

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

MOAHR-Rules@michigan.gov

**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:

2024-25 LR

Title of proposed rule set:

Occupational Therapists - 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 occupational therapists and occupational therapy assistants, 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?

Yes. The rules are required by state law. There is no federal mandate requiring these rules.

MCL 333.16145 requires that only a board or task force may promulgate rules to specify requirements for licenses, registrations, renewals, examinations, and required passing scores.

MCL 333.16148 requires the department to promulgate rules pertaining to training standards for identifying victims of human trafficking.

MCL 333.16287 requires the department, in consultation with the board, to promulgate rules to implement telehealth services.

MCL 333.18307 requires the department, in consultation with the board, to promulgate rules setting forth the minimum standards for licensure as an occupational therapist.

MCL 333.18309 requires the department, in consultation with the board to promulgate rules setting forth the minimum standards for licensure as an occupational therapy assistant.

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. The licensure and continuing education requirements for license renewal in the Great Lakes region states are explained below:

Like Michigan, to be credentialed as an occupational therapist or occupational therapy assistant, all other states in the Great Lakes region approve educational programs accredited by the Accreditation Council for Occupational Therapy Education. Michigan also approves an educational program accredited by the World Federation of Occupational Therapists. New York also approves a state regionally approved program and Pennsylvania also approves programs accredited by the United States Department of Education. All states in the Great Lakes region require an applicant to take and pass the National Board for Certification in Occupational therapy examination.

Continuing education for renewal varies within the Great Lakes region. Indiana requires 18 credit hours of continuing education within the 2-year licensing cycle. Like Michigan, Ohio requires 20 credit hours of continuing education within the 2-year licensing cycle. Illinois, Minnesota, Pennsylvania, and Wisconsin require 24 credit hours of continuing education within the 2-year licensing cycle, and New York requires 36 credit hours of continuing education within the 3-year licensing cycle.

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

The standards pertaining to the requirements for licensure and continuing education for license renewal vary slightly from state to state, but overall, the standards in the proposed rules do not exceed those of other states in the Great Lakes Region.

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

There are no 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 rules.

Purpose and Objectives of the Rule(s)

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

Part 1 General Provisions: The current rules in part 1 contain the definitions used in the rule set.

In the proposed rules, part 1 contains the definitions rule and the rule pertaining to the training standards for identifying victims of human trafficking. The definitions rule is being amended to add new definitions used in the proposed rules. The training standards for identifying victims of human trafficking rule is being revised for clarity and moved from current part 2 of the rules.

The definitions rule is intended to assist a reader in understanding and complying with the rules. It will be used by all readers. The training standards for identifying victims of human trafficking rule is intended to advise applicants and licensees of the statutory licensure requirement that they complete training for identifying victims of human trafficking.

Part 2 Occupational Therapists: Part 2 in the current rule set is also entitled general provisions. That heading is being removed and the rule pertaining to grounds for disciplinary action is being rescinded because it is unnecessary. The content of the rule is contained in statute. The rules currently contained in part 3 are relocated to proposed part 2.

In proposed subpart A, the rule pertaining to approved educational programs is being amended and revised for clarity. Additionally, the content of current rule R 338.1225, which is being rescinded, has been relocated to R 338.1221 so all rules pertaining to approved educational programs are contained in one rule.

The rule pertaining to the approved and required examination has been relocated to proposed subpart A for organization and clarity. The current examination rule, R 338.1224, is being rescinded and the content relocated to R 338.1221a for organization and clarity. The proposed rules are intended to assist an applicant in identifying the approved educational programs and the examination required for licensure.

In proposed subpart B, the rules for licensure as an occupational therapist have been amended for organization and clarity. Additionally, the rule pertaining to licensure by endorsement has been revised to clarify the licensure requirements for an applicant who was previously licensed in Canada.

The requirement that an applicant take and pass a jurisprudence examination has been removed from all licensure requirements. Additionally, the rules pertaining to supervised practice experience have been amended to clarify requirements for obtaining this experience.

