

**STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING**

TRANSCRIPT OF PUBLIC HEARING

MAY 22, 2022

9:00 A.M.

HEARING HELD VIA ZOOM

**WESTON MACINTOSH, PRESIDING
KERRY PRZYBYLO
KIMMY CATLIN**

**RE: BUREAU OF PROFESSIONAL LICENSING
2019-135 LR PUBLIC HEALTH CODE GENERAL RULES
AND
2019-041 OCCUPATIONAL CODE RENEWALS
AND
2019-103 LR SANITARIANS**

(Public Hearing commenced pursuant to due notice).

MR. MACINTOSH: My name is Weston MacIntosh and I am an analyst for the Bureau of Professional Licensing in the Department of Licensing and Regulatory Affairs, and I will be conducting the hearing today.

This is a public hearing on proposed administrative rules entitled “Occupational Code Renewals,” Public Health Code – General Rules,” and “Sanitarians Registration – General Rules.” We are conducting the hearing hearing as required by the Administrative Procedures Act to allow the public to comment on the proposed changes to these rule sets. As with all other public hearings on draft rule sets, the only items discussed during this hearing will be the proposed changes to the rule sets. This hearing will not be covering any questions or discussions on any other issues, such reopening businesses as this not the proper platform.

We are calling this hearing to order at 9:00 a.m. on May 22, 2020, via Zoom under Executive Order 2020-75 in response to the COVID-19 pandemic. The notice of public hearing was published in three newspapers of general circulation, the Grand Rapids Press and the Flint Journal on May 8, 2020, the Mining Journal on May 5, 2020, as well as the *Michigan Register*, Issue # 8, published on May 15, 2020.

All comments should relate directly to the proposed rules. If you have questions about the rules, you may place your comments on the record and the Department will review and consider them. If you have suggested changes to the proposed rules, please include the specific reasons why the changes would be in the public interest.

We will take comments in the following manner.

- For those using the Video Conference Portion (not calling on a telephone) please use the “Raise Your Hand” feature in Zoom. I will call on individuals to speak and they will be unmuted at that time.
- For participants that are available only by telephone, we will ask if you wish to make a

comment after the video participants have finished.

If you have a comment but do not wish to speak, please note that the Department will also accept written statements emailed or postmarked to BPL-BoardSupport@Michigan.gov until 5:00 p.m. today.

Those making comments should clearly and slowly say and spell your name and advise if you are speaking on behalf of an organization. We will limit comments to three minutes per person. Please remember that only one person should speak at a time.

The department staff from the Bureau of Professional Licensing includes me, Kerry Przybylo, and Kimmy Catlin.

We will group the comments by rule set so that we can group the comments together. The first rule set that we will take comments for is Sanitarians Registration – General Rules. Is there anyone who wishes to speak?

MS. PRZYBYLO: Weston, I don't see any hands up for the Sanitarians Rules. I believe we can move on to the next set.

MR. MACINTOSH: The second set we will receive comments for is the Occupational Code Renewals. Is there anyone who would like to make a comment on this rule set?

MS. PRZYBYLO: Weston, I don't see any hands up for the - - - for the Occupational Code Rules. I'm just going to peek through one more time.

MR. MACINTOSH: Yeah, I'm just flipping through the pages, I'm not seeing any hands for that rule set either.

MS. PRZYBYLO: Hold on, there's a - - -, one second here. For those of you that I see, - - - a person asked a question about the "Hands-Up". If you scroll down to the bottom of your screen, there is a reactions button with a smiley face. That's how you choose to - - -, it looks like a thumbs-up or clapping sound. Either one of those signals you can use to let us know that you have a comment.

MR. MACINTOSH: It looks like Tony Drautz, did you have a comment on the Occupational Code renewals? I think you are muted.

MR. DRAUTZ: Can you hear me?

Ms. PRZYBYLO: Yes.

MR. MACINTOSH: Yes.

MR. DRAUTZ: Actually, my comment is on the General Rules if I understand them correctly. Umm, and I couldn't figure out how to raise my hand. Can I still make my comment?

MS. PRZYBYLO: Which profession, the Sanitarians?

MR. DRAUTZ: Sanitarians, correct.

MS. PRZYBYLO: Go ahead.

