

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: State Cosmetology and Barber Board

Regulation/Package Title: Chapter 4713-5 COS/BRB Revision

Rule Number(s): 4713-5-01, 4713-5-02, 4713-5-03, 4713-5-04, 4713-5-06, 4713-5-08, 4713-5-09, 4713-5-10, 4713-5-11, 4713-5-13, 4713-5-15, 4713-5-17, 4713-5-21, 4713-5-22, 4713-5-24, and 4713-5-27

Date: _____

Rule Type:

New

Amended

5-Year Review

Rescinded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.

4713-5-01 Definitions. Chapter 4713-5 of the Administrative Code addresses the administration rules for cosmetology and branches of cosmetology schools. Rule 4713-5-

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01 of the Administrative Code contains a list of words/terms used in Chapter 4713-5 of the Administrative Code and the definition of those terms. The Board is amending this rule to define words/terms used in proposed amendments addressing barbering education.

4713-5-02 Program requirements. This rule addresses requirements of cosmetology and branches of cosmetology programs offering cosmetology or branch of cosmetology education. The Board is amending this rule to update language and add program requirements specific to barber schools.

4713-5-03 Required course curriculum. This rule addresses course curriculum requirements for career technical and proprietary schools of cosmetology and branches of cosmetology. The Board is amending this rule to update language, add specific curriculum hours for esthetic programs and hour equivalence for academic courses taken in a career technical program. Additionally, the rule is being amended to add program requirements specific to barber schools.

4713-5-04 Proprietary schools. This rule addresses proprietary school program authority to conduct both day and night courses and identifying adult education programs as proprietary programs. The Board is amending this rule to update language so that the provisions are applicable to barber programs.

4713-5-06 Hours awarded. This rule addresses the awarding of education hours for cosmetology and branches of cosmetology programs. The Board is amending this rule to update language for barber schools.

4713-5-08 School rules. This rule requires licensed schools to file a copy of their school rules with the Board. The Board is amending this rule to update language so that the provisions are applicable to barber programs.

4713-5-09 Enrollment procedure. This rule requires schools to submit enrollments to the Board via email within thirty days of the enrollment date. Additionally, this rule requires schools to advise students of provision of federal law that may impact eligibility to test in Ohio. The Board is amending this rule to add language applicable to barber programs.

4713-5-10 Records and reports. This rule establishes the school records and reports that must be created, maintained, and/or provided to the Board. The Board is amending this rule to add language requiring the program to provide students with a monthly report of student hours.

4713-5-11 Final training records. This rule addressed requirements to complete a final training record for each student and what must be included on the final training record, which must be certified and forwarded to the Board. The rule also addresses school

notice and records requirements in the event of closure. The Board is amending this rule to update language so that the provisions are applicable to barber programs.

4713-5-13 Transfer procedure. This rule creates a process for transferring students and student records to another school in the event of a request to transfer is received from a student. The rule is being amended to make the requirements applicable to both cosmetology and barber schools.

4713-5-15 Treatment of student withdrawing from school. This rule creates a process for addressing students that withdraw from a program. The rule is being amended to add language that the provisions would also encompass students that are terminated from the program.

4713-5-17 Licensed instructors on premises. This rule establishes requirements that schools must have instructors on duty to teach cosmetology courses and the student/teacher ratio required. Additionally, the rule creates requirements when a school can address theory-based education while overseeing clinical instruction. The rule is being amended to add provisions specific the student/teacher ratio for barber education and the minimum teachers required for a school to operate.

4713-5-21 Instructor limitations. This rule creates limitations for instructors, including limits on providing services on members of the public in a licensed school, limits provision of instruction to only areas in which the instructor is licensed, limits on assignments to other duties in a career technical school, and requiring an apprentice instructor for cosmetology schools. The rule is being amended to make most requirements applicable to barber schools and to add teacher/assistant barber teacher ratios.

4713-5-22 Charges for service and student compensation. This rule stipulates that students cannot be paid for services provided to the public or another student. Additionally, the rule establishes that the program can charge for services rendered in the clinic area. The rule is being amended to make most requirements applicable to barber schools.

4713-5-24 Expiration of hours. This rule establishes time limits on the retention of education hours earned. The rule is being amended to add provisions specific to the retention of barber education hours under Section 4709.07 of the Revised Code.

