

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Veterinary Medical Licensing Board

Regulation/Package Title: 2017 Rules No Change

Rule Number(s): 4741-1-02, 4741-1-07, 4741-1-12, 4741-1-15, 4741-1-19, 4741-1-22,
and 4741-1-25 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☐ Rescinded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 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 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:

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Rule 4741-1-02 OAC addresses the “specialist” in a veterinary practice.

Rule 4741-1-07 OAC is a rule stating that a license to practice may not be granted until satisfactory proof has been furnished to the Board that the applicant has graduated from an AVMA accredited veterinary program or a program that the board has certified as acceptable as comparable to those accredited by AVMA.

Rule 4741-1-12 OAC defines the practice of Embryo transfer.

Rule 4741-1-15 OAC establishes the officers and the election of officers for the Board.

Rule 4741-1-19 OAC states that specific duties spelled in law can only occur once the veterinary student has successfully completed the initial year of study at the approved veterinary college of medicine.

Rule 4741-1-22 OAC sets the duration that vaccination records must be maintained.

Rule 4741-1-25 OAC deals with the requirements for an impaired licensee.

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 4741.28 ORC authorizes the Board to adopt rules for the administration of a veterinary business facility license.

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 complying with other statutory laws as related to the regulation of drugs and for providing notice to the public related to rules regulating the practice of veterinary medicine.

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

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(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.

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:

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(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.

Rule 4741-1-07 OAC provided guidance to potential licensees and veterinary colleges as to what is required to be considered an accredited veterinary program as required for licensure.

Rule 4741-1-19 OAC provides that only a veterinary student who has completed his or her first year of initial study at an approved college can perform the duties spelled out in law. This provides guidance to the veterinary student, the veterinary college, as well as the veterinarian and the public that works with the veterinary student in the clinical setting.

Rule 4741-1-25 OAC spells out the requirements for an individual who has had a finding of being impaired by alcohol or drugs. This provides guidance to the licensee, the potential licensee, and assurances to the consumer of veterinary services on how the Board deals with impairment issues.

These set of regulations are necessary to:

- Provide guidance for licensure/registration of the Veterinarian Specialist.
- Require the services of a veterinarian if a surgical procedure or the administration of controlled or dangerous drugs is involved with an embryo transfer.
- Provides guidance to the veterinary student, veterinary college, and the public as to duties a veterinary student can perform dependent on the year of study.
- Details the program participation requirements for a licensee who suffers from impairment/addiction to alcohol or dangerous drugs and wishes to maintain their license to practice veterinary medicine.

Upon review of the aforementioned laws and any recent legislation or regulation changes that may have impacted the practice of veterinary medicine, the Board members determined that there no changes were required to the Rules in this package. The rules that did require change are contained in a separate package.

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 the rules. The list of rules for review were also placed on the Board's web site for feedback. No changes were recommended and therefore these rules are proposed as No Change rules.

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

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The rules for five year review were provided to the Board members and interested parties at the April, 2016 board meeting as well as being placed on the Board's web site. There were no comments submitted by the public or licensees. Several rules were identified as requiring minor changes along with another rule related to medical records which will be addressed in a separate Business Impact Analysis. The list of rules was also provided to the Ohio Veterinary Medical Association and John Izzo, Esq representing a veterinary corporate business.

The No Change rules were again reviewed by the Board members at their November 14, 2016 board meeting and it was determined to move forward with completing and submitting the Business Impact Analysis Form to the Common Sense Initiative Office.

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. There was no scientific data used or generated for these rules.

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. 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 veterinary medical practice. There is no other Agency that has the authority to regulate the licensure of veterinary medicine.

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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 rules will be posted on the Board's website of which notification is sent to the Board's listserve, distributed through the Board's annual newsletter, and relayed by the Board at the OVMA and OAVT annual conference presentations. 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. Any pertinent issues related to the rules are done in consultation with the appropriate representative from the OVMA or OAVT, the Department of Agriculture, The Ohio State University College of Veterinary Medicine and/or another state agency whose regulations may impact the practice 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 corporations owning a veterinary facility will be impacted by these rules.

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

Noncompliance with the No Change may involve disciplinary action against the license of the individual/business. Discipline could be a reprimand, suspension of license, required course work, monetary fine and/or revocation of a license. The initial license cost of a veterinarian is \$425 for a two year period and \$35 for a registered veterinary technician. The cost for a Veterinary Business Facility license is \$300.

