

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Veterinary Medical Licensing Board

Regulation/Package Title: Amended Rules impacted by ELicensing & ODA

Rule Number(s): 4741-1-02, 4741-1-03, 4741-1-08, 4741-1-11, 4741-1-13 and 4741-1-20

OAC.

Date: October 16, 2017

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☐ Rescinded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 but one of the rules in this package are being revised to accommodate changes that are expected with the new Ohio Department of Administrative Services ELicensing system to eliminate the requirement of display of renewal certificates and permits renewal applications to be emailed. The exception is Rule 4741-1-13 which is being revised to mirror changes in the Ohio Department of Agriculture rule 901:12-6-02 OAC which prohibits unlicensed individuals from performing tail docking of a dairy cow. The draft rules are written in plain language so

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that a member of the public without additional medical education can understand the rules. The rules in this package contain:

Rule 4741-1-02 OAC provides requirements for a Specialist. The amended version eliminates the need to issue a certificate of registration.

Rule 4741-1-03 OAC sets out the requirements for minimum standards for stationary veterinary facilities. The Board has modified the rule to eliminate the requirement that licenses and renewal certificates must be displayed.

Rule 4741-1-08 OAC specifies the requirements for the operation of a mobile veterinary practice. The Board has modified the rule to eliminate the requirement that licenses and renewal certificates must be displayed.

Rule 4741-1-11 OAC provides the requirements for continuing education required for renewal as a veterinarian or a registered veterinary technician. The proposed revision will permit the renewal application to be emailed to the licensee.

Rule 4741-1-23 OAC defines requirements for Livestock management practices. Recent rule changes by the Ohio Department of Agriculture required the need to update the Board's rule to eliminate tail docking for dairy cattle under the duties of an owner's agent.

Rule 4741-1-20 OAC describes the general provisions for a livestock ambulatory unit. The Board has modified the rule to eliminate the requirement that license and renewal certificates must be displayed.

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 4741.28(F) requires the board to adopt rules regarding veterinary business facility licenses.

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)?

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The purpose for filing Rules 4741-1-02, 4741-1-03, 4741-1-08, 4741-1-20 OAC is to accommodate a new state licensing system which would permit the Board to utilize the full functionalities of the system. The system does not generate renewal certificates like the current system, but does provide an email for verification. The new ELicensing system has an enhanced licensure verification system that is far superior to the current system and therefore more useful and efficient for the public and/or employer to validate a license and any discipline that the licensee may have. The new system operates through the internet and therefore initial applications and renewals are processed online. Amending Rule 4741-1-11 OAC will permit renewals to be sent via a secured system.

The purpose of filing Rule 4741-1-13 OAC will mirror changes already made to Rule 901:12-6-02(4) OAC for dairy cattle which states “Effective January 1, 2018, tail docking can only be performed: (a) By a licensed veterinarian; and, (b) If the procedure is determined to be medically necessary.”

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 education practitioners through educational opportunities, the Board newsletter, or via the web site. The Board also tracks 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, John Izzo, Esq representing a corporate veterinary business and licensed practitioners (veterinarians and RVTs) and animal owners are the stakeholders.

The initial review was performed by the Board members and then submitted to the interested parties as mentioned above.

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) and John Izzo, who represents various veterinary clients in

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October 2017 via email. However, the discussion regarding the transition to the new Licensing system has been ongoing throughout the year. Therefore the recommended changes were not a surprise and documented in multiple board meeting minutes which are easily accessible on the board web site. The necessity for the Livestock change rule was brought to the Board's attention by the OVMA Executive Director therefore, the Veterinary Association were already aware of that rule change.

The proposed rules were discussed at the October 2017 board meeting and the rationale for the amendments. The Board members were in agreement with the recommended changes.

The proposed rules have been posted on the Board's web site since October 11, 2017. The BIA will be posted on the web site also for at least fifteen (15) business days with feedback to be provided to the Board and CSI.

Additionally, one of the Board members presented at the Ohio Veterinary Technician Conference on October 15 and provided information on the new system with the anticipated rule changes.

The Board transitions to the new system on April 23, 2018 and is attempting to file the rules expeditiously.

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 were no scientific data utilized to develop or review these rules. The rules are being modified to accommodate a state licensing system.

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 public safety. The Board did not consider any regulatory alternatives.

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.* The Board did not consider a performance-based regulation. The purpose of the rule is to provide guidance to the licensee and what documentation or continuing education 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. 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.

