

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:

2019-85 LR

Title of proposed rule set:

Occupational Code Renewals

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 Code renewals, 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?

MCL 339.202 requires the department to promulgate rules to establish the expiration date for a license or registration issued pursuant to the Michigan Occupational Code. MCL 339.205 requires the department to promulgate rules to implement Articles 1 to 6 of the Michigan Occupational Code.

The rules are not federally mandated.

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.

All states in the Great Lakes region provide for license and registration renewals for licensees and registrants, including barbers, cosmetologists, and real estate brokers and salespersons. The proposed rules are consistent with the standards required by the Occupational Code and are largely consistent with the requirements of other states in the Great Lakes region.

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 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 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 that regulate the areas addressed in the proposed rules.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

MCL 24.232(8) does not apply to the proposed rules.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, either the 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 and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

MCL 24.232(9) does not apply to the proposed rules.

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

The intended purpose of the proposed rules is set forth below:

R 339.1101a This is a new rule that will provide definitions for terms used in the rule set for better reader understanding.

R 339.1002 This rule pertains to renewal dates for licenses that are issued annually. The proposed rule will do the following: remove “mortuary science trainees” because that license is no longer issued by the Bureau of Professional Licensing; remove “real estate” licenses because those licenses are no longer renewed annually; remove “cosmetology establishments and schools” because those licenses are no longer renewed annually; reorganize the list of annual licenses alphabetically; amend the renewal date for a barber student instructor license to the issue date; and change the name of the license previously identified as “private employment” to “personnel agencies.” The proposed rule is intended to improve understanding and assist a licensee in complying with renewal requirements.

R 339.1003 This rule pertains to renewal dates for licenses and registrations that are issued biennially. The proposed rule will do the following: remove licenses and registrations that are no longer issued by the Bureau of Professional Licensing; reorganize the list of biennial licenses and registrations alphabetically; amend the renewal dates for barbers and cosmetology licenses to issue date; and add barber establishments and schools and cosmetology establishments and schools. The proposed rule is intended to improve understanding and assist a licensee or registrant in complying with renewal requirements.

R 339.1003a This is a new rule that will provide renewal dates for licenses that are issued triennially. The new rule will inform a licensed real estate broker or salesperson that the renewal date is October 31. The proposed rule is intended to improve understanding and assist a licensee in complying with renewal requirements.

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

MCL 339.202 requires the department to promulgate rules regarding license and registration renewal. Promulgation of rules necessary to enable the department to fulfill its role is required by MCL 339.205. There is no expected change in the frequency of license or registration renewals. The proposed rules are intended to provide greater clarity to licensees and registrants and assist them in complying with renewal requirements.

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

Updating the dates for renewal of licenses and registrations and organizing the rules into a more user-friendly format will make compliance easier for licensees and registrants.

C. What is the desired outcome?

The Bureau of Professional Licensing is transitioning to a new licensing software program. As a result, all professions regulated by the bureau will gradually transition to the new platform. The desired outcome is to change the rules to coincide with the date that the licensing platform is live. Under MCL 339.202, the department is required to promulgate rules regarding license and registration renewal. Under MCL 339.205, the department is required to promulgate rules necessary or appropriate to fulfill its function as prescribed under the Occupational Code.

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 proposed rule set updates the previously adopted rules and places the rules in a format that is more user friendly for licensees and registrants. Specifically, changes have been made to address the following:

R 339.1101a This is a new proposed rule that will provide definitions for terms used in the rule set. The addition of the definitions will aid applicants, licensees, and registrants in understanding and complying with the proposed rules.

R 339.1002 This rule pertains to renewal dates for licenses that are issued annually. The proposed rule will do the following: remove “mortuary science trainees” because that license is no longer issued by the Bureau of Professional Licensing; remove “real estate” licenses because those licenses are no longer renewed annually; remove “cosmetology establishments and schools” because those licenses are no longer renewed annually; reorganize the list of annual licenses alphabetically; amend the renewal date for a barber student instructor license to the issue date; and change the name of the license previously identified as “private employment” to “personnel agencies.” The proposed changes will help a licensee identify the date when an annual license expires and must be renewed.

