

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

**Agency Name:** [Ohio Department of Public Safety \(DPS\) - Division of Emergency Medical Services \(EMS\), State Board of Emergency Medical, Fire, and Transportation Services](#)

**Regulation/Package Title:** [Emergency Medical Services Continuing Education](#)

**Rule Number(s):** [OAC Rules 4765-19-01, 4765-19-02, 4765-19-03, 4765-19-04](#)

**Date:** [December 1, 2017](#)

**Rule Type:**

New

☒ 5-Year Review

☒ Amended

Rescinded

☒ No Change

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 4765-19 of the Ohio Administrative Code (OAC) is authorized by sections 4765.11 and 4765.16 of the Revised Code (RC). This chapter sets forth the following:

- The conditions under which the State Board of Emergency Medical, Fire, and Transportation Services (EMFTS Board) will accept continuing education (CE) training as meeting the requirements to renew an EMS provider certificate to practice as an Emergency Medical Responder (EMR), Emergency Medical Technician (EMT,) Advanced Emergency Medical Technician (AEMT,) or Paramedic.

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- The criteria to complete an examination in lieu of continuing education as an option to meet the requirements to renew a certificate to practice.
- The criteria to obtain an extension beyond the expiration date of a certificate to practice to complete continuing education required for renewal of the certificate.
- The criteria to obtain an exemption from the continuing education requirement for renewal of a certificate to practice.

A summary of each of the four rules included in OAC Chapter 4765-19 is:

<b>4765-19-01</b>	<b>Amend</b>	<b>Continuing education for EMS providers.</b>
Rule 4765-19-01 sets forth criteria of continuing education credit, including subject matter, format, and eligible providers. The rule sets forth provisions for the consideration of CE obtained by the holder of a certificate to practice during military service.		
<b>4765-19-02</b>	<b>Amend</b>	<b>Examination alternative to continuing education.</b>
Rule 4765-19-02 sets forth the provisions available to renew a certificate to practice by examination rather than by completing a CE program. A passing score must be achieved within three attempts. The examination must be completed within the last six months prior to expiration of the certificate to practice.		
<b>4765-19-03</b>	<b>Amend</b>	<b>Extension of continuing education requirement for EMS providers.</b>
Rule 4765-19-03 sets forth the provisions for granting an extension of time to comply with CE requirements to renew a certificate to practice, including the application to be submitted to request an extension and provisions for certificate holders whose certificates expired while they served in the military. The rule refers readers to the incorporated by reference rule.		
<b>4765-19-04</b>	<b>No Change</b>	<b>Exemption from continuing education requirements for EMS providers.</b>
Rule 4765-19-04 sets forth the provisions for obtaining a complete or partial exemption from compliance with CE requirements based on active duty service in the military, medical hardship, or unusual circumstances. The rule refers readers to the incorporated by reference rule.		

Pursuant to a scheduled RC **106.03** five- year rule review, the following amendments are proposed to OAC Chapter 4765-19:

OAC rule 4765-19-01 is proposed to be amended to:

- Include the acronym CAPCE with the acronym CECBEMS, because the organization recently changed its name; and
- Include provisions to implement section 4745.04 of the RC, which becomes effective on January 21, 2018, concerning CE for provision of patient care to the indigent and uninsured.

OAC rule 4765-19-02 is proposed to be amended to correct a spelling error and a formatting error.

OAC rules 4765-19-03 is proposed to be amended to update materials referenced and add the word “section” in a reference to the Revised Code.

OAC 4765-19-04 is proposed as a No Change rule.

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

RC sections 4765.11 and 4765.16

**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?**

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

The regulations do not implement federal requirements, nor are they being adopted to participate in a federal program.

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)?**

Pursuant to RC section 4765.11, the EMFTS Board is directed to adopt rules that establish the standards and procedures under which the Board may issue, renew, suspend, or revoke certificates of accreditation and certificates of approval to operate EMS training and continuing education training programs. RC section 4765.11 sets forth the conditions under which accredited and approved institutions may operate EMS training and CE training programs. Consistent, statewide, EMS training will help ensure well-trained EMS providers efficiently and effectively deliver pre-hospital patient care, improved response in emergencies, and increased safety while delivering emergency medical services. In addition, the proposed regulations also protect Ohio paramedic students by ensuring the students' education and eligibility for certification, through national standard testing, are not jeopardized.

