

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**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:

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Rule Set Information:

ARD assigned rule set number:

2022-36 LR

Title of proposed rule set:

Board of Nursing-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 nursing, so there are no federal rules or standards set by a national or state agency that the proposed rules can exceed.

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

Promulgation of rules must occur under state law, including MCL 333.16145; MCL 333.16148; MCL 333.16174; MCL 333.16201; MCL 333.16204; MCL 333.16287; MCL 333.17210; Executive Reorganization Order No. 1991-9, MCL 338.3501; Executive Reorganization Order No. 1996-2, MCL 445.2001; Executive Reorganization Order No. 2003-1, MCL 445.2011, and Executive Reorganization Order No. 2011-4, MCL 445.2030.

No federal mandate demands the rules.

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 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 by the Michigan Public Health Code and are largely consistent with the requirements of other states in the Great Lakes region.

Part 1 of the nursing rules provides definitions and the requirements for the training standards for identifying victims of human trafficking.

Part 2 of the nursing rules pertains to licensure requirements for registered nurses and licensed practical nurses. The process for licensure verification of no pending disciplinary proceeding, or current sanction in another jurisdiction, where the applicant was licensed is similar to other Great Lakes states and includes a form of education credential evaluation. All states in the Great Lakes region set forth similar requirements for licensure in their nursing statutes and administrative rules.

Part 3 of the nursing rules pertains to board approval of nursing education programs and is comparable to other states in the Great Lakes region. All states in the Great Lakes region set forth the requirements for board approval of nursing education programs in their nursing statutes and administrative rules. However, Michigan is a boarder state and has specific requirements for Canadian applicants.

Part 4 of the nursing rules pertains to nurse specialty certifications. It is comparable to other states in the Great Lakes region. All states in the Great Lakes region set forth the requirements for nurse specialty certification in their nursing statutes and administrative rules.

Part 6 of the nursing rules pertains to continuing education requirements for nurses and is comparable to most states in the Great Lakes region. Illinois, Minnesota, Ohio, and Pennsylvania all require similar continuing education requirements to be met by registered nurses, licensed practical nurses, and nurses holding specialty certifications seeking a license renewal. Michigan added implicit bias training requirements for licensure. The rules add a caveat to the continuing education section allowing for continuing education credit for the implicit bias training.

Part 7 of the nursing rules pertains to the nursing professional fund scholarship program. This is unique to Michigan. No other state in the Great Lakes region provides in its nursing statutes and rules for the administration of a nursing education scholarship fund which allocates scholarship awards to eligible nurse education programs for distribution as scholarships to eligible students. Illinois has established a Nursing Education Scholarship Program which provides financial assistance to qualified individuals pursuing a certificate in practical nursing, an associate degree in nursing, a hospital-based diploma in nursing, a baccalaureate degree in nursing, or a graduate degree in nursing. Multiple states offer a nursing education loan program and loan forgiveness program.

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

Besides Illinois, no other state in the Great Lakes region provides in its nursing statutes and rules for the administration of a nursing education scholarship fund which allocates scholarship awards to eligible nurse education programs for distribution as scholarships to eligible students. The Illinois Nursing Act created the Illinois Center for Nursing which is charged with developing a strategic plan for nursing manpower within the state, including the administration of grants, scholarships, internships, and other programs. The Illinois administrative rules regarding the nursing education scholarships are promulgated under the Department of Public Health and are comparable to the proposed rules.

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, rules, or other legal requirements that duplicate, overlap, or conflict with the proposed rules.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

There is no applicable federally mandated standard. Therefore, 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, provide either the Michigan 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.

There is no applicable federally mandated standard. Therefore, MCL 24.232(9) does not apply.

Purpose and Objectives of the Rule(s)

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

Part 1 General Provisions: The proposed rules in this section identify and define the terms used throughout the rule set. Additionally, the training standards for identifying victims of human trafficking are set forth here. The purpose of the proposed rules is to make it easier for the licensee to read the rules. The changes to the human trafficking rules are not substantive. There were edits made to comply with stylistic changes.

