

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: State Cosmetology and Barber Board

Regulation/Package Title: Chapter 4713-13 COS/BRB Revision

Rule Number(s): 4713-13-01 (R), 4713-13-02 (A)

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Rescinded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.

**Rule 4713-13-01: Titled Change in Ownership.** This rule stipulates that licenses are not transferable from one address to another or from one owner to another. A new license is required. Businesses that maintain the same address, but change space within a mall, office building, nursing home, or other facility are exempted. This rule is being rescinded and relevant provisions are being consolidated into proposed rule 4713-1-11.

**Rule 4713-13-02 Independent contractor.** This rule creates the application process and responsibilities of an independent contractor licensed under Chapter 4713. The rule is

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being amended to add appropriate reference to barber licenses issued under Chapter 4709 of the Revised Code.

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

Rule 4713-13-01: Titled Change in Ownership: Sections 4709.05(E)(6), 4713.08(A)(1), and 4713.08(A)(20) of the Revised Code.

Rule 4713-13-02 Independent contractor: Sections 4709.05 (E)(6), 4709.09 (C), 4713.08 (A)(9), and 4713.39 of the Revised Code.

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)?

Portions of rule 4713-03-02, such as fee requirement and conditions for issuing an independent contractor license, are required under Sections 4713.08(A)(9) and 4713.39 of the Revised Code. This rule is being proposed to streamline these requirements, reduce redundancy, and to create uniformity in the rules administered.

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

Compliance with provisions that can be monitored are accomplished through inspection.

### **Development of the Regulation**

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

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*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 did not receive any input from stakeholders for the rules in this package.

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 or redundant rules and 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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No, not with this proposed rule. The rule is required under Sections 4713.08(A)(9) and 4713.39 of the Revised Code.

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.*

Rule 4713-13-02 does require a \$75.00 license fee, which is mandated by statute to be established by rule.

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

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**The new rule language does not change the amount of the fee. This fee amount is consistent with the Board's other individual licensing fees under R.C. 4713.10.**

**Regulatory Flexibility**

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

**No, the rule in this packet do not differentiate among businesses 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.**