



OHIO STATE COSMETOLOGY AND BARBER BOARD

To protect and support the public through regulation and education, while promoting the integrity of the cosmetology and barbering industries.

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Guide to Public Participation in the Rule-Making Process

Introduction

The laws governing the practice of Cosmetology and Barbering are found in Chapters 4713 and 4709 of the Ohio Revised Code (ORC), respectively. Under the authority of these chapters of the ORC, the State Cosmetology and Barber Board must adopt rules to administer the provisions of each chapter. Rules are adopted by the agency and codified in the Ohio Administrative Code (OAC). They amplify the provisions of the ORC and/or provide clarity and specificity to the ORC. Rules, once adopted, have the force and effect of law, but cannot change the provisions of or exceed the scope of authorization in the ORC. The rule-making process is lengthy, and is designed to be transparent and functional for the public, allowing stakeholders and interested parties the opportunity to participate and offer input into the final regulation. This guide has been published to assist members of the public who participate, or who may wish to participate, in the agency's rule-making process.

Mission and Structure of the Board

The mission of the State Cosmetology and Barber Board is to protect and support the public through regulation and education, while promoting the integrity of the cosmetology and barbering industries.

The State Cosmetology and Barber Board is the single series state agency responsible for administering and enforcing laws governing the practice of cosmetology, branch practices of cosmetology (hair design, manicuring, esthetics, and natural hair styling), barbering, and tanning services. The Board consists of thirteen members who are appointed by the Governor for five-year terms.

Rule-making Authority

The State Cosmetology and Barber Board's authority to adopt administrative rules is found in Chapters 4713 and 4709 of the Ohio Revised Code, and is generally of two types: general rule-making authority and issue-specific rule-making authority. General rule-making authority can be found throughout both enabling statutes and it provides the board with broad ability to adopt rules needed to regulate the professions under the agency's regulatory oversight. Specific authorizations or requirements to adopt specific rules are found in Sections 4713.08 and 4709.05 of the Ohio Revised Code.

The Rule-making Process

Prior to the initiation of the formal rule-making process, the Board must decide that it needs to propose to change, rescind, or create an administrative rule. The need to consider rule changes may come to the attention of the Board from its licensees, the Board, its staff, and the public. In addition, Chapter 119 of the Revised Code requires that each state agency review each of its rules every five years. In any given year, 20 percent of the State Cosmetology and Barber Board's rules are scheduled to be reviewed, and each must then go through the formal rule-making process.

The following is a step-by-step explanation of the agency's rule-making process:

Step 1: Rules Review Committee

With a few exceptions, proposed new, amended, or rescinded rules and rules up for their five-year review are reviewed by the State Cosmetology and Barber Board's Rules Review Committee. This committee is composed of members of the Board and Board staff. The Rules Review Committee meets as needed to consider business brought to the committee by staff.

Step 2: Approval for Filing by the Board

Once reviewed by the Rules Committee, proposed new, amended, or rescinded rules will be made available for preliminary stakeholder review and comments. Comments received will be reviewed and considered, and any appropriate changes will be incorporated into the proposed rules. The proposed rules will then be placed before the full Board and, if approved, the rules will then be filed with the Common Sense Initiative (CSI), and later, the Joint Committee on Agency Rule Review (JCARR).

Step 3: Common Sense Initiative (CSI)

Prior to filing with JCARR, **all rules** (including no-change rules) must be reviewed by the CSI office, which operates within the Lt. Governor's Office. Review by CSI is normally required for all Board rules that meet at least one of the following adverse business impact criteria:

1. The rule requires a license, permit, or any other prior authorization to engage in or operate a line of business;
2. The rule imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action, for failure to comply with its terms; or
3. The rule requires specific expenditures or the report of information as a condition of compliance.

The CSI process provides entities that may be impacted by the rule the opportunity to provide comment. This process takes approximately 16 business days and all rules filed with CSI, along with a document referred to as a business impact analyses are posted to the agency's proposed rules web page (<http://cos.ohio.gov/LAWS-RULES/PROPOSED-RULES>). CSI will issue a recommendation to the Board based on their review and the feedback provided during the comment period.

Step 4: Joint Committee on Agency Rule Review (JCARR)

If the agency receives a favorable recommendation from CSI, it will formally file the rules with JCARR.

Public Hearing

As part of the JCARR process, the agency holds a public hearing within 30 – 40 days after the rules have been filed with JCARR. This allows the agency to receive additional comments and testimony on the rules prior to or during the public hearing. All public hearing notices are posted to the agency's proposed rules web page (www.cos.ohio.gov/LAWS-RULES/PROPOSED-RULES).

Public hearing notices and copies of the proposed or amended rules are also available on the Register of Ohio's website at <http://www.registerofohio.state.oh.us>.

On the date, time and place designated in the notice, the agency will conduct a public hearing at which any person affected by the proposed action of the agency or any member of the public may testify.

Once the hearing record is closed, the agency will review and consider all the testimony and may decide to proceed with the rule(s) unchanged, withdraw the rule(s), or amend the rule(s) based on the testimony received.

JCARR Hearing

Following the agency's public hearing, the rules are then reviewed by JCARR, a 10 member legislative panel comprised of members of both the Ohio House and Senate, at a public meeting of the committee to determine if they violate any of the following:

- a. Do the rules exceed the agency's statutory authority?
- b. Do the rules conflict with an existing rule of that agency or another state agency?
- c. Do the rules conflict with legislative intent?
- d. Has the rule-making agency prepared a complete and accurate rule summary and fiscal analysis of the proposed rule, amendment, or rescission (ORC 127.18);
- e. Has the rule-making agency met the incorporation by reference standards for a text or other material as stated in ORC sections 121.72, 121.75, or 121.76; and,
- f. If the rule has an adverse impact on business (ORC 107.52), that the rule-making agency has demonstrated through the business impact analysis (BIA), the Common Sense Initiative Office (CSI) recommendations and the agency's memorandum of response to the CSI recommendations, that the rule's regulatory intent justifies its adverse impact on business.

Rules Adoption

After complying with the filing provisions of Chapter 119 of the Revised Code, and when the time for legislative review and invalidation (i.e. JCARR's jurisdiction) has expired, the agency may issue an order adopting the proposed rule and must designate the effective date of the rule, which shall not be earlier than the tenth day after it has been filed in its final form. When the rule is adopted, the final language will be posted on the Register of Ohio and on the agency's web site (<http://cos.ohio.gov/LAWS-RULES/NEWLY-ADOPTED-RULES>).

Conclusion

The process outlined above is a simplified version of the Board's rule-making process. The Board relies upon public input to guide its rule-making activities, and actively encourages the public, licensees, and interested parties to be involved in Board activities and to provide feedback and comments on its rules. If you have any questions regarding the information in this guide, or would like more detailed information on the rule-making process, please contact the Board office or visit the Board's website at www.cos.ohio.gov.