

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

611 W. Ottawa Street

Lansing, MI 48909

Phone: 517-335-8658 Fax: 517-335-9512

**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Licensing and Regulatory Affairs

Bureau name:

Bureau of Professional Licensing

Name of person filling out RIS:

Dena Marks

Phone number of person filling out RIS:

517-335-3679

E-mail of person filling out RIS:

MarksD1@michigan.gov

Rule Set Information:

ARD assigned rule set number:

2020-5 LR

Title of proposed rule set:

Massage Therapy -- General Rules

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

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

Each state establishes its own requirements with respect to massage therapists, so there are no federal rules or standards set by a national or state agency that the proposed rules can be compared to.

A. Are these rules required by state law or federal mandate?

MCL 333.16145 requires the board to promulgate rules to specify the requirements for licenses, renewals, examination, and required passing scores. MCL 333.16287 requires the department, in consultation with the board, to promulgate rules for telehealth services. MCL 333.17963 requires the board to promulgate rules to create a code of professional ethics.

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

The proposed rules do not exceed a federal standard.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The proposed rules are consistent with the standards required in the Michigan Public Health Code, and the rules are largely consistent with the requirements of other states in the Great Lakes region. Every state in the Great Lakes region, except Minnesota, license or certify massage therapists.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

Overall, the standards in the proposed rules do not exceed those of the other states in the Great Lakes region that license or certify massage therapists.

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

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

A. Explain how the rules have 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.

No coordination is needed because there are no other applicable laws that regulate the areas addressed in the proposed rule.

4. If MCL 24.232(8) applies and the proposed rules are 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 rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

MCL 24.232(8) does not apply.

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

MCL 24.232(9) does not apply.

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

Part 1 General Provisions: The current rules provide definitions for terms used in the rule set. The proposed rules will clarify the definitions used in the rules set. A new telehealth rule will be added, as required by MCL 333.16287. The proposed rules will assist a reader in understanding the meaning of the terms used in the rule set, eliminate unnecessary definitions, and advise a licensee of his or her duties when rendering telehealth services.

Part 2 Education: The current rules pertain to the educational requirements and supervised student clinic requirements for licensure and the educational standards adopted by the board. The statutory requirements for the supervised curriculum changed on August 1, 2017. In the proposed rules, the requirements for students enrolled before August 1, 2017, enrolled on or after August 1, 2017, but before January 10, 2020, and for students enrolled on or after January 10, 2020 have been separated to assist the applicant in determining which educational and supervised student clinic requirements he or she must meet for licensure.

Part 3 Licensure: The current rules pertain to the licensure, relicensure, and licensure by endorsement requirements for a massage therapist. The proposed rules changes will be made for clarity. The rule requiring a working knowledge of the English language will be removed. The requirement that an applicant have a working knowledge of the English language for licensure will be included in the Public Health Code General Rules. These proposed changes will assist an applicant in complying with the requirements for licensure.

The current licensure by endorsement rule will be amended to comply with the requirements of MCL 333.17959. The proposed rules will also amend the requirements for licensure by endorsement, depending on the length of time that a licensee has been licensed in another jurisdiction. The proposed amendments will clarify licensure requirements to assist the applicant in the application process.

The current relicensure rule will be amended to clarify requirements and to provide a more user-friendly format. The amendments will assist an applicant for relicensure to comply with all relicensure requirements.

The current licensure renewal rule is not up-to-date and lacks clarity. The proposed rules will clarify the requirements for renewal. The proposed rule will assist a renewal applicant to comply with all requirements for license renewal.

Part 4 Continuing Education: The current rules provide for the programs and activities approved by the board for the accumulation of continuing education credits for license renewal. The proposed rules clarify the activities and proof required. The proposed rules also advise how many hours of continuing education credits may be earned by participating in each activity. The proposed rules will assist the licensee in complying with all continuing education requirements.

Part 5 Professional Ethics: The current rules lack up-to-date ethical standards recognized by the national massage therapy associations. The professional ethics rule is required by statute, and the proposed amendments will inform the licensee of the current ethical standards. The separate rule regarding client records will be rescinded as client records are required by MCL 333.16213, and the licensee is informed in the revisions to R 338.751 that he or she must keep records in compliance with that statute.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The frequency of use is not expected to change.

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

Part 1 General Provisions: The current rules lack clarity in some definitions, include unnecessary definitions, and lack a telehealth rule. The proposed rules will assist a reader in understanding the meaning of the terms used in the rule set, eliminate unnecessary definitions, and advise a licensee of his or her duties when rendering telehealth services.

Part 2 Education: The current rules have caused some confusion regarding educational and supervised student clinic requirements for licensure, especially for those students who enrolled on or after August 1, 2017, but before January 10, 2020. In the proposed rules, the requirements will be clarified for the applicant, based on the date of the applicant's enrollment to assist an applicant in complying with the requirements for licensure.

