

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Department of Public Safety – Division of EMS

Regulation/Package Title: Regional Physician Advisory Boards

Rule Number(s): O.A.C. rules 4765-3-01 through OAC 4765-3-05

Date: February 28, 2014

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☐ Rescinded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.

Chapter 4765-3 of the Ohio Administrative Code (OAC) is authorized by section 4765.11 of the Revised Code (RC). This chapter sets forth the following:

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- *The prehospital emergency services regions for the purpose of overseeing the delivery of adult and pediatric prehospital emergency medical services.*
- *The processes and criteria for establishing membership of a regional physician advisory board (RPAB).*
- *The role of the chair of a RPAB and its members.*
- *The minimum qualifications to serve as the medical director of an EMS organization and the process for petitioning for a waiver of certain requirements.*

Pursuant to a scheduled RC 119.032 five- year rule review, the following amendments or new rules are proposed to OAC Chapter 4765-3:

OAC rule 4765-3-01 sets forth eight geographical regions within the state for the overseeing of the delivery of adult and pediatric prehospital emergency medical services.

OAC rule 4765-3-02 sets forth the criteria and process for membership of an RPAB and the information that must be reported to the division of EMS by a member of an RPAB. This rule is being amended to expand the maximum number of physicians that may serve on an RPAB from nine to twelve. This rule also incorporates by reference the “Regional Physician Advisory Board Membership Application” “EMS 0096” (October, 2009) incorporated in OAC 4765-1-03.

OAC rule 4765-3-03 sets forth the standards for operations of an RPAB, including the timeline for appointment of a chair and vice chair by the members, a process for filling a vacancy, the duties of an RPAB and frequency of meetings. This rule has been amended to decrease the number of times an RPAB must meet annually from four to two and to require the submission of meeting minutes to the division.

OAC rule 4765-3-04 sets forth the responsibilities of an RPAB pertaining to the oversight of the delivery of adult and pediatric prehospital emergency medical services. The rule is being amended to add the provision of advice and counsel to the board regarding EMS system development and assisting the Ohio American College of Emergency Physicians with revisions to its EMS medical directors’ course as part of the services which may be provided by an RPAB.

OAC rule 4765-3-05 sets forth the minimum qualifications a physician must meet to service as a medical director of an EMS organization. The rule is being amended to expand the board certification options to include a subspecialty board certification by the American Board of Emergency Medicine in emergency medical services. It is also being amended to remove the listing of specific EMS medical director courses deemed acceptable by the board and referencing individuals seeking a course to http://ems.ohio.gov/ems_rpab.stm for a listing of approved courses.

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

RC section 4765.11.

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?

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

No, the regulation does not implement a federal requirement.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

This regulation does not implement a federal requirement.

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)?

These regulations provide for an increase in the number of physicians, from nine to twelve, that can be appointed to an RPAB, providing a broader representation of the EMS organizations and medical facilities within the region for the oversight of the delivery of adult and pediatric prehospital emergency medical services. Further, these regulations establish regions that align with the Ohio Homeland Security regions allowing for a more coordinated planning for response to a terrorist attack.

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

Success will be measured by the number of physicians appointed to the RPAB that successfully meet their responsibilities and by the number of EMS organizations and medical facilities within the region that are represented by the members of the RPAB. Success will be further measured by increased communication and interaction of first responders; EMS, fire and law enforcement, within the regions.

Development of the Regulation

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

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

The stakeholders included in the rule review process were members of the RPAB. The RPAB include physicians representing rural, suburban and metropolitan areas of the state and multiple specialty areas, including emergency medicine, trauma, and pediatrics. The majority of the RPAB members also serve as medical director for one or more EMS organizations in the state. Re-alignment of the RPAB regions was first discussed with these stakeholders at an RPAB All-Member meeting on November 10, 2011. The RPAB chairs were asked to seek comments and suggestions regarding Chapter 3 rules at their regional meetings and to bring those suggestions and comments forward for discussion at the RPAB chair meetings. The current Chapter 3 rules were agenda items for discussion on the March 13, May 8 and September 11, 2013 meetings and the March 12, 2014 RPAB chair meetings. All RPAB meetings are open to the public. Copies of the rules were distributed and those in attendance were provided an opportunity to bring forward concerns and suggestions regarding the rules. Comments from the RPAB were reviewed by Division of EMS staff for applicability to the Chapter 3 rules.

