

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Division of Public Safety-Division of EMS

Regulation/Package Title: Accreditation of EMS Training Programs

Rule Number(s): O.A.C. rules 4765-18-02 through O.A.C. 4765-18-22

Date: March 21, 2014

**Rule Type:**

New

5-Year Review

Amended

Rescinded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 4765-18 of the Administrative Code (O.A.C.) sets forth the conditions under which the Emergency Medical, Fire, and Transportation Services Board (Board) may approve, renew, reinstate or deny an application for a certificate to teach as an EMS Instructor, Assistant EMS Instructor or EMS Continuing Education Instructor.

O.A.C. Chapter 4765-18 is proposed for filing pursuant to a completed R.C. 119.032 five-year rule review. EMS proposes to file O.A.C. rule 4765-18-03 without changes and to rescind O.A.C. rule 4765-18-10 because the special topic instructor classification is no longer

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[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)

a valid certificate to teach. EMS proposes to amend rule 18-14 by removing language which is also included in O.A.C. Chapter 4765-18. O.A.C. rules 4765-18-04 to 4765-18-09, 4765-18-11 to 4765-18-13, and 4765-18-15 to 4765-18-22 have been amended to address materials incorporated by reference in compliance with R.C. sections 121.71 to 121.74.

EMS also proposes to amend rules 4765-18-06, 4765-18-08, 4765-18-16, 4765-18-17, 4765-18-19 and 4765-18-20 to reflect statutory changes as set forth in Am. Sub. H.B. 98, 130<sup>th</sup> General Assembly, which provide the Board consider relevant education, training, or service obtained in the United States armed forces, including the Ohio National Guard or the national guard of another state, in determining whether the holder of a certificate to teach has fulfilled required continuing education.

In addition, EMS proposes to amend the rules stated above to reflect statutory changes, as set forth in Am. Sub. H.B. 98, 130<sup>th</sup> General Assembly, to provide that the Board extend certification and time for the holder of a certificate to teach to complete continuing education (CE) because the holder or the holder's spouse had been serving on active duty in the United States armed forces or a reserve component of the United States armed forces, including the Ohio National Guard or the national guard of another state during the current or prior certification cycle.

Additionally, EMS proposes to amend the rules stated above to reflect statutory changes as set forth in Am. Sub. H.B. 98, 130<sup>th</sup> General Assembly, to provide that the Board allow the holder of an expired certificate to teach to renew the certification, without paying a penalty or retaking an examination, if the holder or the holder's spouse had been serving on active duty in the United States armed forces or a reserve component of the United States armed forces, including the Ohio National Guard or the national guard of another state.

EMS proposes to file O.A.C. rules 4765-18-07 as rescind/new due to LSC formatting guidelines as it is estimated that changes to the new rule strike approximately fifty percent of the text in the existing rule while adding a comparable amount of new text. Changes to this rule reflect statutory changes, as set forth in Am. Sub. H.B. 98, 130<sup>th</sup> General Assembly, to accept requests the extension of certification or exemption of renewal requirements for a certificate to teach because the certificate holder or the holder's spouse had been serving on active duty in the United States armed forces or a reserve component of the United States armed forces, including the Ohio National Guard or the national guard of another state during the current or prior certification cycle.

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Finally, O.A.C. 4765-18-04 and 4765-18-21 have been amended to align the instruction of adult students and teaching techniques component of the EMS Instructor curriculum with that of the Fire Instructor curriculum set forth in O.A.C. rule 4765-11-15. The alignment of curriculum enables Fire Instructor and EMS instructor candidates to enroll in the same basic teaching techniques course. The candidates then complete the remaining training hours and supervised teaching with a concentration on the Fire Service or EMS education.

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

R.C. section 4765.11

**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.*

No.

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not Applicable.

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

Pursuant to R.C. section 4765.11, the Board must adopt rules that establish the EMS instructor curriculum standards and the conditions under which the Board may issue, renew, suspend, or revoke certificates to teach as an EMS instructor curriculum is Board approved utilized by all EMS Instructor training programs. Consistent, EMS instructor training will help ensure well-trained EMS providers, efficient and effective delivery of pre-hospital patient care, and increased safety while delivering services.

