



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:

Jared Yee, jared.yee@cos.ohio.gov

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

4713-8-12

Rule Number(s): 4713-8-12 (New)

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

Public Comment Period End Date: 8-16-2021

Rule Type/Number of Rules:

New/ 1 rules

No Change/ rules (FYR?)

Amended/ 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Rescinded/ rules (FYR?)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.

4713-8-12 (New): This new code sections specifies that a person who practices cosmetic therapy, as defined in chapter 4713.01 of the Ohio Revised Code, in a licensed salon shall follow all infection control standards.

- 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(A)(1), 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.**

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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)?**

Chapter 4713-8 of the Administrative Code addresses the standards for safe and effective practice. Without stipulated requirements and/or conditions in which the business can operate and effectively and safely provide customer service, the consumer will face inconsistent and potentially dangerous or unsafe conditions.

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

The Board reviews compliance with these rules through the inspection process. Success will be determined by monitoring internal procedures to assure staff and records compliance in processing the application.

- 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?**

No input was received from stakeholders regarding this new rule.

- 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 this rule. This rule extends already existing rules to an additional branch of cosmetology.

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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 consider alternative regulations because the proposed amendments are simply part of continuing effort to update and clarify the Board's infection control rules.

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 rule is required under the Revised Code, and industry-standard infection control procedures require specific processes.

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.

This rule 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**
- 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.

4713-8-12 (New): This new code sections specifies that a person who practices cosmetic therapy, as defined in chapter 4713.01 of the Ohio Revised Code, in a licensed salon shall follow all infection control standards. Therefore, the impacted business community are those engaged in cosmetic therapy. The adverse impact is limited to the requirement to meet

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sanitation standards established by the Board to ensure the safety of customers. No other adverse impact is expected outside the cost of compliance.

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

The regulatory intent is justified by the need to protect the public. This new regulation specifically places sanitation standards on the practice of cosmetic therapy and adds clarity on the subject.

Regulatory Flexibility

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

The rule applies evenly to businesses of all sizes.

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 will apply its violation guidance matrix if an individual receives notice of a violation of these rules. The matrix permits an individual in violation of these rules to correct the issue(s) and receive a warning.

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

No additional resources are available to assist in compliance with these rules.