

**Michigan Office of Administrative Hearings and Rules**

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**AGENCY REPORT TO THE  
JOINT COMMITTEE ON ADMINISTRATIVE RULES (JCAR)**

**1. Agency Information**

**Agency name:**

Licensing and Regulatory Affairs

**Division/Bureau/Office:**

Bureau of Professional Licensing

**Name of person completing this form:**

Andria Ditschman

**Phone number of person completing this form:**

517-241-9255

**E-mail of person completing this form:**

DitschmanA@michigan.gov

**Name of Department Regulatory Affairs Officer reviewing this form:**

Elizabeth Arasim

**2. Rule Set Information**

**MOAHR assigned rule set number:**

2019-22 LR

**Title of proposed rule set:**

Pharmacy - Continuing Education

**3. Purpose for the proposed rules and background:**

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The Pharmacy Continuing Education rules pertain to license renewals, continuing education requirements, approval of continuing education courses and programs, and acceptable continuing education activities. The draft rules have been reorganized and rewritten to provide the requirements necessary to aid a licensee in accumulating the continuing education credits necessary for license renewal.

R 338.3041: This rule pertains to license renewal and continuing education requirements. The proposed rule will add renewal of a special retired pharmacist license, require training for identifying victims of human trafficking, require training in opioids and other controlled substances awareness, and require 1 hour of continuing education in pharmacy ethics and jurisprudence. It will also clarify the courses that will satisfy the 1 hour of required pain and symptom management continuing education. The proposed rule will prohibit a licensee from earning credit for the same course twice within a renewal period and advise the licensee that his or her submission of an application for renewal constitutes his or her certification that he or she has complied with all continuing education requirements of this rule. The proposed rule will also advise a licensee that a continuing education waiver request must be received by the department before the expiration date of the license.

R 338.3043: This rule pertains to approval of continuing education courses and programs. The proposed rule will establish additional requirements for an applicant seeking board approval of a continuing education course or program. The proposed changes include requiring submission of a “patient protection” form with the application if the course or program involves treating live patients, requiring submission at least 70 days before the course or program is to be conducted, and requiring that the course or program substantially meet an acceptable category of continuing education. The proposed rule will provide that the board may approve a program for 3 years and will also require reevaluation of an approved course or program if changes are made to the course or program. The proposed rules will provide the required information that the sponsor must include on the certificate or other proof of completion of the course or program that must be provided to the licensee. Finally, it will provide that the board may revoke approval for noncompliance with the rules. R 338.3044:

This rule pertains to acceptable continuing education activities. The proposed rule will reorganize it into a more user-friendly format. The proposed rule will describe approved continuing education courses and programs, the number of continuing education hours that may be earned by completing each activity, and the licensee’s duty to provide documentation of completion of the activity if audited. R 338.3045: This rule pertains to continuing education equivalents for a licensee residing or practicing in another state. This rule will be rescinded because the substance of the rule is included as an acceptable continuing education activity in R 338.3044(e).

#### **4. Summary of proposed rules:**

Overview: The proposed changes will: require completion of training for identifying victims of human trafficking and training in opioids and other controlled substances awareness before renewal of the license; clarify that continuing education (CE) is only required if a licensee has been licensed for a full 2-year license cycle; require 1 hour of CE in pharmacy ethics and jurisprudence; clarify the pain and symptom management requirement; limit CE credit for taking the same CE course or program twice during 1 renewal period; require documentation of meeting CE requirements; require a waiver request prior to the expiration date of the license; modify CE approval standards; organize CE activities in a table; add CE activities for credit; require specific proof for CE; and rescind the CE rule regarding renewal requirements for a pharmacist who resides or practices in another state.

#### **5. List names of newspapers in which the notice of public hearing was published and publication dates:**

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Marquette Mining Journal – September 18, 2019; Flint Journal – September 19, 2019; Grand Rapids Press – September 19, 2019

**6. Date of publication of rules and notice of public hearing in Michigan Register:**

10/4/2019

**7. Date, time, and location of public hearing:**

10/4/2019 09:00 AM at G. Mennen Williams Building Auditorium , 525 W. Allegan St, Lansing, MI 48909

**8. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:**

[https://dtmb.state.mi.us/ARS\\_Public/Transaction/RFRTransaction?TransactionID=45](https://dtmb.state.mi.us/ARS_Public/Transaction/RFRTransaction?TransactionID=45)

**9. List of the name and title of agency representative(s) attending public hearing:**

Kerry Przybylo, Manager; Andria Ditschman, Senior Policy Analyst; Weston MacIntosh, Senior Policy Analyst; Dena Marks, Senior Policy Analyst; Kimberly Catlin, Board Support; LeAnn Payne, Board Support; and Stephanie Wysack, Board Support.

