

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio State Board of Cosmetology

Regulation/Package Title: Chapter 4713-1

Rule Number(s): 4713-1-03 (Amended), 4713-1-08 (Amended), 4713-1-09 (Amended),  
4713-1-10 (Amended), 4713-1-11 (Amended), 4713-1-13 (Amended), 4713-1-14  
(Amended), 4713-1-15 (New)

Date: 08/22/2016

**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Rescinded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.*

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**Rule 4713-1-03 (Amended)** identifies the applicability and scope of the rules promulgated under section 4713.08 of the Revised Code. The only amendment made to the existing rule was the addition of the phrase “any person holding a boutique services registration” to (A). This was done to comply with the provisions of Am. Sub. S.B. 213.

**Rule 4713-1-08 (Amended)** indicates that chemicals, equipment, and implements used in the provision of cosmetology services are subject to Board approval. The only amendment made to the existing rule was the addition of the phrase “boutique services registration holders”. This was done to comply with the provisions of Am. Sub. S.B. 213.

**Rule 4713-1-09 (Amended)** prohibits animals from locations regulated by the Board, and explains the conditions for permitting service animals in these locations. The only amendment made to the existing rule was the addition of the language “boutique services registration holder, or student” to (B). This was done to comply with the provisions of Am. Sub. S.B. 213, and to ensure that consistent application of the rule to students providing cosmetology services.

**Rule 4713-1-10 (Amended)** provides the guidelines for conducting inspections to ensure compliance with the laws and rules governing cosmetology, and for investigating complaints regarding possible violations of the laws and rules. The rule contains the following proposed amendments to the current rule:

- The phrases “boutique services registration”, “boutique services registration holder”, or “boutique services registration holders” were added to items (A)(2), (A)(3), (B), (B)(1)(a), (F)(2), and (G)(2). This was done to comply with the provisions of Am. Sub. S.B. 213.
- The word “investigator” was removed from items (B)(4), (B)(5), (C), (D), (D)(1), (D)(2), and (D)(6). The word was unnecessary since all investigations and inspections are handled by the Board’s inspectors.
- (A)(2) was split into (A)(2) and (A)(3). This was done to provide clarity to the reader.
- The language “No salon or tanning facility” was replaced by “Salons, schools, and tanning facilities”, and the language “more than once a year” was replaced by “at least once every two years” in (B)(1). This was done to comply with the provisions of Am. Sub. S.B. 213. The language “except for a salon in which violation are found during an inspection” was also removed since it was unnecessary due to the changes.
- The word “may” was changed to “shall”, the word “a” was added, and the phrase “inspections on the licensee” was replaced with “inspection” in (B)(1)(a). These changes were necessary to comply with the provisions of Am. Sub. S.B. 213.
- (B)(1)(b) was removed as unnecessary.

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- The word “school” was added to (B)(2) and (D)(5), and the language “schools, and facilities” was added to (B)(3). This was done to comply with the provisions of Am. Sub. S.B. 213.
- The phrase “service permit” was removed from (D) and replaced with “event salon license”. This was done to comply with the provisions of Am. Sub. S.B. 213 and to reflect a new proposed rule.
- The language “or electronically mailed to”, the word “physically sign or electronically sign” were added to (D)(4), along with, “Inspection reports that are electronically mailed shall be mailed to the electronic mailing address of record.” These additions were made to provide additional service options.
- The phrase “or school director” was added to (F)(2), and the phrase “permit holder” was moved up in the sentence. This was done to comply with the provisions of Am. Sub. S.B. 213 and to provide clarity for the reader.
- The word “persons” was replaced with “individuals”, the sentence was reworded for clarity purposes. The use of “individuals” matches the language of Am. Sub. S.B. 213.

**Rule 4713-1-11 (Amended)** directs licensees, permit holders, and boutique registrants as to when they need to notify the Board of status and name changes. The phrase “boutique services registration” was added to (A) and (A)(1), and the word “exam” was replaced by “examination application” for clarity. The addition of “boutique services registration” was done to comply with the provisions of Am. Sub. S.B. 213.

