



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Ohio State Cosmetology and Barber Board

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

4713-19

Rule Number(s): 4713-19-08 (amend)

Date of Submission for CSI Review: 7-30-2021

Public Comment Period End Date: 8-16-2021

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ 1 rules (FYR? ___)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

- 1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- Requires specific expenditures or the report of information as a condition of compliance.**
- Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

- 2. Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

This rule states the requirements imposed on resident tanning facilities. This amendment changes a requirement that the facility have hot and cold running water, to running water.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

R.C. 4713.08.

- 4. 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.

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

Not applicable.

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6. 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)?

Section 4713.08 (A)(16) and (17) of the Revised Code requires the Board to establish the application process and fees for tanning facility permit by rule, and to develop rules for installing and operating a tanning facility. Regulation in this area is necessary to advise the public of inherent risks that may be associated with tanning, to prevent the spread of infection and disease, and to protect the public by ensuring that the services rendered in permitted facilities are performed in a clean, safe, and sanitary manner.

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

The measure of success for this proposed rule under Chapter 4713-19 of the Administrative Code is through enforcement actions observed by the board relating to the provision of services that do not meet minimum standards of safe and effective operation. Creation of these standards create a transparency for permit holders by advising permit holders of the public's expected standards of service.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. 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.

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

The Board did not receive any input on the proposed amendment.

11. 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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Rules adopted by the Board are based on published requirement contained in identified industry standardized texts, and on national, industry best practices standards suggested by a healthcare professional. These rules also incorporate input from individuals involved in the industry, and standards set forth by the Food and Drug Administration (FDA).

12. 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?

In developing this rule, the Board reviewed its existing tanning facility standards and determined that the existing standards could be simplified. As a result, rules were clarified and identified redundancy was reduced. Regarding the current amendment, this change was made in line with current health and safety standards.

13. 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 rules are designed to create standards of safe and effective operation, and to educate and protect the public from certain risks inherent to the industry. The rules ensure consistency in facilities across the state, which protects the general public, and allows the Board to evaluate practices based upon consistent standards.

14. 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 tanning facilities and it is not duplicated in other rules/regulations.

15. 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.

These rules will be posted on the Board's website and notification with detail will be sent to all regulated persons and businesses that may be impacted.

Adverse Impact to Business

16. 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; and**
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and**
- c. Quantify the expected adverse impact from the regulation.**

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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.

Maintaining clean, safe, and sanitized facilities, equipment, and implements will cost time and money. It is a cost that is variable based upon the size and type of business. The Board acknowledges the costs of implementing these provisions, but it cannot provide a consistent or average cost of implementation due to variability. It should be noted, however, that this rule change does not substantially change the standards currently used by the industry, and in some cases actually reduce costs from current standards, and therefore should not be difficult to implement.

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

Although there is an impact, the impact is normal for this industry, which is accustomed to rigorous safety and sanitation standards. Also, the consumers and the business community should benefit from the proposed change, which simply and clarify simplifies existing standards, yet still requires facilities holding tanning facility permits from the Board to adhere to minimum safety and infection control standards.

Regulatory Flexibility

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

The rules do not provide for an alternative for the small business community, as consistency throughout the industry on safety and infection control standards is key to protecting permit holders and the public.

19. 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 developed standardized field guidance on the issuance of violations for offenses involving safety and sanitation standards. Some, depending on criticality, are to be issued first-time warnings for low impact violations. A violation of these rules would not be regarded as paperwork violation or “first-time offense,” as defined under ORC 119.14 (G)(2), but it might be regarded as a first-time warnings under the Board’s standardized field inspection guidelines.

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

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