Part 3 Licensure: The current rules pertaining to licensure, relicensure, and licensure by endorsement requirements for a massage therapist are not up-to-date, lack clarity, and contain a requirement that the applicant demonstrate that he or she has a working knowledge of the English language.

In the proposed rules, changes will be made for clarity, amendments will be made to the requirements for licensure by endorsement, and the requirements for relicensure will be reorganized into a more user-friendly format. Additionally, the requirement that an applicant demonstrate a working knowledge of the English language will be removed because that requirement will be added as a new rule applicable to all applicants seeking a license issued under Article 15 of the Public Health Code in the Public Health Code General Rules. These proposed changes will assist an applicant in complying with the requirements for licensure, licensure by endorsement, and relicensure.

The current licensure renewal rule is not up-to-date and lacks clarity. The proposed rules will clarify the requirements for renewal. The proposed rule will assist a renewal applicant to comply with all requirements for license renewal.

Part 4 Continuing Education: The current rules providing for the programs and activities approved by the board for the accumulation of continuing education credits for license renewal will be amended for clarity and to add additional activities approved by the board. The proposed rules will assist the licensee in complying with all continuing education requirements for license renewal.

Part 5 Professional Ethics: The current rules lack up-to-date ethical standards recognized by national massage therapy associations. The professional ethics rule is required by MCL 333.17963 and the proposed amendments will inform the licensee of current ethical standards for the profession. The separate rule regarding client records will be rescinded as client records are required by MCL 333.16213, and the licensee is informed in R 338.751 that he or she has an ethical duty to maintain medical records in compliance with that statute.

C. What is the desired outcome?

Part 1 General Provisions: The proposed rules are intended to provide clarity, eliminate unnecessary definitions, and inform a licensee of his or her duties when providing telehealth services.

Part 2 Education: The desired outcome of the revisions in the proposed rules is to assist an applicant in meeting the educational and supervised student clinic requirements for licensure.

Part 3 Licensure: The proposed rules changes are intended to clarify the requirements for licensure, licensure by endorsement, relicensure, and license renewal to assist an applicant in complying with the requirements.

Part 4 Continuing Education: The proposed rules will assist the licensee in complying with all continuing education requirements for license renewal.

Part 5 Professional Ethics: The proposed rules will update the professional ethics standards required by MCL 333.17963 to protect the health, safety, and welfare of Michigan citizens.

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

Part 1 General Provisions: Without clear definitions, the terms used in the proposed rules may be misunderstood. Additionally, the lack of a telehealth rule is contrary to the requirements of MCL 333.16287.

Part 2 Education: Without clarification for applicants, the educational and supervised student clinic requirements for licensure may cause confusion and result in the applicant's non-compliance, based on his or her enrollment date.

Part 3 Licensure: The proposed rules changes are intended to clarify the requirements for licensure, licensure by endorsement, relicensure, and license renewal to assist an applicant in complying with the requirements. Amending the rules is the only way that clarification can be achieved.

Part 4 Continuing Education: The proposed rules will assist the licensee in complying with all continuing education requirements for license renewal. The proposed rules are intended to assist a licensee in accumulating approved continuing education credits for license renewal.

Part 5 Professional Ethics: The proposed rules will update the professional ethics standards required by MCL 333.17963 to protect the health, safety, and welfare of Michigan citizens.

A. What is the rationale for changing the rules instead of leaving them as currently written?

Part 1 General Provisions: The definitions cannot be clarified without a rule change. The current rules lack a telehealth rule, contrary to the requirements of MCL 333.16287.

Part 2 Education: Clarification of educational and supervised student clinic requirements cannot be achieved without changing the current rules.

Part 3 Licensure: Clarification of the requirements for licensure, licensure by endorsement, relicensure, and license renewal cannot be achieved without changing the current rules.

Part 4 Continuing Education: The board approved continuing education activities have changed. The programs and activities currently approved by the board are not reflected in the rules. The only way to include the currently approved programs and activities is by amending the rules.

Part 5 Professional Ethics: The proposed rules do not reflect up-to-date ethical standards for the profession. The only way to update the professional ethics standards required by MCL 333.17963 is to amend the rules.

8. Describe how the proposed rules 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.

Part 1 General Provisions: The proposed rules will assist a reader in understanding the meaning of the terms used in the rule set. This will protect the health, safety, and welfare of Michigan citizens by ensuring that an applicant or licensee understands the requirements in the rule set. The new telehealth rule will protect the health, safety, and welfare of Michigan citizens by ensuring that a licensee knows and satisfies his or her duties when rendering a telehealth service.

