

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Licensing and Regulatory Affairs

2. Bureau:

Bureau of Professional Licensing

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Counseling – General Rules

5. Rule numbers or rule set range of numbers:

R 338.1751 – R 338.1781

6. Estimated time frame:

12 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The Counseling – General Rules pertain to definitions, accreditation, educational training, human trafficking training, licensure, limited licenses, examinations, relicensure, renewal, and supervision, for professional counselors.

Amendment of the rules will take place to supply necessary revisions on definitions, telehealth, accreditation, educational training, human trafficking training, licensure, limited licenses, examinations, relicensure, renewal, and supervision for professional counselors.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

MCL 333.16141 authorizes the department to promulgate rules.

MCL 333.16145 and MCL 333.16174 authorize the board to promulgate rules.

MCL 333.16148, MCL 333.16287, MCL 333.18106, MCL 333.18107, and MCL 333.18111 authorize the department, in consultation with the board, to promulgate rules.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

333.16141; 333.16145; 333.16148; 333.16174; 333.16287; 333.18106; 333.18107; 333.18111; 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.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

Yes, under MCL 333.16287, the department, in consultation with the board, shall promulgate rules to implement MCL 333.16284 and MCL 333.16285. Under MCL 333.18106, a licensed professional counselor shall not supervise a limited licensed counselor without completing training in supervision as required by rules promulgated by the department in consultation with the board. Under MCL 333.18107, the department in consultation with the board shall promulgate rules to establish standards to approve qualified programs. Under MCL 333.18111, the department in consultation with the board shall promulgate rules to establish standards to approve qualified programs.

There is no constitutional mandate.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

Each state sets up its own requirements with respect to professional counselors. The rules do not conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

No. The subject matter of these rules is not currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

Yes.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

The Board of Counseling will receive comments from the public, associations, and licensees. The Board of Counseling will hold Rules Committee Work Group sessions with the public.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The Department last amended the rules on April 26, 2023. There have been no technological factors, economic conditions, or other factors that would require amendment of the rules.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

No, there are no changes or developments since implementation of the last rule set that demonstrates there is no continued need for the rules.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

Yes

Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.