Additionally, the regulations comply with R.C. sections 5903.03, 5903.10, 5903.12 and 5903.12, which allow the Board to extend certification renewal time or exempt renewal and reinstatement requirements, if a certification expired because the EMS provider or the provider's spouse has been serving on active duty in the military. The regulation also allows the Board to consider the EMS provider's military primary specialty experience and/or

training from reserve components that is substantially equivalent as meeting continuing education requirements for the certificate to practice.

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

Success will be measured by an increase in the number of institutions in compliance with the standards set forth in O.A.C. Chapter 4765-18. In addition, the Division of EMS will track first attempt and cumulative attempts passing percentages on the EMS instructor certification examinations, EMS student complaints and percentage of certification renewals requesting continuing education credit for military experience or training.

**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.*

This regulation was reviewed by the Education Committee of the Board. The committee members include EMS and continuing education training program directors, EMS instructors, EMS providers, and employers for private ambulance agencies and full-time and volunteer fire departments.

The Education Committee members were contacted via email to attend their regularly scheduled public meetings held on May 22, 2013, July 17, 2013 and September 18, 2013 to review O.A.C. Chapter 4765-18.

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

The Committee discussion focused on O.A.C. rules 4765-18-04 and 4765-18-21 as the majority of the rules were amended to address materials incorporated by reference in compliance with R.C. sections 121.71 to 121.74.

The committee raised the issue of compliance with the recently revised National Fire Prevention Association (NFPA) standards.

- *Members, who had participated in the curriculum workgroup, assured the Committee that the curriculum had been correlated with the 2013 NFPA standards as well as the standards approved by the national Highway Traffic Safety Administration.*

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The committee discussed the ability to offer EMS instructor training programs utilizing online education and/or distance learning delivery systems.

- *The committee determined that language in O.A.C. rule 4765-7-12 provided for EMS instructor training programs utilization of online education and/or distance learning delivery systems.*

At a special Board meeting on March 20, 2014, the Board approved a motion to file O.A.C. Chapter 4765-18 with CSIO and JCARR. 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 was no scientific data to be considered.

**10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

The Board *considered alternative regulations*. It was determined that alternative regulations may not meet the purpose of the rules to assure consistent EMS instructor training ensure well-trained EMS providers, efficient and effective delivery of pre-hospital patient care, and increased safety while delivering services. In addition, Am. Sub. H.B. 98, 130<sup>th</sup> General Assembly required each licensing agency, not later than June 30, 2014 to adopt administrative rules which will extend time or exempt renewal and reinstatement requirements, if the EMS provider or the provider's spouse has been serving on active duty in the military.

**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 EMS instructor curriculum standards referenced in this regulation are competency-based (performance based) education standards. EMS Instructor Trainers, under the auspices of an accredited institution, develop their own training courses, lesson plans and evaluation processes, which meet the standards established in rules adopted by the Board under R.C. section 4765.11.

**12. 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 EMS training, instruction and certification; therefore, a review of R.C. section 4765 and O.A.C. Chapter 4765 was completed. The Division of Emergency Medical Services staff reviewed section R.C. 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. section 4731 and O.A.C. Chapter 4731 to avoid duplication and/or conflict with Medical 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 4765-18 final rules and rule summaries to stakeholders. Notices to EMS 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 99 EMS accredited institutions, 1836 EMS Instructors, 195 Assistant EMS Instructors, 2213 EMS Continuing Education Instructors and 180 Physician EMS Instructors.

O.A.C. Chapter 4765-18, in and of itself, does not require specific expenditures. However, some provisions in these regulations require EMS training to be conducted in accordance with the standards adopted by the Board under R.C. section 4765.11, which would include the cost of instructional materials, instructor time, and equipment as the program deems

necessary. The EMS instructor curriculum standards have been reduced by ten (10) hours. Stakeholders estimated that proposed amendments to these regulations would not increase the cost of compliance.