Part 2 Licensure: The rules in this section pertain to licensure of licensed practical nurses and registered nurses. It contains the requirements for initial licensure, licensure by endorsement, and relicensure. The proposed rules for initial licensure will require that an applicant provide a verification that they do not have any pending disciplinary proceeding or current sanction on record in any other jurisdiction that they were licensed in; recognize a nursing education program accredited by the Canadian Association of Schools of Nursing; allow another state board of nursing to attest that an unaccredited closed program, in that state, was in good standing when the program closed; and require an applicant to pass the NCLEX within 1 year of obtaining a skills competency evaluation or apply to the board for an extension to allow the applicant to take the NCLEX without having to retake a skills competency course.

The proposed rules for licensure by endorsement for the licensed practical nurse and the registered nurse will not require a curriculum review for a nurse who is licensed for 5 years by examination, who has no discipline, and submits transcripts showing graduation from another state nursing education program. This change is designed to lessen the amount of documentation an applicant must submit if they have been safely practicing for 5 years or more. The requirements for Canadian applicants for endorsement have been eased if the applicant was licensed by either taking the NCLEX-RN or the Canadian Registered Nurse Examination before 2015, has a license in good standing, and provides transcripts showing graduation from a nursing program in another state or Canada. They will not have to demonstrate equivalent educational credentials.

Part 3 Nursing Education Programs: The proposed rules change the requirements for initial and full approval including providing further guidance on the content of the self-study and clarify that a program may not enroll students until all site visit deficiencies have been rectified. These changes allow programs to become approved quicker and ensure that the programs cannot begin enrollment until all cited site visit deficiencies have been fixed.

The proposed rules clarify the reporting requirements for accredited and unaccredited programs and the content requirements for major program changes and requests for seat increases. This will provide clearer requirements for the submissions and enable faster approval for requests.

All approved programs must work toward accreditation by a nursing education accreditation organization. If the program loses its accreditation, the proposed rules will allow the currently enrolled students to graduate with no penalty and require the program to apply for approval as a new program if it chooses to restart admissions. This will require the program to do an in-depth review and revision of its curriculum and receive board approval before restarting.

The proposed rules adopt the most current standards of the International Nursing Association for Clinical Simulation and Learning. This will ensure students are trained using the most current standards for safe practice.

Lastly, the proposed rules revise the rules pertaining to board evaluation of a nursing education program and the action the board can take following a program evaluation. Essentially, the rule provides unaccredited programs that are not in compliance with the rules with a strict timeline to institute changes that will quickly improve the problem areas so that the enrolled students continue to have a robust educational experience to allow them to safely and competently practice when they become licensed.

Part 4: Nurse Specialty Certification: The proposed rules eliminate the portfolio option for the clinical nurse specialist as the time to use this option ended in 2020. This will provide clarity to the licensure requirements.

Part 6: Continuing Education: The proposed rules will require an applicant for license renewal who also applies for a controlled substance license to complete a one-time training in opioids and other controlled substance awareness. This will ensure prescribing nurses are aware of the impact opioids and controlled substances have on a patient. Additionally, a licensee who seeks a waiver of continuing education must submit the request at least 30 days before the last regularly scheduled board meeting before the license expires. This prevents a licensee from going into lapsed status while waiting for decision. Lastly, the proposed rules will allow continuing education credit for completion of implicit bias training which is a licensure requirement.

Part 7: Nurse Scholarship: The proposed rules remove a restriction that a student who has a full scholarship from another source is not an eligible candidate to receive the nurse scholarship. This requirement was deemed arbitrary and therefore, removed.

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

Licensure: The proposed rules for initial licensure will require that an applicant provide a verification that they do not have any pending disciplinary proceeding or current sanction on record in any other jurisdiction that they were licensed in. This was added to limit the ability of nurses in other states with disciplinary history from not disclosing this history to the state and will protect the safety of Michigan residents by screening licensure applicants to help ensure that they are safe practitioners before a license is issued.

The recognition of a nursing education program accredited by the Canadian Association of Schools of Nursing will reduce a barrier to licensure for Canadian applicants and will help entice them to apply. This will help ease the nursing shortage Michigan is currently experiencing.

