



Common Sense Initiative

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Business Impact Analysis

Agency Name: State Cosmetology and Barber Board

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Regulation/Package Title: Chapter 4713-15 – June 2019

Rule Number(s): 4713-15-03 (Amend), 4713-15-18 (Amend)

Date: July 8, 2019

Rule Type:

New

5-Year Review

Amended

Rescinded

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 all regulations 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.

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.

4713-15-03 Disinfection of implements and spills; blood and body fluids. (Amend):

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This rule sets for the infection control standards for implements and how to properly handle spills of blood and/or bodily fluids. The rule is being amended to provide clarity on the infection control procedures for brushes.

4713-15-18 Infection control standards for licensees under Chapter 4709. of the Revised Code. (Amend):

This rule clarifies that barbers licensed under Chapter 4709 of the Revised Code are subject to the infection control standards set forth in this chapter. The rule also lists some barber-specific infection control procedures. The rule is being amended to remove the blanket prohibition on neck dusters, as these are brushes and subject to the infection control standards note in 4713-15-03. The amendment also adds a specific infection control standard for honing and stropping a straight razor, which is barber-specific.

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

4713-15-03: R.C. §§ 4709.05(E)(1), 4713.08(A)(1), 4713.08(A)(15), 4713.08(A)(20).

4713-15-18: R.C. §§ 4709.05(E)(1).

- 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)?**

These rules are necessary to establish statutorily-required infection control standards to protect the public.

- 6. 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 inspection and staff, licensee, and public feedback.

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, notification of these proposed rule changes was emailed to all entities and persons currently on our interested parties list, along with a response email address.

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 26 comments on the rules in this package. 25 of these comments were different individuals sending the same, copied message commenting on the following rule: 4713-15-03 (Amend) and 4713-15-18 (Amend): The comments object to the proposed amendments because they would end the absolute prohibition on neck dusters. The comments did not lead to any changes in the proposed amend rule language because the comments misunderstand the rule language.

The commenters state that because neck dusters are porous, they cannot be disinfected and would pose an infection control risk. The proposed rule language, however, still explicitly prohibits the reuse of all porous implements and brushes (including porous neck dusters). What is not prohibited, though, is the use of non-porous implements and brushes (including non-porous neck dusters), provided that they are cleaned and properly disinfected between each use. A barber or cosmetologist who reuses a porous neck duster or fails to properly clean and disinfect a non-porous neck duster would be in violation of the Board's rules.

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 rules are based on standardized industry texts and on national best practice standards suggested by healthcare professionals.

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 Board did not consider alternative regulations because the proposed amendments are simply part of continuing effort to update and clarify the Board's infection control rules.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

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Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No, not with these proposed rules. The rules are required under the Revised Code, and industry-standard infection control procedures require specific processes.

12. 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.

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 proposed rule amendments do not change current infection control standards. They simply provide additional clarity.

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

The regulatory intent is justified by the need to protect the public and Board licensees from pathogens and infectious agents. Any impact is normal for the industry, which is accustomed to rigorous safety and infection control standards.

Regulatory Flexibility

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

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The rules apply evenly to businesses of all sizes and consistency in infection control procedures is necessary for public safety.

- 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 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.

- 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.