



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: State Cosmetology and Barber Board

Rule Contact Name and Contact Information: Charley L. Yaniko,  
charley.yaniko@cos.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

School Curriculum and Instruction

Rule Number(s): 4713-5-01 (Amend), 4713-5-02 (Amend), 4713-5-21 (Amend)

Date of Submission for CSI Review: 06/10/2020

Public Comment Period End Date: 06/25/2020

**Rule Type/Number of Rules:**

- |  |   |
|--|---|
| <input type="checkbox"/> New/ __ rules                                       | <input type="checkbox"/> No Change/ ___ rules (FYR? __) |
| <input checked="" type="checkbox"/> Amended/ <u>3</u> rules (FYR? <u>N</u> ) | <input type="checkbox"/> Rescinded/ ___ rules (FYR? __) |

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

**Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.  
X
- b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.  
X
- c. Requires specific expenditures or the report of information as a condition of compliance.  
X
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

**Regulatory Intent**

2. 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 (Amend) – This rule sets forth the definitions used in Chapter 4713-5 of the Administrative Code. It is being amended to replace the definition of “web-based education” with the broader term “distance learning.”

4713-5-02 (Amend) – This rule sets forth the program requirements for schools licensed by the Board. It is being amended to expand off-site training opportunities for barber students and expand distance learning training opportunities for barber and cosmetology students.

4713-5-21 (Amend) – This rule sets requirements and limitations for instructors and teachers in schools licensed by the Board. It is being amended to clean up language and clarify the longstanding practice of counting assistant barber teachers towards the

required student-teacher ratio. This language was inadvertently omitted when the rules from Chapters 4709 and 4713 of the Administrative Code were consolidated.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Rule 4713-5-01: R.C. §§ 4709.05(E)(4)-(6), 4713.08(A)(13), 4713.08(A)(20).

Rule 4713-5-02: R.C. §§ 4709.05(E)(4)-(6), 4713.08(A)(13), 4713.08(A)(20).

Rule 4713-5-21: R.C. §§ 4709.05(E)(4), 4709.05(E)(6), 4709.10(B)(3), 4713.08(A)(13), 4713.08(A)(20).

4. 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.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

6. 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 Board is required to adopt rules regulating the provision of education in schools of barbering and cosmetology. These rules are necessary to establish guidelines and consistency in these training programs.

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

The success of the regulation will be measured through staff, licensee, student, and public feedback.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

### **Development of the Regulation**

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

The Board placed rule 4713-5-02 on its website, requesting input and comments from all interested parties. Additionally, notification of the proposed rule change was emailed on March 2, 2020, to all entities and persons currently on our interested parties list, along with a response email address. Stakeholders were given until March 8, 2020, to submit their initial comments. In addition, due to the COVID-19 emergency, the Board obtained emergency approval for a version of the rule that expanded the opportunities for web-based education. The Board has since conducted a survey of licensed schools regarding their experiences with this expanded web-based education. Since gathering this feedback, the rule has also been amended to replace the term “web-based education” with the broader term “distance learning.” This change has not yet been sent to stakeholders for comment.

Rule 4713-5-01 is necessary for implementing the change in terminology from “web-based education” to “distance learning.” This change has not yet been sent to stakeholders for comment.

The amendment to rule 4713-5-21 was prompted by a stakeholder who observed that the added language regarding assistant barber teachers had been missed when the rules were consolidated. Since the amended rule language simply reflects longstanding practice and was suggested through stakeholder input, this rule has not yet been sent out for additional stakeholder input.

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

The Board received one comment on rule 4713-5-02 submitted by the Ohio Barber and Beauty Alliance. The comment asked that the Board remove the 15-day notification requirement for field trips and remove the submission requirement regarding field trips for NACCAS-accredited schools. This input did not affect the draft regulation. The notification requirement is necessary for the Board to evaluate the proposed field trip activities to ensure that the activities are related to student training. In addition, the proposed language actually expands field trip opportunities for barber schools, which previously did not have any language authorizing credit for field trips.

The Board did, however, modify the rule language based on the survey results. Specifically, 89.51% of survey responses supported a permanent increase on the 6% limit on web-based education, and 75.54% of response supported permanently allowing practical and theory lessons through web-based education. Accordingly, the amended language would permanently permit practical and theory lessons through web-based

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

education and increases the total amount to 20% of the total program hours (this was recommended by 44.20% of the survey response, which was the highest percentage).

As noted above, the amendment to rule 4713-5-21 was based on stakeholder input.

11. 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 conduct a thorough survey of Board-licensed schools when developing rule 4713-5-02. Rule 4713-5-21, however, simply continues longstanding practice.

12. 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 consider alternatives in formulating rule 4713-5-02 and moved forward with the options supported by the majority of stakeholders. In addition, the rules continue longstanding requirements for Board-licensed schools, while expanding opportunities for barber schools.

13. 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 rules are largely performance-based. They establish minimum requirements, but the schools have flexibility in how they comply with the requirements and structure their training programs.

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

The Board is the sole entity tasked with the regulation of barbering and the branches of cosmetology in Ohio.

15. 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.

The rules will be posted on the Board's website, and notification will be sent to all regulated persons and businesses that may be impacted.

### **Adverse Impact to Business**

16. 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; and

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

- b. Identify the nature of all adverse impact (e.g., 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.*

**4713-5-02**

- a) The impacted community includes all individuals and businesses who hold or are seeking to obtain a license to operate a school of barbering and/or one or more of the branches of cosmetology, as well as all students in these schools.**
- b) The adverse impacts are the time and report of information required to comply with the rule, and the potential for disciplinary action if they fail to do so.**
- c) The impact of maintaining forms and reporting this information to the Board is minimal, and schools have a choice as to whether they wish to utilize field trips, salon or barber shop visits, or web-based education in their training. Schools that fail to comply with the rule may face fines ranging from \$250.00 to \$1,000.00, based on the number of prior violations, and/or the suspension or revocation of a license.**

**4713-5-21**

- a) The impacted community includes all individuals and businesses who hold or are seeking to obtain a license to operate a school of barbering and/or one or more of the branches of cosmetology.**
- b) The adverse impacts are the minimal amount of time required to report necessary information, a limitation on what instructors may do or teach in licensed schools, and the potential for disciplinary action if they fail to comply with the rule.**
- c) The amount of reporting time required by the rule is minimal. There is an impact on the schools’ ability to earn additional income by restricting what instructors may do or teach in the school. Also, schools that violate the rule may face fines ranging from \$250.00 to \$1,000.00, based on the number of prior violations, and/or the suspension or revocation of a license.**

**Rule 4713-5-01 simply provides definitions, and, therefore, does not have any adverse impact.**

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

**77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117**

**CSIPublicComments@governor.ohio.gov**

**Students pay significant tuition costs in order to attend these schools. The regulations are necessary to ensure that each licensed school is providing proper training and to ensure that the focus of instructors is on training, not circumventing salon/barber shop licensing, and using the school facilities to practice and charge for services. Ensuring proper student training is necessary to protect the public.**

**Regulatory Flexibility**

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

**These rules set minimum requirements for all schools, regardless of size.**

**19. 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 will apply its violation guidance matrix if an individual receives notice of a violation of these rules. The matrix permits an individual in violation of these rules to correct the issue(s) and receive a warning.**

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

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