



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: State Cosmetology and Barber Board

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

Continuing education requirements.

Rule Number(s): 4713-21-03 (Amend)

Date of Submission for CSI Review: 01/14/2020

Public Comment Period End Date: 01/29/2020

Rule Type/Number of Rules:

☐ New/___ rules

☐ No Change/___ rules (FYR? ___)

☒ Amended/___1___ rules (FYR? _N_)

☐ Rescinded/___ rules (FYR?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.
X
- ☐ b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
X
- ☐ 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.

4713-21-03 (Amend) – This rule establishes continuing education requirements for Board licensees to maintain licensure. The rule is being amended to add in necessary language for barbers licensed under Chapter 4713 of the Revised Code and change the content requirements of CE hours. Specifically, the proposed amendments place a greater emphasis on continuing education involving safety and infection control and expand the available categories to include continuing education on personal wellness.

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.

4713-21-03: R.C. §§ 4709.05(E)(3), 4709.05(E)(6), 4713.08(A)(18), 4713.08(A)(20), 4713.09.

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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)?

The rule is necessary to ensure that Board licensees are up to date on the latest techniques and safety and infection control procedures in an effort to ensure that the public receives competent, safe, and sanitary services from Board licensees.

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 Board placed this rule on its website, requesting input and comments from all interested parties. Additionally, notification of the proposed rule change was emailed on October 3, 2019, to all entities and persons currently on our interested parties list, along with a response email address. Stakeholders were given until October 11, 2019, to submit their initial comments.

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

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The Board received one response on behalf of the Ohio Barber and Beauty Alliance regarding this rule. The response expressed support for the proposed amendments. Accordingly, this input did not affect the draft regulation.

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?

The Board did not employ scientific data to develop this rule. The rule is intended to ensure that all Board licensees are prepared to provide the safest and best possible service to the public.

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 any alternative regulations. Continuing education is crucial for licensees to stay up to date on techniques and infection control procedures.

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.

The rule is a performance-based regulation. It sets the amount of, and subject areas to be covered in, continuing education courses but leaves licensees free to select how they wish to comply with the requirements.

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.

The rules 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

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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.

- a) The impacted community includes all individuals licensed under Chapter 4709 and Chapter 4713 of the Revised Code.
- b) A violation of the rule may result in disciplinary actions, including potential fines. Compliance with the rule also requires each individual to expend time and money for the continuing education courses.
- c) Individuals who violate the rule may face disciplinary action, which ranges from a warning to a \$1,000 fine, based on the number of previous violations of the rule. The costs for completing the required continuing education will vary, depending on how an individual chooses to complete the continuing education, but the full eight hours may be completed for as little as \$25-\$30 per biennium. The time commitment of eight hours over a two-year period is also minimal. It is worth noting that the proposed amendments to the rule will not cause an increase in costs for Board licensees from the current rule language. Rather, the amendments change the allocation of continuing education hours while maintaining the same total hour requirement. The rule will also generate business opportunities for businesses in Ohio. Currently, Board licensees cannot receive credit for personal wellness courses. Providers will now be able to develop and offer courses in this area for Board licensees.

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

Continuing education is necessary to keep Board licensees up to date on the latest techniques and safety and infection control procedures in an effort to ensure that the public receives competent, safe, and sanitary services from Board licensees. The rule does this with minimal adverse impact to licensees while also creating business opportunities in Ohio.

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.

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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 this rule. The matrix permits an individual in violation of this rule to correct the issue(s) and receive a warning.

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

There are no special resources required to comply with this rule.