



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):

Euthanasia Rule

Rule Number(s): Rule 4741-1-23

Date of Submission for CSI Review: 4/20/2021

Public Comment Period End Date: 5/13/2021

Rule Type/Number of Rules:

New/ rules

No Change/ rules (FYR?)

Amended/ x rules (FYR No -3/2024)

Rescinded/ rules (FYR?)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.**

Rule 4741-1-23 Approves the Euthanasia Agent and Euthanasia technician certification course curriculum. The rule is being amended to include the euthanasia agent as a result of enactment of recent legislation (HB 24. The rule is amended to include employees of a County Dog Warden.

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. The proposed rule is authorized by 4741.04 and 4729.532 of the Ohio Revised Code**

4. **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?**

These rules do not implement a federal requirement.

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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.** *The rule mirrors the requirements in R.C. 4729.532.*
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)?** *R.C. 4729.532(A) requires the Ohio Veterinary Medical Licensing Board in conjunction with the State Board of Pharmacy to approve the drugs to be utilized by an employee of an animal shelter and county dog warden for euthanasia purposes. R.C. 4729.532(C) requires the Board to approve the curriculum for a euthanasia technician certification course.*
7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?** *The success of the regulation will be measured by having rules written in plain language, compliance with the rules and minimal questions from those impacted regarding the provision of the rules.*
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*

Development of the Regulation

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.** *The rule was distributed for initial public comment by posting the rule on the Board web site and sent to the Ohio Board of Pharmacy via email and the Ohio Veterinary Medical Association (OVMA) via email.*
10. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?** *On March 30, 2021, OVMA submitted recommendations for revision which were added to the Rule. The revised rule was sent to the Ohio Board of Pharmacy and OVMA prior to review by the Board. There was one suggested modification by OVMA which was added to the rule. There were no other comments submitted.*

At the April 14, 2021 board meeting, the Board members approved the rule and Business Impact Analysis to be filed with CSI.

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?** *Scientific data was not used to develop or review this rule as the rule is being amended as a result of recent enactment of legislation and is required by law.*
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 rule addresses the fact that the Board of Pharmacy and the Ohio Veterinary Medical Licensing*

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Board jointly approved the dangerous drugs to be used in an animal shelter and dog warden setting for the process of euthanasia, the only other rule that applies to this area of practice was the Board of Pharmacy rule 4729.5:15-01 OAC.

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

The Board did not consider a performance-based regulation for this rule. It is the Board's responsibility to ensure uniform practice standards across Ohio. The purpose of the rule is to provide guidance to the licensee and the public.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation? The rule is specific to the euthanasia process as monitored by the Ohio Board of Pharmacy. This rule reflects the approval of the drugs for euthanasia as required in R.C. 4729.532(A). There are no other rules that provides the euthanasia drugs to be utilized as reviewed by the Director.

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 rules will be posted on the Board's web site of which notification is sent to the Board's listserve, distributed through the Board's newsletter and relayed by the Board at trade association conferences. Any issues that might arise as a result of the rule will come before the Board members at one of their monthly board meetings for discussion. Interested parties are also able to request time on the Board Agenda to discuss issues that might arise as a result of how a rule is written or implemented. 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 rule will be done in consultation with the appropriate representative from the OVMA or OAVT, the Department of Agriculture, the Ohio Board of Pharmacy, the Humane Society association(s), The County Dog Wardens associations, The Ohio State University College of Veterinary Medicine and/or other state agencies whose regulations may impact the practice 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; and *The board licenses veterinarians and registered veterinary technicians. The rule impacts veterinarians, veterinary technicians, and euthanasia technicians, who practice in animal shelters. Additionally, the rule will enlarge the capability of the national providers of education for euthanasia technician to provide education opportunities in the State of Ohio. The rule eliminates the lab portion to be taught by an Ohio licensed practitioner and expands the*

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ability for a veterinarian or registered veterinary technician to provide education who are licensed in other states or jurisdictions.

b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and *This rule only indicates approval of the dangerous drugs listed in the Ohio Board of Pharmacy Rule 4729:5-15-01 and the approval of the euthanasia technician euthanasia course. There are no fines or fees associated with this rule.*

c. Quantify the expected adverse impact from the regulation. *. The rule requires the euthanasia course to be at least sixteen hours in length as defined in R.C. 4729.532. This is a new course for the dog wardens who wish to perform euthanasia services. There could be a cost association with taking the course and becoming certified by the Ohio Board of Pharmacy.*

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community? *The joint approval of the euthanasia drugs by the Ohio Board of Pharmacy and the Ohio Veterinary Medical Licensing Board is meant to provide uniform regulations for the security, storage and usage of the dangerous drugs as well as provision of standard education.*

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain. *The rule does not provide any exemptions or alternative means of compliance for small businesses. The rule applies to all animal shelters no matter the size of the facility or population it serves.*

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? *There are no fines or penalties associated with this rule.*

20. What resources are available to assist small businesses with compliance of the regulation? *The Board staff are available by telephone and via email to address questions or concerns. The Board members and staff provide presentations to the trade association conferences and the veterinary college. Additionally, the Board disseminates a bi-annual newsletter that addresses any law and rule changes impacting the practice of veterinary medicine.*

4741-1-23

Approval of euthanasia agents and euthanasia technician certification course curriculum.

(A) Pursuant to division (A) of section 4729.532 of the Revised Code, the board approves the use of tiletamine and zolazepan for injection and ketamine hydrochloride for anesthetizing an animal and xylazine for the purpose of sedating an animal as part of the euthanasia process ~~in an animal shelter~~ by a euthanasia technician.

(B) No agent or employee of an animal shelter or county dog warden, except a licensed veterinarian or registered veterinary technician, shall perform euthanasia by means of lethal injection on an animal by use of any substance other than combination drugs that contain pentobarbital and at least one noncontrolled substance active ingredient, in a manufactured dosage form, whose only indication is for euthanizing animals.

~~(B)~~(C) Euthanasia technician certification course curricula shall include, but are not limited to, the requirements listed in division ~~(B)~~(C) of section 4729.532 of the Revised Code.

(1) The course will be a minimum of sixteen hours and shall include information on the following areas:

- (a) The pharmacology, proper administration, and storage of anesthetizing and sedative agents and euthanasia solutions;
- (b) Federal and state laws regulating the storage and accountability of anesthetizing and sedative agents and euthanasia solutions;
- (c) Euthanasia technician stress management;
- (d) Proper disposal of euthanized animals.

(2) The curriculum must be submitted in writing to the Ohio veterinary medical licensing board for consideration and approval. Requirements for courses submitted to the board for consideration and approval shall include, but are not limited to:

- (a) A copy of the course curriculum;
- (b) Detailed learning objectives and the teaching methods used to achieve them;
- (c) Classroom and laboratory hours devoted to each area of instruction as

designated in division (A) of section 4729.532 of the Revised Code;

- (d) The supervision of a veterinarian or a registered veterinary technician in the laboratory portion of the course presentation.

Candidates who have successfully completed the approved course shall be given a written certificate which includes: candidate's name; the name of the approved course; date of completion and the location where the course was given.