

State Budget Office
Office of Regulatory Reinvention
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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 Office of Regulatory Reinvention (ORR) before initiating any changes or additions to the rules. Submit copy to the ORR at orr@michigan.gov.

1. Agency Information

Agency name:	Licensing and Regulatory Affairs
Division/Bureau/Office:	Bureau of Professional Licensing
Agency contact person name, e-mail, and phone:	Dena Marks, Analyst MarksD1@michigan.gov 517-335-3679

2. Rule Set Information

Title of proposed rule set:	Respiratory Care – General Rules
Rule number(s) or range of numbers:	R 338.2201 – 338.2207
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:

1 year.

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

The Respiratory Care General Rules pertain to the licensure, relicensure, and renewal for respiratory therapists. The current rules contain obsolete information and do not comply with current statutory requirements.

The proposed rules will revise definitions to include updated information identifying the department as the department of Licensing and Regulatory Affairs and adding a statutory citation. The current rule on training for identifying victims of human trafficking will be revised to include the dates when the training is required for a current licensee applying for renewal and for an applicant for initial licensure.

The proposed rules will revise and clarify the requirements for licensure. A rule will also be added that will require an applicant trained outside of the United States or Canada to have his or her education evaluated by the National Association of Credential Evaluation Services to determine if the education requirements for licensure have been met. The proposed rules would also add a rule that would require an applicant trained outside of the United States to demonstrate a working knowledge of the English language by achieving a score of 80 or more on the Test of English as a Foreign Language internet-based test.

The current rule pertaining to temporary licensing permits the department to issue that license for 1 year following the effective date of MCL 333.18711(1). This period of time ended July 1, 2005, so this rule will be rescinded in the proposed rules.

The current rule pertaining to licensure permits the department to issue a license to an individual who had credentials as a registered respiratory therapist or certified respiratory therapy conferred by a national organization on or before July 1, 2004. The period of time to make application ended July 1, 2005, MCL 333.18709(2). This rule will be rescinded in the proposed rules.

The information in the current rule for accreditation standards is outdated. The proposed rule revision would update the information and revise for clarity.

The information in the current rule related to relicensure is outdated. The proposed rule revision would update the information and revise for clarity.

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 333.16148; MCL 333.18709; 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; Executive Reorganization Order No. 2011-4, 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.

Each state establishes its own requirements with respect to the licensing requirements of respiratory therapists, so there is no federal rule or standard set by a national or state agency that the proposed rules can duplicate or be in conflict with.

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

The subject matter of the rules is not currently contained in any guideline, manual, handbook, instructional bulletin, form with instructions, or operational memo.

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

These rules will be promulgated using the full rulemaking process.

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

The proposed rules do not incorporate any recommendation of any Advisory Rules Committee.

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.

The Michigan Board of Respiratory Care voted to open the rules at the regularly scheduled board meeting on November 4, 2016.

11. Reviewed by the following Departmental Regulatory Affairs Officer:

Liz Arasim
Department of Licensing and Regulatory Affairs

↓ To be completed by the ORR ↓

Date RFR received:6-5-2018

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

ORR assigned rule set number:	2018-041 LR
Date of approval:	6/12/18

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

Date of disapproval:	
Explanation:	