



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):

4713-5

Rule Number(s): 4713-5-13, 4713-5-21, 4713-5-28 (Amend) 4713-5-01, 4713-5-04, 4713-

5-08, 4713-5-15, 4713-5-22 (No change)

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/ 5 rules (FYR? Y)

Amended/ 3 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Rescinded/ rules (FYR?)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.

Reason for Submission

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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.

4713-5-01 Definitions. Chapter 4713-5 of the Administrative Code addresses the administration rules for cosmetology and branches of cosmetology schools. Rule 4713-5-01 of the Administrative Code contains a list of words/terms used in Chapter 4713-5 of the Administrative Code and the definition of those terms. The Board is amending this rule to define words/terms used in proposed amendments addressing barbering education.

4713-5-04 Proprietary schools. This rule addresses proprietary school program authority to conduct both day and night courses and identifying adult education programs as proprietary programs. The Board is amending this rule to update language so that the provisions are applicable to barber programs.

4713-5-08 School rules. This rule requires licensed schools to file a copy of their school rules with the Board. The Board is amending this rule to update language so that the provisions are applicable to barber programs.

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4713-5-13 (Amend) - Transfer procedure. This rule creates a process for transferring students and student records to another school in the event of a request to transfer is received from a student. The rule is being amended to include an additional code reference.

4713-5-15 Treatment of student withdrawing from school. This rule creates a process for addressing students that withdraw from a program. The rule is being amended to add language that the provisions would also encompass students that are terminated from the program. 4713-

4713-5-21 (Amend) – This rule sets requirements and limitations for instructors and teachers in schools licensed by the Board. It is being amended to correct a spelling error.

4713-5-22 Charges for service and student compensation. This rule stipulates that students cannot be paid for services provided to the public or another student. Additionally, the rule establishes that the program can charge for services rendered in the clinic area.

4713-5-28 (Amend) – This rule sets requirements and limitations for students attire when taking examinations at the Board. It is being amended to correct a spelling error.

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. §§ 4709.05(E)(4), and 4709.05(E)(5), 4709.05(E)(6), 4709.10(B)(3), 4713.08(A)(13), 4713.08(A)(20).

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.

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)?

Overall, The rules contained in this packet are in response to provisions under 4713.08(A)(13), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code, which requires the Board to adopt rules regulating the provision of education in the practices of cosmetology, branches of cosmetology, and barbering. The rules drafted provide a set of minimum standards for administering education in cosmetology and barber programs. In the absence of these standards, there would be no established guidelines or measures of consistency to administer these schools. Specifically as to the amended sections:

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4713-5-13 (Amend) - The rule was promulgated in response to provisions under 4713.08(A)(13), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code, which requires the Board to adopt rules regulating the provision of education in the practices of cosmetology, branches of cosmetology, and barbering. The rule provides a set of minimum standards for administering education in cosmetology and barber programs. In the absence of these standards, there would be no established guidelines or measures of consistency to administer these schools. The rule is being amended to include an additional code reference.

4713-5-21 (Amend) – The Board is required to adopt rules regulating the provision of education in schools of barbering and cosmetology. These rules are necessary to establish guidelines and consistency in these training programs. This rule sets requirements and limitations for instructors and teachers in schools licensed by the Board. It is being amended to correct a spelling error.

4713-5-28 (Amend) – This rule sets requirements and limitations for students attire when taking examinations at the Board. It is being amended to correct a spelling error.

7. 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, and through staff, licensee, student, 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.

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?

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No comments were received regarding these rules or their proposed changes.

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?

Scientific data was not used in the development of the rule or in establishing measurable outcome.

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?

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.

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.

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.

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.

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.

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**

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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.

These rules will impact cosmetology and barber schools. Cosmetology and branch of cosmetology schools already meet the standards addressed in these rules. Barber schools, based on a review of current practices and rules adopted, meet or already incorporate most of these provisions. The Board does not anticipate there will an expected negative impact for any provisions not currently addressed in Barber rules, as the provisions or requirements should be readily available or already addressed in the ordinary course of business. Specifically as to the amended sections:

4713-5-13

- a) This rule will impact cosmetology and barber schools.
- b) Cosmetology and branch of cosmetology, and barber schools already meet the standards addressed in these rules.
- c) The Board does not anticipate there will an expected negative impact as the provisions or requirements should be readily available or already addressed in the ordinary course of business.

4713-5-21

- 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) The adverse impacts are the minimal amount of time required to report necessary information, a limitation on what instructors may do or teach in licensed schools, and the potential for disciplinary action if they fail to comply with the rule.
- c) The amount of reporting time required by the rule is minimal. There is an impact on the schools’ ability to earn additional income by restricting what instructors may do or teach in the school. Also, schools that violate the rule may face fines ranging from \$250.00 to \$1,000.00, based on the number of prior violations, and/or the suspension or revocation of a license.

4713-5-28

- d) This rule will impact cosmetology and barber examinees.

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- e) None, as the requirement simply establishes professionalism requirements when taking an exam at the Board office.
- f) The Board does not anticipate there will an expected negative impact.

17. 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

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

No, the rules in this packet do not differentiate among businesses or students and the regulations would apply equally.

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 uses a violation guidance document that is approved by the Board, taking into consideration the criticality and severity of a violation as it may relate to licensing or public safety. This guidance matrix, which is applied equally to all licensees, provides for warning notices for a number of first-time violations, including paperwork violations.

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

There are no special resources required to comply with these rules.