

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: State Cosmetology and Barber Board

Regulation/Package Title: Chapter 4713-8 COS/BRB Revision

Rule Number(s) 4713-8-10

Date: _____

Rule Type:

New

Amended

5-Year Review

Rescinded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 4713-8-10 is based on Section 4713.64(B)(3) and Section 4713.64(D) of the Revised Code regarding the agency's discretion to order persons to take corrective action courses as a disciplinary action under this section for a violation of the laws and rules regulating the practice of cosmetology, branches of cosmetology, or tanning services.

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

Sections 4713.08(A)(1), 4713.08(A)(20), 4713.64(B)(3), and Section 4713.64(D) of the Revised Code.

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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)?

Section 4713.64(D) of the Revised Code requires the Board to adopt a rule under Section 4713.08 of the Revised Code to establish the amount and content, and other relevant criteria, of corrective action courses ordered by the Board for a violation of the laws and rules regulating the practice of cosmetology, branches of cosmetology, or tanning services.

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

Completion of the required course work and subsequent monitoring of compliance with Ohio regulations is the primary means to measure the success of this regulation.

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 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.

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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 no input on this rule, which was originally proposed to be rescinded; however, after posting, it was noted that Section 4713.64(D) required the rule. The amendments provided correct the existing rule and thereby meet the requirements of the Ohio Revised Code.

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?**

No. The rule is designed to address a potential disciplinary action that the Board may impose for a violation of its laws and rules. The proposed language removes specificity, providing the Board with the opportunity to create a corrective action course that meets the requirements of the specific situation.

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 proposed rule represents a modification from the current rule. The proposed amended rule will allow the Board to consider this type of disciplinary action and design the action type and amount in a manner consistent with the facts presented.

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 rule represents a performance-based regulation in comparison to the existing rule from the current rule. The proposed amended rule will allow the Board to consider this type of disciplinary action and design the action type and amount in a manner consistent with the facts presented.

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

This rule is specific to provisions and requirements of Section 4713.64 of the Revised Code and it does not appear in any other part of the Ohio Revised Code or Ohio Administrative Code.

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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 posted on the Board’s website and notification with detail will be sent to all regulated persons and businesses that may be impacted.

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.

The only potential cost of compliance associated with this rule is that a licensee who has been ordered to complete a corrective action course may have to retake a course or course examination if they do not achieve an adequate score on the course examination.

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

Requiring an individual to score at least 75% on a course examination is necessary to ensure that the individual learned from the course, thus ensuring that the individual will be better equipped to serve the public.

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 does 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?

This rule sets forth criteria for a type of disciplinary action the Board may take, and is not a rule that could lead to a violation on its own.

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.