MR. DRAUTZ: In the rules, I'm the Mental Health Director for Oakland County, and we have looked through those rules. One of the things that we have concerns with, it is unclear about the current RS, the current Michigan registration, and whether or not those would be included in the rules and licensure going forward, registration going forward. In 3931 it does mention it, but it doesn't really speak to how that is going to be handled.

MR. MACINTOSH: Tony, just to clarify, is your concern that the folks who already hold the current Michigan Registration are not going to be able to renew?

MR. DRAUTZ: Correct.

Mr. MACITOSH: As long as they are currently holding the registration, that is not an issue. I'm assuming that you are perhaps maybe eluding to some type of grandfathering type of, - -if folks who hold a registration, is there going to be a problem with them continuing to renew that registration. That wouldn't be an issue. Even though we have updated like some of the educational standards, which is standard for any sort of administrative rules for any profession, you are going to have updated standards as far as education. Just because those standards are updated, those are going to pertain to folks who are getting the registration for the first time and are folks who have let their license lapse for an extended period of time, typically.

MR. DRAUTZ: Okay, that's great. I just wanted to clarify that because I know there are a lot of practicing sanitarians in the state now.

MS. PRZYBYLO: Hold on. If you are not speaking, could you kindly mute your phone. There's a lot of background interference and we cannot hear Mr. Drautz. Thank you.

MR. DRAUTZ: Thank you. I just wanted to say that I know there's a lot of practicing sanitarians that don't, that never got reciprocity with the REHS from NEHA, which I think is the new credential. There is no exam in Michigan to get the RS. So, you could still get reciprocity, is that correct? Because I know there is some union contracts and different things that people that are working in the field at local public health departments are dealing with. So as long as you've got your, just so it's clear, your current RS, you will be able to renew that, from this point forward.

MR. MACINTOSH: Right. As long as, I mean, there is nothing in 3931, I believe is the proposed rule as far as renewals. There is nothing in the renewal, other than that you have to fill out the application and keep renewing the registration. Its if you lapse, that you could potentially run into an issue. Especially, you know, what we call reregistration, in this situation. For instance, if you let it lapse for three years, then you may have to take the exam, you may have to meet additional requirements. But if you are continuing to renew the registration, that's not going to be an issue. We are not including within that rule, that final rule, as far as renewal, additional requirements that current registrants would have to.

MR. DRAUTZ: Okay. And then the REHS from NEHA is the credential that you would accept in Michigan to get your registration. You wouldn't accept reciprocity from a registered Sanitarian from another state; let's say. Correct?

MR. MACINTOSH: There is a couple of provisos related to registration by endorsement. It's going to depend on the circumstances, but if you hold the NEHA RS credential, then that is the automatic gateway. So, if you hold that NEHA RS credential, and it's current, in good standing, then that it the gateway in.

MR. DRAUTZ: Thank you so much. I appreciate it.

MR. MACINTOSH: Yes, certainly. Good question.

MR. MACINTOSH: Any other questions related to Sanitarians or Occupational Code Renewals? I'm not seeing any other hands. Are you Kerry? I see YoungR15 has a thumbs up.

MS. YOUNG: Yes, that is correct. This is Regina Young and I am a Registered Sanitarian and I am representing myself. It is a comment about regarding Sanitarian Registration. It is a question, so I'll have to submit it as a comment. Michigan has various guidelines and/or state laws that adopt, by reference, a Michigan criteria for subsurface sewage disposal. That's adopted under NAREPA, Part 31 and regarding ground water discharge permitting or discharge permit exemptions. There are also rules that are relative to development of land with onsite, wastewater onsite water supply systems. And the rules that the State of Michigan has for reviewing those also references Registered Sanitarians in private practice as having certain credentials. And so, my concern is whether or not this rule change would have any impact on those other rules. I believe it would not, but that is my comment. It is whether that has been considered to have any impact or not, to other rules that reference Registered Sanitarians and their credential.

MR. MACINTOSH: If you could submit your comment, perhaps in writing, so that - and when you do that include maybe a citation to the other rules, or statutory 30, that you're concerned about whether it's going to affect. Because, obviously these would pertain to the registration of Sanitarians as far as these rules. So, if there is some other code out there that pertains to sanitarians, *inaudible*, that would be appreciated. Thanks.

