

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Veterinary Medical Licensing Board

Regulation/Package Title: Amended 2019 rules

Rule Number(s): 4741-1-11, 4741-3-05, Rule 4741-4-04

Date: January 9, 2019

Rule Type:

☐ New

☒ Amended

☒ 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☐ Rescinded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.

Regulatory Intent

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

Please include the key provisions of the regulation as well as any proposed amendments.

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The rules in this package were subject to the five year review, except for Rule 4741-1-11 OAC.

Rule 4741-1-11 OAC describes the form and content of continuing education hours required for renewal of a license. This rule is being proposed to amend to mirror the changes made at the national level to make language clearer (i.e. scientific changed to medical and non-scientific to non-medical).

Rule 4741-3-05 sets the criteria for selection of applicants for the veterinary student loan program. The modification makes the selection criteria less restrictive.

Rule 4741-4-04 addresses the confidentiality statutes applicable to this chapter of rules. The amended version merely updates the dates of the Federal statutes.

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 Chapter 4741 ORC. Section 4741.01(F) ORC authorizes the Board to adopt rules regulating the registration of a registered veterinary technician. ORC 4741.45 requires the board to develop rules regarding the veterinary student loan program. ORC 1347.15 ORC requires the Board to implement rules to protect confidential personal information.

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?

If yes, please briefly explain the source and substance of the federal requirement.

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.

Rule 4741-1-11 OAC is being amended to permit a licensee to take six (6) hours of CE online without restriction on the type of course (medical versus nonmedical). The language

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is being modified to make it clearer what type of courses will meet the requirements. The term “Scientific” appeared too narrow of a term. The national association, the American Association of Veterinary State Boards (AAVSB), modified their terms to medical and non-medical. Since the Board accepts the AAVSB approved courses, the Board members wanted to be consistent with terminology. This rule:

- Provides guidance to veterinarians and the RVTs on what continuing education courses will satisfy their requirement for maintaining a license in the State of Ohio and reflects national standards.
- Provides a waiver of the CE requirement for renewal during special circumstances and for military licensees.
- Eases the ability to obtain on line continuing education.

Rule 4741-3-05 is being amended to change “should” to “may” which makes the language less restrictive for consideration of the veterinarian desiring to receive a grant in exchange for the veterinarian signing a letter of intent to provide large animal veterinary services or to protect public health in a veterinary resource shortage area. The rule also eliminates “and” so that any one of the criteria established in the rule can be a consideration and does not have to be all inclusive.

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 newsletters, or via the listserve and 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.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

On July 16, 2018, a notification was placed on the Board web site of notification of the five year review and the rules being reviewed. Additionally, each month on the Board’s agenda, it was noted that rules were being reviewed. The Board also sent out an annual newsletter in

November, 2018 detailing the rules being reviewed. Suggestions for amendments were sought and any feedback to be sent to the Board office. No correspondence for amendment has been received for the five year review rules.

The Ohio Veterinary Medical Association (OVMA) representative was involved with the review and amendment of the rules. All discussions were held at the Board meetings in open forum.

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

The OVMA representative was involved with discussion of the rules which were reviewed from June, 2018 to January, 2019. They provided input on Rule 4741-1-11 OAC regarding the continuing education requirements to a satisfactory amended rule. There was no other input from the interested parties.

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 package of rules have been in existence for over five years. There have not been any comments received in the Board office regarding these rules. There have 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. 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 reviewed each rule to determine if amendments were needed or even if the rule was necessary. 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 since they determined the rules were necessary.

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 the public. Rule 4741-1-11 OAC provides guidance for continuing education to comply with the statute for renewing their license. The rule does not mandate continuing education hours on specific issues or areas of practice.

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 medicine in the State of Ohio. 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.

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 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 board 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;

The community impacted by these rules are the veterinarians and registered veterinary technicians.

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

The renewal costs for a veterinarian is \$155 for a two year period and \$35 for an RVT renewal. Rule 4741-1-11 OAC deals with the requirement for continuing education (CE) for the veterinarian and registered veterinary technician. The RVT must obtain 10 hours of CE for a two year period while the veterinarian must obtain 30 hours of CE for a two year period. The costs of CE varies from free to a four day conference at a fee of (\$190) for the OVMA Midwest Conference in February, 2019. There are multiple universities, medical facilities and veterinary organizations that offer free

CE. There is an impact of at least time for the licensee to comply with the CE hour requirement. The Veterinary Practice Act provides a waiver of CE for those who may not be able to obtain the required CE due to illness or other circumstances. There is also waiver capabilities for the licensee impacted by active military duty. There is no cost factor associated with Rule 4741-3-05 OAC or Rule 4741-4-04 OAC.

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 18 years. As mentioned above, the cost of continuing education varies. It can be provided free. For instance, provided by a pharmaceutical company or a regional veterinary association meeting. 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. The licensee can obtain their CE hours at a national, state, or local conference. Most employers pay for their employees to attend the conferences or hold the CE in their offices.

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 (AAVSB) 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 rules as proposed will:

- Add clarity and remove barriers in obtaining continuing education.
- The Continuing Education rule mirrors changes in the AAVSB national standards for approval of CE.
- Enables the Board to be more permissive with the criteria of selection of applicants for the veterinary student loan program.
- Updates the Federal statutory confidentiality rules as required under Ohio 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 which would have prevented the licensee from obtaining the required continuing education during that renewal period. The Board is also lenient regarding the CE required for those licensees who are impacted by active duty military requirements.

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 renewals. 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 of licenses from the mandatory requirement for CE.

