

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Board of Cosmetology

Regulation/Package Title: Services rendered in an unlicensed facility

Rule Number(s): 4713-8-08 (amend)

Date: 4/18/2016

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Rescinded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.

4713-8-08 of the Ohio Administrative Code reiterates the policy of the State of Ohio with regards to requiring a license offer or render cosmetology services or provide services in a place not licensed as a salon or school. The rule creates a temporary special events certificate of authorization, under the agency's authority to adopt rules under ORC 4713.08 (A)(20). The temporary special event authorization certificate is intended to provide authorization for licensed cosmetologist or branch of cosmetology providers to provide

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services in settings that are not within a licensed salon or school. The Board charges no fee for this certificate.

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

ORC 4713.08 (A)(20)

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 a temporary special event authorization certificate to provide authorization for licensed cosmetologist or branch of cosmetology providers to provide services in settings that are not within a licensed salon or school. The Board charges no fee for this certificate. Settings contemplated under the rule include charity events, on-location bridal parties, bridal shows, and on-location spa parties. Additionally, the rule contemplates licensees may be able to provide services in facilities such as, private residence, care facilities, nursing home facilities, hospitals, and other appropriate settings where elderly or disabled residents reside temporarily or permanently.

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

The amendments being proposed in this rule will allow full cosmetology services to be performed and not restrict services should chemicals be applied. The rule amendment reduces regulation in this area, where the Board found the currently language was too restrictive.

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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 proposed rule was made available for comment, but the Board did not receive any comments or input into this rule proposal. Following stakeholder input, a review of the rules language was considered and the Board moved to amend the term “permit” and replace it with “authorization certificate.”

- 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?**

This rule creates a temporary authorization certificate process for persons engaged in the provision of cosmetology in settings, such as charity events, on-location bridal parties, bridal shows, and on-location spa parties. Additionally, the rule provides for permissible services in facilities such as, private residence, care facilities, nursing home facilities, hospitals, and other appropriate settings where elderly or disabled residents reside temporarily or permanently. The proposed change would remove unnecessary barriers to providing services to the elderly or disabled.

- 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?**

This rule does not contemplate an alternative regulation, instead the purpose of proposing an amendment to the rule is to remove unnecessary regulations that prevent services being

rendered under a temporary special event authorization certificate to person that are elderly or disabled and cannot travel to a licensed salon facility.

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.*

Based on the limited scope of this rule, the Board does not believe the subject matter addressed is suitable for performance-based regulation. The rule defines a process, not an expectation.

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.

This rule will be placed on the agency's website and sent to all licensed schools of cosmetology. The agency's website will be updated with instructions to access the online license application and renewal applications.

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 believes the amendment will create a better regulation by removing unnecessary barriers to providing services to persons that cannot travel to salons. The rule requires a provider to obtain a temporary special event authorization certificate, but the agency does not charge a fee for the certificate.

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

The agency has not identified any adverse impact associated with this rule proposal to regulated persons that seek to provide services outside a licensed salon.

Regulatory Flexibility

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

The rule provides for flexibility for licensed providers to provide services in settings outside of a licensed facility. The primary audience affected by the rule would be small business that seeks to provide services. The proposed amendment broadens the scope of services to permit full services, including services requiring the application of chemicals.

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?

Not applicable.

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.