4713-5-27 Infection control. This rule requires schools to follow infection control standards under Chapter 4713 of the Revised Code and Chapter 4713-15 of the Administrative Code. The rule is being amended to make the requirements applicable to barber schools.

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

4713-5-01 Definitions. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-02 Program requirements. Sections 4713.08 (A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-03 Required course curriculum. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code

4713-5-04 Proprietary schools. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code

4713-5-06 Hours awarded. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-08 School rules. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-09 Enrollment procedure. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-10 Records and reports. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-11 Final training records. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-13 Transfer procedure. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-15 Treatment of student withdrawing from school. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-17 Licensed instructors on premises. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-21 Instructor limitations. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-22 Charges for service and student compensation. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-24 Expiration of hours. Sections 4713.08(A)(13), 4713.08(A)(20), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

4713-5-27 Infection control. Sections 4713.08(A)(13), 4713.08(A)(15), 4713.08(A)(20), 4709.05(E)(1), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code.

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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)?

The rules contained in this packet are in response to provisions under 4713.08(A)(13), 4709.05(E)(4), and 4709.05(E)(5) of the Revised Code, which requires the Board to adopt rules regulating the provision of education in the practices of cosmetology, branches of cosmetology, and barbering. The rules drafted provide a set of minimum standards for administering education in cosmetology and barber programs. In the absence of these standards, there would be no established guidelines or measures of consistency to administer these schools.

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

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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 received two comments regarding specific rules and two comments of miscellaneous nature that could not be directed toward the proposed rule amendments, rescissions, or new rules.

The two comments filed addressed proposed rescission of rules 4709-3-03 and 4709-5-06 of the Administrative Code. Regarding rule 4709-3-03, which addresses teaching staff for barber education and, in particular, the qualifications for a teacher license, he rule is redundant of existing Section 4709.10 of the Revised Code. Any non-redundant requirements were transferred to amended rule 4713-5-17. Additionally, persons commented that the Board should require a 500 hour barber teacher training program. The Ohio State Barber Board required persons that sought a barber teacher license to obtain 500 hours of teacher training in a licensed barber school. This requirement was not codified, but rather a policy requirement of the prior Board. Under paragraph (C)(1)(2) of section 4709.10 of the Revised Code, the Board can adopt other requirement by rule for persons seeking a barber teacher license. In response to the comments received, the Board proposed to add language to rule 4713-5-03 of the Administrative Code to adopt and codify the 500-hour training requirement. Additionally, the Board

proposed to create new rule 4713-7-12 to identify the hours and curriculum requirements for schools offer this program.

Regarding comments addressing the proposed rescission of rule 4709-5-06 of the Administrative Code, both comments suggested that the Board should continue the practice of having persons completing a barber examination list the titles of rules regulating the practice of barbering. This practice was discontinued after the merger for two reasons: (1) listing the titles of rules did not provide any indication of competency or return knowledge of the content of the rules, and (2) this portion of the prior examination was not graded.

The Board is proposing that we add content based questions to the barber licensing examination that addressed laws and rules content. This is a practical solution to the comments provided and actually tests knowledge of the laws and rule, not just ability to retain the titles of the rules.

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 and Chapter 4713 rules in an effort to reduce, unnecessary, redundant, or 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, similar, 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.*

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Yes, in a number of rules, the Board removed unnecessary specificity that did not contribute to better oversight or regulation. For example, existing rule 4709-3-06 requires students to complete a combination of at least eight hundred haircuts and shaves. This provision was removed when drafting proposed 4713-5-11 and replaced with broader language that will permit a school to detail education to best meet the competency requirements of the student, not impose an artificial requirement that specifies each student must provide a specific number and type of service.

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. Additionally, the Board may consider staggered implementation dates for changes where schools may require time to meet the standards.

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 rules will impact cosmetology and barber schools. Cosmetology and branch of cosmetology schools already meet the standards addressed in these rules. Barber schools, based on a review of current practices and rules adopted, meet or already incorporate most of these provisions. The Board does not anticipate there will an expected negative impact for any provisions not currently addressed in Barber rules, as the provisions or requirements should be readily available or already addressed in the ordinary course of business.

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

These rules combine the standards and requirements to operate a school, either cosmetology or barbering, into a single Chapter of the Administrative Code. In so doing, the standards are uniform, and compliance expectations for all schools is equivalent. In addition, such regulation is necessary to ensure that the public is being served in a safe and effective manner by students who become licensed after their training.

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 business 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.