Allowing another state board of nursing to attest that an unaccredited closed program, in that state, was in good standing when the program closed will assist applicants for licensure from other states who are unable to meet current rule criteria to be licensed as they cannot obtain the needed information from their nursing education program.

Placing a time limit on when an applicant must pass the NCLEX after obtaining a skills competency evaluation will ensure that, once licensed, the applicants' skills are current.

The proposed rules for licensure by endorsement for the licensed practical nurse and the registered nurse will not require a curriculum review for a nurse who is licensed for 5 years by examination, who has no discipline, and submits transcripts showing graduation from another state nursing education program. Additionally, the requirements for Canadian applicants for endorsement have been eased if the applicant was licensed by either taking the NCLEX-RN or the Canadian Registered Nurse Examination before 2015, has a license in good standing, and provides transcripts showing graduation from a nursing program in another state or Canada. They will not have to demonstrate equivalent educational credentials. These changes will ease the application process and for qualified nurses to work in this state.

Nursing Education Programs: The proposed rules clarify the requirements for initial and full approval including providing further guidance on the content of the self-study and stating a program may not enroll students until all site visit deficiencies have been rectified. Further, the rules clarify the reporting requirements for accredited and unaccredited programs and the content requirements for major program changes and requests for seat increases.

These changes have been instituted to provide clarification of the content of nursing program submissions.

All approved programs must work toward accreditation by a nursing education accreditation organization. If the program loses its accreditation, the proposed rules will allow the currently enrolled students to graduate with no penalty and require the program to apply for approval as a new program if it chooses to restart admissions and provide direction of the steps the program must take to restart admissions.

The proposed rules adopt the most current standards of the International Nursing Association for Clinical Simulation and Learning to ensure that nursing students are trained using the most current standards.

Lastly, the proposed rules revise the rules pertaining to board evaluation of a nursing education program and the action the board can take following a program evaluation. Essentially, the rule requires unaccredited programs that are not in compliance with the rules with a strict timeline to institute changes that will quickly improve the problem areas to so that the enrolled students continue to have a robust educational experience to allow them to safely and competently practice when they become licensed.

Nurse Specialty Certification: The proposed rules eliminate the portfolio option for the clinical nurse specialist because this option sunsetted. Thus, the removal clarifies the licensing requirements for applicants.

Continuing Education: The proposed rules will require an applicant for license renewal who also applies for a controlled substance license to complete a one-time training in opioids and other controlled substance awareness. This requirement will ensure that applicants for a controlled substance license have an awareness of the impact of opioids which will promote safe practice.

Requiring licensees seeking a waiver of continuing education to submit the request at least 30 days before the last regularly scheduled board meeting before the license expires will prevent their license from going into a lapsed status while waiting for a board meeting to be held.

Lastly, the proposed rules will allow continuing education credit for completion of implicit bias training. The implicit bias training is required each license cycle under the Public Health Code – General Rules. The proposed rule change proposed will allow Continuing Education credit for this training which allows one training to satisfy the licensure and renewal requirements.

Nurse Scholarship: The proposed rules remove a restriction that a student who has a full scholarship from another source is not an eligible candidate to receive the nurse scholarship. The department is not able to assess the needs of every nursing student who applies for the scholarship. Therefore, this requirement was eliminated as it is arbitrary.

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

Licensure: The proposed rules for initial licensure will require that an applicant provide a verification that they do not have any pending disciplinary proceeding or current sanction on record in any other jurisdiction that they were licensed in. This was added to limit the ability of nurses in other states with disciplinary history from not disclosing this history to the state and will protect the safety of Michigan residents by screening licensure applicants to help ensure that they are safe practitioners before a license is issued.

The recognition of a nursing education program accredited by the Canadian Association of Schools of Nursing will reduce a barrier to licensure for Canadian applicants and will help entice them to apply. This will help ease the nursing shortage Michigan is currently experiencing.

Allowing another state board of nursing to attest that an unaccredited closed program, in that state, was in good standing when the program closed will assist applicants for licensure from other states who are unable to meet current rule criteria to be licensed as they cannot obtain the needed information from their nursing education program.

