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

- - -

PUBLIC HEARING

MONDAY, MAY 17, 2021

AT ABOUT 9:00 A.M.

- - -

VIA ZOOM TELECONFERENCE

- - -

RE: Cosmetology - General Rules
 (MOHR #2020-50 LR)

 Pharmacy - Animal Euthanasia and Sedation Rules
 (MOHR #2019-86-LR)

 Podiatric Medicine and Surgery - General Rules
 (MOHR #2020-24 LR)

- - -

HEARING FACILITATOR:

DENA MARKS
Bureau of Professional Licensing
611 W. Ottawa Street
Lansing, Michigan 48909

ALSO PRESENT: Kerry Ryan Przybylo
 Kimberly Catlin
 Andria Ditschman

REPORTED BY: Lori Anne Penn, CSR-1315

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1 Lansing, Michigan

2 Monday, May 17, 2021

3 At 9:00 a.m.

4 - - -

5 (Public hearing commenced pursuant to due notice.)

6 MS. MARKS: Good morning. My name is
7 Dena Marks, and I'm an analyst for the Bureau of
8 Professional Licensing in the Department of Licensing and
9 Regulatory Affairs. I will be conducting the hearing
10 today.

11 This is a public hearing on the proposed
12 administrative rules entitled "Cosmetology - General
13 Rules", "Pharmacy - Animal Euthanasia and Sedation
14 Rules", and "Podiatric Medicine and Surgery - General
15 Rules". We are conducting the hearing as required by the
16 Administrative Procedures Act to allow the public to
17 comment on the proposed changes to these rule sets. As
18 with all other public hearings on draft rule sets, the
19 only items discussed during this hearing will be the
20 proposed changes to the rule sets. The hearing will not
21 be covering any questions or discussions on any other
22 issues.

23 We are calling this hearing to order at
24 9:00 a.m. on May the 17th, 2021, via Zoom to comply with
25 measures designed to help prevent the spread of

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1 Coronavirus 2019, known as COVID-19, and the City of
2 Lansing Resolution #2021-081. The notice of public
3 hearing was published in three newspapers of general
4 circulation, the Flint Journal, the Grand Rapids Press,
5 and the Mining Journal on May the 4th, 2021, as well as
6 the *Michigan Register*, Issue #8-2021, published on
7 May the 15th of 2021.

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

15 We will take comments in the following
16 manner:

- 17 • For those of you using the Video Conference
18 Portion (not calling on a telephone) please use
19 the "Raise Your Hand" function in Zoom. I will
20 call on individuals to speak and they will be
21 unmuted at that time.
- 22 • For participants that are available only by
23 telephone, we will ask if you wish to make a
24 comment after the video participants have
25 finished.

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

6 If you have previously submitted comments
7 in writing to the Bureau, it is not necessary for you to
8 repeat your comments on the record today. Comments made
9 in writing will be reviewed and considered by the
10 Department in the same manner as comments made during
11 this public hearing.

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

18 The Department staff from the Bureau of
19 Professional Licensing includes me, Kimberly Catlin,
20 Andria Ditschman, and Kerry Przybylo.

21 Is there anyone who wishes to make
22 comments on the Cosmetology - General Rules? Again, if
23 you are using your video, please use the "Raise Your
24 Hand" function and we will call on you.

25 MS. PRZYBYLO: Okay. I think --

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1 MS. MARKS: Kathy Pavlik, can you unmute
2 yourself, and then you may speak, please.

3 KATHERINE PAVLIK: Yes. I have quite a
4 few things I want to speak on as far as the Cosmetology
5 Rules are concerned.

6 COURT REPORTER: Can we have your
7 spelling of your name, please?

8 KATHERINE PAVLIK: Katherine,
9 K-a-t-h-e-r-i-n-e, last name Pavlik, P-a-v-l-i-k.

10 MS. MARKS: And are you representing an
11 organization, Kathy?

12 KATHERINE PAVLIK: I work for Michigan
13 College of Beauty in Troy, Michigan.

14 MS. MARKS: Thank you. Go ahead with
15 your comments.

16 KATHERINE PAVLIK: Okay. Let me get them
17 ready, I didn't think we were going to do them this
18 quick.

19 So my first -- some of mine are
20 clarifications and then some of them are comments or
21 concerns on the actual rule. So my first one is on page
22 2, Rule No. 338.2171a. It states that we have to -- let
23 me see, read it here exactly. It says, it talks about
24 the grade level, but it doesn't state what grade level,
25 the requirement, where before we used to have a ninth

1 grade education grade level, this doesn't specify. So
2 I'm just clarifying, is that still the case?

