

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: State Cosmetology and Barber Board

Regulation/Package Title: Chapter 4713-7 COS/BRB Revision

Rule Number(s): 4713-7-04(R), 4713-7-04 (N), 4713-7-08 (A), 4713-7-12 (N), 4713-7-14(N), and 4713-7-15(N)

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Rescinded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.

4713-7-04 Content of examinations. Current rule 4713-7-04 is being rescinded and replaced to update the rule by including barber examination requirements required to be in rule under Section 4709.05(E)(2) of the Revised Code.

4713-7-08 Applications to practice branches of cosmetology from active duty military members, spouses of active duty military members, or veterans. This rule is based on

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Section 5903.03 and 5903.04 of the Revised Code regarding the agency’s requirement to adopt rules under Chapter 119 of the Revised Code that establishes a process for applicants meeting the definition of a veteran, active duty military member or spouse of an active duty military member/veteran to seek licensure and the accommodations provided the applicant. The rule is being amended to add references to Chapter 4709 of the Revised Code.

4713-7-12 Barber teacher training program. This is a new rule that creates a 500 hour training program for barber schools seeking to offer barber teacher training. The Ohio State Barber Board had a longstanding policy that required this type of training, but the requirement was not codified. Paragraph (C) of Section 4709.10 of the Revised Code permits the Board to consider additional requirements to obtain a barber teacher license, but only if the requirement is codified in rule.

4713-7-14 Barber license examination. This is a new rule that stipulates the type examination that shall be administered to meet the requirements of sections 4709.07 and 4709.10 of the Revised Code. The rule will replace current rule 4709-5-06.

4713-7-15 Failure to appear for a barber license examination. This is a new rule that clarifies that persons who schedule, but fail to appear for an examination, will be required to reapply for examination and to pay the required examination fee. The prior draft of this proposed rule indicated that such a failure to appear would be treated as an examination failure, but this language was revised based upon stakeholder input.

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

4713-7-08 Applications to practice branches of cosmetology from active duty military members, spouses of active duty military members, or veterans.

Sections 4709.05(E)(6), 4713.08(A)(6), 4713.08(A)(20), 5903.03, and 5903.04 of the Revised Code.

4713-7-04 Content of examinations. Sections 4709.05(E)(2), 4713.08(A)(20), and 4713.24 of the Revised Code

4713-7-12 Barber teacher training program. Section 4709.10(C) of the Revised Code.

4713-7-14 Barber license examination. Section 4709.05(E)(2) of the Revised Code.

4713-7-15 Failure to appear for a barber license examination. Section 4709.05(E)(6) 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.

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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)?**

Rule 4713-7-08 is required under Section 5903.04 of the Revised Code, and rule 4713-7-04 is specifically required under Section 4709.05(E)(2).

Rules 4713-7-12, 4713-7-14, and 4713-7-15 are being created to clarify, codify, or implement processes to improve the regulation of the practice of barbering. These new rules also move existing requirements of Chapter 4709 of the Administrative Code into Chapter 4713 of the Administrative Code to streamline and consolidate rule sets. Rules 4713-7-12, 4713-7-14, and 4713-7-15 represent existing rules or practice employed. Rule 4713-7-12 codifies a long standing policy of the Ohio State Barber Board. Programs that provide this program already exist and are prepared to implement this requirement. Rule 4713-7-15 codifies a long standing policy of the Ohio State Barber Board. Rule 4713-7-14 clarifies the type of examinations required. This rule removes a requirement to take a practical barber teacher examination since the Ohio Revised Code does not stipulate the examination must include a practical component.

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

Pursuant to Section 5903.04 of the Revised Code, the Board is required to monitor and report on the number of persons filing under this classification. The Board's licensing system has been designed to capture this information.

Rules 4713-7-04, 4713-7-12, 4713-7-14, and 4713-7-15 will be monitored internal to the agency.

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 received two comments regarding specific rules and two comments of miscellaneous nature that could not be directed toward the proposed rule amendments, rescissions, or new rules.

The two comments filed addressed proposed rescission of rules 4709-3-03 and 4709-5-06 of the Administrative Code. Regarding rule 4709-3-03, which addresses teaching staff for barber education and, in particular, the qualifications for a teacher license, he rule is redundant of existing Section 4709.10 of the Revised Code. Any non-redundant requirements were transferred to amended rule 4713-5-17. Additionally, persons commented that the Board should require a 500 hour barber teacher training program. The Ohio State Barber Board required persons that sought a barber teacher license to obtain 500 hours of teacher training in a licensed barber school. This requirement was not codified, but rather a policy requirement of the prior Board. Under paragraph (C)(1)(2) of section 4709.10 of the Revised Code, the Board can adopt other requirement by rule for persons seeking a barber teacher license. In response to the comments received, the Board proposed to add language to rule 4713-5-03 of the Administrative Code to adopt and codify the 500-hour training requirement. Additionally, the Board proposed to create new rule 4713-7-12 to identify the hours and curriculum requirements for schools offer this program.

Regarding comments addressing the proposed rescission of rule 4709-5-06 of the Administrative Code, both comments suggested that the Board should continue the practice of having persons completing a barber examination list the titles of rules regulating the practice of barbering. This practice was discontinued after the merger for two reasons: (1) listing the titles of rules did not provide any indication of competency or return knowledge of the content of the rules, and (2) this portion of the prior examination was not graded.

The Board is proposing that we add content based questions to the barber licensing examination that addressed laws and rules content. This is a practical solution to the

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comments provided and actually tests knowledge of the laws and rule, not just ability to retain the titles of the rules.

UPDATE: Feedback received regarding proposed 4713-7-15 indicated that the commenter felt treating failure to appear for examination as an examination failure was too harsh of a penalty. Based upon this feedback, the Board reviewed the proposed language and decided to remove the language treating a failure to appear as an examination failure. The reason for this was twofold: 1) If an applicant fails an examination twice, R.C. 4709.07(C) requires the applicant to complete an additional two hundred hours of training in order to reapply for examination. Treating a failure to appear as an examination failure would likely increase the number of individuals who would be required to complete such additional training; and 2) Treating a failure to appear as an examination failure would affect school ratings and testing data, despite the applicant's failure to appear being beyond the control of the school.

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, redundant, or 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 these proposed rules. These rules are associated to specific requirements under the Ohio 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.

These rules should represent not have any increased impact or cost of compliance for over current requirements in laws, rules, and policies. The proposed rules actually reduce some of the burdens for barber licensees by providing additional benefits to military personnel, veterans, and their families, and by removing a testing element for the barber teacher examination that was not required by statute.

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

Regulatory Flexibility

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

No, the rules in this packet do not address business regulations.

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?

These rules do not address standards for which a violation could occur. Instead, these rules creates qualifications for persons classified as a veteran, active duty military, or spouse of a veteran/active duty military to obtain licensing in the state of Ohio, and codify existing policy, practice, or requirements of Chapter 4709 of the Revised Code.

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.