Adverse impact may result from seeking and maintaining certificates of teach. These regulations require the accredited institutions to retain written or electronic documentation that demonstrated compliance with EMS Instructor curriculum standards and evaluation of student performance and achievement.

These regulations do not require an institution to provide EMS training programs or once accredited, to offer EMS Instructor training or utilize specific equipment and/or materials. The Committee estimates, however, that should an accredited institution provide EMS Instructor training programs, its costs may range from \$6,900 to \$8,100. Variance in costs is dependent on class size, instructor pay rate, instructional materials, and equipment as the institution deems appropriate.

An EMS provider could incur tuition costs of up to \$1000 dollars to complete an initial EMS instructor training program. There is no application fee to obtain or renew a certificate to teach.

Costs for compliance to renew a certificate to teach can range from zero to \$750 dollars per certification cycle depending on whether or not an individual's department provides continuing education training. Instructors, affiliated with accredited institutions, EMS agencies or fire departments, typically incur no cost for continuing education courses. The regulation also allows the Board to consider the EMS provider's military primary specialty experience and/or training from reserve components that is substantially equivalent as meeting continuing education requirements for the certificate to practice.

If an instructor allows the certificate to expire, the individual could be faced with a reinstatement fee of \$25 or \$75 dollars, dependent on the certificate to teach classification. However, O.A.C. Chapter 4765-18 includes provisions that allow an EMS provider to reinstate without penalty, if the certificate was not renewed because the EMS provider or the provider's spouse was serving on in the military, in accordance with Am. Sub. H.B. 98, 130<sup>th</sup> General Assembly.

Source: The estimated cost of compliance was determined by the Education Committee of the Board and replies to a statewide survey sent to all accredited institutions to ascertain adverse impact. The committee members include EMS and continuing education training

program directors, EMS instructors, EMS providers, and employers for private ambulance agencies and full-time and volunteer fire departments.

**15. 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 Board must adopt rules that establish the EMS instructor curriculum standards. A standardized instructor curriculum will help ensure EMS professional standards. An EMS provider's professional conduct, delivery of emergency medical services and patient care justifies the minimal adverse impact to the business community. Additionally, the regulations allow the Board to extend certification renewal time or exempt renewal and reinstatement requirements, if a certification expired because the EMS provider or the provider's spouse has been serving on active duty in the military.

**Regulatory Flexibility**

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

The regulation does not mandate an EMS organization to operate a training program or purchase any equipment. Accredited institutions may borrow equipment or any educational resources it deems necessary to meet the EMS instructor curriculum standards.

Organizations holding certificates of accreditation may utilize online education and/or distance learning delivery systems to provide the didactic course component. In addition, an Assistant EMS Instructor may complete a mentorship in lieu of the forty hours in instruction of adult students and basic teaching techniques objectives.

Additionally, the Board may consider relevant education, training, or service obtained in the United States armed forces, including the Ohio National Guard or the national guard of another state, in determining whether the holder of a certificate to teach has fulfilled educational requirements.

**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?**

O.A.C. Chapter 4765-18, in and of itself, does not impose a penalty or sanction. However, provisions in R.C. section 4765.23 establish that the Board may impose administrative sanctions up to and including revocation of a certificate to teach for violations of R.C. section 4765 or any rule adopted under it.

If disciplinary action is considered, 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 4765 and R.C. Chapter 4765. Depending on the nature and severity of the violation the board may issue a lesser penalty or decide the case.

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

The Board administers grant awards set forth in R.C. section 4765.07, and as defined in R.C. section 4513.263. First priority includes awards to EMS organizations for the training of personnel, the purchase of equipment and to improve accessibility and quality of emergency medical services in this state. Grant funds are distributed through a reimbursement process as costs are incurred by the grantee. The Division of EMS website includes a grants web page that summarizes distribution details and provides grant applications. The EMS web page can be found using the following link: [www.ems.ohio.gov](http://www.ems.ohio.gov).