



Common Sense Initiative

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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 review 2024 No Change rules

Rule Number(s): 4741-1-03, 4741-1-04, 4741-1-08, 4741-1-10, 4741-1-13, 4741-2-02, 4741-2-04, 4741-3-03, 4741-3-04, 4741-4-01, 4741-4-02, 4741-4-03, 4741-4-04 OAC

Date of Submission for CSI Review: 8/9/2023

Public Comment Period End Date: 9/1/2023

Rule Type/Number of Rules:

New/___ rules

No Change/ 13 rules (FYR? yes_)

Amended/___ rules (FYR? yes)

Rescinded/___ rules (FYR?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.

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.**

All of the rules in this package are subject to the five year rule review and being proposed as “No Change”. The package of rules consists of rules pertaining to the licensure and practice of veterinary medicine in the State of Ohio. The draft rules are written in plain language so that a member of the public without additional medical education can understand the rules.

The rules in this package contain:

Rule 4741-1-03 sets out the minimum standards for a stationary veterinary facility.

Rule 4741-1-04 specifies the requirements to obtain a veterinarian license.

Rule 4741-1-08 sets out the minimum requirements for a mobile veterinary practice.

Rule 4741-1-10 defines action for departure from, or the failure to conform to, minimal standards of care.

Rule 4741-1-13 specifies what constitutes livestock management practices.

Rule 4741-1-18 provides for military experience and exemptions.

Rule 4741-2-02 provides the notification requirements of a veterinary business facility.

Rule 4741-2-03 describes the limited licensure application and limits of veterinary services.

Rule 4741-2-04 describes the temporary permit to practice.

Rule 4741-3-03 defines a veterinary resource shortage area.

Rule 4741-3-04 states the criteria for prioritizing underserved areas.

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Rule 4741-4-01 provides the definitions for this section of the OAC regarding confidentiality requirements.

Rule 4741-4-02 specifies procedures for accessing confidential personal information.

Rule 4741-4-03 provides valid reasons for accessing confidential personal information.

Rule 4741-4-04 provides the confidentiality statutes

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 Chapter 4741. ORC 1347.15 ORC requires the Board to implement rules to protect confidential personal information.
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?** *No*
5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.** *N/A*
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 of this regulation is to assure the public that licensed veterinarians and registered veterinary technicians (RVTs) are professional, trustworthy, and competent practitioners. These no change rules provide guidelines to the Board staff and licensed practitioners for what the Board members believe are acceptable minimum standards of medical care as well as complying with other statutory requirements for licensure. ORC 4741.01(B) defines the practice of veterinary medicine as follows:

(B) The "practice of veterinary medicine" means the practice of any person who performs any of the following actions:

- (1) Diagnoses, prevents, or treats any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition of any animal;*
- (2) Administers to or performs any medical or surgical technique on any animal that has any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition or performs a surgical procedure on any animal;*
- (3) Prescribes, applies, or dispenses any drug, medicine, biologic, anesthetic, or other therapeutic or diagnostic substance, or applies any apparatus for any disease, illness, pain, deformity, defect, injury, or other physical, mental, or dental condition of any animal;*

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(4) Uses complementary, alternative, and integrative therapies on animals;

(5) Renders professional advice or recommendation by any means, including telephonic or other electronic communication with regard to any activity described in divisions (B)(1) to (4) of this section;

(6) Represents the person's self, directly or indirectly, publicly or privately, as having the ability and willingness to perform an act described in divisions (B)(1) to (4) of this section;

(7) Uses any words, letters, abbreviations, or titles in such connection and under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine.

The Board reviewed the law regulating the Registered Veterinary Technician in Ohio and the duties they are permitted to perform as prescribed in ORC 4741.19(C):

(C) No person shall act as a registered veterinary technician unless the person is registered with the board on a biennial basis and pays the biennial registration fee. A registered veterinary technician registration expires biennially on the first day of March in the odd-numbered years and may be renewed in accordance with the standard renewal procedures contained in Chapter 4745. of the Revised Code upon payment of the biennial registration fee and fulfillment of ten continuing education hours during the two years immediately preceding renewal for registration. Each registered veterinary technician shall notify in writing the executive director of the board of any change in the registered veterinary technician's office address or employment within ninety days after the change has taken place.

