

**Michigan Office of Administrative Hearings and Rules**  
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**REGULATORY IMPACT STATEMENT  
and COST-BENEFIT ANALYSIS (RISCBA)**

**PART 1: INTRODUCTION**

Under the Administrative Procedures Act (APA), 1969 PA 306, the agency that has the statutory authority to promulgate the rules must complete and submit this form electronically to the Michigan Office of Administrative Hearings and Rules (MOAHR) at [o'berryd@michigan.gov](mailto:o'berryd@michigan.gov) no less than 28 days before the public hearing.

**1. Agency Information**

Agency name:	Department of Insurance and Financial Services		
Division/Bureau/Office:	Office of Insurance Licensing and Market Conduct		
Name, title, phone number, and e-mail of person completing this form:	Paige McCully, Manager of Insurance Licensing, 517-284-8648, <a href="mailto:mccullyp@michigan.gov">mccullyp@michigan.gov</a>		
Name of Departmental Regulatory Affairs Officer reviewing this form:	Sarah Wohlford		

**2. Rule Set Information**

MOAHR assigned rule set number:	<b>2019-038 IF</b>
Title of proposed rule set:	Pre-licensure Education Rules

**PART 2: KEY SECTIONS OF THE APA**

**MCL 24.207a “Small business” defined.**

Sec. 7a. “Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated, and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.

**MCL 24.232** (8) Except for an emergency rule promulgated under section 48, and subject to subsection (10), if the federal government has mandated that this state promulgate rules, an agency shall not adopt or promulgate a rule more stringent than the applicable federally mandated standard unless the director of the agency determines that there is a clear and convincing need to exceed the applicable federal standard.

(9) Except for an emergency rule promulgated under section 48, and subject to subsection (10), if the federal government has not mandated that this state promulgate rules, an agency shall not adopt or promulgate a rule more stringent than an applicable federal standard unless specifically authorized by a statute of this state or unless the director of the agency determines that there is a clear and convincing need to exceed the applicable federal standard.

(10) Subsections (8) and (9) do not apply to the amendment of the special education programs and services rules, R 340.1701 to R 340.1862 of the Michigan Administrative Code. However, subsections (8) and (9) do apply to the promulgation of new rules relating to special education with the rescission of R 340.1701 to R 340.1862 of the Michigan Administrative Code.

**MCL 24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).**

Sec. 40. (1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall

consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

- (a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.
  - (b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.
  - (c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.
  - (d) Establish performance standards to replace design or operational standards required in the proposed rule.
- (2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.
- (3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:
- (a) 0-9 full-time employees.
  - (b) 10-49 full-time employees.
  - (c) 50-249 full-time employees.
- (4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.
- (5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

**MCL 24.245** (3) Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** which shall contain specific information (information requested on the following pages).

### PART 3: AGENCY RESPONSE

Please provide the required information using complete sentences. **Do not answer any question with “N/A” or “none.”**

#### Comparison of Rule(s) to Federal/State/Association Standards:

1. Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no parallel federal rules or standards set by a state or national licensing agency or accreditation association.

**A. Are these rule(s) required by state law or federal mandate?**

Yes. These rules are mandatory under MCL 500.1204a(1)(d), which requires the Director of the Department of Insurance and Financial Services to promulgate rules prescribing the criteria that must be met by a person to render instruction in a registered insurance producer program of study; and MCL 500.1204a(3), which requires the Director to promulgate rules prescribing the subject matter that a program of study must possess to qualify for registration for an insurance producer program of study. MCL 500.1204a was amended in Public Act 575 of 2008 to substantially adopt the National Association of Insurance Commissioners (NAIC) Uniform Producer Licensing Model Act, which was itself amended to comply with the 1999 federal Gramm-Leach-Bliley Act, which required that states enact uniform provisions for licensing insurance agents (producers) and businesses.

**B.** If these rule(s) exceed a federal standard, identify the federal standard or citation, describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

There is no applicable federal standard.

**2.** Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The proposed amendments that related to course content, hour, and method of instruction requirements will result in rules that are uniform across similarly situated states. As described in #1, the statute that provides authority to promulgate these rules was amended in 2009 to comply with federal uniformity requirements regarding insurance producer and business licensing. The amendment requiring education instructors to self-report certain events is not contained in the uniform standards, but is based directly on the language in MCL 500.1204a(5), which lists the same events that may provide a basis for the Director to suspend or revoke an instructor's approval.

**A.** If the rule(s) exceed standards in those states, explain why and specify the costs and benefits arising out of the deviation.

The only aspect of the rule that exceeds standards in similarly situated states is the self-reporting requirement in proposed amendments to R 500.6. The cost of this requirement is negligible; the benefits are significant because it will allow more efficient notification of these events.

**3.** Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s).

There are no laws, rules, or other legal requirements that duplicate, overlap, or conflict with the proposed rules.

**A.** Explain how the rule has been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

There are no federal, state, or local laws applicable to the same activity or subject matter, so no efforts to avoid or minimize duplication have been taken.

