CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: **Ohio Department of Public Safety, Division of Emergency Medical Services**

Regulation/Package Title: **Medical Transportation/Ambulances**

Rule Number(s): **4766-2-11, 4766-2-14, and 4766-2-17**

Date: **March 21, 2014**

Rule Type:

X New | **X 5-Year Review**

X Amended | **X Rescinded**

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. **Please briefly describe the draft regulation in plain language.**

   Chapter 4766-2 of the Administrative Code (O.A.C.) sets forth the conditions under which the State Board of Emergency Medical, Fire, and Transportation Services (Board) may approve, renew, or deny an application to operate a medical transportation organization (MTO). In addition, this chapter sets forth the roadworthiness standards for MTO ambulances, including the communication and medical equipment required on each vehicle.

   O.A.C. rules 4766-2-11, 4766-2-14, and 4766-2-17, are proposed for filing pursuant to a completed R.C. 119.032 five-year rule review. O.A.C. rule 4766-2-11 sets forth the conditions under which permitted ambulances may use emergency lights and audible

warning devises and has been amended to correct the reference in paragraph (B) of this rule from R.C. section 4511.24 to R.C. section 4511.041. O.A.C. rule 4766-2-14 sets forth the conditions under which an out-of-state MTO may receive a patient in Ohio for transport to a location not within Ohio. EMS proposes to rescind this rule because the language is redundant with R.C. section 4766.13. Finally, O.A.C. rule 4766-2-17 sets forth the conditions under which the board may suspend, revoke, or deny a license or permit held by an MTO. EMS proposes to amend this rule to correct the rule reference in paragraph (H) of this rule from 4766-2-12 to rule 4766-2-13.

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

   R.C. 4766.03, R.C. 4766.04, R.C. 4766.05, R.C. 4766.06, R.C. 4766.07, R.C. 4766.08, R.C. 4766.13, R.C. 4766.99, R.C. 4511.041

3. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?** ***If yes, please briefly explain the source and substance of the federal requirement.***

   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.**

   N/A

5. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

   These regulations assure roadworthy medical ambulances, with the required medical equipment, qualified medical staff, and effective delivery of EMS care to patients who must utilize a MTO and its vehicles.

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

   Success of these regulations will be measured by fewer violations and an increase in compliance with the requirements set forth in O.A.C. Chapter 4766-2. In addition, the Division of EMS will track complaints by MTOs and complaints regarding MTOs, which lead to investigations.

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.

On July 1, 2013, Am. Sub. H.B. 51, 130th General Assembly, directed that the Medical Transportation Board and the State Board of Emergency Medical Services become one entity under the Department of Public Safety. Prior to the merger, copies of Chapter 4766-2 of the Administrative Code were sent to the Ohio Medical Transportation Board (OMTB) for input. Following the board merger, the Medical Transportation Committee members were contacted via email to attend regularly scheduled public meeting held on December 17, 2013. The committee was asked to review and make changes, as necessary, to Chapter 4766-2 of the Administrative Code. The committee has various members representing EMS providers, owners and administrators for medical transportation agencies and full-time and volunteer fire departments.

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

   The Medical Transportation Committee met on December 17, 2013. The committee approved the draft rules and recommended they be sent to the Board for review and approval. The rules were approved by the Board at a special meeting held March 20, 2014.

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 is no scientific data available for the proposed regulations.

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?**

    The MTO determined that alternative regulations would not meet the purpose of the rules to assure roadworthy medical ambulances and effective delivery of EMS care to patients who must utilize an MTO and its vehicles.

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 Board has proposed performance-based regulations as the proposed rules have limited flexibility under which the Board may deny, suspend or revoke a license or permit to operate an MTO.

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 staff reviewed R.C. Chapter 4766 and O.A.C. Chapter 4766 and R.C. Chapter 4765 and O.A.C. Chapter 4765 to assure there was no duplication or conflict among Ohio EMS regulations. The staff also reviewed R.C. Chapter 4729 and O.A.C. Chapter 4729 to avoid duplication and/or conflict with Board of Pharmacy authority. In addition, the Division of Emergency Medical Services staff reviewed R.C. Chapter 4731 and O.A.C. Chapter 4731 to avoid duplication and/or conflict with Medical Board authority. Additionally, the Division of Emergency Medical Services staff reviewed R.C. Chapter 4723 and O.A.C. Chapter 4723 to avoid duplication and/or conflict with Nursing Board authority.

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.

The Division of EMS will use the EMS web site and EMS listservs, to distribute the O.A.C. Chapter 4766-2 final rules and rule summaries to stakeholders. Notices to EMS, air medical and medical transportation organizations will be distributed through the Division newsletter, THE SIREN which is located at http://ems.ohio.gov. 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

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;**
- **b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- **c. Quantify the expected adverse impact from the regulation.**
  The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The scope of the impacted business community includes 97 licensed MTOs that operate a combined total of 937 ambulances and non-transport vehicles. There is no cost of compliance as a result of these regulations. O.A.C. rule 4766-2-17 sets forth the grounds for suspension, revocation or denial of a license or permit for violation of R.C. Chapter 4766. or O.A.C. Chapter 4766; therefore, adverse impact may result in disciplinary action should violations occur.

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

Pursuant to R.C. 4766 the Board is statutorily required to adopt rules that establish the standards and procedure under which the Board may approve, renew, or deny an application to operate an MTO. Assuring the safety and effective delivery of EMS care to patients who must utilize a MTO and its vehicles justifies the minimal adverse impact to the business community.

Regulatory Flexibility

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

The regulation does not provide any exemptions or alternative means for compliance.

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?

If disciplinary action is considered, the MTO will be afforded seventy-two hours to correct violation(s) cited or provide the Board sufficient documentation that the MTO is correcting the violation(s). Should the Board need to proceed with a sanction, each case is submitted first to Board's Assistant Attorney General to ensure compliance with R.C. section 119.04. The Board reviews each situation on a case-by-case and may consider all information relevant to the requirements of O.A.C. Chapter 4766. and R.C. Chapter 4766. Depending on the nature and severity of the violation the board may issue a lesser penalty.

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

A toll-free number (1-800-233-0785) may be utilized to contact the Division of EMS, Medical Transportation Section from 8:00 AM to 5:00 PM, Monday through Friday, excluding state holidays. In addition, all forms required of MTOs, by the Division of EMS, are available via the Division of EMS web-site located at www.ems.ohio.gov.