



Promoting wellness and recovery

---

John R. Kasich, Governor • Tracy J. Plouck, Director • 30 E. Broad St. • Columbus, OH 43215 • (614) 466-2596 • [mha.ohio.gov](http://mha.ohio.gov)

# The Rule-Making Process

**A Guide to the Rule-Making Process  
Of The Ohio Department of Mental Health and Addiction Services**

January 2014

## **INTRODUCTION**

Section 119.0311 of the Ohio Revised Code requires the Ohio Department of Mental Health and Addiction Services (OhioMHAS) to publish this guide to the rule-making process. This guide is intended as a narrative explanation of OhioMHAS' regulatory mission, methodology for developing and adopting administrative rules, and the points at which the public can participate in the rule-making process.

## **REGULATORY MISSION**

The mission of OhioMHAS is to provide statewide leadership of a high-quality mental health and addiction prevention, treatment and recovery system that is effective and valued by all Ohioans.

### **Department Organization**

OhioMHAS is organized into separate offices, each tasked with a role in carrying out the Department's statutory duties.

#### **1. Regional Psychiatric Hospitals**

The Department operates six regional psychiatric hospitals located across the state. These specialized facilities provide short-term, intensive treatment to patients in both inpatient and community-supported environments. They also deliver comprehensive care to patients committed by criminal courts.

#### **2. Community Programs**

Programs include Community Support, the Bureau of Prevention and Wellness, and the Office of Treatment and Recovery.

#### **3. Legal and Regulatory Services**

OhioMHAS has statutory and regulatory authority over providers of mental health services to Ohio consumers. The Office of Licensure and Certification insures uniform regulatory compliance and assists providers with maintaining required standards of care.

### **Rule-Making Authority**

The Ohio Revised Code requires and authorizes the Department to adopt administrative rules. Rules are adopted pursuant to Chapter 119, and section 111.15 of the Ohio Revised Code, and become part of the Ohio Administrative Code. Rule-making authority for OhioMHAS is located in Chapters 340, 5119, and 5122 of the Ohio Revised Code; and generally covers these areas:

- The certification of mental health and addiction services which are funded by community mental health boards, are subject to department licensure according to section 5119.22 of the Revised Code, or for which the providers voluntarily seek certification.

- The licensing of certain residential facilities which provide mental health or addiction services.
- The inspection and licensing of hospitals that receive mentally ill persons.
- The operation and management of state institutions and other services for mentally ill persons.
- The setting of certain standards for alcohol, drug addiction, and mental health services boards.
- The setting of certification standards for alcohol and other drug prevention providers.
- The setting of certification standards for driver intervention programs.

## **Steps in the Rule Making Process and Public Participation**

### **Origin of Rules**

Rules are adopted by the Department either because they are required by newly enacted legislation or because existing rules, due to fundamental changes in a regulated subject area, no longer effectively implement the intent of the underlying legislation. In the latter case a proposal for rule changes may originate internally or may come from an interested group outside the Department.

### **Rule Drafting and Electronic Notification to Interested Parties**

Initially rules are drafted by the office that is either responsible for their enforcement or is bound by statute to act in accordance with administrative rules. Stakeholders from external groups can suggest that OhioMHAS review a rule and draft changes, or present proposed amendments or new rules. At this stage the Department can receive input from stakeholder committees and public interest groups that are representative of the different interests of the people most directly affected by the rules.

The Department has an automated email list service available for any person to join and receive notification that the Department is considering taking action on rules. The email list service is available at <http://mha.ohio.gov/Default.aspx?tabid=262>. All rule activity will be announced through the email list [adminrules@list.em.ohio.gov](mailto:adminrules@list.em.ohio.gov), regardless of the subject matter of the rule. Other email lists maintained by the Department will be used for announcements not related to the rule-making process.

Rule actions that do not adversely impact a business will be announced through the "AdminRules" email list and on the Department's website, and filed with the Legislative Service Commission (LSC) pursuant to Chapter 119 or section 111.15 of the Ohio Revised Code. When appropriate, public comment will be solicited through announcement using the email list and website postings prior to filing rule actions with LSC.

## **The Common Sense Initiative Office**

Rule actions that adversely impact a business are required to be reviewed by the Common Sense Initiative office (CSI). An adverse impact to a business is any rule that requires a license, permit or prior authorization to engage in business; any rule that imposes a penalty or sanction for failure to comply with the rule; or a rule that requires specific expenditures or the report of information as a condition of compliance with the rule. The CSI office maintains a list of all rules currently under review at:

<http://www.governor.ohio.gov/PrioritiesandInitiatives/CommonSenseInitiative.aspx>.

The Department will complete a business impact analysis (BIA) for each rule package to be submitted to the CSI office, and submit the BIA for review by notification through the Department's administrative rule email list and posting to the Department's website. Concurrent with the CSI review is a comment period during which comments may be submitted to the Department and the CSI office through the OhioMHAS rules website, or directly to the CSI office. Once the CSI office has completed its review of the proposed rule actions, the Department is provided with a recommendation that either suggests changes to the rules based on public comments or moving forward with the rules and filing with the LSC.