Subpart C pertains to delegation and supervision requirements. In the proposed rules, the requirements and limitations for delegation of an act, task, or function to an occupational therapy assistant and to an unlicensed individual have been amended and clarified. The proposed rules are intended to assist a licensee in complying with the delegation and supervision requirements and limitations when delegating a duty to another.

Part 3 Occupational Therapy Assistants: Part 3 in the current rule set is entitled occupational therapists. That heading is being removed because there are currently 2 parts entitled general provisions in the rule set, so the rules pertaining to occupational therapists have been moved to part 2 in the proposed draft.

In proposed subpart A, the rule pertaining to approved educational programs is being amended and revised for clarity. Additionally, the content of current rule R 338.1234a, which is being rescinded, has been relocated to R 338.1231 so all rules pertaining to approved educational programs are contained in one rule.

The rule pertaining to the approved and required examination has been relocated to proposed subpart A for organization and clarity. The current examination rule, R 338.1234, is being rescinded and the content relocated to R 338.1231a for organization and clarity. The proposed rules are intended to assist an applicant in identifying approved educational programs and the examination required for licensure.

In proposed subpart B, the rules for licensure of an occupational therapist assistant have been amended for organization and clarity. Additionally, the rule pertaining to licensure by endorsement has been revised to clarify the licensure requirements for an applicant who was previously licensed in Canada.

The requirement that an applicant take and pass a jurisprudence examination has been removed from all licensure requirements. Additionally, the rules pertaining to supervised practice experience have been amended to clarify requirements for obtaining this experience.

The proposed rules are intended to assist an applicant for licensure or relicensure determine what requirements must be met and become licensed in Michigan.

Part 4 Telehealth: The current telehealth rules contain statutory definitions. Those are being removed because they are unnecessary. The telehealth rules currently contained in R 338.1243 are being rescinded. The content of R 338.1243 is being revised and relocated to R 338.1241 to comply with current drafting requirements and for organization and clarity.

The desired behavior is compliance with the rules when a licensee is providing telehealth services.

Part 5 License Renewal and Continuing Education: The proposed rules in this section pertain to continuing education requirements for license renewal and approved continuing education programs and activities. The proposed rules clarify the programs and activities that are approved for accumulating continuing education credits for license renewal and clarify that continuing education credits accumulated that cover implicit bias training requirements and those that meet the standards for identifying victims of human trafficking may also be used as continuing education for license renewal, if they are earned in an approved program or activity.

The proposed rules are intended to assist an applicant for license renewal in accumulating the approved continuing education required for license renewal.

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: In the proposed rules, subpart 1 contains the definitions rule and the rule pertaining to the training standards for identifying victims of human trafficking. The definitions rule is being amended to add new definitions used in the proposed rules and the rule pertaining to the training standards for identifying victims of human trafficking rule is relocated to this part because it pertains to all applicants and licensees. The desired behavior is better understanding of all terms used in the proposed rules and applicant and licensee compliance with the training standards for identifying victims of human trafficking.

Part 2 Occupational Therapists: In the proposed rules, part 2 is being amended and revised for clarity. The content of current rule R 338.1225, which is being rescinded, has been relocated to R 338.1221 so all rules pertaining to approved educational programs are contained in one rule. The rule pertaining to the approved and required examination has been relocated organization and clarity. The desired behavior is that an applicant will easily identify the approved educational programs and the examination required for licensure.

In proposed subpart B, the rules for licensure as an occupational therapist have been amended for organization and clarity. Additionally, the rule pertaining to licensure by endorsement has been revised to clarify the licensure requirements for an applicant who was previously licensed in Canada. The requirement that an applicant take and pass a jurisprudence examination has been removed from all licensure requirements. Additionally, the rules pertaining to supervised practice experience have been amended to clarify requirements for obtaining this experience. The desired behavior is applicant compliance to achieve licensure.

Proposed subpart C pertains to delegation and supervision requirements. The desired behavior is licensee compliance with the delegation and supervision requirements and limitations when delegating a duty to another.

Part 3 Occupational Therapy Assistants: In proposed part 3, the rule pertaining to approved educational programs is being amended and revised for clarity. Additionally, the content of current rule R 338.1234a, which is being rescinded, has been relocated to R 338.1231 so all rules pertaining to approved educational programs are contained in one rule.

