



# Common Sense Initiative

Mike DeWine, Governor  
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## Business Impact Analysis

Agency Name: State Cosmetology and Barber Board

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Regulation/Package Title: Chapter 4713-3 – June 2019

Rule Number(s): 4713-3-12(Amend), 4713-3-13 (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Rescinded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.*

4713-3-12 School catalogue and handbook requirements. (Amend):

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**This rule explains the items that each school licensed by the Board must include in their school catalogue/handbook. The rule is being amended to move the Board’s policy of requiring each school to annually submit the handbook/catalogue to the Board for review and approval into rule. This is being done to ensure that the Board is compliant when Sub. S.B. 221 of the 132<sup>nd</sup> General Assembly takes effect on August 18, 2019.**

**4713-3-12 School contract requirements (Amend).**

**This rule explains the school contract requirements for each school licensed by the Board. The rule is being amended to move the Board’s policy of requiring each school to annually submit the contract to the Board for review and approval into rule. This is being done to ensure that the Board is compliant when Sub. S.B. 221 of the 132<sup>nd</sup> General Assembly takes effect on August 18, 2019.**

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

**4713-3-12: R.C. §§ 4709.05(E)(4)-(6), 4709.10(B)(3), 4713.08(A)(13).**

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

- 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)?**

**Each school licensed by the Board is required by Rule 4713-3-01 to include copies of their school catalogue/handbook and contract with their application for licensure under R.C. 4713.44. These two rules set forth the minimum requirements for these documents and mandate that they must be submitted to the Board is year for review and approval. This is necessary to ensure that students and school owners are fully informed of their duties, rights, and obligations.**

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

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The success of the regulation will be measured by the responses and feedback of staff, licensees, students, and the public.

### **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, 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 25 comments on the rules in this package. All 25 of these comments were different individuals sending the same, copied message commenting on the following rules:

**4713-3-12 (Amend) and 4713-3-13 (Amend):** The comments state that the amended language is burdensome, redundant, and costly. The comments did not lead to any changes to the proposed amended rule language because the amended language does not add any new requirements to schools. The Board already, through policy, requires schools to annually submit the handbook/catalogue and contract to the Board for review and approval. These amendments simply move this requirement to rule to ensure that the Board is compliant when Sub. S.B. 221 of the 132nd General Assembly takes effect on August 18, 2019. It is also unclear why the commenters believe there would be any additional costs to accredited schools since the rule only requires such schools to submit the materials they have already prepared for their accrediting bodies.

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.

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 requirements set forth in these rules are the minimum necessary to ensure that students and school owners are fully informed of their duties, rights, and obligations.

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**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.*

These regulations are largely performance-based. The two rules set forth minimum requirements, but each school is free to include additional information and to structure these documents how they see fit.

**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.*

There may be some initial investment of time and effort to create the documents and to submit them to the Board for review each year. The amount of time invested to update and submit these documents after the documents are initially drafted, however, should be minimal.

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

The minimal time investment in creating and submitting these documents is necessary to ensure that both parties in a student/school relationship are fully aware of their duties,

rights, and obligations in the relationship. This protects the parties from surprises and/or a party attempting to take advantage of the relationship.

**Regulatory Flexibility**

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

The rules apply evenly to businesses of all sizes and provide flexibility in how each business drafts and constructs the documents.

**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 any school receives notice of a violation of these rules. The matrix permits a school 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.