3 MS. MARKS: We'll take a look at that,
4 Kathy. Thank you for your comment. You can go ahead.

5 KATHERINE PAVLIK: Okay. The second one
6 is also on page 2, it's Rule 338.2171a, minimum practical
7 applications has been removed as a definition. And I do
8 agree with the practical hours needing to be in there as
9 a definition, however, we still have to have minimum
10 practical applications in the curriculum grid, so
11 therefore I think we still need to have a definition of
12 what minimum practical applications are. I know that
13 they tried to take them out because they tried to remove
14 minimum practical applications from the grid, but it
15 stayed, so I think the definition needs to stay.

16 MS. PRZYBYLO: This is Kerry Przybylo
17 speaking. Kathy, did you have any further comments?

18 KATHERINE PAVLIK: Yes. I was waiting
19 for a response that you guys were comfortable with --

20 MS. PRZYBYLO: We don't respond. This is
21 just our time to --

22 (Multiple speakers.)

23 KATHERINE PAVLIK: Okay. So I'll just
24 keep rolling then. Okay. I'm sorry. I misunderstood.
25 So I have a lot.

1 On page 3, Rule No. R 338.2121a, just
2 again for clarification purposes, I know that we're going
3 with the new NBCP examination, I was just wondering if we
4 could get clarification as to when bulletins and
5 information would be available for schools to get the
6 students prepared, and if there would be a meeting or a
7 training on that for the schools.

8 And then on page 7, Rule 338.2180(10)(b),
9 again on page 7, I had a question or for some
10 clarification. It talks about the, not having branch
11 facilities anymore but each school having its own
12 individual license and that each instructor working for
13 the school has to have their license hung in the separate
14 premise location. Would the e-mailed copy that we
15 receive when we get our license, would that be accepted,
16 or would we have to have an actual -- purchase a new
17 license for each building? So again, clarification on
18 that.

19 I did have page 9, but page 9 again is
20 just the removal of the minimum practical applications.
21 And so on Rule 338.2136(2)(b), I think that we need to
22 put the minimum practical applications in there as well
23 when we're transferring students' training hours and
24 practical hours, that we should be transferring their
25 applications as well since they are part of the

1 curriculum still.

2 Now on page 10, Rule 338.2139, Rule
3 39(1), there's no longer a passing score requirement like
4 specified, before it used to be a student had to pass
5 with a 75 percent or above, it just states that we have
6 to pass with a passing score. So is it up to the school
7 to determine the passing score? Are we going to follow
8 the passing score of the NBCP examination when we get
9 that? So again, more clarification, it's not very clear
10 as to what the new passing score should be.

11 And then page 24 through 26 is where we
12 have the biggest concern, and it's the cosmetology table
13 for the curriculum, and I can e-mail you a copy of what I
14 typed out as well because it might be a little bit more
15 helpful. But the concern is -- there's a lot of concerns
16 with the curriculum. So first and foremost, the theory
17 hours, the way it's broken down now, the students in
18 section (a), the health and safety related to skin care
19 and then it goes into anatomy, chemistry, diseases,
20 disorders, laws and rules, occupational safety,
21 professional hygiene, sanitation equipment, all of that
22 is now only 75 hours, whereas before it was 155. And so
23 for that much sanitation and infection control and
24 diseases and disorders, I don't think that that's
25 sufficient theory hours, especially when we're also

1 having to train in, more in depth in manicuring and
2 aesthetics in those categories as well. But more
3 concerning is when we take a look at part (b), (c), and
4 (d) with the theory and practical hours, so when we break
5 it down -- let me take a look at my math here. When we
6 break it down, the cosmetology students' practical
7 hours -- oh, and I do believe that the 125 is too much in
8 the sanitation.

9 But moving on, if we look into the hair
10 services, they receive 600 hours in practical hours and
11 425 minimum practical applications to be completed within
12 that 600 hours; so if we were to do the math on that, we
13 are giving the student an hour, 1 hour .41, so not quite
14 an hour and a half to perform. If we look at the
15 categories, they have 15 topics, so if we were just to
16 take those 15 topics, we are giving them about just less
17 than an hour and a half to perform one of those, and as a
18 cosmetologist, a hair color service alone could take
19 upwards to 2, 3, 6 hours; whereas if we looked at the
20 aesthetics or the manicuring services, they have 150
21 practical hours to perform 25 services, that's giving
22 them approximately 6 hours per task to do, and we're only
23 looking at 4 tasks in aesthetics and 3 tasks in
24 manicuring. So I really think that the table is
25 overweighted in practical and theory for aesthetics and

1 skin care -- I'm sorry -- skin care services and
2 manicuring services and not heavily weighted enough in
3 hair services. Does that make sense, what I'm trying
4 explain?