Placing a time limit on when an applicant must pass the NCLEX after obtaining a skills competency evaluation will

ensure that once licensed, the applicants' skills are current.

The proposed rules for licensure by endorsement for the licensed practical nurse and the registered nurse will not require a curriculum review for a nurse who is licensed for 5 years by examination, who has no pending disciplinary action or current sanction, and submits transcripts showing graduation from another state's nursing education program. Additionally, the requirements for Canadian applicants for endorsement have been eased if the applicant was licensed by either taking the NCLEX-RN or the Canadian Registered Nurse Examination before 2015, has a license in good standing, and provides transcripts showing graduation from a nursing program in another state or Canada. They will not have to demonstrate equivalent educational credentials. These changes will ease the application process and for qualified nurses to work in this state.

Nursing Education Programs: The proposed rules clarify the requirements for initial and full approval including providing further guidance on the content of the self-study and stating a program may not enroll students until all site visit deficiencies have been rectified. Further, the rules clarify the reporting requirements for accredited and unaccredited programs and the content requirements for major program changes and requests for seat increases. These changes have been instituted to provide clarification to nursing education programs of the content of their submissions to allow faster approval by the board.

All approved programs must work toward accreditation by a nursing education accreditation organization. If the program loses its accreditation, the proposed rules will allow the currently enrolled students to graduate with no penalty and require the program to apply for approval as a new program if it chooses to restart admissions.

The proposed rules adopt the most current standards of the International Nursing Association for Clinical Simulation and Learning. This is to ensure that nursing students are trained using the most up to date standards.

Lastly, the proposed rules revise the rules pertaining to board evaluation of a nursing education program and the action the board can take following a program evaluation. Essentially, the rule provides unaccredited programs that are not in compliance with the rules with a strict timeline to institute changes that will quickly improve the problem areas so that the enrolled students continue to have a robust educational experience to allow them to safely and competently practice when they become licensed.

Nurse Specialty Certification: The proposed rules eliminate the portfolio option for the clinical nurse specialist because this option sunsetted. Thus, the removal clarifies the licensing requirements for applicants.

Continuing Education: The proposed rules require an applicant for license renewal who also applies for a controlled substance license to complete a one-time training in opioids and other controlled substance awareness. This requirement will ensure that applicants for a controlled substance license have an awareness of the impact of opioids which will promote safe practice.

Requiring licensees seeking a waiver of continuing education to submit the request at least 30 days before the last regularly scheduled board meeting before the license expires will prevent their license from going into a lapsed status while waiting for a board meeting to be held.

Lastly, the proposed rules will allow continuing education credit for completion of implicit bias training. The implicit bias training is required each license cycle under the Public Health Code – General Rules. The proposed rule change proposed will allow Continuing Education credit for this training which allows one training to satisfy the licensure and renewal requirements.

Nurse Scholarship: The proposed rules remove a restriction that a student who has a full scholarship from another source is not an eligible candidate to receive the nurse scholarship. The department is not able to assess the needs of every nursing student who applies for the scholarship. Therefore, this requirement was eliminated as it is arbitrary.

C. What is the desired outcome?

Licensure: The proposed rules for initial licensure will require that an applicant provide a verification that they do not have any open disciplinary proceeding or current sanction on record in any other jurisdiction that they were licensed in. This was added to limit the ability of nurses in other states with disciplinary history from not disclosing this history to the state and will protect the safety of Michigan residents by screening licensure applicants to help ensure that they are safe practitioners before a license is issued.

The recognition of a nursing education program accredited by the Canadian Association of Schools of Nursing will reduce a barrier to licensure for Canadian applicants and will help entice them to apply. This will help ease the nursing shortage Michigan is currently experiencing.

Allowing another state board of nursing to attest that an unaccredited closed program, in that state, was in good standing when the program closed will assist applicants for licensure from other states who are unable to meet current rule criteria to be licensed as they cannot obtain the needed information from their nursing education program.

Placing a time limit on when an applicant must pass the NCLEX after obtaining a skills competency evaluation will ensure that once licensed, the applicants' skills are current.

