

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio State Board of Cosmetology

Regulation/Package Title: Chapter-5 11-2015

Rule Number(s): 4713-5-01, 4713-5-02, 4713-5-03, 4713-5-04, 4713-5-05 (rescind),  
4713-5-06, 4713-5-07 (rescind), 4713-5-08, 4713-5-10, 4713-5-11, 4713-5-13, 4713-5-14,  
4713-5-15, 4713-5-18 (rescind), 4713-5-21, 4713-5-22, 4713-5-23 (rescind), 4713-5-24,  
4713-5-25 (rescind), and 4713-5-28.

Date: \_\_\_\_\_

**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Rescinded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

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**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.**

OAC 4713-5-01 Definitions. This rule includes definitions of words/phrases used in Chapter 4713-5 of the Administrative Code.

OAC 4713-5-02 Program requirements. This rule establishes program requirements for both private and career technical schools providing education in Cosmetology and branches of Cosmetology.

OAC 4713-5-03 Required course curriculum. This rule establishes program requirements for both private and career technical schools providing education in Cosmetology and branches of Cosmetology.

OAC 4713-5-04 Proprietary schools. This rule establishes course offering rules for proprietary schools only, particularly addressing adult educational programs offered by Career Technical schools.

OAC 4713-5-05 Charges for service. This rule establishes that a operating school may charge for cosmetology services rendered to the public. The board is proposing to rescind this rule and move the language to OAC 4713-5-22 (B).

OAC 4713-5-06 Hours awarded. This rule establishes standards for awarding clock hours, credit hours, of competency-based credit hours of education.

OAC 4713-5-07 Postgraduate classes. This rule establishes that programs may offer course work for persons that have already achieved the basic education for licenses issued by the board. The Board is proposing to rescind the rule, because it is already addressed in OAC Chapters 4713-8 and 4713-21.

OAC 4713-5-08 School rules. This rule establishes that school rules of conduct must be filed with the board and upon any change in the rules.

OAC 4713-5-10 Daily and monthly records. This rule establishes the requirements for maintenance of school records for students attending, the content of the records, and when those records shall be reported to the Board.

OAC 4713-5-11 Final training records. This rule establishes program requirements for creation and maintenance of a final training records and the time standard for providing the Board with copies of the records.

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OAC 4713-5-13 Transfer procedures. This rule establishes the procedures a school must follow to permit the transfer of a student to another program and the clock hour earning restrictions upon transfer.

OAC 4713-5-14 Discontinuance/closure of operation. This rule establishes the procedures a program must follow upon notification that the program shall cease or discontinue operations, including student and board notifications and maintenance of records.

OAC 4713-5-15 Treatment of student withdrawing from school. This rule establishes the school's requirements for maintaining records, reporting final training records, and other filings with the Board upon a student's withdrawal from the program.

OAC 4713-5-18 Apprentice instructor. This rule requires a school to certify to the Board the name and beginning date of training for apprentice instructor. This Board is proposing to rescind this rule and move substantive provisions to OAC 4713-5-21.

OAC 4713-5-21 Instructor limitations. This rule establishes service and instruction limitations for school instructors. Additionally, the rule adds language from proposed rescinded rule OAC 4713-5-18 on apprentice instructors.

OAC 4713-5-22 Charges for service and student compensation. This rule states that student shall not be paid for services rendered to patrons or other students, but that a school may charge for service rendered to the public.

OAC 4713-5-23 Clinic service assignments. This rule requires a school to assign clinic services equitably among students and restricts students from providing services that they have not been certified to perform. This Board is proposing to rescind this rule and move substantive provisions to OAC 4713-5-02.

OAC 4713-5-24 Student who fails to finish studies. This rule addresses hours earned by students that fail to complete the course of study. The rule permits the hours earned to be retained and recognized for a period of five years. The Board is proposing to rescind this rule and create a new OAC 4713-5-24 Expiration of hours. Substantive provisions of rescinded OAC 4713-5-24 will be carried forward.

OAC 4713-5-25 Temporary work and temporary special occasion work permits. This rule establishes the conditions and procedures for issuance of temporary work permits and/or special occasions work permits. This Board is proposing to rescind this rule and move substantive provisions to OAC 4713-11-13.

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

OAC 4713-5-01 Definitions. Authorized under ORC 4713.08 (A)(13).

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OAC 4713-5-02 Program requirements. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-03 Required course curriculum. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-04 Proprietary schools. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-05 Charges for service. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-06 Hours awarded. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-07 Postgraduate classes. Authorized under ORC 4713.08 (A)(14).