Part 2 Education: The proposed rules clarify the educational and supervised student clinic requirements for the applicant. The proposed changes will protect the health, safety, and welfare of Michigan citizens by ensuring that the applicant for licensure has the education and experience necessary to satisfy the statutory requirements for licensure, based on the date of the applicant's enrollment.

Part 3 Licensure: In the proposed rules, changes will be made for clarity, amendments will be made to the requirements for licensure, licensure by endorsement, relicensure, and license renewal. These proposed changes will protect the health, safety, and welfare of Michigan citizens by ensuring that an applicant has demonstrated that he or she has satisfied all the training, experience, and continuing educational required to competently provide massage therapy services to the public.

Part 4 Continuing Education: The proposed rules will assist the licensee in identifying and complying with all continuing education requirements for license renewal. The health, safety, and welfare of Michigan citizens will be protected by ensuring that the licensee is up-to-date in his or her training.

Part 5 Professional Ethics: The professional ethics are required by MCL 333.17963 and the proposed amendments will inform the licensee of the current ethical standards for the profession. The proposed rules will update the professional ethics standards to protect the health, safety, and welfare of Michigan citizens.

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

A licensee's duties regarding medical records is set out in MCL 333.16213, so rule R 338.752 is unnecessary and will be rescinded.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

The proposed rules are not expected to have a fiscal impact on the agency.

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

No agency appropriation has been made or a funding source provided because there are no expenditures associated with the proposed rules.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

Part 1 General Provisions: The rules in this part will ensure that the terms used in the rule set are understood. There is no additional burden on an individual as a result of the proposed changes. A new rule is added to this part regarding telehealth services. This rule is necessary to ensure the public health, safety, and welfare of Michigan citizens receiving telehealth services. The telehealth rule is required by MCL 333.16287.

Part 2 Education: The proposed rules clarify the educational and supervised student clinic requirements for the applicant. There is no additional burden on an individual as a result of the proposed rules. The proposed changes will protect the health, safety, and welfare of Michigan citizens by ensuring that the applicant for licensure has the education and experience necessary to satisfy the statutory requirements for licensure, based on the date of the applicant's enrollment in his or her educational program.

Part 3 Licensure: In the proposed rules, changes will be made for clarity and amendments will be made to the requirements for licensure, licensure by endorsement, relicensure, and license renewal. There is no additional burden on the individual as a result of the proposed rules. These proposed changes will protect the health, safety, and welfare of Michigan citizens by ensuring that an applicant has demonstrated that he or she has satisfied all the training, experience, and continuing educational required to competently provide massage therapy services to Michigan citizens.

Part 4 Continuing Education: The proposed rules will assist the licensee in identifying and complying with all continuing education requirements for license renewal. There is no additional burden on the individual as a result of the proposed rules. The health, safety, and welfare of Michigan citizens will be protected by ensuring that the licensee is up-to-date in his or her training.

Part 5 Professional Ethics: The professional ethics are required by MCL 333.17963 and the proposed amendments will inform the licensee of the current ethical standards for the profession. The proposed rules will update the professional ethics standards to protect the health, safety, and welfare of Michigan citizens.

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

There is no identified burden imposed by the proposed rules.

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 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 anticipated increases or reductions in revenue for other state or local governmental units as a result of the proposed rules.

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

There are no anticipated or intended programs, services, duties, or responsibilities imposed on any city, town, village, or school district as a result of these proposed rules.

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

There are no anticipated actions that a governmental unit must take to comply with the proposed rules.

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 rules.

No appropriations have been made to any governmental units as a result of the proposed rules. No additional expenditures are anticipated or intended with the proposed rules.

16. In general, what impact will the rules have on rural areas?

The proposed rules impose requirements on individual licensees rather than small businesses. Even if a licensee's workplace qualifies as a small business, the department could not exempt his or her business because it would create a disparity in the regulation of the profession.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The proposed rules will not impact public or private interests in rural areas.

17. Do the proposed rules have any impact on the environment? If yes, please explain.

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

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The department did not consider exempting small businesses because they are not impacted by the proposed rules.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules 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 rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The rules cannot exempt small businesses because the rules do not directly regulate small businesses. The rules regulate individual licensees.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

There are approximately 9,286 licensed massage therapists in Michigan .

A licensee may work in a small business. However, no matter what type of business environment the licensee works in, he or she will have to comply with the proposed rules. The rules do not impact small business differently because the impact is to the individual licensee only.

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

The agency did not establish separate compliance or reporting requirements for small businesses. The proposed rules will apply to all massage therapy licensees. The rules were drafted to be the least burdensome on all affected licensees.

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.

The agency did not consolidate or simplify compliance and reporting requirements for small businesses with the proposed rules because the proposed rules do not impact small businesses.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The agency did not establish performance standards to replace design or operation standards required by these rules.

