



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

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Business Impact Analysis

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

Rule Contact Name and Contact Information:

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

[Chapter 4765-9 Ethical Standards of Conduct, 5-year review](#)

Rule Number(s): [OAC Rules 4765-9-01 and 4765-9-02](#)

Date of Submission for CSI Review: [10/02/2020](#)

Public Comment Period End Date: [10/27/2020](#)

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ 2 rules (FYR? 2)

Rescinded/___ rules (FYR?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):

- Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- Requires specific expenditures or the report of information as a condition of compliance.**
- 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.**

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

The two rules included in OAC 4765-9 *Ethical Standards of Conduct* describe the professional standards of conduct required of individuals issued a certificate to practice as an emergency medical responder (EMR), emergency medical technician (EMT), advanced emergency medical technician (AEMT), or paramedic or a certificate to teach through an EMS accredited institution or an EMS approved institution. The rules address exhibiting respect for the medical needs and personal values of patients and others encountered in the line of duty and maintaining confidentiality, and they prohibit discrimination. The rules address operating within the appropriate scope of practice and maintaining and demonstrating the appropriate level of knowledge and competency. The rules require certificate holders to cooperate with the Ohio State Board of EMFTS and to provide required information related to courses, continuing education records, changes in licensure and certification status, and criminal sentencing and address the use and acquisition of chemical and controlled substances. The rules require compliance with Chapter 4765. of the Ohio Revised Code (RC) and agency 4765 Of the Ohio Administrative Code (OAC) and require holders of a certificate to teach or a certificate to practice to report any suspicion or knowledge of a violation.

Revisions to OAC Chapter 4765-9 have been made to make reporting requirements for those who are disciplined similar to the reporting requirements for holders of fire certificates (OAC rules 4765-22-01

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and 4765-22-02) and to prohibit a person issued a certificate to practice or to teach from aiding or abetting another in engaging the uncertified practice of emergency medical services.

A summary of each of the rules is provided below:

4765-9-01	Amend	Professional standards of conduct for a holder of a certificate to practice.
Rule 4765-9-01 sets forth the ethical standards of conduct for those holding a certificate to practice as an emergency medical responder, emergency medical technician, advanced emergency medical technician, or paramedic. The rule has been amended to add reporting requirements for those who are disciplined and to prohibit aiding or abetting another in engaging in the uncertified practice of emergency medical services.		
4765-9-02	AMEND	Professional standards of conduct for a holder of a certificate to teach.
Rule 4765-9-02 sets forth the ethical standards of conduct for those holding a certificate to teach through an EMS accredited institution or an EMS approved institution. The rule has been amended to add reporting requirements for those who are disciplined and to prohibit aiding or abetting another in engaging in the uncertified practice of emergency medical services.		

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.

Rule Number	Statutes that Authorize	Statutes that Amplify
4765-9-01	4765.11	4765.30
4765-9-02	4765.11	4765.23

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? 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.

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)?

Pursuant to R.C. section 4765.11, the Ohio State Board of Emergency Medical, Fire, and Transportation Services (EMF/TS) is directed to adopt rules that establish the qualifications, standards of performance, and procedures under which the Board may issue, renew, suspend, or revoke certificates to practice as an emergency medical responder, emergency medical technician, advanced emergency medical technician, or paramedic or certificates to teach as an EMS Instructor.

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In addition, R.C. 4765.11 directs the Ohio State Board of EMFTS 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 and set forth the conditions under which accredited and approved institutions may operate, including the curricula, number of hours of instruction and training, and instructional materials to be used. Consistent statewide EMS training helps to ensure well-trained EMS providers, efficient and effective delivery of pre-hospital patient care, improved response in emergencies, and increases safety while delivering services.

The Division of EMS Office of Investigative Services is responsible for conducting all administrative investigations involving possible violations of Ohio Revised Code Chapter 4765, and the rules promulgated thereunder, pertaining to EMS providers, firefighters, fire safety inspectors, EMS and fire instructors, EMS accredited and approved training institutions, and chartered fire training institutions. After an investigation is complete, the Office of Investigative Services is responsible for presenting all case investigations to the State Board of Emergency Medical, Fire and Transportation Services and the Executive Director for disposition and adjudication, as well as for ensuring compliance with all adjudication orders and consent agreements issued by the Board or Executive Director. The proposed amendments create additional consistency for fire and EMS providers and for those who hold dual certifications related to administrative investigations, case reviews, adjudications, and in developing consent agreements.

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

The Division of EMS tracks and publishes the [Monthly Active Certification Report](#) at its Web site that includes year-to-date and total active certifications of emergency medicine and fire service practitioners and reports the information to the Ohio State Board of EMFTS at its meetings. The Division of EMS conducts audits monthly of randomly selected certificate holders to verify that continuing education requirements have been met. The Division tracks [disciplinary actions](#) at a Web site located at the [Investigations & Discipline](#) Web page. EMS Education staff members maintain close contacts with program directors and the staffs at accredited EMS training programs and approved EMS CE programs. EMS staff review the programs' initial and renewal applications and monitor the programs during periodic site visits and, during the COVID-19 state of emergency, virtual visits.

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?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. 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.