(1) A registered veterinary technician operating under veterinary supervision may perform the following duties:

(a) Prepare or supervise the preparation of patients, instruments, equipment, and medications for surgery;

(b) Collect or supervise the collection of specimens and perform laboratory procedures as required by the supervising veterinarian;

(c) Apply wound dressings, casts, or splints as required by the supervising veterinarian;

(d) Assist a veterinarian in immunologic, diagnostic, medical, and surgical procedures;

(e) Suture skin incisions;

(f) Administer or supervise the administration of topical, oral, or parenteral medication under the direction of the supervising veterinarian;

(g) Other ancillary veterinary technician functions that are performed pursuant to the order and control and under the full responsibility of a licensed veterinarian.

(h) Any additional duties as established by the board in rule.

(2) A registered veterinary technician operating under direct veterinary supervision may perform all of the following:

(a) Induce and monitor general anesthesia according to medically recognized and appropriate methods;

(b) Dental prophylaxis, periodontal care, and extraction not involving sectioning of teeth or resection of bone or both of these;

(c) Equine dental procedures, including the floating of molars, premolars, and canine teeth; removal of deciduous teeth; and the extraction of first premolars or wolf teeth.

The degree of supervision by a licensed veterinarian over the functions performed by the registered veterinary technician shall be consistent with the standards of generally accepted veterinary medical practices.

These sections of the law define the majority of licensees that the Board oversees which assists with defining and providing guidance on minimum standards of practice, licensure requirements, and renewal of licenses. ORC 4741.13 permits the issuance of a Limited License and requires the board to adopt rules (Rule 4741-2-03 OAC). ORC 4741.14 permits the issuance of a Temporary License and requires the Board to adopt rules (Rule 4741-2-04 OAC). ORC 4741.40 through 4741.47 provide for the veterinary student loan repayment program. ORC 4741.45 requires the Board to adopt rules for the program (Rules 4741-3-01, 4741-3-02, 4741-3-03, 4741-3-04 OAC).

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 website.

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 posted the review of these rules in its Spring newsletter that was distributed to all licensees and posted on the Board web site in April, 2023.

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Comments were solicited regarding the proposed rules. No comments were received regarding the no change rules. The first set of no change rules were reviewed at the May 24, 2023 Board meeting. The second set of no change rules were reviewed at the June 14, 2023 board meeting. No recommendation for changes were made to the no change rules.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency? The Ohio Veterinary Medical Association was involved with the review of the rules as well and had no recommendation for change to this set of rules. All discussion of the rules were held at the Board meetings in open forum. The Board approved the no change rules with acknowledgement of the OVMA.

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? These particular No Change rules have been in existence for over five years. There have not been any comments received in the Board office regarding these rules. There have not been any violations of these rules that have been brought before the Board for consideration. The Board solicits input at the annual veterinary association conferences, through the associations, through the Board's web site, and via the Board's newsletter. There was no scientific data used or generated for these rules.

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 and the necessity of the rules. In light of no inquires or issues brought before the Board related to these rules in the past five years, the Board did not make any changes.

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation? The No Change rules are specific to the license to practice veterinary medical practice in the State of Ohio. There is no other Agency that has the authority to regulate the licensure of veterinary medicine.

