



Common Sense Initiative

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Business Impact Analysis

Agency Name: State Cosmetology and Barber Board

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Regulation/Package Title: Chapter 4713-1 – June 2019

Rule Number(s): 4713-1-01(Amend), 4713-1-05 (Rescind), 4713-1-05 (New)

Date: July 8, 2019

Rule Type:

New

5-Year Review

Amended

Rescinded

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 all regulations 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.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

4713-1-01 Definitions. (Amend):

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This rule defines terms used in Chapters 4709 and 4713 of the Revised Code and the rules promulgated thereunder. The rule is being amended to clean up existing language and add additional references to barbers and barbershops. The rule also provides a clearer definition of the term “Shaving the face” used in R.C. 4709.01 and a definition for the term “Straight razor.”

4713-1-05 Sunshine rule (Rescind and New).

This rule address how Board meetings are conducted and how the public can obtain notice of Board meetings. The rule is being amended to streamline the rule language and more directly mirror the requirements of R.C. 121.22. The amended language also established the parameters of the limited public forum if the Board decides to permit public testimony during Board meetings.

- 2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

4713-1-01: R.C. §§ 4709.05(E)(6), 4713.08(A)(20).

4713-1-05: R.C. §§ 121.22(F), 4709.05(E)(6), 4713.08(A)(20).

- 3. 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.

- 4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable.

- 5. 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)?**

Rule 4713-1-01 is necessary to provide clarity on terms used in Chapters 4709 and 4713 of the Revised Code and the rules promulgated thereunder. Rule 4713-1-05 is specifically required by R.C. 121.22(F).

- 6. 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 by the responses and feedback of staff, licensees, and the public.

Development of the Regulation

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7. 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 Board placed these rules on its website, requesting input and comments from all interested parties. Additionally, notification of this proposed rule change was emailed to all entities and persons currently on our interested parties list, along with a response email address.

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

The Board received 26 comments on the rules in this package. 25 of these comments were different individuals sending the same, copied message commenting on the following rule:

4713-1-05 (Rescind and New): The comments advocate for maintaining the current version of the rule for a variety of reasons. The comments did not lead to any changes to the proposed rescinded and new rule language for the following reasons:

First, the comments state that removing the references to R.C. 149.43 in the current rule takes away accountability to the public records law. It is unclear why the commenters feel that this would be the case. The Board is required to comply with R.C. 149.43 regardless of whether this is stated in rule, which renders the current rule language unnecessary. The Board has an established public records policy that is posted at the Board office and available on the Board's website.

Next, the comments state that the current rule provides the public with a right to comment on agenda items before they are considered and claims that the Board violated this right at its June Board Meeting. These comments misunderstand the language of the rule and are factually inaccurate. The specific paragraph noted in the comments, paragraph (D)(1), only provides a right to "express opinions on newly introduced subject matter" if the meeting agenda is amended DURING a meeting. The paragraph that discusses general public testimony, paragraph (E), simply indicates that interested parties "may request the opportunity to speak on any issue of concern." It does not require the Board to allow this opportunity. The proposed new rule maintains the Board's ability to permit public testimony and clarifies that the public forum, if testimony is permitted, is limited to items that are within the Board's jurisdiction. It should also be noted that, while not required, the meeting agenda for the June Board Member did include a designated portion for public testimony. It stated "none" because no party requested to speak prior to the meeting. Nonetheless, the Board had a sign-up

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sheet for public testimony available at the meeting, but no member of the public chose to sign-up to testify.

Finally, the comments claim that the Board “violates existing rule by not providing written materials for the Board meeting unless expressly requested.” The Board has no obligation under the current version of rule 4713-1-05 or any other law or rule to provide such material to the public or interested parties without a request. If an individual requests the materials, the Board complies with R.C. 149.43, and timely provides the material.

9. 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?

The Board did not employ scientific data to develop these rules. These rules address definitions and statutory requirements for open meetings.

10. 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 these rules address definitions and statutory requirements for open meetings.

11. 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. These regulations cannot be performance-based because they do not require any outcome from regulated stakeholders.

12. 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.

13. 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, with detail, will be sent to all regulated persons and businesses that may be impacted.

Adverse Impact to Business

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14. 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;**
- b. Identify the nature of the adverse impact (e.g., license 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.

There is no cost of compliance with these rules. The rules are informational and administrative in nature and only define terms used elsewhere in the Board’s laws and rules and explain how the Board complies with statutory open meetings requirements.

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

N/A.

Regulatory Flexibility

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

The rules do not require any form of compliance for small businesses. They are informational and administrative.

17. 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 possible fines or penalties associated with these rules.

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

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