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 or concern or awareness. The Board has a web site that is updated frequently with important issues and resources, in addition to having the newsletters posted on the web site. The Board has a listserve where important alerts, such as FDA recalls may be sent. The Board's contact information is: 77 So. High St., Columbus, OH 43215 614-644-5281 info@ovmlb.state.oh.us
www.ovmlb.ohio.gov

Form and content of continuing education hours.

- (A) The following programs designed to directly enhance the veterinarian's or veterinary technician's knowledge and skill in providing services relevant to the veterinary profession shall be approved for continuing education hours:
- (1) All ~~scientific~~medical programs of the American veterinary medical association (AVMA), its constituent organizations and its recognized specialty groups and accredited veterinary medical institutions whose meetings impart educational material directly relating to veterinary medicine;
 - (2) All ~~scientific~~medical programs of state veterinary medical associations or veterinary technician associations;
 - (3) ~~Scientific and non-scientific clinical~~Medical programs which are approved by the registry of the approved continuing education (RACE) of the American association of veterinary state boards (AAVSB); and
 - (4) All ~~scientific and clinical~~medical programs approved by the board, not associated with RACE or AVMA and its suborganizations.
- (B) All veterinarians and registered veterinary technicians may acquire ~~scientific or non-scientific clinical~~medical continuing education hours from national, state, and local seminars, programs, meetings, laboratory, course studies and/or online courses. Online courses shall not exceed six hours.
- (C) ~~Non-scientific~~Non-medical practice management/professional development continuing education includes subject matter that helps make veterinary medical professionals more competent and capable in serving the public interest in the delivery of veterinary services but which is not necessarily ~~scientific~~medical or clinical in nature. It can include but may not be limited to business management, regulatory compliance, jurisprudence, skills-based training in instrumentation, medical records, software management, communication, and veterinary ethics. Programs in wellness addressing mental health issues, such as compassion fatigue, burnout, and suicide ideation may qualify in this category.
- (D) All veterinarians and registered veterinary technicians may acquire ~~non-scientific~~ practice management/professional development continuing education hours from national, state, and local seminars, programs, meetings, laboratory, course studies, professional journals and/or online courses. Continuing education through professional journals shall not exceed two hours. ~~Non-scientific practice management/professional development continuing education hours obtained through online courses shall not exceed two hours.~~

- (E) Veterinarians must report thirty hours of continuing education per renewal. Of the required hours, at least twenty hours must be approved ~~scientific or non-scientific~~ clinical/medical and directly related to the practice of veterinary medicine. No more than ten hours may be in ~~non-scientific~~ practice management/professional development.
- (F) Registered veterinary technicians must report ten hours of continuing education per renewal. Six hours must be approved ~~scientific or non-scientific~~ clinical/medical and directly related to the practice of veterinary medicine. No more than four hours may be in ~~non-scientific~~ practice management/professional development.
- (G) A licensed veterinarian or registered veterinary technician applying for an initial renewal is not required to complete the continuing education requirements but shall certify that they graduated within that biennium of the renewal period.
- (H) Due to prolonged or extenuating illnesses or emergencies, alternative requirements for continuing education will be determined on a case by case basis. A request for waiver must be submitted to the board with documentation of the illness or emergency within thirty days of submission of a license or registration renewal.
- (I) Prior to the expiration of a biennial license or registration on March first, the executive director shall cause to be sent in January of the renewal year, a "Notice For Renewal Application" for a renewal cycle of the licensed veterinarian or a registered veterinarian technician. For the veterinarian holding a limited license, the executive director shall cause the biennial license renewal application to be sent in May of the odd numbered year. Renewal applicants must certify completion of required continuing education at the time of renewal.

4741-3-05

Criteria for selection of applicants.

- (A) Purpose: The shortage area situations will be best served by a veterinarian who is likely to enthusiastically serve a community and who is likely to remain within that community after his or her payments from the loan repayment program have been terminated.
- (B) The veterinarian applying for participation should submit a biography and a personal statement explaining his or her motivation in serving in veterinary shortage situations.
- (C) In addition to requiring the applicant to possess an Ohio veterinary license in good standing and be federally accredited, the board ~~should~~ may consider the following factors in the selection process:
 - (1) Percentage of professional activities to be devoted to food animal practice and veterinary public health activities;
 - (2) Types and number of elective courses or continuing education courses, internships and prior experience in food animal medicine and production medicine or public health;
 - (3) Preferences for a rural background and/or experience in production agriculture or for a career in government public health service;
 - (4) Is from the underserved area or has family ties to the area; ~~and~~
 - (5) Length of time applicant is willing to practice in the area.

4741-4-04

Confidentiality statutes.

The following federal statutes or regulations or state statutes make personal information maintained by the board confidential and identify the confidential personal information within the scope of rules promulgated by this board in accordance with section 1347.15 of the Revised Code;

- (A) Social security numbers: 5 U.S.C. 552a (~~2012~~ 12/19/2014), unless the individual was told that the number would be disclosed.
- (B) "Bureau of Criminal Investigation and Information" criminal records check results: section 4776.04 of the Revised Code.
- (C) Medical Records: Health Insurance Portability and Accountability Act, Title II 45 CFR 160, 42 USC 1320 (2013).
- (D) Substance abuse treatment records: section 5119.27 of the Revised Code and 42 U.S.C. 29 (7/20/2016).
- ~~(D)~~(E) Investigative Records: section 149.43 of the Revised Code.
- (F) Information or records that are attorney client privileged: division (A)(1) section 2317.02 of the Revised Code.
- ~~(E)~~(G) College and University Transcripts: Family Education Rights and Privacy Act, 34 CFR Part 99 (2013).
- (H) Mediation communications or records: section 2710.03 of the Revised Code.
- (I) Trial preparation records: division (A)(1)(g) of Section 149.43 of the Revised Code.