14. 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 website of which notification is sent to the Board's listserve, distributed through the Board's newsletter, and relayed by the Board at the OVMA and OAVT annual conference presentations. 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. 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

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www.ovmlb.ohio.gov. Any pertinent issues related to the rules are done in consultation with the appropriate representative from the OVMA or OAVT, the Department of Agriculture, The Ohio State University College of Veterinary Medicine and/or another state agency whose regulations may impact the practice of veterinary medicine.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. **Identify the scope of the impacted business community:** This rule applies to veterinarians and registered veterinary technicians **and**
- b. **Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

Noncompliance with the No Change rules may involve disciplinary action or an Advisory Letter against the license of the individual. Discipline could be a reprimand, suspension of license, required course work, monetary fine and/or revocation of a license. The initial license cost of a veterinarian has been reduced to \$275 in recently enacted SB 33 for a two year period and \$30 for a registered veterinary technician.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. There are no changes in these rules to modify the impact on the business community.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community? The mission of the Board is to protect the public by ensuring competent practitioners. The Board determined that the regulatory intent justifies the impact on business because the regulations are intended to protect the public and promote public safety by:

- Providing guidance to the veterinarian and registered veterinary technician to obtain a license and renew and to maintain a safe veterinary practice;
- Encouraging a recently graduated veterinarian to practice in a veterinary resource shortage area and how to apply for a student loan;
- Assuring that confidential personal information remains confidential and accessed by only authorized individuals.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? No. As a licensing agency of veterinarians and registered veterinary technicians, there is no alternative means of compliance.

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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. Under section 4741.17 ORC, there are established fees for late renewal for the veterinarian. The Board does not typically discipline a licensee for a late renewal unless there has been a violation of minimum standards based on a written complaint filed with the Board. As with all violations, the Board takes mitigating factors into consideration.

20. What resources are available to assist small businesses with compliance of the regulation? The Board has a healthy 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 issues 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 website. Important information is also distributed timely through a listserve when necessary to **all licensees**. (Licensees are required to have a current email address through the Elicense system.) Board members and staff also present current issues regarding regulation at the veterinary and registered veterinary technicians' annual conferences.

RULES WITH NO CHANGES

***** DRAFT - NOT YET FILED *****

4741-1-03

Minimum standards for stationary veterinary facilities.

(A) All stationary facilities.

A stationary facility is a fixed facility established to provide examination, diagnosis, and health maintenance to animals. Practitioners maintaining a stationary facility shall comply with the standards contained in this rule. All stationary veterinary facilities must comply with local, state, and federal laws regarding health, safety, sanitation, zoning, and building code requirements, including, but not limited to:

- (1) The exterior of the facility shall be clean and in good repair, and surrounding grounds must be clean, well-maintained, and reasonably free from hazards, pests and vectors;
- (2) All interior areas of the facility shall be clean, orderly, well-ventilated, well-lit, and free from hazards;
- (3) All facilities shall provide and maintain the following equipment: oxygen delivery system, otoscope, ophthalmoscope, stethoscope, thermometer, microscope, centrifuge, refrigeration, appropriate means of sterilization, adequate method of storage and disposal of remains of deceased animals, appropriate method of determining animal weight, adequate means of restraint, emergency drugs and supplies, telephone or wireless communication system, electricity, and hot and cold running water.

(B) Office/reception.

An up-to-date professional library must be maintained and/or accessible via electronic means on the premises.

(C) Examination room(s).

The examination room must contain an adequate table with impervious surface, necessary equipment to perform examinations, and covered or enclosed waste receptacles.

(D) Laboratory facilities.

Laboratory facilities must be available on site or by referral.

(E) Pharmacy.

- (1) The pharmacy must provide appropriate storage for all drugs, including

biologics and controlled substances.

- (2) Inventory and records must be maintained in compliance with all state and federal requirements.
- (3) Expired drugs must be removed from the pharmacy and properly disposed of in a timely fashion.

(F) Radiology.

- (1) Imaging services must be available, either on site or by referral.
- (2) All images shall be properly identified with name of patient, name of owner, and date, and maintained in a readily retrievable fashion.
- (3) Left and right sides must be identified where appropriate.
- (4) All sources of radiation shall be registered with, and operated in accordance with, Ohio department of health rules and regulations.
- (5) Equipment with which to view images shall be available when appropriate.

(G) Surgery.