5 And it also falls true when we're looking
6 at the theory portion of it. So if we were to look at
7 the theory portion of it, in hair -- in nail services
8 anesthetic services, the theory portion, we're giving
9 them 20 hours per topic in manicuring services of theory
10 and we're giving them 16.66 hours per topic in theory and
11 aesthetics, but they're only receiving 8 hours per topic
12 in theory -- I'm sorry, not 8 -- 15 hours in theory. Let
13 me double check my note here, I'm making an error, I know
14 I am. Yes, 15 hours in cosmetology services. So again,
15 it's just, I think that what we were trying to do was get
16 them more training in skin and nails, which I agree with,
17 however, now we've tipped the scale so much into nails
18 and manicuring and not enough into cosmetology services.

19 And also, when we look at the textbook
20 support that's offered, we have Pivot Point or Milady as
21 our training books that are accepted by the State. If
22 you were to look at those, they're only giving us like 37
23 hours in skin and 34-35 hours in nails. Unfortunately,
24 what is the school to do? They're going to have to
25 purchase a cosmetology, a manicuring, and an aesthetics

1 book and pass that cost down to the students, which a
2 majority of the students in the cosmetology program don't
3 have that much desire in skin and nails, they'd rather
4 learn more about the trendy hair services, the cutting
5 and the colors and things of that nature. So I just
6 think that we need to take a more thorough look at those
7 grids and those curriculums because it's too heavily
8 weighted in the nails and in the manicuring and not
9 enough in the hair services. So I think that's pretty
10 much it on the grid.

11 And then moving on from the curriculum,
12 on page 71 -- I'm sorry -- 33, it's Rule 71(e) on page
13 33. There's a new statement here that states, and I'm
14 not really clear on it, "The manufacturer-labeled
15 container of each disinfectant and sterilant that is
16 used." I'm not really sure what that means. Are they
17 requiring that we use the disinfectant in the
18 manufacturer-labeled bottle? I'm not really sure what
19 you're asking for. And if that's the case, what is
20 schools and salons supposed to do that purchase it in
21 gallons and then dilute it down and put it into a
22 separate disinfecting bottle? So I just, again, more
23 clarification there because that's kind of confusing.

24 And then on page 34, again, Rule No.
25 71(1)(b)(i), it states manicuring -- so it talks about

1 having to disinfect tools in a covered container that's
2 fully submerged. Does that now change the requirement
3 for manicuring tools? So prior to this rule, in most
4 states and most salons and schools used a jar where the
5 working surface of the tool is submerged into the
6 disinfectant and a good part of the handle is out of the
7 jar; so would those no longer be allowed, or would we
8 have to switch our disinfection container? What is the
9 detailed specific protocol for disinfecting manicuring
10 schools?

11 And then I just have two more. Page 34
12 still, Rule 71a(4), it states that we have to now launder
13 towels, neck strips, and capes in a detergent with hot
14 water up to 160 degrees Fahrenheit for not less than
15 24 -- 25 minutes in a wash and rinse cycle. I mean I'm
16 not that young, my washing machine at home and my washing
17 machine at work doesn't state in temperature 160 degrees,
18 so I just want clarification as to how do we determine
19 that we're using that water temperature if the state
20 board inspector was to come in, what are they going to do
21 to check this, what do we need to do on our end to make
22 sure that we're not in default or problem with that?

23 And then my last one is on page 35,
24 71b(b), and it talks about sanitizing hands. I think
25 that the cosmetology or hair services should be included

1 in that statement. I agree that we should sanitize our
2 hands with electrology, manicuring, and skin care, but
3 why not cosmetology hair services; especially in the day
4 of COVID right now, I definitely think we need to add
5 hair services to that as well. And that's all my
6 concerns.

7 MS. MARKS: Thank you, Kathy.

8 KATHERINE PAVLIK: Thank you.

9 MS. MARKS: Are there any other comments
10 from those attending by video? Again, please use the
11 "Raise Your Hand" function. Comments about the
12 Cosmetology Rules? I'm not seeing any others.

13 Let's move on to those attending by
14 phone. If there's anyone attending by phone who would
15 like to make a comment about the Cosmetology Rules, hit
16 *6, it will unmute your phone, and you may add your
17 comment to the record.

18 MS. PRZYBYLO: I don't see comments,
19 Dena. Oh, there's -- hold on one second. The person
20 whose number ends in 8230, did you have a comment?

