



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

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

Rule Contact Name and Contact Information:

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

4713-21

Rule Number(s): 4713-21-02, 4713-21-03, 4713-21-04, 4713-21-05, 4713-21-06, 4713-21-07, 4713-21-08

Date of Submission for CSI Review: January 5, 2022

Public Comment Period End Date: January 12, 2022

Rule Type/Number of Rules:

New/ rules

No Change/ 6 rules (FYR? Y)

Amended/ 1 rules (FYR? Y)

Rescinded/ rules (FYR?)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

4713-21-02: Is a definitions section for terms used throughout the chapter.

4713-21-03: Addresses continuing education requirements. The rule is being amended to remove an outdated exemption that expired in 2020.

4713-21-04: Addresses license and boutique services registration renewal procedures.

4713-21-05: Addresses the continuing education extension program.

4713-21-06: Details the procedures for applying for inactive licensure status and temporary permits.

4713-21-07: Details the procedures for continuing education notification requirements.

4713-21-08: Details the procedures and criteria for continuing education course approval.

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.**

The Board is permitted to create rules under R.C. 4713.08 and R.C. 4709.05.

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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.**

N/A

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)?**

Chapter 4713-21 of the Administrative Code addresses continuing education requirements. Continuing education is necessary to ensure that all service providers are up-to-date on all of the latest developments in the industry and serves as the best way to ensure safety to the public.

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

The Board reviews compliance with these rules through the inspection process. Success will be determined by compliance with the requirements established, and through staff 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 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 Barbering and Cosmetology regulated by the Board.

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

We received no comments from the public prior to the submission of these rules.

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?

No scientific data was used when accessing these rules.

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 because the proposed amendments are administrative in nature.

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.*

No.

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.

This rule 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.**

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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.

While all licensees and registration holders are required to participate in continuing education, any fees associated with these programs would be determined and collected by continuing education providers. Thus, this cost cannot be quantified because of the varying costs of the courses, and the licensee’s and boutique registrant’s flexibility in choosing which courses to take. These continuing education courses are necessary to ensure that all licensees and registrants are aware of changes in the industry to ensure the best service may be provided and maintain safety for those to whom they render their services.

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

Any adverse impact based on the cost of the continuing education course is justified by the need to ensure that individuals providing services to the public are up-to-date on their training. The requirement that licensees and boutique registrants complete specific amounts of continuing education is also mandated by statute.

Regulatory Flexibility

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

These rules are regulatory in nature and therefore there is no exemptions or alternative means of compliance for small businesses. To ensure the efficacy of the rules, they must apply to all businesses equally.

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?

No changes will be made from the pre-existing violation matrix. The Board will apply its violation guidance matrix if an individual receives notice of a violation of the rules

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

The Board will not provide additional assistance or resources to ensure compliance.