



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Veterinary Medical Licensing Board

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

Five year rule review of rules impacting the practice of veterinary medicine

Rule Number(s): 4741-1-01, 4741-1-02, 4741-1-05, 4741-1-06, 4741-1-07, 4741-1-09, 4741-1-11, 4741-1-12, 4741-1-15, 4741-1-19, 4741-1-21, 4741-1-22, 4741-1-25, 4741-2-01

Date of Submission for CSI Review: 9/15/2021

Public Comment Period End Date: 10/12/2021

Rule Type/Number of Rules:

☐ New/___ rules

☒ Amended/ 3 rules (FYR? X)

☐ No Change/ 11 rules (FYR? X)

☐ Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- ☒ a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- ☐ b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- ☐ c. Requires specific expenditures or the report of information as a condition of compliance.
- ☐ d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

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

Most of the rules in this package are subject to the five year rule review. The rules apply to the practice of veterinary medicine. Only two rules of the five year rule review have amendments: Rule 4741-1-11 OAC is increasing the number of online continuing education hours that a veterinarian must obtain upon their biennial renewal from six hours to 15 hours. Rule 4741-1-21 OAC is being amended to include the route of administration for medications that are administered by a veterinarian or registered veterinary technician.

Rule 4741-1-01 OAC, which is not a five year rule review, is being amended to permit a foreign graduate veterinary technician to obtain an initial license upon completion of the American Association of Veterinary State Board (AAVSB) Program for the assessment of veterinary education equivalence (PAVE).

The draft rules are written in plain language so that a member of the public without additional medical knowledge can understand the rules. The rules in this package are:

Rule 4741-1-01 OAC details the requirements for veterinary technician duties, registration and continuing education. The amended language permits a foreign graduate of a veterinary technician program to apply for licensure if they complete the PAVE program.

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Rule 4741-1-02 OAC sets out the requirements for a Specialists license.

Rule 4741-1-05 OAC addresses prescribing, administering and dispensing of drugs.

Rule 4741-1-06 OAC provides the method of giving public notice.

Rule 4741-1-07 OAC addresses approved veterinary and animal technology colleges.

Rule 4741-1-09 OAC provides guidance for euthanasia and disposal of animals.

Rule 4741-1-11 OAC sets out the continuing education requirements for renewal of the veterinary and the registered veterinary technician license. The rule is being modified to increase the number of online continuing education hours permissible for renewal by the veterinarian from 6 hours to 15 hours.

Rule 4741-1-12 OAC provides guidance for embryo transfer: definition and practice

Rule 4741-1-15 OAC details the election of officers of the Board.

Rule 4741-1-19 OAC describes the veterinary student education requirements.

Rule 4741-1-21 OAC provides the recordkeeping requirements. The rule is being amended to include the documentation of the route of administration for drugs.

Rule 4741-1-22 OAC addresses the vaccination clinics held by Departments of Health.

Rule 4741-1-25 OAC provides guidance for those licensees who are found to be practicing impaired.

Rule 4741-2-01 OAC describes the general provisions of a veterinary business facility license.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

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 the Chapter 4741. Section 4741.01(F) ORC authorizes the Board to adopt rules regulating the registration of a registered veterinary technician. R.C. 4741.13 authorizes the Board to adopt rules for the provision of a limited license to practice veterinary medicine. R.C. 4741.28(F) requires the Board to adopt rules regarding veterinary business facility licenses.

4. 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

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5. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.** *Not applicable*
6. **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. The amendment to Rule 4741-1-11 OAC is meant to lessen the burden of obtaining continuing education hours by permitting the veterinarian to obtain half of their required hours in a two year period through online continuing education opportunities. The amendment to Rule 4741-1-21 OAC will clarify the route of administration for a drug that is either administered or prescribed, thus a safety feature for not only the veterinary practitioners, but the consumer/owner of the animal. Rule 4741-1-01 OAC is being amended to eliminate a barrier to licensure for veterinary technicians who are foreign graduates. This will assist with the recruitment of veterinary technicians to the State of Ohio.*
7. **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. The Board also tracks disciplinary actions to determine the type and frequency of any violations of the Rule.*
8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?** *No*
If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

Development of the Regulation

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.** *The Board began initial review of the rules required under the five year review April 14, 2021 board meeting. The Executive Director of Ohio Veterinary Medical Association (OVMA) was in attendance. There were no amendments to the section of rules provided at either the April or May board meeting. On May 25, 2021, via email, OVMA was made aware that Rule 4741-1-11 OAC was coming up for review at the June board meeting as it has been controversial in the past. Another set of five year review rules were provided at the June board meeting. Rule 4741-1-11 OAC was amended with a recommendation from OVMA. Rule 4741-1-11 OAC and the remaining rules for five year review were presented to the Board members at their June board meeting. The Board did not*

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make any further revisions to rule 4741-1-11 OAC. On June 28, 2021, OVMA was provided via email the rules that were being reviewed at the July board meeting. There was open discussion with input from OVMA. A modification was suggested to Rule 4741-1-21 OAC. The Board members approved the five year rules to be filed at their September 8, 2021 board meeting. In addition, the Board members reviewed information received from the AAVSB regarding the implementation of the new AAVSB PAVE program which would review the education equivalency for the veterinary technician foreign graduate. The Board approved the program which entails making a revision to Rule 4741-1-01 OAC. The Board approved submission of the rule for filing. The Rule was provided to the OVMA for review and discussion. No comments were received regarding Rule 4741-1-01 OAC.

