

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: State Cosmetology and Barber Board

Regulation/Package Title: Chapter 4713-1 COS/BRB Revision

Rule Number(s): 4713-1-01, 4713-1-02, 4713-1-05, 4713-1-09, 4713-1-10, 4713-1-11 (R), 4713-1-11 (N), 4713-1-12, 4713-1-13, 4713-1-14.

Date: \_\_\_\_\_

**Rule Type:**

New

5-Year Review

Amended

Rescinded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.*

**4713-1-01 Definitions.** This rule defines words and terms used in Chapter 4713 of the Administrative Code.

**4713-1-02 Appointing authority.** This rule establishes the Executive Director of the Board as the Appointing Authority and Chief Administrator for the Board pursuant to the Board's delegation authority.

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**4713-1-05 Sunshine rule.** This rule establishes the Board requirements for holding regular and special business meeting, providing notice of meetings, and obtaining notification of meetings in compliance with Chapter 121 of the Ohio Revised Code. Additionally, this rule addresses the process and procedure for obtain public records created and maintained by the Board during the ordinary course of business.

**4713-1-09 Animals forbidden in salons, barber shops, tanning facilities, schools, and in the board.** This rule combines provisions of existing rule 4709-7-12 of the Administrative Code with existing rule 4713-1-09 of the Administrative Code to create a revised rule that defines prohibition of animals in these facilities. The rule also provides for a waiver of this prohibition under specified requirements.

**NOTE:** Proposed language for Rule 4713-1-09 requires insurance as a condition of compliance. The Board, in accordance with R.C. 121.82, has determined that the required insurance, a general liability policy, is widely available, and the fully does not require a specific amount as a condition of compliance.

**4713-1-10 Inspections and Investigation.** This rule adds barber shops and barbering under Chapter 4709 of the Revised Code to create a single rule on handling inspections and investigations under both Chapters of the Revised Code.

**4713-1-11 Change of status or ownership.** The Board intends to rescind the current 4713-1-11, and replace it with a new rule that will replace current rules 4709-7-07, 4713-1-11, and 4713-13-01 of the Administrative Code. The rule is being updated to include all references to barber licensing and to consolidate all existing rules on a specific issue into a single rule. Current rules 4709-7-07 and 4713-1-11, and 4713-13-01 of the Administrative Code are being proposed to be rescinded.

**4713-1-12 Signs.** This rule requires licensed salons, barber shops, schools, and tanning facilities to have a sign that states the name of the business. New language has been added to address sign and barber pole requirements for barber shops licensed under Chapter 4709 of the Revised Code.

**4713-1-13 State cosmetology and barber board policy concerning access to confidential personal information.** This rule sets forth the Board's policies and procedures regarding employee access to confidential personal information maintained by the Board, as required by section 1347.15(B) of the Revised Code.

**4713-1-14 Trafficking education.** This rule sets forth the Board's requirements for human trafficking training and the display of posters prepared by the department of public safety regarding human trafficking.

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

**4713-1-02 Appointing authority. Sections 4713.08(A)(20) and 4713.06 of the Revised Code.**

**4713-1-05 Sunshine rule. Section 4713.08(A)(20) of the Revised Code.**

**4713-1-09 Animals forbidden in salons, barber shops, tanning facilities, schools, and in the board. Sections 4713.08(A)(15), 4713.08(A)(17), and 4709.05(E)(1) of the Revised Code.**

**4713-1-10 Inspections and Investigation. Sections 4713.07(A)(11), 4713.08(A)(1), and 4709.05(H) of the Revised Code.**

**4713-1-11 Change of status or ownership. Sections 4709.05(E)(6), 4713.08(A)(1), and 4713.08(A)(20) of the Revised Code.**

**4713-1-12 Signs. Sections 4709.05(E)(6) and 4713.07(A)(20) of the Revised Code.**

**4713-1-13 State cosmetology and barber board policy concerning access to confidential personal information. Section 1347.15(B) of the Revised Code.**

**4713-1-14 Trafficking education. Sections 4713.08(A)(20), 4713.09, and 4743.07 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.**

**Not applicable.**

**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)?**

**4713-1-02 Appointing authority. This rule is needed to establish that the Board Executive Director will serve as the Board's Appointing Authority.**

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**4713-1-10 Inspections and Investigation.** This rule adds barber shops and barbering under Chapter 4709 of the Revised Code to create a single rule on handling inspections and investigations under both Chapters of the Revised Code.

**4713-1-11 Change of status or ownership.** This is a new rule, which replaces current rules 4709-7-07 and 4713-1-11, and 4713-13-01 of the Administrative Code. The rule is being updated to include all references to barber licensing and to consolidate all existing rules into a single rule. The purpose of the rule is to require licensees to update the board on statuses or whereabouts that may impact the ability of the board to license, inform, or communicate effectively.

**4713-1-12 Signs.** This rule requires licensed salons, barber shops, schools, and tanning facilities to have a sign that states the name of the business. New language has been added to address sign and barber pole requirements for barber shops licensed under Chapter 4709 of the Revised Code.