OAC 4713-5-08 School rules. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-10 Daily and monthly records. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-11 Final training records. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-13 Transfer procedures. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-14 Discontinuance/closure of operation. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-15 Treatment of student withdrawing from school. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-18 Apprentice instructor. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-21 Instructor limitations. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-22 Charges for service and student compensation. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-23 Clinic service assignments. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-24 Student who fails to finish studies. Authorized under ORC 4713.08 (A)(13).

OAC 4713-5-24 Expiration of hours. (New) Authorized under ORC 4713.08 (A)(4) and (A)(13).

OAC 4713-5-25 Temporary work and temporary special occasion work permits. Authorized under ORC 4713.08 (A)(13).

- 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)?**

These rules establish the standards for schools seeking to offer training in cosmetology or branches of cosmetology. The rules in this packet cover general educational governance, curriculum requirements, awarding hours and grades, retention and transfer of records, operations discontinuance, and student withdrawal.

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

Success will be determined by compliance with the requirements established. The rules are necessary to create a uniform standard of educational design to protect the students attending the each program. The measure would be an approved regular inspection.

### **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 received comments concerning rules 4713-5-02, 4713-5-03, 4713-5-07, 4713-5-14, 4713-5-18, 4713-5-21, 4713-5-22, 4713-5-23, 4713-5-24, and 4713-5-25. Comments on proposed rules 4713-5-07, 4713-5-18, 4713-5-23, and 4713-5-25 stated the rules should state, “rescinded.” The application of the rescinded stamp occurs at the time the rules are filed. The rule provided to the stakeholder contained the full “struck out” text for each rule, which the Board determined sufficiently notified the stakeholder of our intent to rescind the rule.

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On proposed rules 4713-5-14 and 4713-5-24 one stakeholder addressed typographical errors. On proposed rules 4713-5-02 and 4713-5-03 one stakeholder asked why the rules were not applied equally to proprietary schools and career technical schools. The comments were evaluated, but not acted upon because proprietary education does not fall under the same educational standards as career technical schools (that offer more programs than just cosmetology), which are governed by the Ohio Department of Education. One stakeholder supported the changes to proposed rule 4713-5-21 and requested clarification on verbiage used in proposed rule 4713-5-22. Two stakeholders requested changes to proposed rule 4713-5-15, which were evaluated. In response, the rule was adopted to clarify when student educational discontinuance occurs.

**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?**

These rules establish the standards for the approval of schools seeking to offer training in cosmetology or branches of cosmetology. Scientific data was not used in the development of the rule or in establishing measurable outcome, although aspects of these rules do address measurable or qualified requirements to create a minimum safe, effective, and productive environment for learning.

**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 did not address such alternatives in these rules, as the purpose is establishing minimum educational standards on general educational governance, curriculum requirements, awarding hours and grades, retention and transfer of records, operations discontinuance, and student withdrawal specific minimum requirements in order to create effective educational practices.

**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.***

In general, these rules are not performance-based rules. The rules establish specific requirements for the opening and ongoing operation of schools offering education in cosmetology or branches of cosmetology. Some aspects of the rules; however, are arguable performance based. For example, the rules do not establish the minimum specifications for ventilation systems in salon, but they do require that the ventilation system be sufficient to

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remove chemical fumes. Schools are not required to provide specific chairs, tables, and accommodations for student equipment and supplies. Instead, the rules require the school to be equipped with appropriate chairs, tables, and accommodations for student equipment and supplies.

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

The Ohio State Board of Cosmetology reviewed existing rules and finds no duplication exists in the definitions being added to this rule; however, this rule is required under the revised code 4713.08.

**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 a list-serve for distribution to all licensees in advance of the effective date. Forms will also be updated to reflect any changes addressed in this regulation.

**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 amendments or rescissions being proposed in these rules are primary being designed to reduce unnecessary language, consolidate rules, and reorganize the rules. Meeting the minimum standards may create a monetary impact; however the rules under Chapter 4713-5 of the Ohio Administrative are more prescriptive of curriculum, hours award, and records maintenance. The adverse impact of these rules is more limited as a result, but it cannot be

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ruled out. The costs associated with meeting these requirements are very difficult to quantify. Each school will vary in size and scope of education offered.

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

The requirements contained in these rules are designed to address general educational governance, curriculum requirements, awarding hours and grades, retention and transfer of records, operations discontinuance, and student withdrawal. In order to establish continuity in the educational process, these rules are necessary. Additionally, the rules provide minimum standards to protect the student from being offered education that is not based on established state standards.

**Regulatory Flexibility**

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

No, not in this rule. These rules establish consistent standards for any business seeking to provide education in cosmetology or branches of cosmetology.

**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 has adopted standard violation guidance for all standards required. These guidelines take into consideration first-time offense of the nature defined and provide for warnings in many instances.

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

These rules are made available on the Board's website and are emailed to all schools upon adoption. Additionally, the Board regularly inspects programs for compliance with these standards, which will assist small business in identifying deficiencies.