MS. YOUNG: Thank you.

MS. PRZYBYLO: Ms. Young, do you know the email address to send it to?

MS. YOUNG: I do. I did send and I received an automatic generated email reply back that it would be a seven-day response time and so I sent to the Board, BPL-board again. I will send another one with specific citation and reference. Thank you.

MS. PRZYBYLO: It's BPL, hyphen, BoardSupport, all one word, at Michigan.gov.

MS. YOUNG: Thank you.

MR. MACINTOSH: Any other comments on Sanitarians or Occupational Code Renewals? I'm not seeing any other hands, Kerry?

MS. PRZYBYLO: I don't either, Wes.

MR. MACINTOSH: So, we'll move on to - - - are there any comments for the Public Health Code, - General Rules?

MS. PRZYBYLO: I don't see any, either.

MR. MACINTOSH: Okay. I'm just going to scroll through one more time as far as my pages. I'm not seeing any either. Kerry, do you want to take a recess and see if there's any?

MS. PRZYBYLO: Well, we've only been on for 15 minutes. I want to give people a chance, who might be a little late, to log in. So, we can just stay on the line. We'll stay on the line until 9:30 a.m. and if somebody had a comment that they would like to make about these three rule sets, they can raise their hands. I see Mr. Bowman has a comment about one of the rule sets. So, I'm going to unmute him. Go ahead. What is your comment? I'm trying to unmute you. There you go.

MR. BOWMAN: Hello, Don Bowman?

MS. PRZYBYLO: We can hear you Mr. Bowman.

MR. BOWMAN: I'm a licensed massage therapist. Is this the Public Health Code rules that were on?

MS. PRZYBYLO: We are receiving comments about the Public Health Code - General Rules. Yes.

MR. BOWMAN: Okay. And massage therapists are listed, the massage therapists are affected by the health code rules?

MS. PRZYBYLO: They are affected by this rule set, yes.

MR. BOWMAN: What rules are being changed that affect us?

MS. PRZYBYLO: A copy of the rules has been uploaded to the chat. Can you see that?

MS. MAUREEN WINTER: Nope.

MS. PRZYBYLO: Sometimes if you joined late, you can't see the documents. So, if you cannot see them, I can reupload that for you so that you can look through them. The General Rules generally pertain to all the health professions. They're rules that each person has to abide by, each health professional licensee has to abide by.

MR. BOWMAN: I understand that.

MS. PRZYBYLO: They are not specific to the massage therapy profession, though. They are for all of them.

MR. BOWMAN: Okay. I have an issue. I am also blind.

MS. PRZYBYLO: Okay.

MR. BOWMAN: I received a notice of the meeting a couple of weeks ago and I've been looking for what rule changes are proposed and I have not been able to find them. So, it's difficult to comment on something if you don't know what they are.

MS. PRZYBYLO: Okay. So, I'm going to, I'm seeing comments that people would like them uploaded again. So, give me a moment to reupload those and we can go through a summary of what the changes are, with you, so that you can understand. Okay?

MR. BOWMAN: Thank you. I appreciate that.

MS. PRZYBYLO: One moment, while I upload the health code rules.

MR. MACINTOSH: Did you want me to go through the Notice of Public Hearing for that rule set.

MS. PRZYBYLO: You can.

MR. BOWMAN: We received the notice, that's why we're here. What we need to know is what's being changed. We don't know that.

MS. PRZYBYLO: In all of the notices, there were links to the rule sets that show the draft and show what the changes are. So, that's how we communicate that with you.

MR. BOWMAN: Someone has there a Ok so, I can't comment on those until I know what they are. Can you summarize them?

MS. PRZYBYLO: Yes, we can summarize. Pardon my dogs that who are barking in the back. Yes. I just want to open the document here myself. Or maybe I can share the screen here. That might be

MS. CATLIN: We do have a hand up from RJ Barbershop.

MS. PRZYBYLO: I am not able to share my screen for whatever reason. Kimmy, did you sign in as the Host?

MS. CATLIN: No, Kerry, I'm a co-host. It shows that you are the host.

MS. PRZYBYLO: I'm not able to . . . , let's see here. One second here. There we go. Let me try something else. Okay. Alright, can you all see my screen?