The proposed rules for licensure by endorsement for the licensed practical nurse and the registered nurse will not require a curriculum review for a nurse who is licensed for 5 years by examination, who has no pending disciplinary proceeding or current sanction, and submits transcripts showing graduation from another state nursing education program. Additionally, the requirements for Canadian applicants for endorsement have been eased if the applicant was licensed by either taking the NCLEX-RN or the Canadian Registered Nurse Examination before 2015, has a license in good standing, and provides transcripts showing graduation from a nursing program in another state or Canada. They will not have to demonstrate equivalent educational credentials. These changes will ease the application process and for qualified nurses to work in this state.

Nursing Education Programs: The proposed rules clarify the requirements for initial and full approval including providing further guidance on the content of the self-study and stating a program may not enroll students until all site visit deficiencies have been rectified. Further, the rules clarify the reporting requirements for accredited and unaccredited programs and the content requirements for major program changes and requests for seat increases. These changes have been instituted to provide clarification to nursing education programs of the content of their submissions to allow faster approval by the board.

All approved programs must work toward accreditation by a nursing education accreditation organization. If the program loses its accreditation, the proposed rules will allow the currently enrolled students to graduate with no penalty and require the program to apply for approval as a new program if it chooses to restart admissions.

The proposed rules adopt the most current standards of the International Nursing Association for Clinical Simulation and Learning. This is to ensure that nursing students are trained using the most up to date standards.

Lastly, the proposed rules revise the rules pertaining to board evaluation of a nursing education program and the action the board can take following a program evaluation. Essentially, the rule provides unaccredited programs that are not in compliance with the rules with a strict timeline to institute changes that will quickly improve the problem areas so that the enrolled students continue to have a robust educational experience to allow them to safely and competently practice when they become licensed.

Nurse Specialty Certification: The proposed rules eliminate the portfolio option for the clinical nurse specialist because this option sunsetted. Thus, the removal clarifies the licensing requirements for applicants.

Continuing Education: The proposed rules require an applicant for license renewal who also applies for a controlled substance license to complete a one-time training in opioids and other controlled substance awareness. This requirement will ensure that applicants for a controlled substance license have an awareness of the impact of opioids which will promote safe practice.

Requiring licensees seeking a waiver of continuing education to submit the request at least 30 days before the last regularly scheduled board meeting before the license expires will prevent their license from going into a lapsed status while waiting for a board meeting to be held.

Lastly, the proposed rules will allow continuing education credit for completion of implicit bias training. The implicit bias training is required each license cycle under the Public Health Code – General Rules. The proposed rule change proposed will allow Continuing Education credit for this training which allows one training to satisfy the licensure and renewal requirements.

Nurse Scholarship: The proposed rules remove a restriction that a student who has a full scholarship from another source is not an eligible candidate to receive the nurse scholarship. The department is not able to assess the needs of every nursing student who applies for the scholarship. Therefore, this requirement was eliminated as it is arbitrary.

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.

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 are as follows:

For licensure, the proposed changes enhance protection of the public by requiring applicants to verify that they do not have any pending disciplinary proceeding or current sanction on record in jurisdictions that they are or were previously licensed to decrease the chances of an unsafe licensee practicing in Michigan. Additionally, the proposed rules allow a smoother pathway to licensure for applicants from unaccredited nursing programs, licensure by endorsement, and Canadian nurses which will reduce barriers to licensure. Lastly, placing a time limit on when a nursing applicant must pass the NCLEX after obtaining a skills competency evaluation will ensure that, once licensed, the applicants' skills are current. This will reduce the chances of a newly licensed individual causing harm to a member of the public.