- (1) All surgeries shall be performed in accordance with accepted surgical practice.
- (2) If surgery is performed on site, appropriate surgical facilities shall be operated and maintained.
- (3) A suitably equipped surgical area shall include the following:
 - (a) Means for effective sterilization of instruments, drapes, gloves, gowns or similar items;
 - (b) An immediately accessible sink with running water suitable for scrubbing and other surgical preparation;
 - (c) A surgery light of sufficient power to assure clear illumination of the surgical field;

- (d) Instruments, drapes, gloves and appropriate surgical attire;
- (e) Emergency lighting;
- (f) Immediate access to emergency drugs and supplies, oxygen, and instruments and equipment for assisted ventilation;
- (g) An adequate scavenging system, if gas anesthesia is used;
- (h) Construction suitable for the surgical procedures to be performed, designed to avoid contamination, and adequately maintained and disinfected; and
- (i) A surgery table, appropriate for the species, with an impervious surface which can be readily cleaned and disinfected.

(4) An effective means of anesthesia monitoring shall be maintained if surgeries are performed.

(H) Caging or housing.

If animals are kept, caging or housing shall be constructed and maintained with the animals' health, safety, and comfort as primary considerations.

4741-1-04

Examination.

To apply for licensure as a veterinarian, the applicant shall be of good moral character and must:

- (A) Complete an application prescribed by the board;
- (B) Provide proof of graduation from a veterinary college approved by the state veterinary medical licensing board or accredited by the American veterinary medical association or has been issued a certificate on or after May 1, 1987, by the education commission for foreign veterinary graduates of the American veterinary medical association or by the program for the assessment of veterinary education equivalence of the American association of veterinary state boards.
- (C) Have achieved a score of at least seventy-five on both the "National Board of Veterinary Medicine" examination and the "Clinical competency test" or on the "North American veterinary licensing examination" to be eligible for licensure. There is no restriction on the number of times an applicant may take the aforementioned examination, but must apply for a subsequent examination and pay the processing fee each time they apply.
- (D) Submit to a criminal records check in accordance with section 4741.10 of the Revised Code within a year of requesting licensure. The criminal records check must be completed by the bureau of criminal identification and investigation in which the results indicate that the individual has not been convicted of, pleaded guilty to, or had a judicial finding of guilty for any violation set forth in section 4741.22 of the Revised Code.
 - (1) An applicant requesting a criminal records check shall provide the bureau of criminal identification and investigation with the applicant's name and address and with the Ohio veterinary medical licensing board name and address.
 - (2) The applicant shall ask the superintendent of the bureau of criminal identification and investigation in the request to obtain from the federal bureau of investigation any information it has pertaining to the applicant.
- (E) Submit to the board the applicable licensure fee as set forth in section 4741.17 of the Revised Code.

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4741-1-08

Mobile veterinary practices and mobile veterinary practice facilities.

- (A) A mobile veterinary practice is a form of clinical veterinary practice for companion animals other than a stationary practice, whether veterinarian or non-veterinarian owned, that may be transported or moved from one location to another for delivery of veterinary services.
- (B) A mobile veterinary practice facility provides medical and/or surgical services out of a vehicle modified to function as a veterinary facility.
- (C) A mobile veterinary practice and mobile veterinary practice facility shall be subject to board inspection and shall comply with the following standards:
 - (1) The practice shall have a permanent base of operations with a published address and telephone number for making appointments or responding to emergency situations;
 - (2) All equipment shall be clean, neat, and in good repair;
 - (3) Equipment appropriate for the procedures performed must be available as required by paragraph (A) of rule 4741-1-03 of the Administrative Code;
 - (4) If surgical procedures are performed, the requirements of paragraph (G) of rule 4741-1-03 of the Administrative Code must be met;
 - (5) Drugs and biologics must be maintained as required in paragraph (E) of rule 4741-1-03 of the Administrative Code;
 - (6) All mobile practices that are not extensions of a stationary veterinary facility shall provide arrangements with a stationary veterinary facility in the general vicinity for follow-up treatment if needed; and
 - (7) Records must comply with rule 4741-1-21 of the Administrative Code.

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4741-1-10

Minimum standards.

