

Michigan Office of Administrative Hearings and Rules

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REQUEST FOR RULEMAKING (RFR)

Under the Administrative Procedures Act (APA), 1969 PA 306, the agency that has the statutory authority to promulgate rules must electronically file a RFR with the Michigan Office of Administrative Hearings and Rules (MOAHR) before initiating any changes or additions to the rules. Submit the RFR to MOAHR-Rules@michigan.gov.

1. Agency Information

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| Agency name: | Licensing and Regulatory Affairs |
| Division/Bureau/Office: | Bureau of Professional Licensing |
| Name, title, phone number, and e-mail of <u>person completing this form</u> : | Weston J. MacIntosh Senior Policy Analyst (517) 241-9269 macintoshw1@michigan.gov |

2. Rule Set Information

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| Title of proposed rule set: | Counseling – General Rules |
| Rule number(s) or range of numbers: | R 338.1751 – R 338.1778 |
| Included in agency's annual regulatory plan as rule to be processed in current year? | Yes |

3. Estimated timetable for completion, or statutory deadline, if applicable:

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| One year. |
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4. Describe the general purpose of these rules, including any problem(s) the changes are intended to address:

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| <p>The general purpose of these rules is to address educational and licensure requirements.</p> <p>The proposed changes include reorganization of the rules and substantive changes to amend the rules to:</p> <ul style="list-style-type: none">- Clarify definitions and the meaning of terms used in the rules.- Move educational training curriculum definitions to an educational section and rule, which will place them in the proper context of educational training requirements, as opposed to their current location in the rule set, which is a cause of confusion and misinterpretation about the scope of practice of the counseling profession.- Update higher institution educational program regional accreditation standards.- Update Council for Accreditation of Counseling and Related Educational Programs (CACREP) accreditation standards.- Clarify the educational training program requirements for applicants who are graduates of non-CACREP accredited programs.- Include a future increased credit hour requirement for applicants who are graduates of non-CACREP accredited programs, to coincide with future CACREP imposed requirements. |
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- Graduates of non-accredited postsecondary institutions must bear the expense and supply an educational program equivalency determination to the department from a credential evaluation agency.
- Revise the non-CACREP accredited educational training program curriculum to mandate only those courses listed in statute.
- Revise the human trafficking rule to include a date of promulgation.
- Add criteria related to good moral character and fingerprinting as conditions for relicensure of a limited licensed counselor, as well as other relevant criteria, depending on the circumstances of the applicant.
- Add the National Clinical Mental Health Counseling Examination (NCMHCE) as another approved examination for licensure.
- Add criteria related to good moral character and fingerprinting as conditions for relicensure of a licensed counselor, as well as other relevant criteria, depending on the circumstances of the applicant.
- Remove the relicensure requirements exemptions granted based on MCL 333.18107(2), as it does not protect the public.
- Add a rule that addresses the requirements for license renewal.

5. Cite the specific rule promulgation authority (i.e. agency director, commission, board, etc., listing all applicable statutory references. If the rule(s) are mandated by any applicable constitutional or statutory provision, please explain.

MCL 333.16145, MCL 333.16148, MCL 333.18101, and MCL 333.18107, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, MCL 445.2001, MCL 445.2011, and MCL 445.2030.

6. Describe the extent to which the rule(s) conflict with, duplicate, or exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level. Include applicable public act and statutory references.

R 338.1751, which specifies the definitions for this rule set. Moving definitions to the educational part of the set to address educational training requirements and remove confusion about the scope of practice of the counseling profession is necessary. The rules cannot expand the scope of practice to allow the performance of functions not authorized by MCL 333.18101.

Rescission of R 338.1757, which addresses counseling supervisor training, is necessary, because there is no statutory authority to have this rule. The rules cannot impose requirements on a licensee without statutory authority.

The rest of the proposed rules do not duplicate or conflict with other federal or state regulations.

7. Is the subject matter of the rule(s) currently contained in any guideline, manual, handbook, instructional bulletin, form with instructions, or operational memo?

No guideline, manual, handbook, instructional bulletin, form with instructions, or operational memo covers the subject matter of the rules.

8. Explain whether the rule(s) will be promulgated under Sections 44 or 48 of the APA or the full rulemaking process:

Promulgation of the rules will take place under the full rule-making process.

9. Do the rule(s) incorporate the recommendations of any Advisory Rules Committee formed pursuant to Executive Order 2011-5? If yes, explain.

No, the rules do not incorporate the recommendations of any Advisory Rules Committee formed by Executive Order 2011-5.

10. Is there an applicable decision record as defined in Section 3(6) and required by Section 39(2) of the APA? If so, please attach the decision record.

Yes, please see attached minutes from the April 12, 2019 board meeting.

11. Reviewed by the following Departmental Regulatory Affairs Officer:

Liz Arasim
Department of Licensing and Regulatory Affairs

↓ To be completed by the MOAHR ↓

Date RFR received:7-18-2019

Based on the information in this RFR, the MOAHR concludes that there are sufficient policy and legal bases for approving the RFR.

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| MOAHR assigned rule set number: | 2019-063 LR |
| Date of approval: | 7/23/19 |

Based on the information in this RFR, the MOAHR is not approving the RFR at this time.

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| Date of disapproval: | |
| Explanation: | |