

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: State Board of Embalmers and Funeral Directors

Regulation/Package Title: Continuing Education

Rule Number(s): 4717-9-01, 4717-9-02, 4717-9-03, 4717-9-04, 4717-9-05

Date: 10/1/2018

Rule Type:

☒ Amend

☐ 5-Year Review

☐ Rescinded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.

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Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Attached are Rules impacting the Embalmers and Funeral Directors Board. These Rules impact all actives within the Board and within the Funeral service industry since there are no other “competing” boards or agencies regulating this industry. These rules amend the continuing education requirements to ensure licensees are competent in practice, outline discipline, and provide guidance for online continuing education.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

ORC 4717.04

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

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 purpose of the Board is to protect consumers while regulating the funeral service. As a result, the rule is necessary to ensure licensees remain current with industry standards to practice competently. The rule also provides clearer standards and allows for the use of technology to provide continuing education.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The success can be directly measured after January 1, 2019 once the rules become effective. At this point, the Board will be able to determine the number of courses provided using the newly established rules.

Development of the Regulation

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

All licensed funeral directors, embalmers, crematory operators etc, and the Cincinnati School of Mortuary Science (CCMS)...are stakeholders. Additionally, there are three active Associations which represent nearly 100% of the funeral service providers in the state. These Associations are the Ohio Funeral Directors Association (OFDA), Buckeye State Funeral Directors & Embalmers Association (BSFDEA) and the Ohio Embalmers Association (OEA).

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

An extensive four month comment period was conducted with all the major stakeholders. Input was provided from stakeholders Buckeye State Funeral Directors Association, Cincinnati School of Mortuary Science (CCMS), and Ohio Funeral Directors Association. The initial comments to the rules were incorporated in the current draft.

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?

Very little scientific data was utilized for the measurable outcomes. Simply a common sense approach applicable to a changing industry initiated by licensed professionals in the funeral service field were considered.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

The Board did not consider a regulation alternative. Continuing education is necessary for any occupational licensing board to establish ongoing competency in the profession.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

Not Applicable.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

As the only agency regulating the Funeral Service Industry, duplication of Regulatory action is not an issue.

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.

We plan to post the Business Impact Analysis and all Rules on our website for 7 days and send these Rules electronically to the Cincinnati School of Mortuary Science (CCMS) and all three (3) active Associations that will forward to their membership.

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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;

All licensed funeral directors, embalmers, funeral home operators, funeral homes, crematories, crematory operators, and embalming facilities.

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

An adverse impact, if any, is disciplinary action arising out of a failed continuing education audit by a licensee or denial of a course for credit.

c. Quantify the expected adverse impact from the regulation.

While the Board will conduct an audit of 10% of the active licensees that renew, the Board cannot predict how many of those licensee would be out of compliance.

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

The regulatory impact is necessary to assist the licensee with complying with the law. Without these rules, a licensee could become non-compliant by default or without taking any action.

Regulatory Flexibility

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

Yes, the regulations provide exemptions for licensees who have an illness, 50 years of practice, or waiver as a result of an inactive license.

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 adheres to ORC 119.14 by keeping an “open door policy” for licensee’s to call and discuss their violations with Board staff. Board staff will take circumstances into consideration when waving fines but we must be true to our mission of protecting the public’s health, safety and investments in the funeral service industry.

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

The Board staff is available M-F, 8:00am-5:00pm. Our goal is to assist licensee’s and Apprentices obtain the training and tools necessary to operate within the state of Ohio. Our website contains guidance for all new legislation and will contain a database with an instructional guide to assist with compliance with this regulation. Updates and changes will be communicated through the website and licensee listserv.