The rule pertaining to the approved and required examination has been relocated to proposed subpart A for organization and clarity. The current examination rule, R 338.1234, is being rescinded and the content relocated to R 338.1231a for organization and clarity. The desired behavior is that an applicant will easily identify the approved educational programs and the examination required for licensure.

In proposed subpart B, the rules for licensure of an occupational therapist assistant have been amended for organization and clarity. Additionally, the rule pertaining to licensure by endorsement has been revised to clarify the licensure requirements for an applicant who was previously licensed in Canada. The requirement that an applicant take and pass a jurisprudence examination has been removed from all licensure requirements. Additionally, the rules pertaining to supervised practice experience have been amended to clarify requirements for obtaining this experience. The desired behavior is applicant compliance to achieve licensure.

Part 4 Telehealth: The current telehealth rules contain statutory definitions. Those are being removed because they are unnecessary. The telehealth rules currently contained in R 338.1243 are being rescinded. The content of R 338.1243 is being revised and relocated to R 338.1241 to comply with current drafting requirements and for organization and clarity. The desired behavior is compliance with the rules when a licensee is providing telehealth services.

Part 5 License Renewal and Continuing Education: The proposed rules in this section pertain to continuing education requirements for license renewal and approved continuing education programs and activities. The proposed rules clarify the programs and activities that are approved for accumulating continuing education credits for license renewal and clarify that continuing education credits accumulated that cover implicit bias training requirements and those that meet the standards for identifying victims of human trafficking may also be used as continuing education for license renewal, if they are earned in an approved program or activity. The desired behavior is licensee compliance in accumulating approved continuing education required for license renewal.

C. What is the desired outcome?

Part 1 General Provisions: In the proposed rules, part 1 contains the definitions rule and the rule pertaining to the training standards for identifying victims of human trafficking. The definitions rule is being amended to add new definitions used in the proposed rules. The training standards for identifying victims of human trafficking rule is being revised for clarity and moved from current part 2 of the rules.

The desired outcome is to assist a reader in understanding and complying with the rules, and the training standards for identifying victims of human trafficking rule is intended to advise applicants and licensees of the statutory licensure requirement that they complete training for identifying victims of human trafficking.

Part 2 Occupational Therapists: In the proposed rules, part 2 pertains to occupational therapists.

In proposed subpart A, the rule pertaining to approved educational programs is being amended and revised for clarity. Additionally, the content of current rule R 338.1225, which is being rescinded, has been relocated to R 338.1221 so all rules pertaining to approved educational programs are contained in one rule. Rule 338.1224, which pertains to examination requirements, is being rescinded and the content relocated to subpart A in R 338.1221a for organization and clarity. The desired outcome is to assist an applicant in identifying the approved educational programs and the examination required for licensure.

In proposed subpart B, the rules for licensure as an occupational therapist have been amended for organization and clarity, and the rule pertaining to licensure by endorsement has been revised to clarify the licensure requirements for an applicant who was previously licensed in Canada.

The requirement that an applicant take and pass a jurisprudence examination has been removed from all licensure requirements. Additionally, the rules pertaining to supervised practice experience have been amended to clarify requirements for obtaining this experience.

In proposed subpart C, the requirements and limitations for delegation of an act, task, or function to an occupational therapy assistant and to an unlicensed individual have been amended and clarified. The desired outcome is that an occupational therapist will comply with the delegation and supervision requirements and limitations when delegating a duty to another.

Part 3 Occupational Therapy Assistants: In the proposed rules, subpart A, the rule pertaining to approved educational programs is amended and revised for clarity. Additionally, the content of current rule R 338.1234a, is being rescinded and the content has been relocated to R 338.1231 so all rules pertaining to approved educational programs are contained in one rule.

The rule pertaining to the approved and required examination has been relocated to proposed subpart A for organization and clarity. The desired outcome is to assist an applicant in identifying the approved educational programs and the examination required for licensure.