The board shall, pursuant to section 4741.22 of the Revised Code and to the extent permitted by law, take action against the license of any veterinarian or the registration of a veterinary technician for a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to the patient is established.

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4741-1-13

Livestock management practices.

- (A) A person may perform the following livestock production activities: Acts of tagging, ear notching, hoof trimming, deworming, branding, artificial insemination including semen collection, preparation and freezing.
- (B) An owner's agent may perform the following accepted livestock production activities with the advice and consent of a licensed veterinarian who has provided training and oversight consistent with standard herd management practices: castration, tail docking except for dairy cattle, non-surgical dehorning, intravenous fluid administration, pregnancy detection other than by rectal technique, medication and biological administration, except for those prohibited by law, and phlebotomy.
- (C) For the purpose of this rule, the following definitions apply:
- (1) "Livestock" means an animal produced for fiber, food or other products for human consumption.
 - (2) "Owner's agent" includes a full-time, part-time or seasonal employee of the animal owner. Owner's agent does not include independent or specialty contractors.

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4741-2-02

Notification requirement of the veterinary business facility.

The board shall be notified within thirty days after a change in the:

- (A) Ownership of the veterinary business facility;
- (B) Name of the facility;
- (C) Address or location(s) of the facility; or
- (D) Licensed veterinarian who is responsible for the management of veterinary services at the facility.

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4741-2-03

Limited licensure.

The state veterinary medical licensing board may issue a limited license, without examination, to veterinarians in certain facilities recognized by the board, with limitations to the scope of practice in veterinary medicine. Renewal for the limited license will occur the first day of July of odd numbered years.

(A) Application.

- (1) A person who has a veterinary medicine degree or its equivalent, who in the professional capacity of employment is limited to the duties mandated by a veterinary academic institution, a veterinary technology institution or government diagnostic laboratory and whose sole educational or service responsibility is dictated by said institution or laboratory.
- (2) A person who is designated with an academic title, not limited to instructor, diagnostician, intern, resident of a veterinary specialty or graduate student.
- (3) Veterinarian with a clinical assignment involving diagnosis and/or treatment of animals, whether on site or by referral.
- (4) Diagnosticians in laboratory settings, whose duties include the diagnosis and/or treatment of animal patients, whether on site or by referral.
- (5) Researchers, whose contact with animals or animal tissues have vital connection with the diagnosis and/or treatment of animal patients.

(B) Limits of veterinary services.

- (1) Veterinarians holding a limited license to practice veterinary medicine shall be limited to such practice as mandated by the scope of employment.
- (2) Practice outside the institution, except where ambulatory services dictate, is prohibited. On-site consultation outside the institution is prohibited.
- (3) Upon termination of contractual obligations to the institution of employment, the limited license to practice veterinary medicine shall become null and void.

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4741-2-04

Temporary permit to practice.

- (A) A temporary permit to practice veterinary medicine may be issued by the board to a licensed veterinarian in good standing from another state, territory, or the District of Columbia, meeting the requirements of section 4741.14 of the Revised Code.
- (B) The applicant must provide the name of the veterinarian, clinic, or facility for which veterinary services will be provided during the term of the temporary permit. The practice of veterinary medicine will be limited to the veterinary medicine practice or veterinary business facility as designated by the applicant.
- (C) A temporary permit is valid for six months and may be renewed for one additional period of six months.

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4741-3-01

Purpose of veterinary student loan repayment program.

The board shall provide a veterinarian student loan repayment program which would provide reimbursement for tuition; other educational expenses and/or room and board up to twenty thousand dollars in exchange for the veterinarian signing a letter of intent to provide large animal veterinary services or to protect public health in a veterinary resource shortage area identified by the board.

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4741-3-03

Veterinary resource shortage area.

A geographic area or region of Ohio will be considered as a veterinary resource shortage area if veterinary service is not sufficiently available to livestock producers within that area or to meet the public health needs of the area.

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4741-3-04

Criteria for prioritizing underserved areas.

