CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Board of Cosmetology

Regulation/Package Title: SB 213 Chapter 7

Rule Number(s): 4713-7-08 (amended), 4713-7-13 (New)

Date: 8-22-2016

Rule Type:

- X New
- X 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- ☐ Rescinded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.**
   4713-7-08 – rule establishes application requirements and eligibility for military benefits for active duty military, spouses of active duty military, and veterans. Rule exempts active duty military and spouses of active duty military members from having to take examinations if already licensed in other states/territories of the United States. The rule is being amended to comply with Am. Sub. S.B. 213 by changing "managing" to "advanced practice."

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4713-7-13 – creates a new rule. This rule is being drafted pursuant to Am. Sub. S.B. 213. The rule creates "advanced practice" examination eligibility for persons that completed a recognized "manager's" training program prior to the effective date of Am. Sub. S.B. 213.

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

   ORC 5903.03 and 5903.04

   ORC 4713.08 (A)(6)

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)?**

   Rule 4713-7-08 creates special licensure eligibility conditions for persons on active military duty and or spouses of active duty military personnel. The rule recognizes the potential temporary instate assignment of military personnel and the need to remove licensing barriers where applicable.

   Rule 4713-7-13 is in response to Am. Sub. S. B. 213, which removes reference to the current Manager's license and replaces it with an "advanced practice" license. This requires the Board to create an "advanced practice" examination and school curriculum. Additionally, Am. Sub. S. B. 213 requires the Board to issue an "advanced practice" license within two years to all persons that currently hold a Manager's license. The new law; however, did not address persons that are currently enrolled in Manager's training programs or those who are enrolled and may complete a Manager's training program prior to the effective date of Am. Sub. S.B. 213, but who cannot complete the manager's examination prior the bills effective

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date. This rule addresses this gap by creating a smooth transition for persons in such circumstances.

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

   The board maintains statistics of persons that obtain licensure through OAC 4713-7-08. Success is measured through the removal of licensure and examination barriers and permitting active duty military personnel and spouses of active duty military personnel to become licensed in a rapid manner with removal of unnecessary barriers.

   Rule 4713-7-13 will be measured through the seamless transition from the current manager's licensure program to the advanced practice licensure program. By creating a bridge between the two programs created by the new legislation, persons currently enrolled in a manager's program or persons that complete a manager's program before the effective date of Am. Sub. S.B. 213, but cannot examine to become eligible to sit for the new advance practice examination.

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?**

   We had one comment concerning rules in this set. The comment addressed a typographical error, which was corrected.

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?**

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Use of scientific data is not necessary for the development of these rules. The board estimates approximately 900- 1000 persons could be currently enrolled in a manager's training program or will complete a manager's training program prior to the effective date of Am. Sub. S.B. 213, but cannot complete the manager's examination by the effective date of Am. Sub. S.B. 213. Without a rule that addresses the transition of students and graduates to the new advanced practice examination, these persons will be significantly financially disadvantaged.

No measureable outcome is expected and no data was used in the development of this rule.

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?

No alternatives were considered. The changes and/or new language sought in these rules is directly related to the provisions of Am. Sub. S.B. 213 which must be enacted.

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.*

No. The rule being filed does not lend itself to performance based measures. The rules establish specific procedures and/or requirements to enact provisions of Am. Sub. S.B. 213.

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 regulation of 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.

This rule will be placed on the agency's website and sent to all licensed schools of cosmetology. Process information, forms, and website will be updated to reflect the new requirements established in these rules.

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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.

Both of these rules are designed to create benefit for those affected by the rule. The rules do not create any known or intended adverse impact for persons affected by the rule.

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

The business community should not be impacted by the rules proposed. To the contrary, the business community should benefit from the proposed rules by eliminating barriers to licensure or examination eligibility due to Am. Sub. S.B. 213.

Regulatory Flexibility

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

The rule did not provide for an alternative for the business community. Small business should not be impacted by these rules. The rules, particularly new OAC 4713-7-13 is an alternative to not implementing any transitory process for affected individuals, which would result in an adverse impact.

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?

A violation of these rules would not appear to be a paperwork violation or "first-time offense," as defined under ORC 119.14 (G)(2).

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

The Board will assist schools and business on these requirements by posting the rules on the agency's website, speaking with educational programs, and updating forms to reflect the changes.