## **Review and Filing**

When all appropriate reviews and comment periods are completed and the rules are proposed for adoption and filed with the Joint Committee for Agency Rule Review (JCARR), the Legislative Service Commission, the Secretary of State and the Department of Development's Office of Small Business. The rules are filed through the use of the of the Electronic Rule Filing (ERF) system.

## **Notice and Agency Public Hearing**

At the time the rules are filed in the ERF system a public hearing is scheduled and notice is published in the Register of Ohio, [www.registerofohio.state.oh.us](http://www.registerofohio.state.oh.us), and on the Department's rules website. Notice of the hearing and a copy of the rule may also be sent to any organization or persons the Department determines to be directly affected by the proposed rule. In addition to public notice given in the register of Ohio, the agency may give whatever other notice it reasonably considers necessary to ensure notice is given to all persons who are subject to or affected by the proposed rule, amendment, or rescission. The agency is required to provide a copy of the published notice required by 119.03 (A) to any person who requests it and pays a reasonable fee, not to exceed the cost of copying and mailing.

At the Department's public hearing any person affected by the proposed rules may appear, testify in person or through an attorney, or both, and may present his/her position either orally or in writing, offer and examine witnesses and present

evidence in support of or in opposition to the proposed rule. All comments submitted to the Department are carefully reviewed and the Department may revise the proposed rule as appropriate.

### **Public Hearing – Joint Committee on Agency Rule Review**

JCARR is a permanent legislative committee composed of members from both houses of the General Assembly. In addition to the Department's hearing, JCARR holds a public meeting in conjunction with its review of the proposed rules.

JCARR has 65 days to review proposed rules to ensure that:

1. The rules do not exceed the scope of the rule-making agency's statutory authority;
2. The rules do not conflict with a rule of that agency or another rule-making agency;
3. The rules do not conflict with the intent of the legislature in enacting the statute under which the rule is proposed; and
4. The rule-making agency has prepared a complete and accurate rule summary and fiscal analysis of the proposed rule, amendment, or rescission.
5. The rules meet the incorporation by reference standards as stated in ORC 121.72, 121.75, and 121.76.
6. If the rules have an adverse impact on business, that the rules' regulatory intent justifies their adverse impact on business as demonstrated through the business impact analysis submitted to the CSI office and the CSI office's recommendations.

At the public meeting Committee members may question representatives from state agencies about any concerns they have regarding a rule and members of the public have an opportunity to bring any concerns they have to the Committee's attention.

The Committee's meeting dates and the rules on their agenda may be obtained from their website: [www.jcarr.state.oh.us](http://www.jcarr.state.oh.us) or by calling (614) 466-4086.

### **Finalization of Rules**

Following JCARR's 65 day review period, the Department may adopt the rule and establishes the date the rule becomes effective. The adoption of the final rule is also public noticed in the Register of Ohio at [www.registerofohio.state.oh.us](http://www.registerofohio.state.oh.us), and through the Department's rules website.

## **PUBLIC INVOLVEMENT AND HOW TO PARTICIPATE**

While the Department has a legal duty to implement legislation through the adoption of rules, the Department needs and welcomes input from members of the public who are affected by the rules. Their expertise and perspective help assure the rules will have both a sound factual and legal basis.

Members of the public may participate in the rule-making process through the following opportunities:

- Signing up to be notified electronically of proposed rule actions through the Department's AdminRules mailing list.
- Serving on advisory committees, and meeting with associations and advocacy groups.
- Reviewing and commenting on draft rules.
- Viewing the notice of rule proposal and public hearing.
- Attending public hearings conducted by the Department.
- Attending hearings conducted by JCARR.

### **ADDITIONAL INFORMATION**

- The reviews of rules conducted by the CSI office are available at: <http://www.governor.ohio.gov/PrioritiesandInitiatives/CommonSenseInitiative.aspx>.
- Rules that have been proposed and public hearing notices may be accessed on the Internet at the Register of Ohio: [www.registerofohio.state.oh.us](http://www.registerofohio.state.oh.us).
- Agendas for JCARR hearings on proposed rules may be accessed on the Internet at the JCARR web site: [www.jcarr.state.oh.us](http://www.jcarr.state.oh.us).
- Current rules for the Department of Mental Health and Addiction Services are found at: <http://codes.gov/oac/>.

### **CONTACT INFORMATION**

Email: [rules@mha.ohio.gov](mailto:rules@mha.ohio.gov)

Telephone: (614) 752-8365

Fax: (614) 485-9749

Mail: Ohio Department of Mental Health and Addiction Services  
Office of Legal and Regulatory Services  
30 East Broad St, 36<sup>th</sup> Floor  
Columbus, OH 43215