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

The proposed rules do not impact small business. They impact an individual licensee. Therefore, there is no disproportionate impact on a small business because of its size or geographic location.

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

The proposed rules affect individuals applying for licensure and renewal, regardless if they practice in a small business. There is no separate cost to a small business.

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

There are no expected costs for equipment, supplies, labor, or administrative costs that a small business would incur in complying with the proposed rules.

The rules impact licensees and not small businesses.

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

There are no expected costs for legal, consulting, or accounting services that a small business would incur in complying with the proposed rules.

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

There are no expected costs to a small business that will cause economic harm to a small business or the marketplace as a result of the proposed rules.

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.

The proposed rules impose requirements on individual licensees rather than a small business. Even if a licensee's practice qualifies as a small business, the department could not exempt his or her business because it would create disparity in the regulation of the profession.

Therefore, there is no cost to the agency for administering or enforcing the rules because exempting or setting lesser standards of compliance for a small business is not in the best interest of the public.

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

The proposed rules impose requirements on individual licensees rather than a small business. Even if a licensee's work qualifies as a small business, the department could not exempt his or her business because it would create a disparity in the regulation of the profession. Therefore, exempting or setting lesser standards of compliance for a small business is not in the best interest of the public.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The department worked with the Michigan Board of Massage Therapy in the development of the proposed rules. The board is composed of massage therapists and public members.

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

No small businesses were involved in the development of the rules.

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

There are no estimated compliance costs with these rule amendments on businesses or groups.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

No businesses or groups will be directly affected or benefitted by the proposed rules. No additional costs will be imposed on any businesses or groups.

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)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

No additional costs will be imposed on any businesses or groups.

29. Estimate the actual statewide compliance costs of the proposed rules 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.

It is estimated that there will be no new compliance costs imposed on individuals as a result of the proposed rules.

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

All licensees and applicants are affected by the proposed rules.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

There is no qualitative or quantitative impact on individuals as a result of the proposed rules.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are 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 rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The proposed rules use clear, concise language, and implement the statutory requirements for licensing. The clear, concise language allows the public, applicants, and licensees to better understand the requirements for licensure and renewal.

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

The rules are not expected to have an impact on business growth, job creation, or job elimination 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.

The department does not expect any individuals or businesses to be disproportionately impacted by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

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 the proposed rules and a cost-benefit analysis of the proposed rules.

Illinois: <http://ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2469&ChapAct=225%26nbsp%3BILCS%26nbsp%3B57%2F&ChapterID=24&ChapterName=PROFESSIONS+AND+OCCUPATIONS&ActName=Massage+Licensing+Act%2E;>

<http://www.ilga.gov/commission/jcar/admincode/068/068012840000200R.html>

Indiana:

<http://www.in.gov/pla/3317.htm>;

<http://iac.iga.in.gov/iac//T08470/A00010.PDF?>

Kentucky: <http://bmt.ky.gov/Pages/laws.aspx>

<http://bmt.ky.gov/Pages/regulations.aspx>

Minnesota:

<https://www.stpaul.gov/departments/safety-inspections/environmental-health/massage>

Ohio:

<http://codes.ohio.gov/oac/4731-1>

<http://codes.ohio.gov/orc/4731>

Pennsylvania:

<https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/MassageTherapy/Documents/Applications%20and%20Forms/Non-Application%20Documents/MTM%20-%20Act%20118%20Amended%20Massage%20Therapy.pdf>

<http://www.pacodeandbulletin.gov/Display/pacode?>

<file=/secure/pacode/data/049/chapter20/chap20toc.html&d=reduce>

Wisconsin: <https://docs.legis.wisconsin.gov/statutes/statutes/460.pdf>

<https://dsps.wi.gov/Pages/RulesStatutes/MTBT.aspx>

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 rules.

Since the rules are required by statute, no estimates were made.

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

Since the rules are required by statute, there are no reasonable alternatives to the proposed rules.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

Since the rules are required by statute, a statutory change would be needed to provide an alternative.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Since the rules are required by statute, private market-based systems cannot serve as an alternative. The licensing and regulation of massage therapy professionals are state functions, and states regulate massage therapy professionals by statute, regulation, or both. Private market-based systems are not used for licensing and regulation.

There are professional organizations that establish criteria for membership, but these organizations would provide the public with significantly less protection because membership in many of these organizations is voluntary. This means an individual who meets the membership requirements but does not join one of the professional organizations would be able to practice, and there would be no way to ensure their competency or hold them accountable.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Since the rules are specifically required by statute, there are no alternatives to the proposed rules that the agency could consider. They are necessary for the administration and enforcement of the licensing process.

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The instructions for compliance are included in the rules.