

**Michigan Office of Administrative Hearings and Rules**  
**Administrative Rules Division (ARD)**

MOAHR-Rules@michigan.gov

**REQUEST FOR RULEMAKING (RFR)**

**1. Department:**

Licensing and Regulatory Affairs

**2. Bureau:**

Bureau of Professional Licensing

**3. Promulgation type:**

Full Process

**4. Title of proposed rule set:**

Dentistry - General Rules

**5. Rule numbers or rule set range of numbers:**

R 338.11101 – R 338.11821

**6. Estimated time frame:**

12 months

**Name of person filling out RFR:**

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**7. Describe the general purpose of these rules, including any problems the changes are intended to address.**

The Dentistry – General Rules pertain to definitions; identification of the licensee to a patient; dental treatment records; controlled substances inventory; licensure, renewal and relicensure requirements; education including prelicensure education; delegation, supervision, and assignment of unlicensed dental auxiliaries, registered dental assistants and registered dental hygienists; supervision of dental therapists; dental specialties; general anesthesia and sedation; telehealth; continuing education; and dental amalgam.

The rules will be amended to provide clarity pertaining to definitions; identification of the licensee to a patient; dental treatment records; controlled substances inventory; licensure, renewal and relicensure requirements; education including prelicensure education; delegation, supervision, and assignment of unlicensed dental auxiliaries, registered dental assistants and registered dental hygienists; supervision of dental therapists; dental specialties; general anesthesia and sedation; telehealth; continuing education; and dental amalgam.

**8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).**

MCL 333.16145 authorizes the board to promulgate rules necessary or appropriate to fulfill its functions as prescribed in the article 15 of the public health code.

**A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).**

Rule promulgation authority includes: MCL 333.16145; MCL 333.16148; MCL 333.16174; MCL 333.16178; MCL 333.16182; MCL 333.16186; MCL 333.16201; MCL 333.16204; MCL 333.16205; MCL 333.16215(6); MCL 333.16287; MCL 333.16608; MCL 333.16611; MCL 333.16625; MCL 333.16626; MCL 333.16631; MCL 333.16644; MCL 333.16651; MCL 333.16652; MCL 333.16653; MCL 16654; MCL 333.16655; MCL 333.16656; MCL 333.16657; MCL 333.16658; Executive Reorganization Order No. 1991-9, MCL 338.3501; Executive Reorganization Order No. 1991-9, MCL 338.3501, Executive Reorganization Order No. 1996-2, MCL 445.2001; Executive Reorganization Order No. 2003-1, MCL 445.2011; and Executive Reorganization Order No. 2011-4, MCL 445.2030.

**B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.**

Under MCL 333.16148, the department shall promulgate rules to include training standards for identifying victims of human trafficking.

Under MCL 333.16204, the board shall promulgate rules for continuing education in pain and symptom management for licensure renewal if continuing education is a condition for license renewal.

Under MCL 333.16287, the department, in consultation with the board, to promulgate rules to implement telehealth services.

Under MCL 333.16631, the department, in consultation with the department of environmental quality, renamed the Michigan Department of Environment, Great Lakes and Energy, shall promulgate rules regarding the best management practice for dental amalgam collection, disposal, and recycling and the retention and inspection of dental office records.

Under MCL 333.16644, the board shall promulgate rules to prescribe the form and content of record of a patient's dental treatment record to be used for identification purposes.

Under MCL 333.16658, the department, in consultation with the board, shall promulgate any rules that the department considers necessary to implement MCL 333.16651 to 333.16658, which regulate dental therapists.

**9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.**

Each state establishes its own requirements with respect to dentists, dental therapists, hygienists, and dental assistants, so there are no federal rules or standards set by a national or state agency comparable to most of the proposed rules. However, the Amalgam Separator Act, 2008 PA 503, (2008), required dental offices to install systems to remove dental amalgam to reduce mercury from being discharged into sewers. Section 16631 of the Code, MCL 333.16631, (2008), required the department in consultation with the department of environmental quality, renamed the Michigan Department of Environment, Great Lakes and Energy, to promulgate rules regarding best management practices for dental amalgam collection, disposal, and recycling and the retention and inspection of dental office records. The amalgam rules were effective in 2012. In addition, the United States Environmental Protection Agency (EPA) enacted requirements on the handling of mercury in 40 CFR Part 441 (2016). The date for compliance with the EPA's amalgam requirements for existing dental offices was July 14, 2020, and for newly purchased or built dental offices within 90 days of taking ownership.

**10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?**

No. The subject matter of these rules is not currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda.

**11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?**

Yes.

**12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?**

Full Process

**13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.**

Rule 338.11103 requires dental professionals to identify themselves to patients by their license types. Other Great Lakes states do not have a similar requirement. However, Minnesota requires licensed health care providers to wear a name tag indicating the profession or occupation of the individual, and Illinois requires health care facility employees and volunteers to wear an identification badge that readily discloses the first name, licensure status, and staff position of the person examining or treating the patient or resident.

Rule 338.11811(2) does not exempt a prosthodontist from the amalgam requirements, and, therefore, is more stringent than 40 CFR Part 441 that regulates the discharge of amalgam from a dental office.

No other rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

**14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.**

Yes. The Department works with various associations, educational institutions, dental related businesses, and lobbyists in preparing the proposed rules.

**15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.**

The rules were last amended effective October 2, 2023. There have been no technological factors, economic conditions or other factors that would necessitate amendment of the rules.

**16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?**

No.

**17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.**

Yes

**Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.**