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

The RPAB members include physicians representing rural, suburban and metropolitan areas of the state and multiple specialty areas, including emergency medicine, trauma, and pediatrics. The majority of the RPAB members also serve as medical director for one or more EMS organizations in the state. These stakeholders provided professional expertise, professional experiences and feedback to the rule development process. The stakeholders' input ensures that regulations are both reasonable and designed to protect the public being served by the EMS organizations.

4765-3-01 *Prehospital emergency medical services regions.*

Stakeholder Input: Those in attendance at the November 10, 2011 RPAB All-Member meeting voiced support for aligning the RPAB regions with the Ohio Homeland Security regions.

Results: The geographical regions put forth for the RPAB align with the Ohio Homeland Security regions.

4765-3-02 *Regional directors and regional physician advisory board.*

Stakeholder Input: The RPAB members asked to increase the membership of an RPAB region from nine to twelve members to accommodate the reduction in regions from ten to eight and to allow for broader representation of EMS organizations and medical facilities within a region.

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Results: The maximum number of members was increased from nine to twelve. In addition, the rule was amended to allow the EMFTS board to add additional members if needed to accommodate current members of the ten regions in the transition to eight regions.

4765-3-03 *Operations of regional directors and regional physician advisory boards.*

Stakeholder Input: The RPAB members asked that the number of meetings each region is required to hold annually be reduced from four to two.

Results: The rule was revised to reduce the required number of meetings to be held annually from four to two.

4765-3-04 *Responsibilities of regional directors and regional physician advisory boards.*

Stakeholder Input: The RPAB members asked to add language regarding the provision of advice and counsel from the RPAB to the EMFTS board regarding issues pertaining to emergency medical care and emergency medical service system development.

Results: Language was added to the rule regarding the provision of advice and counsel by the RPAB to the EMFTS board.

4765-3-05 *Medical director requirements for each emergency medical services organization.*

Stakeholder Input: The RPAB members asked to expand the options for acceptable board certification for physicians wishing to serve as the medical director of an EMS organization to include subspecialty board certification by the American Board of Emergency Medicine in emergency medical services.

Results: Language was added to the rule to include this subspecialty area.

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 was no scientific data available to be 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?

There were no alternative regulations to be considered.

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.*

Yes, the proposed rules offer various options to meet the minimum requirements to serve as a medical director of an EMS organization. These rules allow an existing medical director who does not meet one of the options for board certification to either complete a board approved medical director course or demonstrate verifiable experience as a medical director

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and proof the medical director has conducted performance improvement programs or training. A physician seeking to become a new medical director may also complete a board approved EMS medical director course and petition the EMFTS board for a waiver of the board certification requirement.

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

In accordance with 4765.05 of the Revised Code, the authority for the appointment of the RPAB is granted to the EMFTS board, while authority for establishment of minimum qualifications to serve as a medical director of an EMS organization is granted in 4765.11. The division of EMS staff conducted a review of section 4765 of the Revised Code and chapter 4765 of the Administrative Code to ensure this regulation did not duplicate an existing regulation.

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.

Using the Division's website and EMS listserv, the Division will provide stakeholders with notice of the final filed rules and the effective date. The Division will draft and post summaries of the rule content and changes on both the Division's website and the EMS listserv. Division staff will make presentations regarding the rule changes at both state and local EMS conferences. The Division will also use publications such as the Division's newsletter, "The Siren", to notify Ohio's EMS organizations and medical directors of the rule changes. Status reports will be presented to the EMFTS board. Copies of the new rules will be distributed to each of the RPAB members with a request to distribute in their regions. Additionally, a formal report of the rule changes and status are reported during each of the regularly scheduled EMFTS board meetings. The members of the board will ensure the organizations they represent are aware of the regulations.