In proposed subpart B, the rules for licensure of an occupational therapist assistant have been amended for organization and clarity. Additionally, the rule pertaining to licensure by endorsement has been revised to clarify the licensure requirements for an applicant who was previously licensed in Canada.

The requirement that an applicant take and pass a jurisprudence examination has been removed from all licensure requirements. Additionally, the rules pertaining to supervised practice experience have been amended to clarify requirements for obtaining this experience.

The desired outcome is to assist an applicant for licensure or relicensure in becoming licensed in Michigan.

Part 4 Telehealth: The current telehealth rules contain statutory definitions. Those are being removed because they are

unnecessary. The telehealth rules currently contained in R 338.1243 are being rescinded. The content of R 338.1243 is being revised and relocated to R 338.1241 to comply with current drafting requirements and for organization and clarity.

The desired outcome is compliance with the rules when a licensee is providing telehealth services.

Part 5 License Renewal and Continuing Education: In the proposed rules, amendments have been made to clarify the programs and activities that are approved for accumulating continuing education credits for license renewal and clarify that continuing education credits accumulated that cover implicit bias training requirements and those that meet the standards for identifying victims of human trafficking may also be used as continuing education for license renewal, if they are earned in an approved program or activity.

The desired outcome is that a licensee accumulates approved continuing education required for license renewal and ensures that their training is up to date.

5. 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: Proposed part 1 contains the definitions used in the rule set and the rule pertaining to the training standards for identifying victims of human trafficking. In the proposed rules, new definitions are added to assist a reader in understanding and complying with the rules. Although harm is unlikely under the current definition rule, the changes will ensure better reader understanding for better compliance with all of the rules.

The proposed rule pertaining to the training standards for identifying victims of human traffic are designed to ensure that applicants for licensure and licensees seeking renewal have completed the requirements. The rule is intended to better protect the health, safety and welfare of a licensee's patient and to increase applicant and licensee compliance.

Part 2 Occupational Therapists: The rules related to educational and examination requirements, licensure and relicensure requirements, and delegation and supervising requirements are in this part. The rules have been amended and reorganized for clarity. The jurisprudence examination requirement has been removed from initial licensure, licensure by endorsement, and relicensure. Clear identification of the requirement for licensure and removing the jurisprudence examination will help avoid any unnecessary delays in the licensure process for the licensee and will ensure that the applicant is qualified to practice when licensed. The proposed rules will also ensure that a licensee understands the requirements and limitations for delegation of an act, task, or function to an occupational therapy assistant and to an unlicensed individual to better protect the health, safety and welfare of a licensee's patient or client and to increase licensee compliance.

Part 3 Occupational Therapy Assistants: The rules related to educational and examination requirements, and licensure and relicensure requirements are in this part. The rules have been amended and reorganized for clarity. The jurisprudence examination requirement has been removed from initial licensure, licensure by endorsement, and relicensure. Clear identification of the requirement for licensure and removing the jurisprudence examination will help avoid any unnecessary delays in the licensure process for the licensee and will ensure that the applicant is qualified to practice when licensed.

Part 4 Telehealth: The current telehealth rules contain statutory definitions. Those are being removed because they are unnecessary. The telehealth rules currently contained in R 338.1243 are being rescinded. The content of R 338.1243 is being revised and relocated to R 338.1241 to comply with current drafting requirements and for organization and clarity. The current rule implies that telehealth may be conducted by an unlicensed individual, which is contrary to statute.

The desired outcome is compliance with the law and rules when a licensee is providing telehealth services.

Part 5 License Renewal and Continuing Education: In the proposed rules, amendments have been made to clarify the programs and activities that are approved for accumulating continuing education credits for license renewal and clarify that continuing education credits accumulated that cover implicit bias training requirements and those that meet the standards for identifying victims of human trafficking may also be used as continuing education for license renewal, if they are earned in an approved program or activity.

The desired outcome is that a licensee accumulates approved continuing education required for license renewal and ensures that their training is up to date.

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

The rationale for changing the definitions is to increase reader understanding and ensure better compliance with all rules.