Factors to be considered by the board in determining priorities for determining underserved areas include, but not limited to:

- (A) Size of the geographic area to be served;
- (B) Number of livestock farms in the area or any public health position offered by a local, county state or federal government entity in the area;
- (C) Livestock population within the area;
- (D) Number of veterinarians providing both routine and emergency services to the livestock producers in the area or number of veterinarians currently engaged in public health duties and employed by a government entity within the area;
- (E) Distance to closest available veterinary practice that provides large animal services;
- (F) Presence of an auction market, concentration point, or slaughter facility in the area;
- (G) Incidence of episodes of zoonotic disease transmission or threat of the same in the area; and
- (H) Supporting letters or documents from elected or appointed public officials (e.g. county commissioners), representatives of the Ohio department of agriculture or Ohio health department, or cooperative extensive service.

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4741-3-05

Criteria for selection of applicants.

- (A) Purpose: The shortage area situations will be best served by a veterinarian who is likely to enthusiastically serve a community and who is likely to remain within that community after his or her payments from the loan repayment program have been terminated.
- (B) The veterinarian applying for participation should submit a biography and a personal statement explaining his or her motivation in serving in veterinary shortage situations.
- (C) In addition to requiring the applicant to possess an Ohio veterinary license in good standing and be federally accredited, the board may consider the following factors in the selection process:
- (1) Percentage of professional activities to be devoted to food animal practice and veterinary public health activities;
 - (2) Types and number of elective courses or continuing education courses, internships and prior experience in food animal medicine and production medicine or public health;
 - (3) Preferences for a rural background and/or experience in production agriculture or for a career in government public health service;
 - (4) Is from the underserved area or has family ties to the area;
 - (5) Length of time applicant is willing to practice in the area.

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4741-4-01

Definitions.

For the purposes of administrative rules promulgated in accordance with section 1347.15 of the Revised Code, the following definitions apply:

- (A) "Access" as a noun means an instance of copying, viewing, or otherwise perceiving whereas "access" as a verb means to copy, view, or otherwise perceive.
- (B) "Acquisition of a new computer system" means the purchase of a "computer system," as defined in this rule, that is not a computer system currently in place nor one for which the acquisition process has been initiated as the effective date of the board rule addressing requirements in section 1347.15 of the Revised Code.
- (C) "Board" means the Ohio veterinary medical licensing board.
- (D) "Computer system" means a "system," as defined by section 1347.01 of the Revised Code, that stores, maintains, or retrieves personal information using electronic data processing equipment.
- (E) "Confidential personal information" (CPI) has the meaning as defined by division (A)(1) of section 1347.15 of the Revised Code and identified by rules promulgated by the board in accordance with division (B)(3) of section 1347.15 of the Revised Code that reference the federal or state statutes or administrative rules that make personal information maintained by the board confidential.
- (F) "Employee of the state board" means each employee of the state board regardless of whether he/she holds an elected or appointed office or position within the state board. "Employee of the state board" is limited to the Ohio veterinary medical licensing board.
- (G) "Incidental contact" means contact with the information that is secondary or tangential to the primary purpose of the activity that resulted in the contact.
- (H) "Individual" means a natural person or the natural person's authorized representative, legal counsel, legal custodian, or legal guardian.
- (I) "Information owner" means the individual appointed in accordance with division (A) of section 1347.05 of the Revised Code to be directly responsible for a system.
- (J) "Person" means a natural person.
- (K) "Personal information" has the same meaning as defined in division (E) of section 1347.01 of the Revised Code.

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4741-4-01

2

- (L) "Personal information system" means a "system" that "maintains" "personal information" as those terms are defined in section 1347.01 of the Revised Code. "System" includes manual and computer systems.
- (M) "Research" means a methodical investigation into a subject.
- (N) "Routine" means commonplace, regular, habitual, or ordinary.
- (O) "Routine information that is maintained for the purpose of internal office administration, the use of which would not adversely affect a person" as that phrase is used in division (F) of section 1347.01 of the Revised Code means personal information relating to the board's employees and maintained by the board for internal administrative and human resource purposes.
- (P) "System" has the same meaning as defined by division (F) of section 1347.01 of the Revised Code.
- (Q) "Upgrade" means a substantial redesign of an existing computer system for the purpose of providing a substantial amount of new application functionality, or application modifications that would involve substantial administrative or fiscal resources to implement, but would not include maintenance, minor updates and patches, or modifications that entail a limited addition of functionality due to changes in business or legal requirements.