**4.** If MCL 24.232(8) applies and the proposed rule(s) is more stringent than the applicable federally mandated standard, **a statement of specific facts that establish the clear and convincing need to adopt the more stringent rule(s) and an explanation of the exceptional circumstances that necessitate the more stringent standard** is required below:

There is no applicable federally mandated standard.

**5.** If MCL 24.232(9) applies and the proposed rule(s) is more stringent than the applicable federal standard, **either the statute that specifically authorizes the more stringent rule(s) or a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rule(s) and an explanation of the exceptional circumstances that necessitate the more stringent standard** is required below:

There is no applicable federally mandated standard.

**Purpose and Objectives of the Rule(s):**

**6.** Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter.

The proposed rule changes are designed to ensure that insurance education instructors are approved in accordance with the provisions of the Insurance Code; to allow for self-study in pre-licensing education courses, given the increased availability of online courses; ensure that all candidates for licensure have completed a final examination; and to ensure that all applicants for licensure have successfully

completed a uniform series of courses. The proposed rule will also ensure that education instructors are competent and trustworthy, by ensuring that they obtain the approval of the Director of the Department of Insurance and Financial Services prior to providing services.

**A. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s).**

DIFS estimates that all applicants for licensure and all education instructors will comply with the proposed amendments.

**B. Describe the difference between current behavior/practice and desired behavior/practice.**

The current rule has outdated provisions on the content and number of hours required for pre-licensing education courses, and does not expressly allow for online study. It also lacks a provision requiring education instructors to self-report certain events.

**C. What is the desired outcome?**

The desired outcome is that all applicants for licensure receive thorough and uniform education; that all education instructors obtain approval from the Director prior to providing services; and that all approved instructors self-report events that could result in the suspension or revocation of their license.

**7. Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule.**

If left in their current form, the rules would conflict with the Insurance Code's hour and content requirements for pre-licensure education courses.

**A. What is the rationale for changing the rule(s) instead of leaving them as currently written?**

The proposed amendments are necessary to reflect statutory amendments: 1) the elimination of the Agent Education Advisory Council by PA 67 of 2017; and 2) updating the number of hours required for certain programs of study, as necessitated by 2009 amendments to Section 1204a of the Insurance Code, MCL 500.1204a. The proposed amendments would also allow individuals to take online courses; and would require education providers to fulfill reporting requirements to DIFS. These two amendments reflect the current state of the education market by allowing for online courses; and ensure that education providers remain in compliance with all applicable laws.

**8. Describe how the proposed rule(s) protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.**

Requiring education instructors to self-report violations will protect license applicants from unscrupulous education instructors and ensure that they have access to comprehensive courses. Consumers will ultimately benefit from having access to licensed insurance producers who have been educated by reliable instructors in all relevant areas of law.

**9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.**

There are no rules in the affected rule set that are obsolete or unnecessary.

**Fiscal Impact on the Agency:**

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It does not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

10. Describe the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings).

These changes should have no fiscal impact on the agency. There may be a very limited number of education instructors reporting events that may give rise to suspension or revocation of their approval, and requesting approval to take a licensing examination; however, these events will not impose significant, if any, costs.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

Funding sources will not be necessary because there is no significant, if any, fiscal impact on the agency.

12. Describe how the proposed rule(s) is necessary and suitable to accomplish its purpose, in relationship to the burden(s) it places on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The rule changes are necessary to align the rule set with federal law, the Insurance Code and to be consistent with standards in other states; no additional burdens are anticipated.

- A. Despite the identified burden(s), identify how the requirements in the rule(s) are still needed and reasonable compared to the burdens.

No additional burdens are anticipated.

**Impact on Other State or Local Governmental Units:**

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for such other state or local governmental units as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There are no effects on revenues to other state or local governmental units.

- A. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There are no effects on costs for other state or local governmental units.

14. Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s).

The rules do not impose any program, service, duty, or responsibility on any city, county, town, village, or school.

- A. Describe any actions that governmental units must take to be in compliance with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

The rules do not require any action to be taken by any governmental units other than DIFS.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rule(s).

There are no impacts to state or local governmental unit expenditures.

**Rural Impact:**

16. In general, what impact will the rule(s) have on rural areas?

The rules will have an impact on rural areas only to the extent pre-licensure education providers are located in rural areas and will need to comply with the amended rules. There will be no disparate impacts on those providers.

A. Describe the types of public or private interests in rural areas that will be affected by the rule(s).

No public or private interests in rural areas will be affected by the rules.

**Environmental Impact:**

17. Do the proposed rule(s) have any impact on the environment? If yes, please explain.

The proposed rules do not have any impact on the environment.

**Small Business Impact Statement:**

18. Describe whether and how the agency considered exempting small businesses from the proposed rule(s).

DIFS did not consider whether to exempt small businesses from the rules because it is critical that the requirements applicable to insurance courses and education providers be consistent across providers, regardless of their size.