MR. MACINTOSH: I can see it Kerry.

MS. PRZYBYLO: Can or cannot?

MR. MACINTOSH: I can. Yes. Good to go.

MS. PRZYBYLO: So, you can all see it. Okay. So, the Public Health Code - General Rules. Oh, I don't know how that happened. Okay. Basically, they provide for "Definitions" in the rule set, what the code means, who the department is, the definition of issue date for your license means the initial date the license was granted to the licensee. And limitation is defined as a term defined in the Code in MCL 333.16106. So that's the Definition section.

The next section of the rules talk about biennial license and registration renewal and the only change that's going to be made is that the Midwifery profession is being changed to the issue date of the license. So, they will renew - - - their date of their renewal will be on the issue date that their license was initially issued. The issue date. That's the only change for, on that page.

Page two talks about the fact that Optometry, Pharmacy, and Physician's Assistants are changing their renewal date to their issue date. This is all done to comply with the MiPLUS online registration system. So, these professions have been moved online now and so we are changing their renewal date to their issue date. Okay.

The other changes, for the next rule - - - the changes are going to be for professions that have a three-year license or registration cycle. Those will be Dentistry, Medicine, Osteopathic Medicine, Podiatric Medicine and Surgery, and Veterinary Medicine. They are changing their date of renewal from the dates that were initially there, to their issue date. W

We've created a four-year license cycle for Behavioral Analysts. Behavioral Analysts will renew every four years.

And then, there is a new rule regarding minimum English language standard. Statute requires that the Department post a rule about minimum English language standards and so this rule talks about all of the different tests that are available to licensees, who have been taught in a foreign language. How they can show us that they have minimum standard of English fluency in order to communicate with patients. So, that's R 338.7002b and it talks about all the different tests that you can use and select to establish English fluency. And those are the changes to the Public Health Code - General Rules.

MR. BOWMAN: Okay, so there's no other changes?

MS. PRZYBYLO: No.

MR. BOWMAN: Thank you very much for going through it.

MS. WINTER: Oh, for crying out loud.

MS. PRZYBYLO: You're very welcome.

MR. BOWMAN: I'm self-employed. I'm not working right now due to the Executive Order. Things are changing in government and some of us don't really trust the system until we know exactly what's happening. So, I'm here to find out. And thank you, I did find out.

MS. PRZYBYLO: You're welcome. And to let you know, we do our best to make sure that you are aware of all the potential changes. This hearing is required by statute so that we can

invite the public to come in and make a comment about changes to rules that impact their profession.

If you have the ability, you may, you can sign up on our website. Most of you are probably here because you signed up. I don't know where this red stuff is coming from. I'm not touching my screen. You may sign up on our website for information about items pertaining to your profession. We upload minutes, we upload agendas, we upload notices of public hearings. We also post on our website, Requests for Rulemaking, that let you know that there is - - - that we have opened the rules to make some changes or updates, so that you can follow along with that process. And when a draft is available for you to look at, you are welcome to download that and look at it.

We also hold public rules committee meetings, that are open to the public so the public can dialogue with the board members who are responsible for updating the draft. So that you can, provide your input ahead of a meeting like this if you're a professional and were concerned about a specific rule that impacts you. You have the ability to engage in the process before this hearing about any rule sets that the Bureau of Professional Licensing is responsible for regulating.

MR. BOWMAN: Does the Massage Therapy Board have any active rules committee at this point?

MS. PRZYBYLO: Yes. Yes, it does. So, what I would suggest is that you. - - - If you would like, Mr. Bowman, if you can contact us, we can make sure that you are on that distribution list for announcements about rule changes and rules committee meetings.

MR. BOWMAN: Thank you.

MS. PRZYBYLO: You can see it on our website. You may have gotten a notice from us about this meeting. And if you did, you are already signed up. So, if you have signed up for massage therapy, to have notices about massage therapy come to you, when we upload a notice of a rules committee meeting, it will come to you directly.

MR. BOWMAN: Okay. I've been signed up for years. I was on the board from 2012 to 2015 and these only general announcements. I never receive anything specifically about massage therapy, other than my license renewal.

MS. PRZYBYLO: Well, in the last year, we have started uploading all that information. So, if you can contact us, we can make sure that you are - - - we can help you sign up to make sure you are on the list.