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

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

Rule 4741-1-11 OAC deals with the requirement for continuing education (CE) for the veterinarian and registered veterinary technician. The cost for renewal of the license of veterinarian is \$155.00 for a biennium. The cost for renewal of a veterinary technician (RVT) is \$35.00 for a biennium. The RVT must obtain 10 CE hours while the veterinarian must obtain 30 hours of CE. If the licensee is late in submitting their renewal application and fee, a late fee will be assessed. The cost of continuing education varies. It can be provided free. For instance, provided by a pharmaceutical companies or at regional association meetings. CE can be obtained on-line. The price range for online courses varies from free to several hundred dollars depending on the number of hours of the CE course. There is no limitation on the number of hours a licensee can obtain

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through the internet. Or the licensee can obtain their CE hours at a national, state, or local conference. For instance, the Ohio Veterinary Medical Association holds an annual conference at a cost of \$160.00 for an RVT and \$270 for a veterinarian for a three day conference. First time renewals of a license are exempt from the requirement for continuing education for that biennium.

Eliminating the need to mail the licensure renewal will save the Board money, but have little impact to the licensee.

Regarding Rule 4741-1-02 OAC, the Specialist has a one-time fee of \$50 to be licensed as a Specialist in the State of Ohio after meeting all of the requirements of becoming credentialed in a recognized specialty of the American Board of Veterinary Specialists. There is no "renewal" fee or other requirements other than maintaining a current veterinary license in the State of Ohio.

As for Rule(s) 4741-1-03, 4741-1-08, and 4741-1-20 OAC, will have little impact. It eliminates the need to display the current licenses and therefore could save time and minimal costs for laminating the licenses or frames depending on how the facility displayed the license. However, with the implementation of the new DAS ELicensing system, each renewal applicant will be required to pay a \$3.50 processing fee which goes directly to DAS for the cost of the new system.

Rule 4741-1-13 deals with livestock management. Eliminating the ability to allow an owner's agent to tail dock a dairy cattle would require the farm/herd manager to have a veterinarian perform the service and only if necessary. There would then be a veterinary fee involved.

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 4741-1-11 OAC

There has not been any increase in the licensure or renewal fees for RVTs or veterinarians for over 17 years. According to Section 4741.17 ORC, the cost for a renewing license of a registered veterinary technician is \$35 for a two year period. The

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cost for a renewing license for a veterinarian is \$155 for a two year period. The RVT must obtain 10 hours of continuing education in that two year period ORC 4741.19(C) while the veterinarian is required to obtain 30 hours of CE (ORC 4741.16).

The cost of continuing education varies. It can be provided free. For instance, provided by a pharmaceutical companies or at regional association meetings. CE can be obtained on-line. The price range for online courses varies from free to several hundred dollars depending on the number of hours of the CE course. There is no limitation on the number of hours a licensee can obtain through the internet. Or the licensee can obtain their CE hours at a national, state, or local conference. For instance, the Ohio Veterinary Medical Association holds an annual conference at a cost of \$160.00 for an RVT and \$270 for a veterinarian for a three day conference.

First time renewals of a license are exempt from the requirement for continuing education for that biennium.

The ability to email the renewal application is to the benefit of the Board as far as reducing administrative costs. The ability to email renewals to the licensee creates a more mobile environment for the licensee to be able to renew.

Rule 4741-1-02

The Specialist has a one-time fee of \$50 to be licensed as a Specialist in the State of Ohio after meeting all of the requirements of becoming credentialed in a recognized specialty of the American Board of Veterinary Specialists. There is no “renewal” fee or other requirements other than maintaining a current veterinary license in the State of Ohio. Upon completing an application in the new system, the Specialist will receive a Letter though the system from the Board acknowledging their area of specialty but eliminates the need to outsource a certificate of licensure. This proposed amendment will reduce administrative costs for the Board but provides the Specialist an immediate document to verify that they are licensed as a Specialist in the State of Ohio.

Rule 4741-1-03, 4741-1-08, 4741-1-020 OAC

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 well above \$50,000 per year. Mobile veterinary practices have less overhead so therefore can operate at a slightly lesser cost, though the requirements for veterinary care remain the same. The livestock ambulatory unit is similar in that the unit is usually a veterinarian’s truck and supplies that he or she travels with to farms or livestock

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operations. They may or may not have a main veterinary facility from which they have a permanent base of operations. Eliminating the display of licenses and renewal certificates will not increase the costs for these types of veterinary practice.

(New requirement) Insurance?

The Ohio Veterinary Medical Practice Act does not require insurance or surety for veterinary medical care and therefore does not come into play with any of the proposed rules.

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

The new Licensing system will be utilized by the licensee to obtain and track their license application, whether initial or renewal. Contrary to the current renewal process, the renewal applicant will process immediately in the new system and the licensee will receive an email validating the effective renewal. The public has the ability to verify a license through a more efficient system that provides greater detail such as what the violation may have been and the terms of any settlement agreement or adjudication order.

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?

The Board does not fine licensees or impose penalties for first-time paperwork violations. 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. 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?

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The Board has a good 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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