For nursing education programs, the proposed changes clarify the requirements for program approval, provide further instruction on the content of the self-study, and confirm that a program may not enroll students until all site visit deficiencies have been rectified. These changes ensure that programs understand the content requirements of their reports which allow quicker approval of the programs. Conversely, the proposed changes clarify that a program may not enroll students until the board is satisfied that the facilities are ready to ensure it is able to provide an acceptable educational experience for students. Further, the nursing education portion of the rules clarify the reporting requirements for accredited and unaccredited programs and the content requirements for major program changes and requests for seat increases. These changes will streamline board review of these documents to allow quicker approval and avoid program delay in implementing desired curriculum changes and enrollment. All approved programs must work toward accreditation by a nursing education accreditation organization. If the program loses its accreditation, the proposed rules allow currently enrolled students to graduate with no penalty and state that the program must apply for approval as a new program if it chooses to restart admissions. This will prevent a non-compliant program from quickly restarting before it can undergo a thorough review and develop a plan for problematic areas. The proposed rules adopt the most current standards of the International Nursing Association for Clinical Simulation and Learning to ensure that nursing students are trained using the most up to date standards to encourage safe practice and public protection. Lastly, the proposed rules revise the rules pertaining to board evaluation of a nursing education program and the action the board can take following a program evaluation. Essentially, the rules give unaccredited programs that are not in compliance a strict timeline to institute changes to improve the problem areas so that the enrolled students continue to have a robust educational experience to allow them to safely and competently practice when they become licensed.

For the nurse specialty certification, the proposed rules eliminate the portfolio option for the clinical nurse specialist as the time to use this option ended in 2020. This will reduce confusion of the licensure requirements for the clinical nurse specialist.

For continuing education, the proposed rules require an applicant for license renewal, who also applies for a controlled substance license, to complete a one-time training in opioids and other controlled substance awareness. This requirement will ensure that applicants for a controlled substance have an awareness of the impact of opioids which will promote safe practice. Licensees seeking a waiver of continuing education will be required to submit the request at least 30 days before the last regularly scheduled board meeting before the license expires to prevent the license from lapsing while waiting for a board meeting to be held. Lastly, the proposed rules will allow continuing education credit for completion of implicit bias training. The implicit bias training must be completed for each license cycle under the Public Health Code – General Rules. The proposed rule change will permit one training to satisfy both the licensure and renewal requirements which will prevent the licensee from spending additional time and money to satisfy licensure and continuing education requirements.

For the nurse scholarship, the proposed rules remove a restriction that a student who has a full scholarship from another source is not an eligible candidate to receive the nurse scholarship. The department and board propose to eliminate this requirement so that the nursing programs can select the scholarship recipients who are most in need. This is an arbitrary barrier that was removed.

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

The rationale behind the proposed changes are as follows:

For licensure, the changes to the rules enhance public protection by ensuring new applicants are safe to practice and licensure barriers are removed.

For nursing education programs, the changes will clarify reporting requirements for ease of document review and approval for new and existing programs; ensure new programs have the proper facilities to educate students and are using the most current standards when educating students to ensure public protection.

For nurse specialty certification, the changes clarify licensing requirements for new applicants to avoid confusion by referencing a licensing option that has sunset.

For continuing education, the changes increase the training requirements for those licensees with a controlled substance license to promote safe practice; require that the submission of waivers be timely to avoid a licensee from falling into a lapsed license status before a decision can be made; and allow continuing education credit for the implicit bias licensure requirements which reduces the impact of additional renewal criteria.

For the nurse scholarship, the removal of arbitrary requirements allows the nursing programs to select the most qualified and in-need students.

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.

For licensure, the changes to the rules enhance public protection by ensuring new applicants are safe to practice and licensure barriers are removed.

For nursing education programs, the changes will clarify reporting requirements for ease of document review and approval for new and existing programs; ensure new programs have the proper facilities to educate students and are using the most current standards when educating students to ensure public protection.

For nurse specialty certification, the changes clarify licensing requirements for new applicants to avoid confusion by referencing a licensing option that has sunset.

For continuing education, the changes increase the training requirements for those licensees with a controlled substance license to promote safe practice; require that the submission of waivers be timely to avoid a licensee from falling into a lapsed license status before a decision can be made; and allow continuing education credit for the implicit bias licensure requirements which reduces the impact of additional renewal criteria.

For the nurse scholarship, the removal of arbitrary requirements allows the nursing programs to select the most qualified and in-need students.

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

There are no rules being rescinded.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

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.