19. If small businesses are not exempt, describe (a) how the agency reduced the economic impact of the proposed rule(s) on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rule(s) upon small businesses as described below, per MCL 24.240(1)(a)-(d), or (b) the reasons such a reduction was not lawful or feasible.

The rules do not impose a significant economic impact on education providers, so DIFS did not consider a reduction in that impact to be desirable, given the importance of consistency and uniformity.

A. Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

There approximately 20-25 education providers providing services in Michigan; of this number, DIFS is not aware of how many constitute small businesses. However, because the costs of compliance are anticipated to be very low, if not nonexistent, and because the rules will result in consistency across states, there should be no disparate impact on providers, regardless of their size.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

DIFS did not establish different compliance or reporting requirements or timetables for small businesses.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

DIFS did not consolidate or simplify the compliance and reporting requirements for small businesses.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rule(s).

There are no such design or operation standards required by the proposed rules.

20. Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

The size and location of an education provider that is also a small business will not affect the impact on that provider.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rule(s).

These changes do not require the preparation of any formal reports. Education instructors that need to report violations of laws will do so in a method of their own choosing; there is no form that will be promulgated to effectuate this requirement.

22. Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

There should be no additional costs associated with these changes.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

There should be no additional costs associated with these changes.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There should be no additional costs associated with these changes.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

Administering a rule that exempted or set lesser standards for compliance by small businesses would result in approximately double the costs to the agency because it would result in the enforcement of two separate rule sets, and the continual monitoring of two different sets of regulated entities: small businesses and non-small businesses.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

The public interest would be negatively affected by exempting or setting lesser standards of compliance for small businesses. If small businesses were exempt or subject to lesser standards, then the education requirements for pre-licensure applicants would differ and consumers could be adversely affected because licensees who did not take the full complement of classes would be less educated than other licensees.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rule(s).

Small businesses were not involved in the development of the rules.

- A. If small businesses were involved in the development of the rule(s), please identify the business(es).

Not applicable.

**Cost-Benefit Analysis of Rules (independent of statutory impact):**

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

There should be no additional compliance costs associated with these changes.

- A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s).

Education instructors and applicants for licenses will be directly affected by, and will directly benefit from, these rules.

**B.** What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

There should be no additional costs imposed on businesses and other groups as a result of these proposed rules.

**29.** Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The actual statewide compliance costs of the proposed rule changes on the regulated individuals would be limited to those approved education instructors that have to report unacceptable activity to DIFS, or request to take a licensing examination. These costs would be negligible.

**A.** How many and what category of individuals will be affected by the rules?

There are 73 pre-licensing education instructors approved to teach in the state.

**B.** What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

These individuals will be held accountable for their actions/activities.

**30.** Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

There should be no cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

**31.** Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Provide both quantitative and qualitative information, as well as your assumptions.

The primary and direct benefit of the rule is the assurance that education instructors are held to a minimum standard of accountability for their actions, and that applicants complete the required number of hours, in the required content areas, required for licensure.

**32.** Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

These proposed rule changes will not impact business growth or job creation in Michigan.

**33.** Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

No individuals or businesses will be disproportionately affected by the proposed rule changes.

**34.** Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of a proposed rule(s) and a cost-benefit analysis of the proposed rule(s).

The agency relied upon the following sources in compiling the regulatory impact statement:

Revisions and Clarifications to the Uniform Licensing Standards:

[https://www.naic.org/documents/committees\\_ex\\_pltf\\_producer\\_licensing\\_ul\\_standards\\_revised.pdf](https://www.naic.org/documents/committees_ex_pltf_producer_licensing_ul_standards_revised.pdf)  
(for information regarding uniform course requirements for question #2).

Internal DIFS database (Obase): for information regarding existing number of education providers for question #19A and number of education instructors for question #29A.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rule(s).

Estimates were made based upon the number of individuals affected by the proposed rule changes and what will be required of them.

**Alternatives to Regulation:**

35. Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. Include any statutory amendments that may be necessary to achieve such alternatives.

There are no reasonable alternatives to the proposed rule amendments because the requirements related to pre-licensure education are mandated to be included in rulemaking. See MCL 500.1240a(3).

A. In enumerating your alternatives, include any statutory amendments that may be necessary to achieve such alternatives.

Because these rules are mandatory, there are no statutory amendments that could achieve the same result.

36. Discuss the feasibility of establishing a regulatory program similar to that in the proposed rule(s) that would operate through private market-based mechanisms. Include a discussion of private market-based systems utilized by other states.

Private market-based mechanisms are not appropriate here because insurance pre-licensure education requirements are expressly left to state regulation.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rule(s). This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

There were no significant alternatives that the agency considered.

**Additional Information:**

38. As required by MCL 24.245b(1)(c), describe any instructions on complying with the rule(s), if applicable.

There are no instructions on complying with the rules.

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 ↓ **To be completed by the MOAHR** ↓

**PART 4: REVIEW BY THE MOAHR**

Date RISCBA received:	5-20-19/7-12-19
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Date RISCBA approved:	7/12/19
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Date of disapproval:	
Explanation:	