Members of the Case Review Team, Division of EMS Office of Investigative Services staff, Firefighter and Fire Safety Inspector Training Committee, and State Board of EMFTS have noted and discussed the inconsistencies in the rules applied to EMS and fire providers during meetings over the past two years. Prior to the 2021 five-year review of OAC Chapter 4765-9, EMS Investigative Services staff and the ODPS legal staff drafted proposed changes to rules OAC 4765-9-01 and 4765-9-02.

Members of the State Board of EMFTS received the proposed revisions before their June 17, 2020 meeting for review and comment and again prior to the August 19, 2020 board meeting.

The Division of EMS will send the proposed amended rules and a request for comment to approximately 3,000 stakeholders via govdelivery.com when the rules are filed with the CSI office. These are stakeholders who subscribe to govdelivery.com topic lists including EMS instructors and agencies and the general bulletins list.

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

No comments were received from members of the EMFTS Board between June 17, 2020 and their August meeting. The EMFTS Board approved filing the amended OAC Chapter 4765-9 rules with the Common Sense Initiative (CSI) office on August 19, 2020.

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 to be considered.

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 Division of EMS periodically reviews rules from other states related to professional conduct for EMS providers and instructors. No alternative regulations were considered as part of this filing.

13. 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.*

No. OAC Chapter 4765-9 sets forth the professional standards of conduct for EMS providers and teachers. These regulations do not offer the flexibility for performance-based regulations.

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

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The Division of Emergency Medical Services is the only authority for certifying emergency medical practitioners; therefore, a review of R.C. section 4765 and OAC Chapter 4765 was completed.

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 Division of Emergency Medical Services will use the EMS Web site and gov.delivery.com to distribute the OAC Chapter 4765-9 final rules and rule summaries to stakeholders. Division of EMS staff will receive email notification of the rule changes and attend section briefings regarding implementation policy and procedures.

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 scope of the impacted stakeholder community fluctuates but includes approximately:

- 40,915 EMS providers;
- 5,516 EMS instructors;
- 91 EMS accredited institutions, which includes 38 paramedic training programs; and
- 573 approved EMS continuing education institutions.

SOURCE: Ohio Division of Emergency Medical Services, August 2020

- 1,020 EMS agencies and
- 252 EMS registered medical directors.

SOURCE: Ohio Division of Emergency Medical Services, May 2020

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

As set forth in OAC Chapter 4765-9-01:

Persons issued certificates to practice emergency medical services are required to report to the Division of EMS:

- Knowledge of a violation ORC Chapter 4765 and the rules promulgated thereunder;
- Approved continuing education programs completed; and
- Information related to final sentencing for any criminal offense.

The proposed amendments to rule 4765-9-01 require a person issued a certificate to practice who is disciplined for violations of Chapter 4765. of the Revised Code and the rules promulgated thereunder to report the discipline to any and all emergency medical services related employers.

As set forth in OAC Chapter 4765-9-02:

Persons issued certificates to teach emergency medical services are required to report to the Division of EMS:

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- Suspicion or knowledge of a violation ORC Chapter 4765. or any potential compromise of the examination process;
- Suspicion or knowledge of a violation ORC Chapter 4765. and the rules promulgated thereunder committed by an EMS accredited institution, EMS approved institution, or holder of a certificate to teach.

The proposed amendments to rule 4765-9-02 require a person issued a certificate to teach who is disciplined for violations of Chapter 4765. of the Revised Code and the rules promulgated thereunder to report the discipline to any and all emergency medical services related employers, including accredited EMS training institutions and approved EMS continuing education programs.

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.

A certificate-holder subject to disciplinary action may incur fines not to exceed \$1,000 and/or limitations on authority to practice up to and including revocation. There are a limited number of EMS providers and teachers that are in violation, and therefore, the impact is minimal.

The Division of EMS estimates that these rules will not result in any undue cost of compliance or adverse impact.

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

Pursuant to R.C. section 4765.11, the State Board of Emergency Medical, Fire, and Transportation Services (EMFTS) is directed to adopt rules that establish the qualifications, standards of performance, and procedures under which the Board may issue, renew, suspend, or revoke certificates to practice as an emergency medical responder, emergency medical technician, advanced emergency medical technician, or paramedic or certificates to teach as an EMS Instructor.

Ensuring qualifications, a professional level of delivery of emergency medical services and patient care, and professional standards of conduct for EMS providers and EMS instructors justifies the minimal adverse impact to the regulated stakeholders.

Regulatory Flexibility

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

No exemptions or alternative means of compliance are provided for OAC Chapter 4765-9, *Ethical Standards of Conduct*.

18. 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?

While the EMS board does regulate some small businesses, such as ambulance, ambulette and air medical services, and, the rules contained in O.A.C Chapter 4765-09 apply to individual certificate holders, not small businesses. An individual certificate holder may be subject to discipline for a violation of these rules, however, a small business would not; therefore the waiver provision contained in R.C. section 119.14 would not be applicable to a violation of these rules.

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

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 institutions, certifications, medical direction, scope of practice, and training and education. EMS Education staff members maintain close contacts with program directors and the staffs at accredited EMS training programs and approved EMS CE programs. In addition to periodic site visits and, during the COVID-19 state of emergency, virtual visits, live and virtual training events and conferences are scheduled. The [Agency Directory](#) at the EMS Web site includes the email addresses, telephone numbers, including a toll free number (1-800-233-0875), and the names of Division of EMS staff. Meetings of the State Board of EMFTS, its committees, and subcommittees are public meetings; meeting information is posted on the [EMS Calendar](#).