- 10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?** *The Board worked collaboratively with the OVMA in the review of these rules. OVMA provided input and suggested language into these set of rules of which an acceptable set of rules were adopted.*
- 11. 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 was no scientific data utilized to develop or review this rule. Research was done to compare regulations for continuing education as well as medical record documentation of other states' regulations and the American Association of Veterinary State Board's Practice Act Model.*
- 12. 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 rules was necessary. The Board members agreed that each rule was necessary for the practice of veterinary medicine in the State of Ohio and for public safety. The Board did not consider any regulatory alternatives.*
- 13. Did the Agency specifically consider a performance-based regulation? Please explain.** *The Board did not consider a performance-based regulation. The purpose of the rules is to provide guidance to the licensee and what documentation or continuing education might be required to comply with the statutes.*
- 14. 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. There is no other Agency that has the authority to regulate the licensure of veterinary medicine.*

15. 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 Board will promote the implementation of the regulations through educational opportunities, through the interested party associations, postings on the Board web site and through its newsletter distributed to all licensees. 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 to provide guidance. 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 under "Board Information". Additionally, any pertinent issues related to the rules are done in consultation with the appropriate representative from the Ohio Veterinary Medical Association (OVMA), Ohio Association of Veterinary Technicians, the Department of Agriculture and/or The Ohio State University College of Veterinary Medicine.*

Adverse Impact to Business

16. 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; and*
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,);** *Rule 4741-1-11 OAC deals with the requirements for continuing education (CE) for the veterinarian and registered veterinary technician. The cost for renewal of the license for a veterinarian is \$155 for a biennium. The cost for renewal for a veterinary technician is \$35.00 for a biennium. The RVT must obtain 10 CE hours while the veterinarian must obtain 30 hours. The current rule only permits 6 online CE hours for renewal. The amended rule will permit 15 hours online CE hours for the veterinarian. There is oftentimes a cost for obtaining continuing education. Online CE is at a lesser cost to the licensee and does not involve travel away from the veterinary practice, parking expenses, meal expenses, etc. Therefore the increase in online hours is a cost effective and time-saving measure being put into place for the veterinarian. Rule 4741-1-21 OAC deals with the requirements for medical records to be maintained for three(3) years. Notwithstanding the fee for the license to practice veterinary medicine, the most important impact of any of the veterinary medical rules relates to the cost of the veterinary business. A main location would need to be available to store and easily retrieve the medical records populated, whether companion animal or livestock. Depending on the type of veterinary medicine provided, the costs will be different. IF the*

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veterinary practice only operates as a spay/neuter clinic, there will not be a need for radiology equipment as they can outsource that aspect of care. Therefore, the cost will be lower for this type of clinic versus a full-service veterinary hospital. The amendment to Rule 4741-1-21 OAC does not impact the cost of providing veterinary medical care or increase the amount of time required to comply with the Rule.

There will be a cost to the veterinary technician for completion of the AAVSB PAVE program of between \$200 to \$300 for the applicant fee. Depending on if the applicant needs to take a "Gap" course, there could be an additional fee. Document translation to English fees are an additional cost to the candidate. (AAVSB source) and

c. Quantify the expected adverse impact from the regulation.

There has not been any increase in initial or renewal licensure fees since 1997. These rules do not change any fees, fines or penalties.

The cost of continuing education varies. It can be provided free. For instance, provided by pharmaceutical companies or at regional association meetings. CE can be obtained on-line ranging from free to several hundred dollars depending on the number of hours of the CE course. 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 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.

As mentioned previously, due to the variety of veterinary medical practices, it is difficult to ascertain a monetary figure for the operation of a stationary veterinary clinic, but it is above \$50,000 per year. There are a number of emergency veterinary facilities in Ohio which require immediate lab results and therefore would need an in-house lab and xray equipment which costs thousands of dollars (An xray unit alone costs over \$18,000). For instance, in 2019, there was a small veterinary practice in Cleveland for sale for \$1.1 million which included the practice, equipment, inventory and real estate. However, another small animal practice in Cleveland, including equipment and inventory was being offered for \$250,000. That does not include the staff that would be required to perform veterinary services and if critical care animals, requiring 24 hour staffing, thus increasing the veterinarian's costs. A veterinary business facility license can be obtained by a non-veterinary owned facility for \$300 for a biennial license. Ohio has seen an increase in corporate ownership of veterinary facilities in recent years.

17. 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*

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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 enable mobility of the veterinarian or RVT to seek licensure in another state that recognizes reciprocal licenses. Additionally, the acceptance of PAVE removes a barrier for the foreign graduate and helps with recruitment of RVTs to the State of Ohio.

Regulatory Flexibility

- 18. 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 CE hours must 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.*
- 19. 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. R.C. 4741.17 establishes fees for late renewals. The Board does not discipline a licensee for late renewals 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 requirements of continuing education.*
- 20. 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 a newsletter distributed twice a year to all licensees and posted on the Board web site.*

The Board's contact information is as follows:

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