPR) in order to treat an animal in accordance with ORC 4741.04:

4741.04 Veterinary-client-patient relationship defined.

A veterinary-client-patient relationship serves as the basis for interaction between veterinarians, their clients, and their patients. A veterinary-client-patient relationship exists when all of the following conditions have been met:

(A) A veterinarian assumes responsibility for making clinical judgments regarding the health of a patient and the need for medical treatment, medical services, or both for the patient, and the client has agreed to follow the veterinarian's instructions regarding the patient.

(B) The veterinarian has sufficient knowledge of the patient to initiate at least a general or preliminary diagnosis of the medical condition of the patient. In order to demonstrate that the veterinarian has sufficient knowledge, the veterinarian shall have seen the patient recently and also shall be acquainted personally with the keeping and care of the patient either by examining the patient or by making medically appropriate and timely visits to the premises where the patient is kept.

(C) The veterinarian is readily available for a follow-up evaluation, or has arranged for emergency coverage, in the event the patient suffers adverse reactions to the treatment regimen or the treatment regimen fails.

Once that VCPR has been established, the veterinarian can train the owner's agent to the more invasive tasks of castration, tail docking, non-surgical dehorning, intravenous fluid administration, pregnancy detection other than by rectal technique, medication and biological administration, except for those prohibited by law, and phlebotomy.

There is no adverse impact of the CPI rules to the licensee.

and

c. Quantify the expected adverse impact from the regulation.

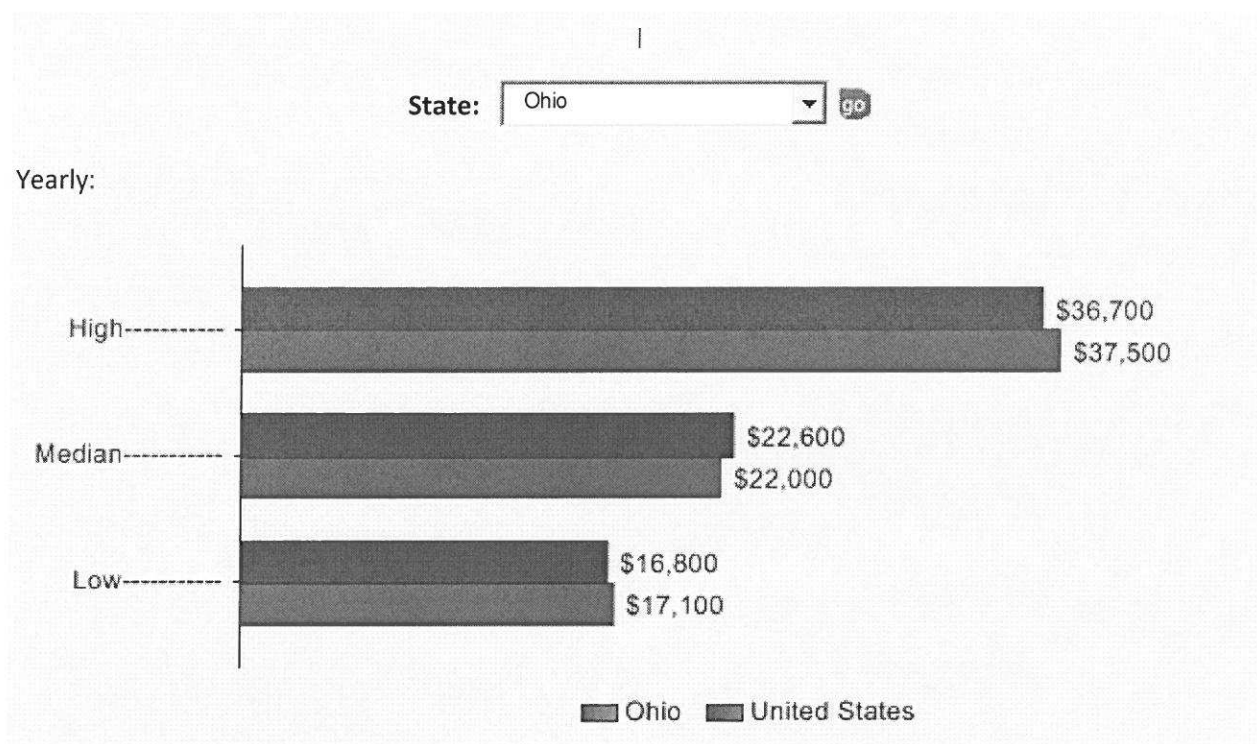
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

Rule 4741-1-13 OAC permits a person to perform certain tasks. However, the owner's agent must be trained by the veterinarian in more extensive tasks such as intravenous fluid administration, medication administration, etc. The owner is already exempt from these requirements pursuant to ORC 4741.20(A). The cost of a biennial renewal for the veterinarian is \$155.

According to onetonline.org, the median salary for a farmworker is \$10.89 per hour and \$22,650 annually. The Ohio outlook according to Career One Stop is:

Wage Information: Farmworkers, Farm, Ranch, and Aquacultural Animals

Yearly Wage Chart : [Hourly Wage Chart](#) : [2013 Wage Table](#)



- "High" indicates 90% of workers earn less and 10% earn more.
- "Median" indicates 50% of workers earn less and 50% earn more.
- "Low" indicates 10% of workers earn less and 90% earn more.
- "N/A" indicates the data is not available.

Notes: Yearly wage data applies only to workers with full-time, year-round schedules. For salary information for part-time or part-year workers, use hourly wage data.

Occupation Description

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Farmworkers, Farm, Ranch, and Aquacultural Animals Attend to live farm, ranch, or aquacultural animals that may include cattle, sheep, swine, goats, horses and other equines, poultry, finfish, shellfish, and bees. Attend to animals produced for animal products, such as meat, fur, skins, feathers, eggs, milk, and honey. Duties may include feeding, watering, herding, grazing, castrating, branding, de-beaking, weighing, catching, and loading animals. May maintain records on animals; examine animals to detect diseases and injuries; assist in birth deliveries; and administer medications, vaccinations, or insecticides as appropriate. May clean and maintain animal housing areas. Includes workers who shear wool from sheep, and collect eggs in hatcheries

There is no adverse impact of the CPI rules to the licensee or public.

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

Five years ago, the Board implemented Rule 4741-1-13 in response to multiple inquiries related to livestock management since that type of veterinary medicine is different than the typical veterinary clinic approach. The rule has been in effect without any violations reported to the Board or further inquiry. The CPI rules were originally implemented as a result of statutory requirement. There has been no need for a change in the process utilized.

Regulatory Flexibility

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

No. The rule is meant to provide guidance to the veterinary practitioner who performs livestock management.

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?

If a violation of the Rules are found by the Board, the Board would issue a Notice of Opportunity for a Hearing in accordance with ORC 119.01 to 119.13 which may involve fines. However, there are no fines or penalties involved for paperwork violations of the No Change rules to a licensee.

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. 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:

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