



OHIO ETHICS COMMISSION

THE ATLAS BUILDING
8 EAST LONG STREET, SUITE 210
COLUMBUS, OHIO 43215
(614) 466-7090

Advisory Opinion No. 83-007

April 12, 1983

Syllabus by the Commission:

Division (D) of Section 102.03 of the Revised Code prohibits inspectors and other employees of the Board of Cosmetology from selling cosmetology products to salons that they inspect or otherwise regulate.

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You asked whether the Ohio Ethics Law and related statutes prohibit inspectors and other employees of the Board of Cosmetology from selling cosmetology products to salons that they inspect or otherwise regulate.

You stated, by way of history, that the Board of Cosmetology licenses cosmetology salons throughout the state. You also stated that the board employs inspectors to examine licensed salons. Their reports may be used in administrative proceedings to revoke or suspend the licenses of salons found not to be in compliance with state cosmetology laws. You indicated that certain cosmetology inspectors seek to sell cosmetology products to owners or managers of salons subject to their inspection. In addition, other board employees who are not inspectors, but who have supervisory or other administrative duties with regard to the regulation of salons, also wish to sell cosmetology products to salons licensed by the state.

Division (D) of Section 102.03 of the Revised Code provides:

No public official or employee shall use or attempt to use his official position to secure anything of value for himself that would not ordinarily accrue to him in the performance of his official duties, which thing is of such character as to manifest a substantial and improper influence upon him with respect to his duties.

An inspector or other employee of the Board of Cosmetology is a "public official or employee" as defined in Division (B) of Section 102.01 of the Revised Code. Proceeds from the sale of cosmetology products are within the definition of "anything of value" in Section 1.03 of the Revised Code. Thus, an inspector or other employee of the Board of Cosmetology is prohibited from using his official position

to sell cosmetology products to salons that he regulates. Such sales would manifest a substantial and improper influence upon him with respect to his duties because he would be inspecting or otherwise regulating a customer or potential customer. A business transaction with a salon could impair his independence of judgment with regard to the salon's compliance with state cosmetology laws and licensing requirements, and his regulatory authority could be used coercively with regard to the salon owner or manager. Furthermore, the transaction would create the appearance of impropriety.

The conclusions of this opinion are based upon the facts presented and are rendered only with regard to questions arising under Chapter 102. and Section 2921.42 of the Revised Code.

Therefore, it is the opinion of the Commission, and you are so advised that Division (D) of Section 102.03 of the Revised Code prohibits inspectors and other employees of the Board of Cosmetology from selling cosmetology products to salons that they inspect or otherwise regulate.



Dean S. Lucai, Chairman
Ohio Ethics Commission