

# Ohio State Board of Optometry

## Rule Making Process



77 S. High St., 16<sup>th</sup> Floor  
Columbus, Ohio 43266-0318

Phone: (614)466-5115

Fax: (614)644-3937

E-Mail: [OPTOM\\_OTT@OHIO.GOV](mailto:OPTOM_OTT@OHIO.GOV)

Web Page: [www.state.oh.us/opt/](http://www.state.oh.us/opt/)

## **MISSION OF THE BOARD**

The mission of the Ohio State Board of Optometry is to assure professionally competent optometrists in the State of Ohio by regulating examinations and licensure, enforcing continuing education compliance, monitoring continuing education quality, renewal of licensure and enforcement of the Ohio Optometry Laws and Administrative Rules as found in Chapter 4725 of the Ohio Revised Code. The Optometry Board is dedicated to handling public concerns in a timely fashion and providing prompt, friendly service to the citizens of Ohio and licensees.

The Ohio State Board of Optometry was formed by legislative act in 1920. The Board is the agency charged with the enforcement of Chapter 4725 of the Revised Code which contains all of the laws and rules concerning the practice of optometry in Ohio. The majority of the laws and rules in Chapter 4725 impact the license of optometrists and are administrative in nature. Strict and fair enforcement by the Board to assure quality care for the public is highly dependent on the laws and rules that are enacted.

The Optometry Board issues three levels of licenses to qualified applicants. All optometrists are required to obtain an optometric license. Since May 19, 1992 all licensure applicants must qualify for and also obtain a therapeutic license. The therapeutic license permits the optometrist to treat anterior segment eye disease, glaucoma and to issue certain prescription drugs. Prior to May, 1992 many optometrists had a diagnostic license which permitted them to use a limited list of eye drops for the purpose of examining the patient's eyes. This license is no longer issued as it is a lesser included license within the therapeutic license which is currently issued.

The Optometry Board handles all complaints against optometrists in Ohio and has the authority to discipline those who are found in violation of the optometry laws and rules. Thus the laws passed by the Ohio legislature and rules promulgated by the Board with the assistance of a legislative joint committee are extremely important in carrying out the licensing and discipline functions of the Optometry Board.

## **OPTOMETRY BOARD MEMBERSHIP**

The membership of the Optometry Board and its organization is defined under Sections 4725.03 and 4725.04 of the Revised Code. The Board members are appointed by the Governor of Ohio with the advice and consent of the Ohio Senate. The Board consists of six non-medical residents of Ohio, five of whom must be licensed optometrists who have been engaged in the active practice of optometry for at least five years. The sixth member is a public member who must be at least sixty years of age. The terms of appointment are for five years and no member can serve more than two terms. The Optometry Board meets approximately every two months, generally in the city of Columbus where the staff offices are located. All meetings are open to the public, announced at least thirty days in advance and follow an agenda which is available two weeks prior to the meeting. Any official actions taken, including administrative hearings or rules hearings, are always open to the public or any licensees. Meeting dates, agendas or other information may be obtained from the Board's Internet Home Page at [www.state.oh.us/opt/](http://www.state.oh.us/opt/) or by calling the Optometry Board office at (614) 466-5115.

## **RULE MAKING AUTHORITY**

The Ohio State Board of Optometry is in existence to regulate and enforce the practice of optometry in the State of Ohio. This authority is granted by the Ohio General Assembly through the passage of laws which directly impact the profession. In order to assist in monitoring the profession and in the enforcement of the optometry laws the Ohio General Assembly also authorizes the Optometry Board to create and enact rules by following a clearly defined process.

While rules are not the same as laws, they do have the same effect for regulation purposes as do the laws. Rules generally provide further detail and are more specific than the law from which they are developed. Rules cannot be in conflict with the law nor can they go beyond the intent of the law or the reason the law was originally enacted. In many cases the rules enacted come from policy that has been established by the Board over a period of time. As questions on the law are presented to the Board it often requires that policy be

established. Policy is nothing more than the Board's interpretation of the law under those specific circumstances. Since policy is not directly enforced it can be changed by the Board at an open meeting after the proper discussion. Rules, once they are established, are more permanent and can only be changed through a legally defined process.

Section 4725.09 of the Revised Code authorizes the State Board of Optometry to adopt rules as it considers necessary to govern the practice of optometry and to administer and enforce Sections 4725.01 to 4725.34 of the Revised Code. All rules adopted shall follow the process that is established in Chapter 119 of the Revised Code dealing with administrative procedures.

The Optometry Board, in consultation with the Pharmacy Board, can adopt rules specifying which oral drug dosages can be legally prescribed by therapeutically licensed optometrists.

### **THE RULE-MAKING PROCESS**

Rules are written to further explain the law, a process or a specific requirement. The rule should build on the law or add further details to enable those affected to remain within the intent of the law. The rules are established to provide certain safeguards and protect the citizens of Ohio. As with most laws or rules they are designed to curb the actions of a few individuals that, for a variety of reasons, do not adhere to professional standards that have been established for the good of all.

The need for a rule generally is first established by a complaint, a lack of clarity of a process or a specific situation that constantly is being questioned by either the public or the profession. The first step of the process is the discussion of the need for a rule change in an open session at a regular Board meeting. This starting point can be generated by almost any source, and in many cases it may initially start out as a patient complaint. If a problem appears to exist, the Board staff is then assigned the task of information gathering to more fully explore the issue. Legal assistance is obtained from the Attorney General's office as a part of this information gathering process. The Board will draft a proposed rule to cover the specific area in question. The draft of a proposed rule is then discussed with

any interested parties that may be affected or can be identified as having possible additional input. Once the rule is written in final form it is presented and the process is then well defined under Chapter 119 of the Revised Code, a process which the Board is obligated to follow.

Rule 4725-1-01, Public Notice Rule, has additional requirements for the Optometry Board to follow concerning any actions that affect a rule, either amendment, rescission or a new rule:

- (1) At least thirty days prior to the date set for a public hearing on the proposed rule a notice must be given by advertising in a Columbus newspaper of general circulation.
- (2) Notice of the Board's intention to consider adoption, amendment or rescission of any rule.
- (3) A synopsis of the proposed rule and a general statement of the subject matter to which the rule relates.
- (4) The date, time and place of the public hearing.
- (5) A full copy of the rule change to any licensee who requests it at no cost.
- (6) A full copy of the rule change to any other person or entity who requests it and who sends the Board a pre-addressed, stamped envelope.

Any comments concerning a rule change can be formally stated at the public hearing by any person which then becomes part of the official record. The Board also accepts any written communication concerning a rule change which then becomes part of the record if received prior to the public hearing. If comments are received after the public hearing they are still presented to the Board at the next available meeting for informational purposes.

### **PARTICIPATION IN THE RULES PROCESS**

Licenses, individuals or organizations have the opportunity to participate in the rule making process at many points along the way and are encouraged to do so:

- (1) At any time, either in person or in writing, present information to the Board which could be placed on the Board meeting agenda for discussion.
- (2) Express a concern or pinpoint a problem that could lead to the proposal of a rule.
- (3) Recommend specific changes in the Optometry Board laws or rules.
- (4) Ask that an exploratory sub-committee be established to address a specific concern or a problem.
- (5) A contact with the persons legislative representative.
- (6) Providing oral or written testimony at the public hearing.
- (7) Providing written testimony to the Board office prior to public hearing.
- (8) Attend the Joint Committee on Agency Rule Review hearing on the rules.

The rule making process is a very important part in the licensing and regulation of a profession. Input from any interested or affected person is always welcome and usually results in a more comprehensive rule as a final product.