

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Board of Cosmetology

Regulation/Package Title: Criteria for continuing education: courses, course instructors and eligible offering entities to be: approved, denied approval, withdrawn, revoked or suspended.

Rule Number(s): 4713-21-09 (amend)

Date: 4/22/2016

Rule Type:

New
 Amended

5-Year Review
 Rescinded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.

Rule 4713-21-09 of the Ohio Administrative Code creates criteria for continuing education courses approved by the Board and made available for licensees to apply for and receive continuing education hours relative to the license held. The rule establishes minimum course requirements, records requirements, offering notification requirements and completion reporting requirements.

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

ORC 4713.09 and ORC 4713.62

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.

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)?

The rule establishes the minimum requirements for providers seeking to offer continuing education courses to persons licensed by the Ohio State Board of Cosmetology. Ohio Revised Code 4713.62 lists the conditions a program must meet to be considered for approval by the Board to offer continuing education to licensees. The rule is important in that it provides details on the reporting requirements for providers once a program is offered and it allows the Board to record a licensee's attendance specifics for their licensure record. In addition, the rule creates minimum notification period requirements in advance of program offerings, which allow the Board to list the program on the agency's website and the post offering reporting to have the earned credit applied to the licensure record for each attendee.

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

The success of the rule is measured in two ways: (1) gauging the correct data response by approved providers. The Board has worked with providers to develop a standardized report, which each provider uses to report the required data elements. (2) The compliance with pre-notification and post class reporting. This aspect of the rule is very important, because licensees (of the size licensed by the Board) access the Board's website to find programs to meet their continuing education needs. Additionally, after course offerings, the provider

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issues the Board a report that can be uploaded in Salesforce to document the licensee's attainment of the credit earned.

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.

The agency sent an email to all licensed entities and persons. Also, the rules were sent to schools, local associations, and societies representing the branches of Cosmetology regulated by the Board.

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

The Board did receive comments on this rule proposal. The comments provided to the Board each stated the proposed reduction of post-class response time from fifteen days to three days (see paragraph (G)) was not appropriate given the time providers require to collate and check the attendance data. The Board took into consideration each comment and recommends the proposal be changed from three calendar days to ten calendar days.

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?

Not applicable.

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?

There were no alternatives considered when reviewing this rule. The general requirements of the rule are designed to protect licensees by reporting continuing education offerings in advance of the program to allow the board to publish the program on the website and to require approved continuing education providers to report attendance data to the Board to verify their attendance and document their hours.

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.

Not applicable.

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

This rule is specific to the practice of cosmetology and branches of cosmetology and it is not duplicated in other rules/regulations.

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 Board creates continuing education provider applications and creates standardized reporting formats for approved providers. Each provider is provided a copy of the standardized report and instructed on how to communicate these reports to the Board.

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 Board considered amending this rule to create reporting standards that would allow timelier reports in an electronic license renewal environment. The concern with the current rules was that the Ohio Revised Code specifically permits licensees to complete continuing education requirements up to and including the date their license expires (see ORC 4713.59). Fifteen day reporting allowance for post course offering was determined to inconvenience a licensee that waited until the expiration date to complete their continuing education requirement. The law permits licensees to wait until the very last day to complete their

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continuing education; however, in doing so continuing education providers had fifteen days to report their attendance. The change from fifteen days to ten days lessens the amount of time providers can take to report, but improves the time licensees will have their data reported. The Board believes ten calendar days improves the reporting and licensees are the beneficiaries. The five day reduction could present an adverse impact for some providers. The cost impact is unknown and would likely be variable based upon independent circumstances and size of the class; however, it also may not represent an adverse impact and not create any additional burden.

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

Fifteen days allowance for reporting attendance data was not a justifiable delay given improved communication methods and electronic formats now available for reporting attendance at continuing education programs. The original proposed change was evaluated based upon comments received and a ten day period seemed better, based upon the responses.

Regulatory Flexibility

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

No each provider is treated the same based upon the standards and guidelines provided in the rule.

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?

The Board works with providers on a routine basis to assure providers comply with the requirements of the rule. Paragraph (H) does provide for the denial, suspension or revocation of approval, but only after offering a provider a hearing in accordance with ORC 119.

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

Small businesses will be notified of the changes through normal communications and website communiques.