For licensure, the changes to the rules enhance public protection by ensuring new applicants are safe to practice and licensure barriers are removed. No additional fiscal or administrative burdens were placed upon the licensees.

For nursing education programs, the changes will clarify reporting requirements for ease of document review and approval for new and existing programs; ensure new programs have the proper facilities to educate students and are using the most current standards when educating students to ensure public protection. No additional administrative or fiscal burdens were placed upon the nursing programs to comply with the rules.

For nurse specialty certification, the changes clarify licensing requirements for new applicants to avoid confusion by referencing a licensing option that has sunset. No additional fiscal or administrative burdens were placed upon the licensees.

For continuing education, the changes increase the training requirements for those licensees with a controlled substance license to promote safe practice; require that the submission of waivers be timely to avoid a licensee from falling into a lapsed license status before a decision can be made; and allow continuing education credit for the implicit bias licensure requirements which reduces the impact of additional renewal criteria. The additional training requirement required for those licensees with a controlled substance is minimal compared to the positive impact it will have on safe practice. The time restriction to submit a waiver could be considered an administrative burden, however the impact will benefit the licensee so that their license will not go into lapsed status while awaiting a decision. The allowance of using the implicit bias training to count as continuing education credit reduces the renewal requirements for the licensees.

For the nurse scholarship, the removal of arbitrary requirements allows the nursing programs to select the most qualified and in-need students. There are no additional fiscal or administrative burdens imposed by this rule change.

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

The proposed rules, to the extent that a burden is created, (i.e. training on prescription of controlled substances for prescribing licenses) promote public safety and safe practice.

Impact on Other State or Local Governmental Units

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 for other state or local governmental units as 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 result of the proposed rules. No additional expenditures are anticipated or intended with the proposed rules.

Rural Impact

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

The proposed rules are not expected to impact rural areas. The proposed rules apply to licensure of licensed practical nurses and registered nurses and to nursing education programs in the state regardless of their location.

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

The proposed rules are not expected to impact rural areas. The proposed rules apply to licensure of licensed practical nurses and registered nurses and to nursing education programs in the state regardless of their location.

Environmental Impact

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

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

Small Business Impact Statement

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

The proposed rules impose requirements on individual licensees rather than small businesses. Even if a licensee's practice 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.

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

The proposed rules cannot exempt small businesses because the rules do not directly regulate small businesses, but individual licensees. Further, the Michigan Public Health Code requires a nurse education program, which may also be a small business, to obtain board approval to operate and does not grant the board or department the authority to apply different requirements to education programs that are small businesses.

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

As of May 17, 2023, there are approximately 174,313 registered nurses and 21,535 licensed practical nurses in Michigan. Nurses practice in many different work environments including hospitals, urgent care facilities, prisons, schools, and physician's offices. These practice areas include corporations, governments, and small businesses. No matter what type of business environment the licensee works in, he or she will have to take the necessary steps to comply with the proposed rules. The rules do not affect small businesses differently. The anticipated effects on licensees are minimal because they clarify what is already required of licensees and not of the business in which they may work.

Additionally, there are approximately 105 programs and 85 schools in Michigan that are approved by the board to offer nursing programs and grant certificates for completion of the programs. These schools may qualify as small businesses, although the number of overall employees in a program is not maintained. However, these requirements are meant for all programs and intended to create uniformity in the nursing education provided to students, to produce safe and competent nursing graduates.

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 nursing education programs that prepare students for licensure as a licensed practical nurse or registered nurse in the state of Michigan, not just those programs that are small businesses. The rules were drafted to be the least burdensome on all affected nursing education programs.

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 individual licensure applications and renewals, which are already required of all licensees, regardless of if they practice in a small business. There is no separate cost to small businesses.

Nursing Education Programs are required to submit documentation for initial approval, R 338.10303, and full approval, R 338.10303a. To maintain board approval, a non-accredited program, and an accredited program with deficiencies must submit a comprehensive self-study report. An accredited program may submit a letter of accreditation or reaccreditation without the self-study report if no deficiencies were found by the accrediting agency. A nurse education program report must be submitted at the designated timeframes in R 338.10303b.

There is no separate cost for report preparation to small businesses.

