



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

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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 Clean-Up

Rule Number(s): 4713-21-02 (Amend), 4713-21-04 (Amend), 4713-21-08 (Amend)

Date of Submission for CSI Review: 06/02/2020

Public Comment Period End Date: 06/17/2020

**Rule Type/Number of Rules:**

☐ New/\_\_\_ rules

☐ No Change/\_\_\_ rules (FYR? \_\_)

☒ Amended/\_\_\_3\_\_\_ 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☐ Rescinded/\_\_\_ rules (FYR?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.  
X
- ☐ 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.*

4713-21-02 (Amend) – This rule provides continuing education definitions. It is being amended to clean up language that was not updated when the Board previously added continuing education requirements for barbers.

4713-21-04 (Amend) – This rule sets renewal requirements and processes relating to continuing education. It is being amended to clean up language that was not updated when the Board previously added continuing education requirements for barbers.

4713-21-08 (Amend) – This rule sets criteria and procedures for approving continuing education courses. It is being amended to clean up language that was not updated when the Board previously added continuing education requirements for barbers.

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.

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Rule 4713-3-02: R.C. §§ 4709.05(E)(3), 4713.08(A)(20), 4713.09.

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

Rule 4713-3-08: R.C. §§ 4709.05(E)(3), 4713.08(A)(20), 4713.09.

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 rules provide necessary clarity on continuing education responsibilities and course approvals. Continuing education 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 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 these rules on its website, requesting input and comments from all interested parties. Additionally, notification of the proposed rule changes was emailed

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on March 2, 2020, to all entities and persons currently on our interested parties list, along with a response email address. Stakeholders were given until March 8, 2020, 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?

The Board received one set of comments on these rules submitted by the Ohio Barber and Beauty Alliance. The comments supported the adoption of rule 4713-21-04, as presented, but questioned on the other two rules as to whether the Board has the authority to implement a CE requirement for barbers under statute. This input did not affect the draft regulations. Specific statutory authority to implement a CE requirement for barbers is found in R.C. 4709.05(E)(3), and this requirement has already been implemented in Ohio Adm.Code 4713-21-03. The proposed amendments simply clean-up additional rule language that was missed at that time.

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?

Scientific data was not used to develop either rule. These rules provide clarity for licensees and CE providers on obligations and requirements.

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. Continuing education is crucial for licensees to stay up to date on techniques and infection control procedures. These rules clarify how licensees and providers meet CE requirements.

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.*

These rules primarily address application procedures and requirements, and, therefore, cannot be performance-based.

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.

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**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**
- 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.*

**4713-21-02**

- a) The impacted community includes all individuals licensed or registered with the Board who are required to complete continuing education, and individuals and businesses seeking to provide continuing education courses.**
- b) This rule provides definitions. There is no adverse impact.**
- c) This rule provides definitions. There is no adverse impact.**

**4713-21-04**

- a) The impacted community includes all individuals licensed or registered with the Board who are required to complete continuing education.**
- b) The adverse impacts are the time and report of information needed to complete an application to restore an expired license the potential for disciplinary action if an individual fails to comply with the rule’s audit provisions.**
- c) The required time and report of information to complete a restoration application is minimal. Individuals who fail to comply with the audit provisions may face fines ranging from \$250.00 to \$1,000.00, based on the number of prior violations, and possible license suspension or revocation.**

**4713-21-08**

- a) The impacted community includes individuals and businesses seeking to provide continuing education courses.**

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- b) The adverse impacts on the time and report of information needed to apply for CE course approval and the fees required for processing the application.
- c) The required time and report of information to complete the application is minimal, especially since the course can be offered repeatedly over the course of the biennial licensing period, once approved. Application fees range from \$100.00 to \$250.00, depending on the type of course, for a two-year approval period.

**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. These rules do this with minimal adverse impact to licensees while also creating business opportunities in Ohio for CE providers.

#### **Regulatory Flexibility**

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

These rules apply 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 rule 4713-21-04. 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 these rules.