**10. Persons submitting comments of support:**

Adam Carlson, Senior Director, Government & Political Affairs, Michigan Health & Hospital Association (MHA)

**11. Persons submitting comments of opposition:**

Rose M. Baran, PharmD, MA, Assistant Professor, College of Pharmacy, Ferris State University; Thomas R. Clark, RPh, MHS, BCGP, Senior Director, Board of Pharmacy Specialties (bps); Deeb D. Eid, PharmD, Assistant Profession, Ferris State University; Mary Anne McCoy, PhD, RN, ACNS, ACNP-BC, FAANP, President, Michigan Council of Nurse Practitioners (MICNP); Brian Sapita, Government Affairs Manager, Michigan Pharmacists Association (MPA)

**12. Identify any changes made to the proposed rules based on comments received during the public comment period:**

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	<b>Name &amp; Organization</b>	<b>Comments made at public hearing</b>	<b>Written Comments</b>	<b>Agency Rationale for change</b>	<b>Rule number &amp; citation changed</b>
1	Brian Sapita, Government Affairs Manager, Michigan Pharmacists Association (MPA)		“A special retired pharmacist’s license” is not defined anywhere in statute or rules and needs to be.	The term “special retired pharmacist,” refers to a special volunteer license for a pharmacist as authorized in section 16184 of the Public Health Code (Code), MCL 333.16184. The Board agrees to add “volunteer” to the term “special retired pharmacist license” to clarify that the license is the volunteer license authorized under the Code.	338.3041(1)
2	Rose M. Baran, PharmD, MA, Assistant Professor, College of Pharmacy, Ferris State University		Modify to read: “For license renewals beginning in 2020... .” The way it is currently written “Beginning with the first renewal cycle after November 13, 2017” is confusing.	The Board agrees with the comment to delete “with the first renewal cycle”, as this language is confusing. The date that has been provided on the Department’s website of 2020 is used in the rule.	338.3041(1) (b)

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3	Rose M. Baran, PharmD, MA, Assistant Professor, College of Pharmacy, Ferris State University		Modify to read: “For controlled substance license renewals beginning with the 2021 renewal cycles, an applicant for license renewal shall have completed a 1-time training in opioids and other controlled substances awareness.”	The Board agrees with the comment to clarify that the opioid and controlled substances training is required only if the licensee is also applying for a controlled substances license. A specific effective date has been deleted, as R 338.3135, which requires the opioid training, is on hold at the Joint Committee on Administrative Rules.	338.3041(1)(c)
4	Rose M. Baran, PharmD, MA, Assistant Professor, College of Pharmacy, Ferris State University		Rule 338.3041(d) requires the one hour in pharmacy ethics and jurisprudence be obtained to renew the license in 2020. That means the group of pharmacists renewing with the expiration date of June 30, 2020 will have less than 6 months to obtain this requirement. Would suggest changing the date, the start of rule 338.3041(d) to read “Beginning in 2021 ... .”	To provide for more time for licensees to comply with the rule, the Board agrees with the comment to clarify that 1 credit in ethics and jurisprudence will be effective January 1, 2021.	338.3041(1)(d)(i)

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5	Brian Sapita, Government Affairs Manager, Michigan Pharmacists Association (MPA)		Rule should read “Emergency skills related to the health and safety of the patient pharmacy.”	To clarify the rule, the Board agrees with the comment to modify the language to read “Emergency skills related to the health and safety of the patient.”	338.3043(f) (iv)
6	Rose M. Baran, PharmD, MA, Assistant Professor, College of Pharmacy, Ferris State University		This should be changed to read “A continuing education sponsoring organization, institution, or individual approved by the Michigan Pharmacists Association (MPA) or Michigan Health and Hospital Association, or national pharmacy organizations, or health system.” This would allow for more entities to provide continuing education for pharmacists.	To clarify the rule, the Board will modify the rule by deleting the provision referencing MPA, as MPA and any other entity that is approved by ACPE is included in subdivision (a) as accepted continuing education	338.3044(a)

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7	Brian Sapita, Government Affairs Manager, Michigan Pharmacists Association (MPA)		Pharmacy school ACPE/CCAPP accreditation process is not similar to ACPE accreditation for CE hours. The accreditation is based on different criteria. Recommend removing the ACPE and CCAPP.	The Board will change “school” to “program” in subdivision (a) to clarify that the program must be ACPE or CCAPP approved, not the school.	338.3044(a)
8	Brian Sapita, Government Affairs Manager, Michigan Pharmacists Association (MPA)		A preceptor may not always have direct interaction with the student. Some student pharmacists may not interact with a preceptor at all. How will the Board ensure that this will not be abused? Consider removing “1 intern – to- 1 preceptor ratio.”	The Board agrees with the comment that clarity is necessary in subdivision (d). To clarify that it is the Board’s intent that the relationship between the preceptor and student must be in person, the term “in person” will be added after “120 hours.”	338.3044(d)

**13.Date report completed:**

2/19/2020