The rationale for rescinding and relocating several rules is to comply with current drafting requirements and for organization and clarity.

The rationale for removing statutory definitions is to avoid confusion and repetition.

The rationale for removing the jurisprudence examination is to remove a barrier to licensure.

The rationale for amending current rules is to ensure that they are consistent with statutory requirements and that all rules are clear and easy to understand.

6. 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 in this section pertain to the definitions used in the rule set and the training standards for identifying victims of human trafficking.

In the proposed rules, the definitions rule is being amended to add new definitions for better understanding by all readers. The training standards for identifying victims of human trafficking rule is being amended for clarity and to assist all applicants and licensees in meeting this statutory requirement.

The proposed changes will protect the health, safety, and welfare of Michigan citizens by ensuring better understanding of the terms used in the rule set and increasing applicant and licensee compliance with the requirements of the training standards for identifying victims of human trafficking. The proposed rules do not impose any new burden on applicants or licensees.

Part 2 Occupational Therapists: The proposed rules in this part pertain to the approved examination and accreditation standards for approved educational programs, the requirements for licensure, and the requirements and limitations on the delegation of duties to an occupational therapy assistant and to an unlicensed individual.

The jurisprudence examination requirement has been removed as a requirement for initial licensure, licensure by endorsement, and relicensure.

The proposed changes will protect the health, safety, and welfare of Michigan citizens by ensuring that an applicant has completed the required education and training and passed the required examination to demonstrate that the applicant has met all up-to-date licensure requirements and is qualified to practice. The proposed rules do not impose any new burden on applicants or licensees. Instead, the proposed rules remove the burden previously imposed by removing the jurisprudence examination requirement. The cost to take the jurisprudence examination is currently \$53.00.

The proposed rules will also better protect the health, safety and welfare of a licensee's patient or client by ensuring that the delegation of a duty to another complies with the requirements and limitations of the delegation rules.

Part 3 Occupational Therapy Assistants: The proposed rules in this part pertain to the approved examination and accreditation standards for approved educational programs.

The proposed changes will protect the health, safety, and welfare of Michigan citizens by ensuring that an applicant has completed the required education and training and passed the required examination to demonstrate that the applicant is qualified to practice. The proposed rules do not impose any new burden on applicants or licensees.

The jurisprudence examination requirement has been removed as a requirement for initial licensure, licensure by endorsement, and relicensure.

The proposed changes will protect the health, safety, and welfare of Michigan citizens by ensuring that an applicant has met all up-to-date licensure requirements. The proposed rules do not impose any new burden on applicants. Instead, the proposed rules remove the burden previously imposed by removing the jurisprudence examination requirement. The cost to take the jurisprudence examination is currently \$53.00.

Part 4 Telehealth: The proposed rules clarify the licensee's duties when rendering telehealth services. The proposed changes will protect the health, safety, and welfare of Michigan citizens by increasing a licensee's understanding and compliance with the requirements for rendering telehealth services. The proposed rules do not impose any new burden on applicants or licensees.

Part 5 License Renewal and Continuing Education: The proposed rules provide greater organization and clarity regarding the requirements for continuing education. The proposed rules will protect the welfare of Michigan's citizens by ensuring that the continuing education acquired is appropriate and up to date. The proposed rules do not place any burden on licensees.

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

R 333.1212: This rule pertains to grounds for disciplinary action. It will be rescinded as the content repeats MCL 333.16221, so it is unnecessary.

R 338.1224: This rule pertains to examinations for occupational therapists. It will be rescinded and the content relocated to R 338.1221a to provide better organization and clarity.

R 338.1225: This rule pertains to board approval of non-accredited postsecondary education. It will be rescinded and the content relocated to R 338.1221 to provide better organization and clarity of approved educational programs.

R 338.1234: This rule pertains examinations for occupational therapy assistants. It will be rescinded and the relocated to R 338.1231a to provide better organization and clarity.

R 338.1234a: This rule pertains to board approval of non-accredited postsecondary education. It will be rescinded and the content relocated to R 338.1231 to provide better organization and clarity of approved educational programs.

