



# Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Sean McCullough**, Director

## 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):

4713-21

Rule Number(s): 4713-21-09 (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Rescinded/\_\_\_ rules (FYR?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):**

- a.  Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b.  Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c.  Requires specific expenditures or the report of information as a condition of compliance.**
- d.  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.*

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. The proposed amendment changes the reporting requirements for continuing education courses.

- 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. 4713.09 and R.C. 4713.62.

- 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?**

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*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.

- 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)?**

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.

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

- 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.

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## **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 these proposed amendments.

**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?**

No scientific data was used to develop this rule or these amendments.

**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?**

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.

**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.*

Not Applicable.

**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 practice of cosmetology and branches of cosmetology 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.**

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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**

**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.**  
*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 is amending this rule to change the reporting requirements of continuing education hours. This amendment changes the party to be notified from the Board to an approved CE tracking vendor, and removes a signature requirement to better adapt to the increase in virtual learning offerings.

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

We believe that this change in policy should help to streamline the reporting process to avoid issues of late reporting of CE hours.

### **Regulatory Flexibility**

**18. 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.

**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 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.

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**20. 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. No additional resources will be provided.