**Rule 4713-1-13 (Amended)** provides the Board’s policy on access to confidential personal information, as required by section 1347.15 of the Revised Code. The phrases “boutique services registration holders”, “boutique services registration”, or “boutique services registrations” were added to (E), (E)(2), (E)(3), (E)(4), and (E)(6) to comply with the provisions of Am. Sub. S.B. 213.

**Rule 4713-1-14 (Amended)** requires that Board licensees and cosmetology students receive training on human trafficking. (C) was added to the rule to expand this requirement to boutique services registrants.

**Rules 4713-1-15 (New)** addresses fines for violations of the laws and rules regarding the practice of cosmetology, and sets forth payments schedules, due dates, payment extension guidelines and criteria, and interest on overdue fines. This rule was written in order to comply with the provisions of Am. Sub. S.B. 213.

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

R.C. 4713.07(A)(2), 4713.07(A)(3), 4713.08(A)(1), 4713.08(A)(20).

- 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)?**

Rule 4713-1-03 defines terms, words, and scope of rules adopted under R.C. 4714.08. The ability of the agency to define words and terms, as well as the scope of rules will permit users to understand and interpret the rules. Whenever the Board writes a rule and uses a word or term that requires additional clarification to improve interpretation, agency expectation of compliance, or process/procedures used by the agency, a definition must be written and a scope provided. The remaining proposed rules in this chapter are necessary for public safety and protection, and the safeguarding of confidential information.

- 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 provided input into the rule and after final filing by persons affected by the rules. If the Board determines that a word, term, or scope of authority is not clearly defined, the agency must consider amending the rule.

### **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 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?**

One stakeholder requested the addition of the word “hourly” to 4713-1-01(M), and changing the hourly requirement in (FF) to 1560 hours. This input led to (M) being modified as noted above. Another stakeholder commented on 4713-1-10(B)(1)(b) and requested that the word

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“reasonably” be added. After considering this recommendation, and the language of Am. Sub. S.B. 213, it was determined that (B)(1)(b) could be removed in its entirety.

**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 proposed rules in this Chapter largely define specific terms and words used in OAC 4713, and the scope of the rules and inspection/enforcement authority of the Board as set by statute. No measurable outcomes were used or expected in the drafting of these 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?**

No alternatives were considered. The changes and/or new language sought in these rules are directly related to the provisions of Am. Sub. S.B. 213, which must be enacted.

**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.***

No. The rules being filed do not lend themselves to performance based measures. The rules provide clarity on terms and scope of Board rules, and are being amended or implemented to comply with or enact provisions of Am. Sub. S.B. 213.

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

This rule is specific to the regulation of branches of cosmetology and it is not duplicated in other rules/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.**

This rule will be placed on the agency's website and sent to all licensed schools of cosmetology. Process information, forms, and website will be updated to reflect the new requirements established in these rules

**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.**

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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.*

The only proposed rule in this Chapter that requires a cost is 4713-1-14, which requires training in human trafficking. This rule, however, does not add any additional cost of compliance, and simply requires that portion of a student’s or licensee’s already required training or continuing education address human trafficking. The remaining rules do not create a cost for compliance.

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

The business community should not be impacted by the rules proposed. To the contrary, the business community should benefit from clarity and understanding of the terms and scope of the Board’s regulations, and from oversight to ensure public safety. 4713-1-11 will also benefit licensees and the business community by ensuring that individuals and businesses will receive official notifications from the Board.

**Regulatory Flexibility**

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

The rules did not provide for an alternative for the business community. Small business should not be impacted by these rules.

**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?**

A violation of 4713-1-11 could qualify as a first-time paperwork offense, and such an offense would be given a first offense warning by the Board. A violation of the remaining rules in this Chapter would not appear to be a paperwork violation or “first-time offense,” as defined under R.C. 119.14 (G)(2).

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

The Board will assist schools and business on these requirements by posting the rules on the agency’s website, speaking with educational programs, and updating forms to reflect the changes.