Division staff is notified and kept up-to-date of all rule changes and the impact involving enforcement of the amended or newly promulgated rules. The Division has policy and procedures that are followed when reviewing RPAB membership applications. Notification of the rule changes to Division staff will be delivered internally through staff meetings, as well as cross-training of staff on co-workers' job responsibilities that will increase the overall knowledge and efficiency of the Division.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

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a. Identify the scope of the impacted business community;

The membership of the current RPAB ranges from one to nine in each of the ten regions. Each of the eight proposed regions may have up to twelve members. The number of physicians seeking appointment to an RPAB is generally 1-3 per year, with most physicians seeking reappointment at the end of their term. In addition, there are approximately 1300 EMS organizations. A physician may serve as the medical director for more than one EMS organization. The majority of physicians provide medical direction for 3-5 EMS organizations. The number of EMS organizations under the direction of a single physician ranges from 1-15.

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

A physician seeking appointment as a regional director or member of an RPAB must submit a completed application and curriculum vitae to the Board. The chair of an RPAB is required to notify the state medical director and the division of all scheduled meetings, to submit an agenda for each meeting a minimum of ten days prior to the meeting date, and to submit minutes following each meeting. A physician serving or seeking to serve as the medical director of an EMS organization that does not meet the emergency medicine residency program requirement must complete an EMS medical director's course approved by the EMFTS board and petition the board for a waiver. An acceptable EMS medical director course may cost a physician from \$0 - \$300.00, depending on the source. Further, an EMS organization that chooses a medical director that does not meet the minimum qualifications may not be eligible to receive grant funds distributed by the EMFTS board pursuant to rule 4765-5-02.

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.

The estimated cost of compliance for physicians needing to complete a medical director course to qualify for a waiver of the emergency medicine residency program requirement is \$0 to \$300 dollars depending on the source of the course. These courses are available through online sources, therefore no travel, meals or lodging costs need be incurred to obtain the course. The amount of time needed to complete an online course is minimal and can be completed in multiple sittings and at times

selected by the physician. The application to become a member of an RPAB can be completed online and submitted electronically.

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

These rules establish the prehospital EMS regions for the purpose of overseeing the delivery of adult and pediatric emergency medical services; sets forth the composition of an RPAB and the process by which a physician may apply for appointment as a regional director or member; establishes a process for appointment of an RPAB chair and vice chair, meeting schedules and reporting requirements; sets forth the responsibilities of RPABs and outlines the activities in which a RPAB may engage; and, establishes the minimum qualifications to be met by a physician serving as the medical director of an EMS organization. The anticipated adverse impact to the business community is minimal.

Regulatory Flexibility

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

OAC Chapter 4765-3-05 provides several alternatives for physicians seeking to become a medical director of an EMS organization regarding board certification. For physicians who cannot meet any of the options listed, the rule provides alternative means to be accepted, including completion of a board approved ems medical director course and petitioning the board for a waiver.

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?

OAC rules 4765-3-01 to 4765-3-04 do not impose any fines or penalties. However, a physician cannot be considered for membership to an RPAB if the physician does not submit the required application and curriculum vitae.

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

The Division of EMS website includes links to forms to apply to become a member of an RPAB. The forms can be completed and submitted online. A member of the Division of EMS staff serves as a liaison to the RPAB and is available to assist physicians with questions pertaining to the role and responsibilities of an RPAB and its members and to assist in the application process. Reminder notices are sent to RPAB members who are nearing the end of their term with a link to the application. The state medical director meets quarterly with the RPAB chairs and is available via telephone and email to answer

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questions between meetings. The medical director also contacts physicians who do not appear to meet the qualification to serve on an RPAB to discuss their applications and their options. The Division of EMS provides staff assistance via a toll free telephone number and correspondence via email, including an ASK EMS section of the website. Staff members are also staff booth at state conferences to provide information and are available to provide presentations upon request. The Division of EMS and the RPAB can assist EMS organizations in obtaining a medical director that meets the minimum qualifications and will work with physicians who seek one of the alternatives to meeting the board certification requirements. The RPAB and the Division of EMS staff work with the Ohio American College of Emergency Physicians (ACEP) to maintain the EMS Medical Directors' Course which is posted to the Division of EMS and the Ohio ACEP websites.

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