

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio State Board of Cosmetology

Regulation/Package Title: Chapter-5 11-2015

Rule Number(s): 4713-3-01, 4713-3-02, 4713-3-03, 4713-3-06 (rescind), 4713-3-08, 4713-3-09 (rescind), 4713-3-11, and 4713-3-12

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Rescinded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.

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OAC 4713-3-01 Opening school package. OAC rule 4713-3-01 addresses the reportable requirements for new schools of cosmetology or branches of cosmetology. A new applicant shall be required to create a packet of information as part of the opening application submission. The rule is being amended to revise the surety bond maintenance requirements. Currently the Board solicits an annual filing of the surety bond for each school. The revised language would require an initial filing, but then shift the responsibility of maintenance to the school records custodian.

OAC 4713-3-02 Floor plan requirements for schools and OAC 4713-3-03 School layout. These two rules address the physical design requirements for a school being licensed under ORC 4713. The rules are not being amended and are being filed as 5-year review, no change rules.

OAC 4713-3-06 Training records and student review. The Board is recommending that this rule be rescinded. The rule address student training records. In an effort to consolidate rules and reorganize the rules, the Board is moving substantive language to OAC 4713-5-11.

OAC 4713-3-08 Final licensure. This rule requires a salon undergo a an opening inspection and obtain approval prior to being issued a license. The agency proposes amending the rule by adding a requirement that the license issued is only valid for the location listed on the application and it is not transferable to another location.

OAC 4713-3-09 School transfers, change of ownership or discontinuance of operation. The board is proposing to rescind this rule. Substantive provisions are being moved to proposed new rule 4713-5-14.

OAC 4713-3-11 Cancellation, settlement, and refund. The board is proposing to rescind paragraph (D) of this rule. Substantive provisions are being moved to proposed new rule 4713-5-14.

OAC 4713-3-12 School catalogue and handbook requirements. This rule establishes the requirements of handbooks developed by schools for student use. The agency proposes amended the rule by adding new paragraph (U), which would require the school to have a policy in the handbook addressing internal procedures for processing complaints filed by students and internal procedures on instructions for students to file complaints with the board.

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

The following rules are authorized under ORC 4713.08 (A)(13).

OAC 4713-3-01 Opening school package.

OAC 4713-3-02 Floor plan requirements for schools

OAC 4713-3-03 School layout.

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OAC 4713-3-06 Training records and student review.

OAC 4713-3-08 Final licensure.

OAC 4713-3-09 School transfers, change of ownership or discontinuance of operation.

OAC 4713-3-11 Cancellation, settlement, and refund.

OAC 4713-3-12 School catalogue and handbook requirements.

- 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.**

N/A.

- 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)?**

These rules establish the standards for the approval of schools seeking to offer training in cosmetology or branches of cosmetology.

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

Success is usually determined by stakeholders that must comply with the rules to be initially approved as an educational program in cosmetology or branches of cosmetology. Opening inspection would normally reveal discrepancies between reported and actual compliance with standards. The measure would be an approved opening inspection.

### **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.*

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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 Cosmetology regulated by the Board.

**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 three comments concerning rules 4713-3-03, 4713-3-06, and 4713-3-09. Comments on proposed rules 4713-3-06 and 4713-3-09 stated the rules should state, “rescinded.” The application of the rescinded stamp occurs at the time the rules are filed. The rule provided to the stakeholder contained the full “struck out” text for each rule, which the Board determined sufficiently notified the stakeholder of our intent to rescind the rule. On proposed rule 4713-3-03 a stakeholder inquired why paragraph (F)(4) required an addition facial area or room to have a sink with hot and cold running water within 40 feet of the space. The stakeholder argued, why not “10” feet or “50” feet, stating the forty foot requirement was arbitrary. The Board did not adopt any change to the rule. The stakeholder did not offer an alternative and the requirement of the rule takes into consideration a reasonable safe distance that would not create unnecessary expense or an unsafe environment for clients receiving facial services.

**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?**

These rules establish the standards for the approval of schools seeking to offer training in cosmetology or branches of cosmetology. Scientific data was not used in the development of the rule or in establishing measurable outcome, although aspects of these rules do address measurable or qualified requirements to create a minimum safe, effective, and productive environment for learning.

**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 Board did not address such alternatives in these rules, as the purpose is establishing specific minimum requirements for applicants seeking to offer education to create a safe, effective, and productive learning environment for students.

**11. Did the Agency specifically consider a performance-based regulation? Please explain.**

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*Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

In general, these rules are not performance-based rules. The rules establish specific requirements for the operation of schools offering education in cosmetology or branches of cosmetology.

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

The Ohio State Board of Cosmetology reviewed existing rules and finds no duplication exists in the definitions being added to this rule; however, this rule is required under the revised code 4713.08.

**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.**

This rule will be placed on the agency's website and sent to a list-serve for distribution to all licensees, in advance of the effective date. Forms will also be updated to reflect any changes addressed in this regulation.

**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.*

The amendments or rescissions being proposed in these rules are primary being designed to reduce unnecessary language, consolidate rules, and reorganize the rules. Meeting the minimum standards to open and maintain the ongoing school program under these rules is a financial burden borne by the applicant. It must be stated; however, that a certain investment

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is expected in opening a business. The rules attempt to address the minimum standards needed to open and run an educational program, taking into consideration the Board's primary concern, which is the establishment of a genuine environment that is safe, effective, and productive for learning. The costs of meeting these requirements are very difficult to quantify. Each school will vary in size and scope of education offered.

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

The requirements exist to create a positive impact on the learning environment, wherein the customer for services are students that either privately pay for their education or obtain appropriate loans for their education.

**Regulatory Flexibility**

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

No, not in this rule. These rules establish consistent standards for any business seeking to provide education in cosmetology or branches of cosmetology.

**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 has adopted standard violation guidance for all standards required. These guidelines take into consideration first-time offense of the nature defined and provide for warnings in many instances.

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

The Board conducts an opening school inspection prior to issuing a school license. This inspection provides applicants with an opportunity to address deficiencies prior to accepting students into the program.