

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: State Cosmetology and Barber Board

Regulation/Package Title: Chapter 4713-11 COS/BRB Five Year Review

Rule Number(s): 4713-11-01 Amend, 4713-11-06 New, 4713-11-06 Rescind, 4713-11-07 Rescind, 4713-11-09 Amend, 4713-11-11 Amend

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☒ Rescinded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

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4713-11-01 Application for operation of beauty salon. (Amend)

The proposed rule establishes that salon will apply for licensure on forms approved by the board, pay the applicable, nonrefundable fee, and indicates that the salon cannot provide services until the license had been approved. The proposed revision simplifies and clarifies the language of the rule, and does not change most of the the substantive provisions. The only substantive change actually allows salons to begin operating upon approval of the license, instead of having to wait until they actually receive the hard copy of the license.

4713-11-06 Cosmetological substance storage. (Rescind)

The current rule requires facilities providing cosmetology services to designate a cabinet or storage to adequately and safely store chemicals and substances. Due to amount of added and deleted language, the rule must be rescinded and then introduced as a new rule.

4713-11-06 Storage of chemicals. (New)

This rule is being proposed to replace existing 4713-11-06. The rule adds barber shops and simplifies the storage requirements by stating chemicals used to practice barbering and cosmetology shall be stored in a location that is not accessible to the customers or the public.

4713-11-07 Display of sign. (Rescind)

The Board is proposing to rescind this rule since it merely references another rule and is unnecessary.

4713-11-09 Exhaust fumes from service areas.

This rule establishes that salons shall be equipped with proper commercial exhaust fans or air filtration that is compliant with local or state commercial building codes. The rule is being amended to added barber shops.

4713-11-11 Glamour photography services.

This rule establishes that persons providing cosmetology services for glamour photography shall hold valid licenses issued by the Board. The rule is being amended to add barbering and clarify that a license for the branch of cosmetology being performed must be held.

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

4713-11-01 Application for operation of beauty salon. Sections 4713.08(A)(1) and 4713.08(A)(20) of the Revised Code.

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4713-11-06 Cosmetological substance storage. Sections 4709.05(E)(1), 4709.05(E)(6), 4713.08(A)(1), 4713.08(A)(15), and 4713.08(A)(20) of the Revised Code.

4713-11-06 Storage of chemicals. Sections 4713.08(A)(1), 4713.08(A)(15), and 4713.08(A)(20) of the Revised Code.

4713-11-07 Display of sign. Sections 4713.08(A)(1) and 4713.08(A)(20) of the Revised Code.

4713-11-09 Exhaust fumes from service areas. Sections 4709.05(E)(1), 4709.05(E)(6), 4713.08(A)(1), 4713.08(A)(15), and 4713.08(A)(20) of the Revised Code.

4713-11-11 Glamour photography services. Sections 4709.05(E)(6), 4713.08(A)(1), 4713.08(A)(7), and 4713.08(A)(20) of the Revised Code.

- 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)?**

Chapter 4713-11 of the Administrative Code addresses the standards and requirements for persons opening and operating a salon or barbershop in a safe and sanitary manner. 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.

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

The intent of proposing this package is to clarify, rescind unnecessary or redundant language, and to add the practice of barbering, where appropriate. The agency will

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measure its success through the monitoring compliance and understanding of these regulations. The changes being proposed do not substantially change these rules, except for the addition of barbering where appropriate.

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 Board placed these rules on its website, requesting input and comments from all interested parties. Additionally, notification of these proposed rule changes were emailed to all entities and person currently on our interested parties list, along with a response email addresses.

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 no comments on this specific rule package. The Board did, however, receive two comments from the same individual stating that cosmetology and barbering should have separate sections of the Administrative Code.

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. The proposed rescinded and new rules are meant to streamline the regulation in an effort to reduce unnecessary, redundant, or unclear provisions of the rule.

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?

None.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

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Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No.

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

The rules proposed are authorized under Chapters 4709 and 4713 of the Revised Code and do not duplicate any other existing rules. The rules proposed do not appear in any other part of the Ohio Revised Code or Ohio Administrative Code.

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.

These rules 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

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 proposed rules do not fundamentally change existing standards for cosmetologists or barbers, although the proposed rule language regarding chemical storage and exhaust/filtration systems are more explicit and clear than those currently in place for barbers. The rules (new, amended, or rescinded) should not present any unusual or unexpected cost of compliance. That being said, violation of these rules can result in the fines and/or other disciplinary action. Fines for violations of rules under Chapter 4713 are prescribed by law under section 4713.64 of the Revised Code. This statute prescribes the exact amount of the fine, which is dependent upon prior violations.

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Barbers may be fined pursuant to section 4709.14 of the Revised Code, which provides the Board with discretionary authority to impose a fine for a violation of Chapter 4709 of the Ohio Revised Code or rules promulgated thereunder. Violators may be fined up to \$500 for a first offense and \$1,000 for a second or subsequent offense. The Board has adopted Violation Guidance Matrixes for fine administration that consider the specific violation(s).

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

These rules are necessary to effectively regulate salons and barber shops licensed by the Board in order to maintain a safe and sanitary environment for the provision of services.

Regulatory Flexibility

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

No. All salons and barbershops are treated equally under these provisions.

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?

Violation of these rule are not paperwork violations.

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

These rules will be posted on the Board's website and the changes will be emailed to all known businesses with an email address on record. Board staff and inspectors will also be available to answer customer questions.

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