R 338.1243: This rule pertains to providing telehealth services. It will be rescinded and the content amended and relocated to R 338.1241 to comply with current drafting requirements and to provide better organization and clarity.

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.

8. 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.

9. 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 nor has a funding source been provided for expenditures because there are no expenditures associated with the proposed rules.

10. 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 proposed rules will assist a reader in understanding the terms used in the rule set and clarify the training standards for identifying victims of human trafficking. These proposed changes are necessary for organization, clarity, and reader understanding and compliance. The proposed changes do not impose any new burden on individuals.

Part 2 Occupational Therapists: The proposed rules will assist an applicant in identifying and satisfying the educational and examination requirements for licensure. They also set out the requirements for licensure, relicensure, and licensure by endorsement. These proposed changes are necessary for organization and clarity. The proposed changes do not impose any new burden on individuals.

The proposed rules will assist a licensee in identifying the requirements and limitations when delegating a duty to another. The proposed rules are necessary for clarity, reader understanding, and compliance. The proposed rules do not impose any new burden on individuals.

Part 3 Occupational Therapy Assistants: The proposed rules will assist an applicant in identifying and satisfying the educational and examination requirements for licensure. They also set out the requirements for licensure, relicensure, and licensure by endorsement. These proposed changes are necessary for organization and clarity. The proposed changes do not impose any new burden on individuals.

Part 4 Telehealth: The proposed rules organize and clarify the licensee's duties when providing telehealth services, but they do not place any new burden on an individual.

Part 5 License Renewal and Continuing Education: The proposed rules clarify the programs and activities approved by the board for accumulating continuing education credits for license renewal. These proposed changes are necessary for organization and clarity. The proposed changes do not impose any new burden on individuals.

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

There are no additional burdens placed on individuals as a result of the proposed rules.

Impact on Other State or Local Governmental Units

11. 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 decreases in revenues or cost increases or reductions to other state or local governmental units.

12. 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.

13. 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.

Rural Impact

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

The proposed rules impose requirements on individual licensees regardless of where they live. Even if a licensee's workplace is in a rural area, the department could not vary the requirements based on the licensee's location because it would create a disparity in the regulation of the occupational therapy professions.

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.

Environmental Impact

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

No. The proposed rules do not have any impact on the environment.

Small Business Impact Statement

16. 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 regulated by the proposed rules. Even if a licensee's workplace qualifies as a small business, the department could not exempt the business because it would create a disparity in the regulation of the occupational therapy professions.

17. 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 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 7,056 occupational therapists and 1,871 occupational therapy assistants in Michigan.

A licensee may work in a small business. However, no matter what type of business environment the licensee works in, the licensee will have to comply with the proposed rules. The rules do not impact small businesses 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 individual 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 regulate or require any reporting from a small business; the rules regulate individual licensees.

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.

18. 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; rather, they impact individual licensees. Therefore, there is no disproportionate impact on a small business because of its size or geographic location.

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

A small business is not required to prepare any report under the proposed rules, so it is estimated that a small business will incur no cost in preparing a report to comply with the proposed rules.

20. 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 regulate licensees and not small businesses.

21. 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.

22. 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.

23. 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.

If a rule exempted or set lesser standards for compliance by a small business, there would be no cost to the agency for administering or enforcing that rule because the rules do not regulate a business of any size. The rules apply to individuals practicing in Michigan as an occupational therapist or occupational therapy assistant.

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

Licensure of occupational therapists and occupational therapy assistants is required by statute, so the department cannot make a rule that would permit a small business to hire an unlicensed individual to practice as occupational therapist or occupational therapy assistant.

If the department could exempt or set lesser standards for small businesses employing an occupational therapist or occupational therapy assistant, it would create a disparity in the regulation of the professions and would expose the public to potential harm because an unlicensed person would not be qualified to render those services. Ensuring that all businesses employ licensed occupational therapists and occupational therapy assistants is in the public's best interest.

25. 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 Occupational Therapy in the development of the proposed rules. The board is composed of members of the profession and public members who work in small and large businesses in Michigan, but even if they work in a small business, they were not involved in the development of the rules as a representative of small businesses.