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 increased costs for small businesses concerning the costs of equipment, supplies, labor, or administrative costs.

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 small business concerning legal, consulting, or accounting services.

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 because 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 licensees. Even if a licensee's employer qualifies as a small business, the department could not exempt his or her business because it would create disparity in the regulation of licensed nurses. Therefore, exempting or setting lesser standards of compliance for small businesses 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 licensees. Even if a licensee's employer qualifies as a small business, the department could not exempt his or her business because it would create disparity in the regulation of licensed nurses. Therefore, exempting or setting lesser standards of compliance for small businesses 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 multiple stakeholders at the Michigan Board of Nursing Rules Committee Work Group meetings, that included members from the board of nursing, educational institutions, businesses, and other members of the public in the development of the proposed rules. The board is composed of members of the profession and members of the public who work in small and large businesses in Michigan.

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

Representatives from businesses were involved in the development of the rules. However, the department is not aware if they meet the definition of a “small business.”

Cost-Benefit Analysis of Rules (independent of statutory impact)

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.

The department does not expect the proposed rules to result in any additional costs such as new equipment, supplies, labor, accounting, or recordkeeping on businesses or other 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 established that there will be no new compliance costs to an individual 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 because 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 because 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 primary and direct benefits of the proposed rules is to applicants and licensees as the proposed rules will update out-of-date information, reorganize, and clarify requirements in the rule set.

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 because 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.

Michigan:

<https://www.michigan.gov/lara/-/media/Project/Websites/lara/bpl/Shared-Files/BPL-Active-License-Counts.pdf?rev=2b2b91241c7b4cbfa62a838657526300>

https://www.michigan.gov/lara/0,4601,7-154-89334_72600_72603_27529_27542---,00.html

Canada:

<https://www.cno.org/en/become-a-nurse/entry-to-practice-examinations/rpn-exam/#:~:text=Canadian%20Practical%20Nurse%20Registration%20Examination%20%28CPNRE%29%20The%20CPNRE,have%20three%20chances%20to%20successfully%20complete%20the%20CPNRE.>

<https://www.cno.org/en/become-a-nurse/entry-to-practice-examinations/nclex-rn/>

<https://www.casn.ca/>

<https://www.cno.org/>

Illinois: <https://ilga.gov/legislation/ilcs/ilcs4.asp?DocName=022500650HArt%2E+70&ActID=1312&ChapterID=24&SeqStart=17850000&SeqEnd=21400000>

<http://www.collegescholarships.org/states/illinois.htm>

Indiana:

<https://www.vivian.com/licensing/nursing/indiana/>

Minnesota:

<https://www.revisor.mn.gov/statutes/cite/148.211>

https://mn.gov/boards/assets/All%20Forms_tcm21-495453.pdf

<https://www.nursinglicensure.org/state/nursing-license-minnesota/>

New York:

<https://www.op.nysed.gov/professions/registered-professional-nursing/frequently-asked-questions>

Ohio:

<https://nursing.ohio.gov/nursing-education-nclex/tuition-assistance/>

<https://codes.ohio.gov/ohio-revised-code/section-4723.09>

Pennsylvania:

<https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/049/chapter21/chap21toc.html&d=#21.29a.>

Wisconsin:

https://docs.legis.wisconsin.gov/code/admin_code/n/2.pdf

National Council of State Boards of Nursing: <https://www.ncsbn.org/index.htm>

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

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

Alternative to Regulation

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

The rules are required by statute; there is no reasonable alternative to the proposed rules that would achieve the same or similar goal.

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

There is no other reasonable alternative to the proposed rules that would achieve the same or similar goal.

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. Each state is responsible for implementing its own laws and rules pertaining to licensing nurses. Private market-based systems are not used for regulating licensees. Private market-based systems are not used for licensing and regulation. The licensing and regulation of practical nurses, registered nurses, and the specialty certification of advanced practices nurses are state functions, so a regulatory program independent of state intervention cannot be established.

The nursing profession has numerous professional associations that could be considered regulatory mechanisms that are independent of state intervention; however, these professional 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.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

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.

Additional Information

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.