

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Board of Cosmetology

Regulation/Package Title: Chapter-21 11-2015

Rule Number(s): 4713-21-01 (proposed rescind), 4713-21-03, 4713-21-04, and
4713-21-06.

Date: _____

Rule Type:

☐ New

☒ Amended

☐ 5-Year Review

☒ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. 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.

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OAC 4713-21-01 Purposes. This rule establishes the purpose of Chapter 4713-21 of the Administrative Code. The Board is proposing to rescind this rule, since the rule serves no identifiable purpose and is not supported by authorization under the Revised Code.

OAC 4713-21-03 Continuing education requirements. This rule establishes the continuing education requirements for licensure types issued by the Board under ORC Chapter 4713.

OAC 4713-21-04 Licensure renewal procedures. This rule establishes the renewal procedures for persons and salons issued a license under ORC Chapter 4713. The rules establishes the status labeling for licenses that are renewed and not renewed, including procedures to reinstate licenses not renewed and associated fee.

OAC 4713-21-06 Applying for inactive licensure status and temporary work permits. This rule establishes the procedure for allowing a person to voluntarily apply to have a license placed in an inactive status (currently referred to as “escrow”). In addition, the rule permits a person, in accordance with ORC 4713.61, to apply for a temporary work permit.

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

Authorized under ORC 4713.08 (A)(18) and ORC 4713.61.

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.

N/A.

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)?

The Board is proposing to rescind OAC rule 4713-21-01. This rule serves no purpose.

Rule 4713-21-03 is being amended to clarify the continuing education requirements for licensees regulated by the board. Amended language will also rescind specific continuing

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education requirements for persons holding an Independent Contractor license. The requirements established for the Managing license are stipulated in the Ohio Revised Code.

Rule 4713-21-04 is being amended to clarify filing renewal applications on a biennial basis and the potential form of applications. In addition, language is added to the rule to address the “expiration” of a license and the method of restoring the license to active status. The rule adds a procedure for restoring and inactive license, which is required under Section 4713.08 (A)(18) of the Revised Code.

Rule 4713-21-06 is being amended to address requirements for placing a license in inactive status pursuant to ORC 4713.61 and the issuance of a temporary work permit while the license is classified as inactive. This rule complies with section 4713.61 of the Revised code and corrects inconsistent language in the current rule.

6. 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. The rules are necessary to create a uniform standards for renewing licenses on a biennial basis, including the appropriate collection and attainment of continuing education, and/or placing a license in statuses other than active.

Development of the Regulation

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 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.

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

One stakeholder raised tense concerns on OAC 4713-21-03. The rule was reviewed, but not issues were found.

The Board received one comment concerning rule 4713-21-01. Comment on the proposed rule stated the rules should state, “rescinded.” The application of the rescinded stamp occurs

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at the time the rules are filed. The rule provided to the stakeholder contained the full “struck out” text for each rule, which the Board determined sufficiently notified the stakeholder of our intent to rescind the rule.

The Board received one comment on proposed rule 4713-21-06 concerning the methodology of requiring a person to obtain a temporary work permit should a person desire to work while the license is classified as “inactive.” A review of ORC 4713.61 found that the proposed rule properly followed the requirements of the law.

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?

These rules establish uniform standards for renewing licenses on a biennial basis, including the appropriate collection and attainment of continuing education, and/or placing a license in statuses other than active. The rules are primarily procedural and therefore a measurable outcome was not identified. Some aspects of these rules do address qualified requirements, such as the number of hours of continuing education required to renew a license. The Board did not employ a scientific approach in the development of these requirements.

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 address such alternatives in these rules, as the purpose is establishing standards required by law under ORC 4713.08.

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.

In general, these rules are not generally considered to be performance-based rules; however, since the Board does not prescribe specific courses for continuing education attainment, the licensee is left to identify course work associated with their scope of service and to take course that aid in their individual achievement or learning deficit.

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

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The Ohio State Board of Cosmetology reviewed existing rules and finds no duplication exists in the definitions being added to this rule; however, these rules are required under the revised code 4713.08.

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 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

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.

The amendments or rescissions being proposed in these rules are primary being designed to clarify language, make sure the rules properly align with statutory requirements, reduce unnecessary language, and reorganize the rules. While most of these rules are procedural, some may create costs to comply. For example, meeting the biennial continuing education requirements may involve paying fees to attend continuing education programs or conferences. ORC 4713.63 establishes the costs for restoring an expired license. Proposed rule 471321-06 will require a licensee seeking to maintain the license in an inactive status to file the biennial renewal fee, which is currently \$45.00. The licensee may obtain a temporary work permit during the inactive period to work in a cosmetology service until the license is eligible for restoration. Proposed rule 4713-21-04 lists specific fee required for the restoration of an expired license, which includes a \$15.00 late fee, a \$30.00 restoration fee, and a lapsed license fee of \$45.00. The Board tries to limit adverse impact through its rules, but it cannot be ruled out. The costs associated with meeting these requirements are very difficult to quantify. The Board staff believes \$10.00 - \$20.00 per hour is an average cost for

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continuing education. Continuing education hours for each license type are listed in the Revised Code for each license type issued by the Board.

15. 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 specific requirements under the Ohio Revised Code, such as renewing licenses on a biennial basis, including the appropriate collection and attainment of continuing education, and/or placing a license in statuses other than active. The adverse impacts identified, such as costs for continuing education, are anticipated as an aspect of holding active licensure to provide the regulated services.

Regulatory Flexibility

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

No, not in this rule. These rules are consistent with the Ohio Revised Code and are required.

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?

The Board has adopted standard violation guidance for all standards required. These guidelines take into consideration first-time offense of the nature defined and provide for warnings in many instances.

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

These rules are made available on the Board's website and are emailed to all schools upon adoption. Additionally, the Board regularly inspects programs for compliance with these standards, which will assist small business in identifying deficiencies.