MR. BOWMAN: Thank you.

MS. PRZYBYLO: Alright, are there any other comments about any of the rule sets that are before us.

MS. EVANGELISTA: I have a question.

MS. PRZYBYLO: Yes. Just a moment please. Just a moment please. Could you please identify who you are so that we can make our transcript clear before you speak? Thank you.

MS. EVANGELISTA: Yes. My name is Michelle Evangelista. I am the Operations Manager at Irene's Myomasology Institute. And, you just said that if you want to get notices

regarding the massage therapy board, when they have a committee meeting or upload or anything, to contact you. Where? Can you give me contact information so that I can?

MS. PRZYBYLO: You can look at our website, www.michigan.gov/bpl, and it will take you to our website. On our website there is a box at the bottom that says, "Are you interested in signing up for - - it's called Gov delivery." It's messages about the profession. You click on that and then you sign up for the profession that you would like to hear information about.

MS. EVANGELISTA: Okay, great. Thank you very much.

MS. CISNE: I have a question.

MS. PRZYBYLO: Yes. Could you please identify yourself?

MS. CISNE: Yes, my name is Reyna Cisne. And I'm calling in regards to salon ownership. I'm a cosmetologist and a business owner.

MS. PRZYBYLO: Okay, Rena could you first please spell your last name.

MS. CISNE: Last name is C like cat, I, S like Sam, N like Nancy, E.

MS. PRZYBYLO: We are not able to answer questions about anything other than the rule sets that are before the board - - - before you for the hearing. So, we can only take comments and answer questions about the Public Health Code, General Rules; the Occupational Code Renewals; and the Sanitarian registration rules.

MS. CISNE: Okay. The sanitation and registration rules. Is that - - - What is the registration rule?

MS. PRZYBYLO: It's for the profession. The Sanitarian's profession.

MS. CISNE: Okay. The sanitarian's profession.

MS. PRZYBYLO: Yes. It's not about sanitization rules pertaining to cosmetology or barber shops or any other rule that pertains to your profession about sanitation. It is strictly about the profession about Sanitarians.

MS. CISNE: Gotcha. Okay. Understood. Thank you.

MR. MACINTOSH: We have Kristin with her hand raised.

MS. WOULDSTRA: I'm sorry, I was just going to say that - - - I'm sorry, Kristin Woudstra.

MS. PRZYBYLO: Could you spell your last name please?

MS. WOULDSTRA: W O U D S T R A.

MS. PRZYBYLO: Thank you.

MS. WOULDSTRA: I was just saying that the general rules link was in the group chat, but I was unable to open it.

MS. PRZYBYLO: You can see it on the website. If you go to our website and you go the website that was in the notice, it will give you a link to all the rules and the sets.

MS. WOULDSTRA: Okay, thank you.

MS. HARDESTY: Hello.

MS. PRZYBYLO: Yes, Kristen.

MS. WEBER: This is Brandon Weber, Mandy Weber actually, but my name is, my husband's here. Can you hear me or not?

MS. PRZYBYLO: Yes, we can.

MS. WEBER: Excellent. I'm wondering what platform or what resources do we go to find what the new protocols and requirements are for us to legally practice under the new life of COVID. I think I've - - - we've heard very clearly here that this is not the platform for that. And we're struggling, at least I am, to find the answers as to, what are the new safety and sanitation protocols once we are able to open. Can you provide some guidance on that please?

MS. PRZYBYLO: All I know, is that the Governor's Office has been working on establishing protocols for reopening. We, personally, have not been given the information yet. But as soon as it has been given by the Governor's Office, we will disseminate it to all the licensees. We're waiting for that directive. But I do know that they are working on it and I expect that it to come very, very soon.

MS. WEBER: So, to be clear, I'm not asking the when, I'm asking the what will it look like.

MS. PRZYBYLO: I don't know. I'm not involved in that process, so I can't speculate on that. But, I do promise, that as soon as we get the directives, and the instructions, and what it looks like, you will be notified by the department.

MS. WEBER: And because we are licensed, you have our contact information, it would come via email?

MS. PRZYBYLO: Yes.

MS. WEBER: Is that the platform that we will receive it then?