As for the Impairment Rule, the licensee would be responsible for the costs of the recovery program which could entail inpatient treatment or out-patient treatment with screenings and counseling.

and

c. Quantify the expected adverse impact from the regulation.

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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.

Licensure Costs

The initial license cost of a veterinarian is \$425 for a two year period and \$35 for a registered veterinary technician for a two year period. The cost for a Veterinary Business Facility license is \$300 renewable every two years. The cost for a Specialist license is a one-time fee of \$50.00.

Rule 4741-1-25 OAC

As for the Impairment Rule, the licensee would be responsible for the costs of the recovery program which could entail inpatient treatment or out-patient treatment with screenings and counseling. The cost of addiction treatment varies from rehab to rehab. Some treatment programs are free while some cost thousands of dollars a day. According to the Addiction Center web site (<https://www.addictioncenter.com/rehab-questions/cost-of-drug-and-alcohol-treatment/>) the cost of inpatient treatment for 30 days is \$6,000 up to \$20,000. The cost of outpatient addiction treatment for three months is \$5,000 to \$10,000. Most insurance plans will assist with coverage of addiction/recovery programs.

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

The Board determined that the regulatory intent justifies the impact on business because the regulations are intended to protect and promote public safety by:

- Requiring a vaccination clinic to maintain medical records for three years thus ensuring that the consumer knows where to obtain the vaccination record;
- Ensures that a veterinarian calling him or herself “Specialist” is truly accredited to hold themselves out to the public as such;
- In an embryo transfer, requires a veterinarian to be involved if surgery is to be performed or dangerous drugs, including controlled substances, are required for the procedure.

Regulatory Flexibility

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

As a licensing agency of veterinarians and registered veterinary technicians, there is no alternative means of compliance.

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?

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

4741-1-02

Specialist.

- (A) Application: A person wishing to be registered as a "specialist" in a veterinary specialty shall make application upon a form provided by the state veterinary medical licensing board and shall provide all required credentials with said application. The licensing board, after consideration of the application and credentials, may issue a certificate registering the applicant as a "specialist" in the veterinary specialty stated, for purposes of practice in Ohio.

"Specialties" shall be those currently recognized by the American board of veterinary specialties. A current list of licensing board approved specialties will be maintained in the licensing board office.

- (B) Prohibitions: Veterinarians licensed to practice in this state may not represent themselves as specialists until they have met the requirements of a specialty board or college recognized by the American board of veterinary specialties. Interns, residents and board qualified veterinarians are not considered specialists until they have met the specific requirements, passed all tests and received certification from a specialty organization as stated in paragraph (A) of this rule.

Any diplomate of a specialty recognized by the American board of veterinary specialties must notify the licensing board office within thirty days of failure to maintain current diplomate status, at which time the specialty license will be declared null and void.

No veterinarian shall use the title of "specialist" or represent himself or herself as a specialist unless registered by the state veterinary medical licensing board pursuant to division (C) of section 4741.01 and division (D) of section 4741.19 of the Revised Code and rule 4741-1-02 of the Administrative Code. Violation of this prohibition shall be grounds for the suspension or revocation of any license or permit issued by the board.

4741-1-07

Approved veterinary and animal technology colleges.

A license to practice, or application for examination for licensure may not be granted until satisfactory proof has been furnished to the board that the applicant has graduated from an accredited college of veterinary medicine or a college approved by the licensing board. In addition to American veterinary medical association (AVMA) accredited veterinary programs, the board may approve a veterinary program which certifies to the satisfaction of the board that its veterinary medical degree program is comparable to those accredited by the AVMA.

The register of all colleges and universities that teach veterinary medicine or animal technology and are approved by the board shall be maintained in a form compatible with approved office procedures and in a manner readily available to the board and the public upon request.

4741-1-12

Embryo transfer: definition and practice.

- (A) The practice of embryo transfer, as defined in Chapter 4741. of the Revised Code, will, at certain stages, require the services of a licensed veterinarian. Those stages may include, but are not limited to:
- (1) Any surgical procedure performed for the purpose of embryo transfer; or
 - (2) The administration or dispensing of any controlled or prescription substance as defined in Chapter 4729. of the Revised Code, or in Chapter 4729. of the Administrative Code, or substances limited to use by or on the order of a licensed veterinarian.
- (B) Any person who engages for a fee or other consideration in the practice listed in paragraph (A) of this rule, or in the generally accepted practice of veterinary medicine without being licensed to practice veterinary medicine, shall be guilty of practicing in violation of division (B) of section 4741.01 and division (A) of section 4741.19 of the Revised Code.