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

Success will be measured through the current certification audit process, which randomly audits ten percent of all certification renewals every month and audits all certificates renewed subsequent to an extension. The audits are to ensure that the certificate holders have completed the required continuing education for the previous certification period. Complaints, including those regarding patient care, are monitored as part of the administrative investigations conducted by the Division and State Board of EMFTS.

### **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.*

These rules were reviewed by the Education Committee and the Medical Oversight Committee of the EMFTS Board during their bi-monthly meetings, as well as the education coordinators and other staff of the Ohio Division of EMS (DEMS) and legal staff of the Ohio Department of Public Safety (ODPS). Committee members represent various roles of the emergency medical profession including the state medical director, emergency medicine physicians, trauma surgeons, registered nurses, EMS providers, EMS instructors, and program coordinators representing EMS training organizations and fire service organizations.

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Members of the State Board of EMFTS received copies of OAC 4765-19 recommended amendments and proposed filing schedules as part of the board packets in advance of the August 16 and October 18, 2017 board meetings. The EMFTS Board received an Education Committee report at its June 21, 2017 and October 18, 2017 board meetings and MOC reports at its August 16 and October 18, 2017 board meetings.

The Ohio State Board of Emergency Medical, Fire, and Transportation Services is a twenty-one member board. The director of the Department of Public Safety designates a member of the Department of Public Safety as a member of the Board. Twenty members who each have “background or experience in emergency medical services or trauma care” are appointed by the Governor with the advice and consent of the Ohio Senate. The Governor attempts “to include members representing urban and rural areas, various geographical regions of the state, and various schools of training” in making appointments to the Ohio State Board of EMFTS. The appointees to the board represent Ohio’s fire and emergency medical services, private medical transportation services, mobile intensive care providers, air medical providers, trauma programs, hospitals, emergency physicians, EMS training programs and ODPS.

In September 2017, the OAC 4765-19 rule numbers and tag lines were posted at the EMS Small Business Regulatory Impact Web site ( [http://www.publicsafety.ohio.gov/ems\\_rules.stm](http://www.publicsafety.ohio.gov/ems_rules.stm) ) under the heading “Rules Scheduled for Review.”

When the rules are filed with CSI, govdelivery.com will be used to notify approximately 545 EMS instructors, 705 EMS agencies, and 163 “EMS for Children” subscribers about the OAC Chapter 4765-19 filing and stakeholder comment period. Notification about the filing and comment period for OAC Chapter 4765-19 will also be placed on the EMS.Ohio.gov website.

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

DEMS staff proposed the changes related to spelling, formatting, materials incorporated by reference, and the acronym CAPCE, and they worked with the ODPS legal staff to draft the provisions to implement section 4745.04 of the RC.

Members of the Education Committee and MOC of the EMFTS Board reviewed the proposed amendments at the committees’ October 17, 2017 meeting. At the October 17 meeting, the members of the Education Committee present agreed to recommend the draft rules to the EMFTS Board for submission to the Common Sense Initiative (CSI) office. The EMFTS Board approved filing the OAC 4765-19 rules and BIA with the CSI office at its October 18, 2017 meeting.

**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?**

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The rules in OAC Chapter 4765-19 provide several methods to obtain required CE credits, including an examination alternative, requesting an extension of time to complete CE credits, and requesting an exemption from the CE requirements.

**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 minimum continuing education standards established and the ways in which the continuing education can be obtained do not allow for a performance-based regulation as they are specific in how continuing education can be obtained.

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

The Division of Emergency Medical Services is the only authority for EMS training, instruction, and certification; therefore, a review of Chapter 4765. of the ORC and agency 4765 of the OAC was completed.