MS. PRZYBYLO: I don't know because I'm not in the licensing area, I work with the Boards and Committees, but the department will, at a minimum, post on the website. I assume that there will be information for all the licensees to have access to.

MS. WRIGHT: Can I ask I question?

MS. PRZYBYLO: Yes.

MS. WRIGHT: My name is Karen Wright. I'm a massage therapist as well. Is there going to be a forum that we can give some interactive feedback or is just going to be dictated to us.

MS. PRZYBYLO: I don't know. Like I said, we are not the people that make those decisions. I understand that you all have questions. My role with the bureau is to handle the rules and to handle the boards and update the rules.

With regards to what's coming down from the Governor's Office and from executive leadership, I cannot answer those questions. I haven't been made privy to that information, but I do know that the department is very good about making sure you have what you need when the information becomes available. And, it will be given to you.

MS. WRIGHT: Well maybe you can give a little bit of feedback then since sounds like you are the intermediate area.

MS. PRZYBYLO: I'm not. I'm not the intermediate area. I don't have a window up there to communicate message from you to them. I knew this was going to happen today. The people have questions and it is understandable. But we are not the right platform. The platform is the Governor's Office. So, if you have concerns about that - - - that is where the questions should be directed.

MS. WRIGHT: Okay, thank you. Sorry.

MS. WEBER: This is Mandy Weber. I have a follow up question.

MS. PRZYBYLO: Yes.

MS. WEBER: Could you provide the correct email and phone number for the platform of which we should be asking these questions to?

MS. PRZYBYLO: I don't have that information. I would check the, www.michigan.gov/coronavirus website and to see if there is information where you can direct your inquiry.

MS. WEBER: There has been zero response to that and LARA and the Governor's Office. And I some see nods shaking in the video as I say this. So, I understand now further that this is not that platform. Your second email earlier this week was helpful in that regard and I think a lot of us are here just saying, where do we go then? So, any information you can provide to help us navigate through this would be very helpful.

MS. PRZYBYLO: All I can say is that the coronavirus website that has been given to us is the latest and the greatest as far as the most updated information. That's what we have to look forward to. That's what we look to for guidance. And that's where we're directing the public to look. Besides that website and looking at our website, I can't give you much further instruction on that.

MS. WEBER: Okay, thank you.

MS. PRZYBYLO: Are there any other comments on the rule sets that are before us?

MS. KIM CONNIFF: Could you please repeat the website that we go to sign up for these emails. I'm licensed but I didn't receive it. I received it from a colleague.

MS. PRZYBYLO: Sure. Once second. Let me look at it directly so I can direct you to it.

MS. CONNIFF: Thank you.

MS. PRZYBYLO: So, you're going to want to go to www.michigan.gov/lara and it will take you to our website, the BPL website, the Bureau of Professional Licensing. On the bottom of it, there are quick links. And it says sign up for email from BPL. That's where you click on that and it will let you sign up for those email messages

MS. CONNIFF: Okay great, thank you.

MR. MACINTOSH: Just to add to that. If you go into really any browser and you just type in LARA BPL email updates. That will probably take you to the page the fastest. Because the website itself has just a really long string of characters and numbers. So, the link is kind of tough to read out to you. If you go into, you know, Chrome or if you go into Bing or something like that, you just type in LARA BPL updates, you'll be able to find it from there. That's really the fastest way to do it.

MS. PRZYBYLO: Alright. Are there any further comments?

MR. SCOTT WITHINGTON: Not a comment on the rule but relevant to the question that was just asked. Is the enforcement order that was released Tuesday from the Director of MDHHS gives licensing agencies, which would include LARA, the instructions or authority to suspend or revoke licenses for violations of the Executive Orders.

MS. PRZYBYLO: Sir, we are not, this is not the platform for us to answer that question. That order did not come from the Boards and Committees section of the Bureau of Professional Licensing. It came from the Department of Health and Human Services, so we're not even the right department to be discussing that. So, you need to direct those kinds of questions to that department.

Alright, well I do not see any further hands up regarding the rule sets. So, with that, we are going to conclude this public hearing on the three rule sets that were published in the paper, Occupational Code Renewals, Public Health Code -General Rules, and Sanitarian Registration. Thank you very much for attending.

(The public hearing concluded.)

Dated: June 5, 2020