This rule shall be subject to the exemptions as specified in section 4741.20 of the Revised Code.

4741-1-15

Election of officers.

The board shall consist of a president, vice president, , secretary, and four members. All persons in succession to be president shall be licensed veterinarians. Whenever possible, the order of succession for veterinary members shall be from member to vice president to president. The term of each officer shall be for one year. The board shall follow parliamentary procedure at all board meetings.

4741-1-19

Veterinary student education.

- (A) A veterinary student shall have successfully completed the initial year of study at an approved college of veterinary medicine in order to perform the duties designated in division (B)(1) of section 4741.19 of the Revised Code.
- (B) A veterinary student successfully enrolled in an approved college of veterinary medicine may perform the duties designated in division (B)(2) of section 4741.19 of the Revised Code.

4741-1-22

Vaccination clinics.

- (A) A veterinarian participating in a vaccination clinic sponsored by a city or general health district(s) shall maintain a copy of the vaccination record. The veterinarian shall maintain a copy of the vaccination record for a period of the labeled duration of the vaccination but not less than a period of three years.

4741-1-25

Impairment.

(A) A licensee may be subject to this rule when a finding has been made that he or she had practiced while impaired by alcohol or other drugs or when the licensee contacts the board and requests to participate in the program.

(B) Referral to and eligibility for the program

(1) All complaints involving allegations of impairment due to alcohol or chemical dependency shall be screened and investigated pursuant to section 4741.31 of the Revised Code.

(2) Eligibility for the program shall be determined by the board who shall review all relevant materials. Eligibility shall be determined upon criteria which shall include at a minimum the licensee's past or pending criminal, disciplinary or malpractice record, the circumstances of the licensee's referral to the board, or any other alleged violation. The decision on eligibility shall be consistent with the purpose of this program as described.

(C) Requirement for participation

(1) A licensee who participates in the program shall:

- (a) Sign an agreement for participation under this rule;
- (b) Remain free of alcohol, controlled substances, and prescription drugs, unless prescribed for a valid medical purpose;
- (c) Timely enroll and participate in a program approved by the board for chemical dependency;
- (d) Comply with any treatment recommendations and work restrictions or conditions deemed necessary by the board;
- (e) Submit random witnessed screens for alcohol or controlled substances as required by the program;
- (f) Execute releases valid under state and federal law to allow the board access to the licensee's counseling, treatment and monitoring records;
- (g) Have the licensee's supervising therapist file quarterly reports with the board;

- (h) Notify the board of any changes in the licensee's employer or place of employment within five days.

(D) Agreement for participation

- (1) The agreement for participation in the program shall at a minimum include:
 - (a) An acknowledgement by the licensee of the need for treatment for chemical dependency;
 - (b) An agreement to participate at the licensee's expense in an approved treatment program;
 - (c) An agreement to submit to random, witnessed drug screens at the licensee's expense, if deemed necessary;
 - (d) An agreement to submit to practice restrictions at any time during the treatment regimen as deemed necessary by the board;
 - (e) An agreement to furnish the board with signed consents for release of information from treatment providers and employers to the board for the purpose of monitoring the licensee's participation in the program;
 - (f) An agreement to participate in treatment for a period of time as established by the program approved by policy of the board.
- (2) The board may include additional requirements for an individual licensee, if the circumstances of the complaint of the licensee's condition warrant additional safeguards.
- (3) The board shall approve a treatment facility for the purpose of participation in the procedure if:
 - (a) The facility or treatment program is certified by the appropriate national or state certification agencies, where applicable;
 - (b) Facility treatment plans and protocols are available to the board;
 - (c) The facility has a random witnessed monitoring program of blood or urine as part of its treatment;

- (d) The facility, the the licensee's supervising therapist, agrees to file reports as required by the board including quarterly progress reports and immediate reports if a licensee withdraws from therapy, submits a positive blood or urine screen, relapses or is believed to be in an unsafe condition to practice.

(E) Records

- (1) Treatment records concerning individuals who are receiving or who at any time have received services for mental illness, alcoholism, or drug dependence which are maintained by the board are confidential and shall not be made available to the public.
- (2) Patient health care records are confidential and shall not be made available to the public.