**4713-1-13 Board of cosmetology policy concerning access to confidential personal information.** This rule is required under section 1347.15 of the Ohio Revised Code to define, describe, and limit access to personal confidential information collected and maintained by the Board. This rule describes the access limits by position description for persons working for the Board and the agency's responsibilities and response in the event of invalid access to PII. The rule is being amended to change the title to match the new name of the agency and reference to Chapter 4709, as needed.

**4713-1-14 Trafficking education.** This rule requires persons licensed by the Board to complete human trafficking training. The rule is being amended to add this requirement for persons licensed under Chapter 4709 of the Revised Code.

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

The Board's purpose for amending these rules is to streamline the administrative rules for persons and businesses licensed under Chapters 4709 and 4713 of the Revised Code. Many of the rules in Chapters 4709 and 4713 of the Administrative Code are redundant, duplicative of existing Revised Code, or address similar subject matter. By moving specific requirements under Chapter 4709 of the Administrative Code or updating provisions of Chapter 4713 of the Administrative Code to address requirements under Chapter 4709 of the Administrative Code or reducing rules to a single rule that references both Chapters 4709 and 4713 of the Revised Code, the Board reduces its paperwork, costs of maintenance, and streamlines the administration of these regulations. The agency will measure success by the application of the amendments and the response of staff/licensees to the amendments. Currently the Board is administering two similar, but different standards under Chapters 4709 and 4713 of the Administrative Code, which is neither efficient nor cost effective.

#### **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, these notification of these rules be posted, along with a response email addresses, was provided to all entities and person currently on our interested parties list.

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

The Board did not receive any input from stakeholders for the rules in this package.

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 rules amended in this group are related to the streamlining of regulations between existing Chapter 4709

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and Chapter 4713 rules in an effort to reduce unnecessary or redundant rules and combine similar rules or provisions of rules.

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?

The rules amended in this group represents the alternative to leaving Chapter 4709 of the Administrative Code intact. The current structure that requires the Board to manage two separate Chapters of the Administrative Code with duplicate or different rules that address similar requirement is not efficient or practical. One option could be drafting all similar, required, or necessary rule in both Chapters 4709 and 4713 of the Administrative Code, but this represents an unnecessary administrative burden to the agency, which would need to monitor and periodically file double the number of rules being proposed through this filing.

11. 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.*

Yes, in a number of rules, the Board removed unnecessary specificity that did not contribute to better oversight or regulation.

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

The proposed streamlining of Chapters 4709 and 4713 of the Administrative Code into a single chapter of the Administrative Code that addresses both Chapters 4709 and 4713 of the Revised Code is intended to ensure there is no duplication of existing regulations.

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.

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## **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.*

These are largely administrative in nature, and the most of the rules represented in this group do not have an impact on the regulated community. Four rules, do have some potential adverse impact. Rule 4713-1-09 requires businesses that wish to have an animal in the business while services are being rendered to maintain a general liability insurance policy covering the animal, submit a photograph of the animal, and keep the animal away from the immediate where services are being performed. Rule 4713-1-11 requires licensees who undergo a change of status to notify the board of changes, and in some situations, to submit a new application, along with statutory fees, for a business license. Rule 4713-1-12 requires licensees to post signage outside of business locations, but the revised language does not change any existing regulation. Finally, Rule 4713-1-14 requires individuals to complete human trafficking training in order to obtain or maintain licensure.

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

**4713-1-09:** The requirements proposed in rule 4713-1-09 are justified as it protects those who seek services in the business that may be exposed to or injured by animals permitted in the business. In addition, the rule only affects individuals who choose to have an animal in the licensed facility, and actually extends such an opportunity to licensees under 4713, who were previously prohibited, without exemption, from having animals in a salon. Further, for licensees 4709, the proposed rule removes a dollar amount requirement from the specified insurance amount in their exiting rule, leaving this up to the business owner.

**4713-1-11:** The requirements for notification of changes in status are necessary for the Board to communicate with licensees. The requirements to obtain new business licenses for businesses that undergo significant business changes are set by statute (R.C. 4709.09, 4709.12, 4713.10), and the proposed rule language does not alter the statutory obligations.

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**4713-1-12: The requirements for signage for licensees under Chapter 4709 of the Revised Code is set by statute (R.C. 4709.13(A)(7)). The requirements for signage for licensees under Chapter 4713 of the Revised Code is necessary to ensure that the public and Board staff can identify Board-licensed business, and so the Board inspectors can complete the inspections required under R.C. sections 4709.07, 4713.641, and 4713.66.**

**4713-1-14: The requirement that individual licensees complete human trafficking training is necessary to protect the public and vulnerable individuals, and is in compliance with the guidance of the Ohio General Assembly set forth in R.C. 4743.07.**

### **Regulatory Flexibility**

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

**No, the rules in this packet do not differentiate among businesses and the regulations would apply equally.**

**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?**

**The Board uses a violation guidance document that is approved by the Board, taking into consideration the criticality and severity of a violation as it may relate to licensing or public safety. This guidance matrix, which is applied equally to all licensees, provides for warning notices for a number of first-time violations, including paperwork violations.**

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

**There are no special resources required to comply with these rules.**