

**MEMORANDUM**

**TO:** Jim Trakas, The Ohio State Board of Cosmetology

**FROM:** Meredith Rockwell

**DATE:** June 18, 2013

**RE:** **CSI Review – School Administration (OAC Chapter 4713-5)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

The Ohio State Board of Cosmetology submitted a rule package to the CSI Office for review consisting of 27 rules that comprise Chapter 4713-03 of the Ohio Administrative Code (OAC). All 27 are being reviewed under the five-year rule review requirement found in ORC 119.032. Three of the rules are being rescinded, two of the rules are new, one has no changes, and the remaining 21 rules are amended. The rules generally elaborate on the required curriculum for cosmetology students, including training for instructors, grading students, treating students who decide to withdraw from school, and readmitting withdrawn students. The rules exist to guarantee students are properly trained so that they may pass the examination, which produces licensees who will protect the public by having sufficient practical skills and knowledge of sanitation.

The package was initially submitted to the CSI Office in late November 2012, and comments were due by December 1, 2012. Due to the extensive nature of the changes, the Board and the CSI Office engaged in ongoing discussions, and ultimately the Board made additional changes to the rules and BIA. The revised versions were submitted to the CSI Office on January 8, 2013. Further revisions were necessary, so the Board updated the rules and BIA again for a final submission on April 29, 2013. Subsequent to this, the Board notified the CSI Office of an additional change to the rules. Specifically, the Board decided that it was necessary to amend 4713-5-25(A)(1) further to

stop the misuse of temporary work permits, explaining that some people were using the existing temporary permit as a long-term option, and some were using it as a way to practice without passing the licensure examination.

The CSI Office received two comments on this rule package, which were addressed by the Board during the revisions discussed above. The comments no longer apply to the final version of the rules. During stakeholder outreach conducted by the Board, stakeholders were supportive of the draft rules. It appears that most of the suggestions made by stakeholders were incorporated by the Board. Only one comment concerning the abolishment of credit hour programs was rejected, but with further discussions with the Board, the stakeholders making that complaint agreed with the Board's decision.

While the Board has not tracked specific statistics in the past, going forward violations of these rules will be tracked. Additionally, data on internet-based education will be collected and analyzed to see if expanded online education will be permitted in the future. Furthermore, the majority of Ohio cosmetology schools are accredited by the National Accrediting Commission of Career Arts and Sciences (NACCAS), which has more stringent standards than the Board requirements. Compliance with the rules for those accredited schools creates little impact beyond the accreditation process.

The BIA explains that the businesses impacted by this rule package are future cosmetology licensees and cosmetology schools. The adverse impacts created by these rules are numerous, but can generally be categorized as record-keeping requirements, maintaining sanitary facilities, and following coursework requirements. An in-depth look at the adverse impacts was provided in a chart submitted with the final draft rules and BIA. The Board states violations may result in fines, but the Board often charges only the repeat or serious first-time violations. Most first-time violations are only given written warnings. The Board feels the impacts are justified, because they provide for uniform minimum education of cosmetology students, thereby protecting the health and safety of the public.

As the rules were appropriately revised during the CSI process, the BIA and addendums accurately reflect and justify the adverse impacts to business, and no public comments were received, the CSI Office has no further recommendations for this rule package.

In November 2012, the Cosmetology Board submitted rule packages to the CSI Office for review consisting of eleven Administrative Code chapters, which represents all or nearly all of the Board's rules. Most of these rules were overdue for the five-year reviews required by ORC 119.032. This comprehensive review proved to be a daunting challenge, and resulted in incomplete and incorrect submissions, multiple revisions to both the rules and BIAs, and inadequate justifications for a number of adverse business impacts. As a result, since that time, the Board staff and CSI Office

have been in frequent discussion about the rules and the changes required for approval.

Given the need to move forward with the completion of the five-year reviews, we will recommend the Board proceed with filing the rules with the Joint Committee on Agency Rule Review. It is the intention of the CSI Office to remain engaged with the Board to further evaluate the rules and seek the appropriate balance based on the Board's role in protecting the public. Moreover, we encourage the Board to establish staggered review dates for future five-year reviews, to ensure that each chapter receives the scrutiny and attention it deserves.

### **Recommendations**

For the reasons stated above, the CSI Office has no recommendations for this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Board should proceed with the formal filing of this package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Director of Regulatory Policy