21 CHAKAKHAN HILL: Actually, I just wanted
22 to confirm that I accepted the invitation to attend.

23 MS. PRZYBYLO: Okay. Hold on one second,
24 please. Could you please first identify yourself for our
25 court reporter.

1 CHAKAKHAN HILL: Yes. Chakakhan Hill,
2 first name spelled C-h-a-k-a-k-h-a-n, last name Hill,
3 H-i-l-l.

4 MS. PRZYBYLO: And what was your comment,
5 Ms. Hill?

6 CHAKAKHAN HILL: I confirm accepting
7 invitation to attend this General Rules - Cosmetology
8 hearing because I am a licensed cosmetologist, and that's
9 all.

10 MS. PRZYBYLO: All right. Thank you.

11 MS. MARKS: Okay. If there are no other
12 comments on the Cosmetology - General Rules. Is there
13 anyone here who wishes to make comments on the Pharmacy -
14 Animal Euthanasia and Sedation Rules? If so and you're
15 attending by video, please use the "Raise Your Hand"
16 function and we will call on you to make those comments
17 now. I'm not seeing any, are you, Kerry?

18 MS. PRZYBYLO: No.

19 MS. MARKS: If you are phoning in and
20 would like to make a comment on the Pharmacy - Animal
21 Euthanasia and Sedation Rules, please hit *6, and you may
22 add your comment to the record at this time.

23 MS. PRZYBYLO: Cathy Anderson has a
24 comment.

25 MS. MARKS: Thank you. Go ahead, Cathy.

1 Can you unmute yourself, Cathy?

2 CATHY ANDERSON: Sorry about that. Hi.

3 MS. MARKS: That's okay. First and last
4 name with spelling, and identify any organization you're
5 representing, please.

6 KATHERINE PAVLIK: Absolutely. I am
7 Dr. Cathy Anderson, C-a-t-h-y, Anderson, A-n-d-e-r-s-o-n,
8 and I am speaking on behalf of the MVMA, Michigan
9 Veterinary Medical Association. Thank you.

10 I wanted to briefly introduce myself and
11 tell you why I'm on this call. I am a shelter
12 veterinarian, you probably hear my patients in the
13 background; I am also an instructor for shelter personnel
14 in the state-required euthanasia by injection course, as
15 well as the chemical immobilization course, so I do offer
16 instruction in both of those courses that are impacted by
17 this proposed rule change. And as I've said, I'm also
18 the, a member of the Michigan Veterinary Medical
19 Association, and am indeed the chairperson of the
20 legislative advisory committee for that group.

21 We were one of the stakeholders involved
22 in the drafting of the original House Bill that went
23 through and subsequently became part of the Public Health
24 Code, and it was our group, which included Michigan
25 Department of Ag, Michigan Humane, Michigan Association

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1 of Animal Control Officers, that brought forth that law
2 change.

3 I am representing the MVMA and would like
4 to say thank you so much for all the work you've done on
5 drafting the rules surrounding this amendment, but I do
6 want to ask that, respectfully, that you all review a
7 letter that we have already sent in with some proposed
8 changes to the language that, with the current draft that
9 you have put forward. We are hoping that you will
10 consider the edits we have suggested prior to formally
11 submitting the draft of these rules. And that's all I
12 have to say. Thank you.

13 MS. MARKS: Thank you.

14 MS. PRZYBYLO: Thank you, Dr. Anderson.

15 MS. MARKS: Are there any other comments
16 concerning the Pharmacy - Animal Euthanasia and Sedation
17 Rules?

18 MS. PRZYBYLO: Shirene Cece, is her hand
19 raised?

20 SHIRENE CECE-CLEMENTS: Yes. I am
21 Shirene Cece-Clements, so S-h-i-r-e-n-e C-e-c-e hyphen
22 C-l-e-m-e-n-t-s. I am a veterinarian with Michigan
23 Human, I'm also a member of the MVMA.

24 And so I would just like to -- I'm also
25 an instructor for the euthanasia training in the State of
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1 Michigan, and I would just like to put my support behind
2 what Cathy -- Dr. Anderson has already said, and hopeful
3 that you will look at our changes and hope that you will
4 address those and see that they're making improvements.
5 So that's all I need to say. Thank you very much for
6 your time.

7 MS. MARKS: Thank you. Are there any
8 other attending by video who would like to make comments
9 concerning the Pharmacy - Animal Euthanasia and Sedation
10 Rules? Not seeing any.