**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 Web site [EMS.ohio.gov](http://ems.ohio.gov) and the [gov.delivery.com](http://gov.delivery.com) user groups, the division will provide stakeholders with the final rules, rule summaries, and the changes made to OAC Chapter 4765-19. The EMS continuing education requirements are published to the EMS web site using the link <http://ems.ohio.gov>, and the Division will notify the EMS accredited training centers' program directors via email and through program director directives published on the [EMS.ohio.gov/](http://EMS.ohio.gov/) program director portal and prior to the rules becoming effective. Division of EMS staff will receive email notification of the rule changes and attend section briefings regarding implementation policy and procedures.

The Division has policy and procedures that are followed when reviewing continuing education submitted through an audit at renewal, and when reviewing a request for an extension or an exemption. 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:**

**a. Identify the scope of the impacted business community;**

The scope of the impacted business community includes approximately 41,500 EMS providers with active certificates to practice, with approximately 13,800 renewing each year.

Annually, fewer than 100 providers request an exemption from completing the required continuing education. From January 1 to November 2, 2017, thirteen exemption requests were received.

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Typically, thirty to fifty certificate holders per month request an extension to meet continuing education requirements for renewal. From January 1 to November 2, 2017, 442 extension requests were received.

SOURCE: Division of Emergency Medical Services, Certifications Section

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

The holder of a certificate to practice is required to complete emergency medical services continuing education as set forth in chapters 4765-12, 4765-15, 4765-16, and 4765-17 of the OAC. This chapter provides alternative provisions for compliance, however, the certificate holder must submit written requests to obtain these options. Failure to submit the appropriate documents in a timely manner may result in denial of the request for an alternative provision and ultimately result in the loss of the certificate to practice. Any cost associated with obtaining the required continuing education or an alternative provision would be determined by the type, provision, and location of the continuing education. The Division of EMS does not regulate or dictate any costs.

This rule, in and of itself, does not impose a penalty or sanction. However, the process for the State Board of EMFTS, pursuant to an adjudicatory hearing under Chapter 119. of the Revised Code, is described in rule 4765-10-03 of the Administrative Code. The board may impose sanctions up to and including revocation of any certificate issued by the board and may impose a fine not to exceed \$1,000 for violations of specific provisions of Chapter 4765. of the Revised Code and specific sections of the Administrative Code.

**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.*

An EMS provider typically incurs continuing education course fees of \$0 to \$750 in order to meet the rule requirements to renew an EMS provider certificate to practice. The variance in costs is dependent upon whether or not an individual’s department provides in-service training, approved on-line programs, conferences, or other sources of continuing education. The cost associated with continuing education courses are the decision of the continuing education provider and based on instructors’ pay rate, whether or not an affiliation agreement is utilized, the institution’s choice of instructional materials, and the number of students enrolled in the course. It is not expected that this regulation will result in any additional costs of compliance. An EMS provider who elects to complete an examination in lieu of continuing education courses typically incurs examination fees of \$65 to \$200 as dictated by the National Registry of Emergency Medical Technicians (NREMT), which administers the examination. The variance in costs is dependent upon the EMS level of the examination.

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The time required to complete paperwork associated with a request for an alternative provision will be dependent on the reason for the request and the support documentation needed to substantiate the request. The time required to complete the paperwork is expected to be minimal.

Source: Examination fees are posted on the National Registry of Emergency Medical Technicians website located at [www.nremt.org](http://www.nremt.org).

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

EMS providers respond to medical and traumatic emergencies in the pre-hospital setting and function without direct oversight. It is critical that the EMS workforce maintain an acceptable knowledge and skill level to provide quality care before and during transport to a medical facility. EMS agencies utilizing EMS providers depend upon the EMFTS Board and the Division of EMS to ensure individuals issued a certificate to practice have met a recognized standard. Ohio is one of forty-six states that use the NREMT certification as a basis for licensure/certification. The NREMT EMS certification provides “a validated and legally defensible attestation of competency.”

Additionally, EMS agencies can apply to the EMFTS Board each year for grant money to offset the cost of continuing education renewal requirements for their personnel. EMS agencies can also apply for a Certificate of Approval to offer continuing education in-house, at no cost, to ensure their providers obtain sufficient training and CE to meet the requirements to renew.