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.

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

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

The department does not expect any statewide 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 to businesses or other groups for new equipment, supplies, labor, accounting, or recordkeeping.

27. 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.

There are no additional compliance costs placed on individuals as a result of the proposed rules.

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

There are approximately 7,056 occupational therapists and 1,871 occupational therapy assistants in Michigan.

All individual licensees and applicants for occupational therapy or occupational therapy assistant licensure are affected by the proposed rules.

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

The proposed rules do have a qualitative impact on individuals. Currently, applicants are required to take and pass the jurisprudence examination for licensure and relicensure. The proposed rules remove this burden.

The proposed rules do have a quantitative impact on an individual applicant for licensure and relicensure because the proposed rules will remove the requirement that the applicant complete the jurisprudence examination to be licensed or relicensed. The fee to take that examination was \$53.00. The requirement is being removed because the testing is no longer necessary and to better align Michigan's requirements with those of most states in the Great Lakes region.

28. 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, groups of individuals, or governmental units because of the proposed rules.

The proposed rules do reduce costs to individuals applying for licensure or relicensure because the proposed rules will remove the requirement that the applicant complete the jurisprudence examination to be licensed or relicensed. The fee to take that examination was \$53.00.

29. 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 are to applicants and licensees as the proposed rules will update out-of-date information and clarify requirements in the rule set, making it easier to comply.

The secondary and indirect benefits of the proposed rules are to public when qualified applicants become licensees, and licensees practice in accordance with the requirements in the rule set when providing services to them.

30. 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.

31. 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 rules are not expected to have a disproportionate effect on any individual or business as a result of their industrial sector, segment of the public, business size, or geographic location.

32. 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.

The statutes and regulations of states in the Great Lakes region were researched when determining the impact of the proposed rules, including the following:

Illinois: <https://www.ilga.gov/commission/jcar/admincode/068/068013150001450R.html>;
<https://ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1314&ChapAct=225%26nbsp%3BILCS%26nbsp%3B7;>

<https://www.ilga.gov/commission/jcar/admincode/068/068013150001000R.html>

<https://www.ilga.gov/commission/jcar/admincode/068/06801315sections.html>

Indiana: <https://iga.in.gov/legislative/laws/2022/ic/titles/025#25-23.5>

<https://iar.iga.in.gov/code/2026/844/10>

<https://www.in.gov/pla/professions/occupational-therapy-home/occupational-therapy-licensing-information/>

Minnesota: <https://www.revisor.mn.gov/statutes/cite/148>

<https://www.revisor.mn.gov/statutes/cite/148.6443>

<https://mn.gov/boards/occupational-therapy/>

New York: <https://www.op.nysed.gov/professions/occupational-therapists/license-requirements>

<https://www.op.nysed.gov/professions/occupational-therapists/laws-rules-regulations/article-156>

<https://www.op.nysed.gov/professions/occupational-therapists/laws-rules-regulations/part-76>

Ohio: <https://otptat.ohio.gov/occupational-therapy>

<https://codes.ohio.gov/ohio-revised-code/chapter-4755>

<https://otptat.ohio.gov/occupational-therapy/continuing-education/ce-reference-guide>

Pennsylvania: [https://www.pacodeandbulletin.gov/Display/pacode?](https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/049/chapter42/chap42toc.html)
[file=/secure/pacode/data/049/chapter42/chap42toc.html](https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/049/chapter42/chap42toc.html)

<https://www.pa.gov/content/dam/copapwp-pagov/en/dos/departments-and-offices/bpoa/occupational-therapy/OTM%20-%20OT%20Law.pdf>

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

https://docs.legis.wisconsin.gov/code/admin_code/ot/3.pdf

There was no cost-benefit analysis completed because there is no potential cost impact in the proposed rules.

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 or assumptions were made.

Alternative to Regulation

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

Since the rules are required by statute, there is no other 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.

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

34. 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 occupational therapy professions are state functions, and states regulate occupational 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.

No other states in the Great Lakes region use a private, market-based system to regulate occupational therapists or occupational therapy assistants.

35. 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

36. 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.