



# 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):

4713-3

Rule Number(s): 4713-3-03, 4713-3-08, 4713-3-11

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/ 2 rules (FYR? Y)

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Rescinded/ \_\_\_ rules (FYR?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.*

4713-3-03 (Amend) – This rule sets forth the school layout requirements for schools licensed by the Board. The only change is a minor edit. This change would amend the requirement that schools maintain hot and cold running water, amending the requirement to running water.

4713-3-08 Final licensure. This rule stipulates that a license will not be issued to a school until a final inspection is completed to verify the school meets all of the requirements under laws and rules adopted by the board.

4713-3-11. The school policy rule sets minimum requirements for tuition, contracting and refund, should the student withdraw before completion of the program. R.C. 4713.08(A)(13) mandates the Board establish standards for training in branches of cosmetology in Ohio. R.C. 4713.08(A)(19) allows the Board to develop rules. The law also sets forth requirements for

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schools to operate, keep records, offer coursework, and hire instructors. R.C. 4713.44 and R.C. 4713.45.

- 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.**

4709.05(E)(4), 4709.10(B)(3), 4713.08(A)(13), 4713.08(A)(20), 4709.05(H), and 4709.05(E)(5).

- 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, this change would not implement a federal requirement.

- 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)?**

These rules are necessary to ensure that students receive a safe and effective education in their field of study and that the public can be confident that the school has met all necessary requirements. Only one amendment is being made. This amendment would change the requirements already in place. Hot water is not required to maintain sanitary conditions, and this amendment would make compliance easier.

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

The success of the regulation will be measured through staff, licensee, and public feedback.

- 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.**

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*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

The Board placed these rules on its website, requesting input and comments from all interested parties. Additionally, notification of the proposed rule changes was sent to all entities and persons currently on our interested parties list, along with a response email address. This list includes school owners, school administration, salon owners, and business and personal licensees.

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

We received no comments on the proposed amendment or on the unamended rules.

**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 when accessing these rules. These rules continue longstanding requirements for both accredited and non-accredited schools licensed by the Board.

**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?**

No alternative regulations were considered. The rules continue longstanding requirements for Board-licensed schools.

**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 alternatives were considered. These rules are largely performance-based. It establishes minimum requirements, but the schools have flexibility in how they comply with the requirements.

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

The Board is the sole entity tasked with the regulation of barbering and the branches of cosmetology in Ohio.

**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 rules will be posted on the Board’s website, and notification will be sent to all regulated persons and businesses that may be impacted. Inspectors for the Board will be responsible for ensuring compliance.

### **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.*

a) The impacted community includes all individuals and businesses who hold or are seeking to obtain a license to operate a school of barbering and/or one or more of the branches of cosmetology.

b) Individuals or businesses seeking school licensure from the Board must meet minimum facility requirements to ensure proper instruction. The adverse impacts are the initial expenses required to build or remodel the proposed facility and the time needed to complete these tasks. The amendment, however, because facilities are already required to provide hot and cold running water, will not have an impact whatsoever when amending the requirement to running water. Any change would likely result in a decrease in expenditures.

c) The expense and time will vary depending on the type and size of the school, the existing location, and the development choices made by the school owner(s). These expenses may be significant or minor, but the amendment being made can only potentially reduce costs.

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

Students pay significant tuition costs in order to attend these schools. The regulations are necessary to ensure that each licensed school has an adequate facility to safely and effectively provide this training. In addition, members of the public receive clinic services at these licensed schools, and these regulations help ensure that these clinic services can be provided safely and effectively. It is questionable if any adverse impact exists related to this amendment. Namely, it loosens pre-existing requirements and can better ensure compliance.

### **Regulatory Flexibility**

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

No. These rules set minimum requirements for all schools, regardless of size.

**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?**

No changes will be made from the pre-existing violation matrix. The Board will apply its violation guidance matrix if an individual receives notice of a violation of the rules.

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

The Board will not provide additional assistance or resources to ensure compliance.