

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Board of Cosmetology

Regulation/Package Title: Chapter 4713-21

Rule Number(s): 4713-21-02 (Amended), 4713-21-05 (Amended), 4713-21-07 (Amended),
4713-21-08 (Amended)

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Rescinded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.

4713-21-02 (Amended) provides definitions relating to continuing education. The amendments to the rule include changing the word “Renewal” to “Biennial” in (A) to match

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the language from statute, adding “or boutique services registration” in two locations in (C), as required to meet the provisions of Am. Sub. S.B. 213, and the addition of (E). (E) was added following stakeholder comment to match professional continuing education standards on the amount of instruction necessary for a credit hour.

4713-21-05 (Amended) outlines the continuing education extension program and details the process for requesting a waiver of the continuing education requirements. The only amendments to this rule are the additions of “or boutique services registration holder”, “or boutique services registration” to (A), (B), (B)(1), (B)(1)(a), (B)(2)(b), and (C), in order to comply with the provisions of Am. Sub. S.B. 213.

4713-21-07 (Amended) requires the Board to inform licensees of upcoming continuing education requirements. The only amendment to this rule is the addition of “or boutique services registration holder”, in order to comply with the provisions of Am. Sub. S.B. 213.

4713-21-08 (Amended) provides the criteria and procedures for having a course approved for continuing education credit. The rule contains the following proposed amendment to the existing rule:

- The phrases “boutique services registration holder”, “boutique services registration holders”, “boutique services registration holder’s”, or “registration” were added to items (A), (A)(1), (A)(1)(b), (A)(1)(b)(i), (A)(4), (A)(6), (A)(7), (B), (B)(1)(b), (B)(1)(b)(i), (B)(5), (B)(7), (B)(8)(e), (B)(8)(g)(ii), (B)(9), (C), (C)(1), (C)(1)(b), (C)(1)(b)(i), (C)(3), (C)(4), (C)(5), (C)(6)(b), (C)(6)(h), (C)(6)(i), (C)(6)(j), and (C)(7). This was done to comply with the provisions of Am. Sub. S.B. 213.
- (A)(1)(b)(iii) was removed as unnecessary/redundant, and (A)(1)(b)(iv) was renumbered accordingly.
- In (B)(1), the phrase “professionally educate” was replaced with “professional education for”, and the word “provide” was replaced with “provides”, both for grammatical reasons.
- (B)(1)(b)(iii) was removed as unnecessary/redundant, and (B)(1)(b)(iv) was renumbered accordingly.
- (C)(1)(b)(iii) was removed as unnecessary/redundant, and (B)(1)(b)(iv) was renumbered accordingly.
- In (C)(6)(i), the word “course” was replaced with “provider”, and the language “answer by mailing, phoning in, or scanning the answers and e-mailing them in” was replaced with “send answers to test questions by mail, facsimile, telephone, or electronic mail”. This was done for clarity and grammatical reasons.

- In (C)(6)(j), the word “results” was replaced with the “answers” and “answer sheets”, and “placed on” was replaced with “the identification number of each book shall be placed on”. This was done for clarity and grammatical reasons.

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

R.C. 4713.07(A)(3), 4713.08(A)(1), 4713.08(A)(20), 4713.09.

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)?

This Chapter provides standards to ensure that continuing education providers provide consistent and effective continuing education courses to licensees and boutique registrants, and that licensees and boutique registrants comply with the requirements of R.C. 4713.09.

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

Success will be measured through public response to the services they receive, and the feedback received from licensees and boutique registrants about the quality and effectiveness of the courses they complete.

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?

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One was made about 4713-21-03 regarding following the standard in other professional continuing education courses, and defining an hour of continuing education as fifty minutes of actual instruction. The Agency accepted the input, but felt that it was more appropriate to place the language in 4713-21-02.

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 set forth guidelines for gaining continuing education credit and providing continuing education courses, and are based on the statutory guidelines of 4713.09. 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 amendments sought in these rules are directly related to the provisions of Am. Sub. S.B. 213, which must be enacted, and also to provide clarity and flexibility to licensees and stakeholders.

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.*

The proposed rules are largely performance-based. The rules provide general guidelines and requirements for continuing education in accordance with statute, but allow the stakeholders flexibility in how they achieve compliance.

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

These rules are specific to the regulation of branches of cosmetology and are 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.

These rules 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;

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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 only cost of compliance for these rules is the cost of the continuing education courses, but this cost cannot be quantified because of the varying costs of the courses, and the licensee’s and boutique registrant’s flexibility in choosing which courses to take.

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

Any adverse impact based on the cost of the continuing education course is justified by the need to ensure that individuals providing services to the public are up-to-date on their training. The requirement that licensees and boutique registrants complete specific amounts of continuing education is also mandated by statute.

Regulatory Flexibility

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

The rules do not provide for an alternative for the business community. Small business should not be significantly impacted by the 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?

Certain violations of 4713-21-08 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 rule on the agency’s website, speaking with educational programs, and updating forms to reflect the changes.