11 Again, if you are attending by phone and
12 would like to make comments about those Rules, hit *6,
13 and that will unmute your phone and you may speak at this
14 time.

15 MS. PRZYBYLO: I think we can move on,
16 Dena.

17 MS. MARKS: All right. If there are no
18 further comments on that rule set --

19 SHIRENE CECE-CLEMENTS: Well, that wasn't
20 as painful as I thought. Never been to one of these
21 before, so.

22 MS. MARKS: Is there anyone who would
23 like to make comments on the Podiatric Medicine and
24 Surgery - General Rules? If you are attending by video,
25 please use the "Raise Your Hand" function. I see two

1 people. Derek Dalling, would you like to make comments
2 at this time?

3 DEREK DALLING: Yes, thank you. Good
4 morning.

5 MS. MARKS: Good morning.

6 DEREK DALLING: Derek Dalling, D-e-r-e-k,
7 last name D-a-l-l-i-n-g. Just want to quickly -- oh, on
8 behalf of the Michigan Podiatric Medical Association, by
9 the way.

10 Wanted to just thank the Department staff
11 for work on these rules, we greatly appreciate all of
12 you, especially amending the rules that were some recent
13 changes. Those most recent changes will help podiatric
14 residents from around the country be able to come to our
15 state, practice legally. In light of some changes from
16 the COVID pandemic, one of their exams was not allowed,
17 and these rule changes will allow them to practice here
18 without any interference. So we greatly appreciate that
19 rule change and greatly appreciate all the Department
20 staff's help for making those changes for us. Thank you.

21 MS. MARKS: Thank you for your comments.
22 Stacey Hettiger.

23 STACEY HETTIGER: Good morning. Thank
24 you so much for the opportunity to speak. My name is
25 Stacey Hettiger, I'm the senior director of Medical and
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1 Regulatory Policy at the Michigan State Medical Society.
2 First name is spelled S-t-a-c-e-y, last name is
3 H-e-t-t-i-g-e-r.

4 And I just wanted to bring to your
5 attention and request an amendment to the Podiatry Rules.
6 As Derek Dalling mentioned, there was a situation as a
7 result of the pandemic where the National Board of
8 Podiatric Medical Examiners voted not to do the component
9 of the Part 2 examination, and because of that decision,
10 there really is no opportunity for those residents to
11 take the exam, and so no opportunity to have a passing
12 score to provide to LARA. So we are asking that the
13 rules be amended, specifically Rule 104, subsections (2)
14 and (3), to provide a waiver for the class of 2021, as
15 well as any potential future classes where the exam might
16 not be provided. We have also submitted those comments
17 in writing with more detail. So thank you so much, and
18 have a nice day.

19 MS. MARKS: Thank you. Are there any
20 other participants attending by video who would like to
21 make comments about the Podiatric Medicine Rules? I'm
22 not seeing any others.

23 Again, if you are attending by phone and
24 would like to make comments about that rule set, please
25 hit *6, and you may add your comments at this time.

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1 If there are no other persons who wish to
2 speak at this time, we are going to take a ten-minute
3 break to allow anyone else who would like to join and
4 make comments about any of those three rule sets today to
5 do so at that time. So we are on recess for ten minutes.
6 Thank you.

7 (At 9:29 a.m., there was a ten-minute recess.)

8 MS. MARKS: We will go back on the
9 record. Are there any other comments about any of the
10 three rule sets? Again, if you're attending by video,
11 please use the "Raise Your Hand" function; if you are
12 attending by phone, please hit *6 to unmute yourself to
13 speak.

14 If there are no further comments at this
15 time, I hereby declare the hearing closed. The record
16 will remain open until today at 5:00 p.m. for any other
17 comments you may wish to share about the proposed rules.
18 Thank you for attending today's hearing.

19 (At 9:40 a.m., the public hearing concluded.)

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C E R T I F I C A T E

I, Lori Anne Penn, do hereby certify that I reported in stenotype via Zoom Teleconference the proceedings had in the within-entitled matter, that being Cosmetology - General Rules (MOAHR #2020-50 LR), Pharmacy - Animal Euthanasia and Sedation Rules (MOAHR #2019-86 LR), and Podiatric Medicine and Surgery - General Rules (MOAHR #2020-24 LR), Dena Marks, hearing facilitator for the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Lansing, Michigan, on Monday, May 17, 2021; and do further certify that the foregoing transcript, consisting of 22, is a true and correct transcript of my stenotype notes.

Lori Anne Penn

Lori Anne Penn, CSR-1315
Penn Reporting, LLC
lori.penn@yahoo.com

Dated: **May 18, 2021**