



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):

4713-7

Rule Number(s): 4713-7-01 (amend) & 4713-7-11 (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/ 2 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Rescinded/___ rules (FYR?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.

OAC 4713-7-01 Applications for licenses and for examination. This rule addresses the processing of application for licenses and examinations. This amendment changes the process for which applications are reviewed and removes the requirement that all applications be notarized.

OAC 4713-7-11 Temporary pre-examination work permit. This rule addresses the processing of applying for a pre-examination temporary work permit. This amendment removes the requirement for the Board to place its seal on extensions granted post examination.

- 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.**

4713-7-01: Authorized under R.C. 4713.08 (A)(3) and R.C. 4713.08 (A)(20).

4713-7-11: Authorized under R.C. 4713.08 (A)(2) and R.C. 4713.22.

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- 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)?**

These rules address the processing of application for licenses and examinations. The Ohio Revised Code requires the Board to adopt procedures on the conduct of examinations required for licensure under ORC 4713. Additionally, Ohio law requires the Board to adopt procedures on the conditions for the issuance of a temporary work permit. Through these rules, the Board is meeting a mandate required of the Ohio Revised Code.

- 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 inspection and 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.**

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.

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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?

Scientific data was not used in the development of these rules. These are procedural rules for the handling of applications for licenses and examinations.

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 any alternative regulations in this regard. It was determined there was no alternative since the basis of these rules was procedural based upon the requirement of the Ohio Revised Code.

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.*

These rules are not performance-based.

14. 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. These rules are required under the 4713.08 of the Revised Code.

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 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

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.

The amendments being proposed in these rules are primarily being designed to strategically organize these rules for better consumer access. Temporary pre-examination work permits under proposed rule 4713-7-11 require a \$7.00 filing fee. Not all students obtain a temporary pre-examination work permit, but for those that do, this permit allows the individual to begin working before taking their examination. These rules impact individual providers, not businesses directly, because they are application-based rules and permit-issuance rules. Examinees are required to submit a fee associated with the examination taken, in compliance with ORC 4713.10.

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

ORC 4713.10 requires the Board to charge a fee for administering an examination and fees for temporary work permits are required by the ORC, but established in rule. The justification for requiring a fee is directly related to the costs of regulating the industry under ORC Chapter 4713. The Board believes providing an examination that tests the minimum competency and infection control knowledge of licensees benefits the public and provides for a safer working environment for both customers and employees.

Regulatory Flexibility

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

No. These are procedural rules for the handling of applications for licenses and examinations.

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?

There are no violations/fines associated with this rule. These are procedural rule for the handling of applications for licenses and examinations.

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

There are no additional resources available for small businesses as these are procedural rules.