**Regulatory Flexibility**

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

OAC Chapter 4765-19-03 provides for an extension of time for certificate holders to meet continuing education requirements, if they are unable to meet the requirements prior to the expiration of their certificate. OAC Chapter 4765-19-04 provides for an exemption from continuing education requirements for military service, medical hardships, and unusual circumstances. For those with limited free time, the completion of the exam in lieu of attending continuing education courses, as set forth in OAC rule 4765-19-02, would be an alternative. The ability for an EMS agency to obtain a certificate of approval to provide continuing education in-house to its personnel provides an alternative to attending continuing educations at outside venues. As set forth in OAC rule 4765-19-01, portions of an initial certification or licensing healthcare-related course, properly documented and meeting the requirements stated in the rule, may be counted for continuing education credit for EMS providers.

**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 Chapter 4765-19 rules provide alternatives to assist certificate holders to meet the requirements for renewal. The rules also provide an avenue for certificate holders to request an exemption from continuing education requirements, if extenuating circumstances exist. Violations

of renewal requirements are reviewed on a case-by-case basis in order to ensure compliance with RC section 119.14.

OAC chapter 4765-19 in and of itself does not impose any penalties or sanctions. However, as set forth in provisions in RC sections 4765.33 and 4765.50, the EMFTS Board may impose disciplinary actions up to and including revocation of a certificate of accreditation, certificate of approval, certificate of practice, or certificate to teach for violations of Chapter 4765. of the ORC or any rule adopted under it.

If disciplinary action is considered, each case is submitted first to the Board's Assistant Attorney General to ensure compliance with RC section 119.04. The EMFTS Board reviews each situation on a case-by-case basis and may consider all information relevant to the requirements of agency 4765 of the OAC and RC Chapter 4765.

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

Starting ninety days prior to the expiration date of a certificate to practice, each certificate holder is mailed a notification of the need to renew and referred to information about continuing education requirements and forms to request extensions or exemptions. Certificate holders also are sent weekly reminders, via their provided email address, beginning at the same time as the mail notification. A certificate holder has the option of providing a secondary email address, generally their EMS employer, to also receive the email notifications.

The Division of EMS provides a limited number of online continuing education offerings through its website. The Division of EMS website includes links to forms to request an extension or exemption and to the continuing education requirements. 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. The Division of EMS also staffs booths at state conferences to provide information, and staff members are available to provide presentations upon request. Certificate holders may also use the EMS online renewal system at no cost.

The EMS Web page includes links to the laws and rules associated with emergency medical services, along with an overview section about accredited and approved continuing education programs, certifications, medical direction, scope to practice, and training and education. The *Agency Directory* at the EMS Web site ( <http://www.ems.ohio.gov/about-directory.aspx> ) includes the email addresses, telephone numbers, including a toll free number (1-800-233-0875), and the names of EMS staff. Staff members are available by phone and by email and can be reached via the *Ask EMS* ( [ASKEMS@dps.ohio.gov](mailto:ASKEMS@dps.ohio.gov) ) email address available at the EMS Web site.

The EMS Web page includes a searchable database of "Ohio Emergency Medical Services Training Facility Information" at <https://services.dps.ohio.gov/EMSSchools/TrainingFacility/> that includes Ohio accredited and approved training facilities offering continuing education and contact information for each.

The Division of EMS will use the EMS.gov.delivery.com system, which includes EMS instructors, EMS agencies, and "EMS for Children" lists, to distribute the final rules to stakeholders when they

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become effective. Division of EMS staff will receive email notification of the rule changes and attend section briefings regarding the implementation policy and procedures. During its meetings, the EMFTS Board receives regular updates about EMS rules.

The Division of EMS staff members attend and present information at various conferences, seminars, and symposiums throughout the State of Ohio such as the annual International Trauma Life Support (ITLS) Emergency Care Conference, the Ohio Association of Emergency Medical Services (OAEMS) Summer Conference, Ohio Fire and EMS Expo, Ohio EMS Grant Hospital/Ohio Health Conference, Ohio Ambulance Association Conference, Ohio State Fire Instructors Society, and the Ohio State Fair.

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