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4741-4-02

Procedures for accessing confidential personal information.

For personal information systems, whether manual or computer systems, that contain confidential personal information, the board shall do the following:

(A) Criteria for accessing confidential personal information. Personal information systems of the board are managed on a "need-to-know" basis whereby the information owner determines the level of access required for an employee of the board to fulfill his/her job duties. The determination of access to confidential personal information shall be approved by the employee's supervisor and the information owner prior to providing the employee with access to confidential personal information within a personal information system. The board shall establish procedures for determining a revision to an employee's access to confidential personal information upon a change to that employee's job duties including, but not limited to, transfer or termination. Whenever an employee's job duties no longer require access to confidential personal information in a personal information system, the employee's access to confidential personal information shall be removed.

(B) Individual's request for a list of confidential personal information. Upon the signed written request of any individual for a list of confidential personal information about the individual maintained by the board, the board shall do all of the following:

- (1) Verify the identity of the individual by a method that provides safeguards commensurate with the risk associated with the confidential personal information;
- (2) Provide to the individual the list of confidential personal information that does not relate to an investigation about the individual or is otherwise not excluded from the scope of Chapter 1347. of the Revised Code; and
- (3) If all information relates to an investigation about that individual, inform the individual that the board has no confidential personal information about the individual that is responsive to the individual's request.

(C) Notice of invalid access.

- (1) Upon discovery or notification that confidential personal information of a person has been accessed by an employee for an invalid reason, the board shall notify the person whose information was invalidly accessed as soon as practical and to the extent known at the time. However, the board shall delay notification for a period of time necessary to ensure that the notification would not delay or impede an investigation or jeopardize homeland or

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4741-4-02

2

national security. Additionally, the board may delay the notification consistent with any measures necessary to determine the scope of the invalid access, including which individuals' confidential personal information invalidly was accessed, and to restore the reasonable integrity of the system.

"Investigation" as used in this paragraph means the investigation of the circumstances and involvement of an employee surrounding the invalid access of the confidential personal information. Once the board determines that notification would not delay or impede an investigation, the board shall disclose the access to confidential personal information made for an invalid reason to the person.

- (2) Notification provided by the board shall inform the person of the type of confidential personal information accessed and the date(s) of the invalid access.
 - (3) Notification may be made by any method reasonably designed to accurately inform the person of the invalid access, including written, electronic, or telephone notice.
- (D) Appointment of a data privacy point of contact. The board director shall designate an employee of the board to serve as the data privacy point of contact. The data privacy point of contact shall work with the chief privacy officer within the office of information technology to assist the board with both the implementation of privacy protections for the confidential personal information that the board maintains and compliance with section 1347.15 of the Revised Code and rules adopted pursuant to the authority provided by that chapter.
- (E) Completion of a privacy impact assessment. The board director shall designate an employee of the board to serve as the data privacy point of contact who shall timely complete the privacy impact assessment form developed by the office of information technology.

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4741-4-03

Valid reasons for accessing confidential personal information.

Pursuant to the requirements of division (B)(2) of section 1347.15 of the Revised Code, this rule contains a list of valid reasons, directly related to the board's exercise of its powers or duties, for which only employees of the board may access confidential personal information (CPI) regardless of whether the personal information system is a manual system or computer system.

