

Michigan Office of Administrative Hearings and Rules

611 W. Ottawa Street

Lansing, MI 48909

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

**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:

Dena Marks

Phone number of person completing this form:

517-335-3679

E-mail of person completing this form:

MarksD1@michigan.gov

Name of Department Regulatory Affairs Officer reviewing this form:

Elizabeth Arasim

2. Rule Set Information

MOAHR assigned rule set number:

2019-104 LR

Title of proposed rule set:

Public Health Code -- Disciplinary Rules

3. Purpose for the proposed rules and background:

The general purpose of these rules is to provide rules applicable to disciplinary matters for all professions regulated under the Public Health Code.

The proposed updates will add new definitions, revise, reorganize, and clarify current rules, and rescind current rules that are duplicative of statute.

4. Summary of proposed rules:

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The proposed rules will add definitions for terms used in the ruleset and a new rule pertaining to disciplinary action that may be taken against an unlicensed or unregistered individual. A new rule will also be added to advise a former licensee or registrant of his or her duty to update his or her contact information while a complaint is pending and until a final order is satisfied. Amendments have been made to the rules pertaining to historical records, investigations, and the duty to comply with a final order. Other changes revise, reorganize, and clarify current rules. The proposed rules will rescind rules that duplicate statutory requirements, including rules pertaining to a disciplinary subcommittee, summary suspensions, and cease and desist orders.

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

The Flint Journal, August 11, 2020
The Grand Rapids Press, August 11, 2020
The Mining Journal, August 11, 2020

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

8/15/2020

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

8/25/2020 09:00 AM at This meeting will be held virtually via Zoom pursuant to Executive Order 2020-132. , <https://zoom.us/j/95036558954?pwd=UTU0U3FNczNWZVIRQIVaU0s1U1d1QT09>, password for video connection 206556; 877-336-1831, password for audio connection 486917

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

<https://ARS.apps.lara.state.mi.us/Transaction/RFRTtransaction?TransactionID=90>

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

Dena Marks, Senior Policy Analyst, Boards and Committees Section, Bureau of Professional Licensing
LeAnn Payne, Board support Technician, Boards and Committees Section, Bureau of Professional Licensing
Kerry Przybylo, Manager, Boards and Committees Section, Bureau of Professional Licensing

10. Persons submitting comments of support:

Amy Barkholz, Rich Farran, Julie Novak, John Shaski, Michelle John Tidjani

11. Persons submitting comments of opposition:

None

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

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	Name & Organization	Comments made at public hearing	Written Comments	Agency Rationale for change	Rule number & citation changed
1	Amy Barkholz, Michigan Health & Hospital Assoc.		The commenter stated that the reports and information of a peer review organization should not be included in the licensee's historical records because the information is confidential and protected from disclosure. The information is collected for quality improvement and to improve patient safety.	The department agreed that the rule should be written to include the protections provided by the Public Health Code.	338.1603(a)
2	Rich Farran, Health Care Assoc. of Michigan		The commenter stated that the privilege provided in MCL 333.20175 bars the state from obtaining reports and information collected for professional review functions.	The department agreed that the rule should be written to include the protections provided by the Public Health Code.	338.1603(a)

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3	Julie Novak, Michigan State Medical Society		The commenter stated that the words “or information” should be deleted as it is overly broad and could have a chilling effect on the role that professional peer review organizations play in the monitoring of health professionals.	The department agreed that the rule should be written to include the protections provided by the Public Health Code.	338.1603(a)
4	John Shaski, Sparrow Hospital		The commenter stated that records of professional practice evaluation should not be included in the licensee’s or registrant’s historical records because it is contrary to the protections provided by Michigan’s peer review statutes. Confidentiality protections enable providers to work to improve patient safety and ensure safe and high-quality patient care.	The department agreed that the rule should be written to include the protections provided by the Public Health Code.	338.1603(a)

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5	Michelle Johnson Tidjani, Henry Ford Health System		The commenter stated that records and information from a professional peer review organization, as protected by statute, should be excluded from the historical records to avoid a chilling effect on peer review.	The department agreed that the rule should be written to include the protections provided by the Public Health Code.	338.1603(a)
6	Julie Novak, Michigan State Medical Society		The commenter stated that the rule should be rescinded because any subsequent allegation or potential violation identified during the course of an investigation should be authorized for investigation pursuant to MCL 333.16231.	The department disagreed that the rule should be rescinded but did agree that the rule did not clearly describe the investigation permitted.	R 338.1604

13.Date report completed:

11/19/2020