Performing the following functions constitute valid reasons for authorized employees of the board to access confidential personal information:

- (A) Responding to a public records request;
- (B) Responding to a request from an individual for the list of CPI the board maintains on that individual;
- (C) Administering a constitutional provision or duty;
- (D) Administering a statutory provision or duty;
- (E) Administering an administrative rule provision or duty;
- (F) Complying with any state or federal program requirements;
- (G) Processing or payment of claims or otherwise administering a program with individual participants or beneficiaries;
- (H) Auditing purposes;
- (I) Licensure or eligibility for examination purposes;
- (J) Investigation or law enforcement purposes;
- (K) Administrative hearings;
- (L) Litigation, complying with an order of the court, or subpoena;
- (M) Monitoring of disciplinary cases and/or impairment program;
- (N) Human resource matters (e.g. hiring, promotion, demotion, discharge, salary/compensation issues, leave requests/issues, time card approvals/issues);

*** DRAFT - NOT YET FILED ***

4741-4-03

2

- (O) Complying with an executive order or policy;
- (P) Complying with a board policy or a state administrative policy issued by the department of administrative services, the office of budget and management or other similar state agency; or
- (Q) Complying with a collective bargaining agreement provision.

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4741-4-04

Confidentiality statutes.

The following federal statutes or regulations or state statutes make personal information maintained by the board confidential and identify the confidential personal information within the scope of rules promulgated by this board in accordance with section 1347.15 of the Revised Code;

- (A) Social security numbers: 5 U.S.C. 552a (12/19/2014), unless the individual was told that the number would be disclosed.
- (B) "Bureau of Criminal Investigation and Information" criminal records check results: section 4776.04 of the Revised Code.
- (C) Medical Records: Health Insurance Portability and Accountability Act, Title II 45 CFR 160, 42 USC 1320 (2013).
- (D) Substance abuse treatment records: section 5119.27 of the Revised Code and 42 U.S.C. 29 (7/20/2016).
- (E) Investigative records: section 149.43 of the Revised Code.
- (F) Information or records that are attorney client privileged: division (A)(1) section 2317.02 of the Revised Code.
- (G) College and University Transcripts: Family Education Rights and Privacy Act, 34 CFR Part 99 (2013).
- (H) Mediation communications or records: section 2710.03 of the Revised Code.
- (I) Trial preparation records; division (A)(1)(g) of section 149.43 of the Revised Code.

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4741-4-05

Restricting and logging access to confidential personal information in computerized personal information systems.

For personal information systems that are computer systems and contain confidential personal information, the board shall do the following:

- (A) Access restriction. Access to confidential personal information that is kept electronically shall require a password or other authentication measure.
- (B) Acquisition of a new computer system. When the board acquires a new computer system that stores, manages or contains confidential personal information, the board shall include a mechanism for recording specific access by employees of the board to confidential personal information in the system.
- (C) Upgrading existing computer systems. When the board modifies an existing computer system that stores, manages or contains confidential personal information, the board shall make a determination whether the modification constitutes an upgrade. Any upgrades to a computer system shall include a mechanism for recording specific access by employees of the board to confidential personal information in the system.
- (D) Logging requirements regarding confidential personal information in existing computer systems.
 - (1) The agency shall require employees of the board who access confidential personal information within computer systems to maintain a log that records that access.
 - (2) Access to confidential information is not required to be entered into the log under the following circumstances:
 - (a) The employee of the board is accessing confidential personal information for official board purposes, including research, and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.
 - (b) The employee of the board is accessing confidential personal information for routine office procedures and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.
 - (c) The employee of the board comes into incidental contact with confidential personal information and the access of the information is not specifically directed toward a specifically named individual or a group

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4741-4-05

2

of specifically named individuals.

(d) The employee of the board accesses confidential personal information about an individual based upon a request made under either of the following circumstances:

(i) The individual request confidential personal information about himself/herself.

(ii) The individual makes a request that the board takes some action on that individual's behalf and accessing the confidential personal information is required in order to consider or process that request.

(3) For purposes of this paragraph, the board may choose the form or forms of logging, whether in electronic or paper formats.

(E) Log management. The board shall issue a policy that specifies the following:

(1) Who shall maintain the log;

(2) What information shall be captured in the log;

(3) How the log is to be stored; and

(4) How long information kept in the log is to be retained.

Nothing in this rule limits the board from requiring logging in any circumstance that it deems necessary.