R 339.1003 This rule pertains to renewal dates for licenses and registrations that are issued biennially. The proposed rule will do the following: remove licenses and registrations that are no longer issued by the Bureau of Professional Licensing; reorganize the list of biennial licenses and registrations alphabetically; amend the renewal dates for barbers and cosmetology licenses to issue date; and add barber establishments and schools and cosmetology establishments and schools. The proposed changes will help a licensee or registrant identify the date when a biennial license or registration expires and must be renewed.

R 339.1003a This is a new rule that will provide renewal dates for licenses that are issued triennially. The new rule will inform a licensed real estate broker or salesperson that the renewal date is October 31. The proposed rule will help a licensee identify when his or her triennial license expires and must be renewed.

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

The proposed rule set updates the previously adopted rules to inform licensees and registrants of changes to renewal dates. The proposed rule set has also been amended for clarity.

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.

The proposed rules provide a regulatory mechanism for the renewal of licenses and registrations issued by the Bureau of Professional Licensing under the Occupational Code. To protect the safety of Michigan citizens, it is important that licensees or registrants be properly licensed or registered and be informed as to when they must seek renewal.

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

No rules will be rescinded.

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 nor has a funding source been provided for expenditures associated with implementing these 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.

The proposed rules protect the safety and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for licensees and registrants under the Occupational Code as the revision clarifies renewal dates, which results in a more efficient renewal process for licensees, registrants, and department staff. There will not be any added burden on licensees or registrants as a result of the proposed rules.

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

There is no added burden imposed by the proposed rules.

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 decreases in revenues to state or local governmental units as a 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, county, township, 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 these 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 unit as a result of these rules. No additional expenditures are anticipated or intended with the proposed rules.

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 licenses and registrations issued by the Bureau of Professional Licensing pursuant to the Occupational Code, regardless of the licensee's or registrant's location.

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

No disparate impact on public or private interests is anticipated on rural areas because of the proposed rules.

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

The proposed rules do not have an environmental impact.

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

The proposed rules impose requirements on licensees and registrants rather than small businesses. Even if a licensee's or registrant's work place 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 Occupational Code professions licensed or registered by the Bureau of Professional Licensing.

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 rules regulate licensees and registrants. While a licensee or registrant may work independently or as part of a small business, the law does not allow the rules to exempt them from the requirements of the rules. However, the impact on a licensee or registrant who may work independently or as part of a small business is minimized in the proposed rules, as the rules are written broadly. The proposed rule changes will have minimal or no impact on a licensee or registrant because all licensees and registrants are currently subject to renewal requirements.

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

There are approximately 4,205 barbers, 7 barber student instructors, 1,510 barber shops, and 5 barber colleges in Michigan. There are approximately 71,172 cosmetologists, 8,367 cosmetology shops, and 77 cosmetology schools in Michigan. There are approximately 6,504 real estate brokers, 6,502 associate real estate brokers, and 6,501 real estate salespersons in Michigan. Renewals for all licenses and registrations issued by the Bureau of Professional Licensing pursuant to the Occupational Code are provided for in these rules.

A licensee or registrant may work independently or as a part of a small business, but no matter what type of business environment the licensee or registrant operates in, he or she will have to comply with the proposed rules. The rules do not impact small businesses differently because the impact is to the licensee or registrant.

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 licensees and registrants licensed by the Bureau of Professional Licensing under the Occupational Code. The rules were drafted to be the least burdensome on all impacted licensees and registrants.

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 with the proposed rules.

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 impact license and registration renewals issued by the Bureau of Professional Licensing pursuant to the Occupational Code. There is no disproportionate effect on small businesses because of their 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.

There is no report required by a small business to comply with the proposed rule.

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 will be no increased costs of compliance for a small business 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 legal, consulting, or accounting services that a small business would incur in complying with the proposed rules.

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 as a result 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.

There is no cost to the agency for administering or enforcing the rules because exempting or setting lesser standards of compliance for a small business is not in the best interest of the public, so no exemption or lesser standard of compliance was established.

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

The department could not exempt a licensee or registrant from the proposed rules, even if his or her business would qualify as a small business, because it would create disparity in the regulation of professional licensing and registration under the Occupational Code. No exemption or setting of a lesser standard of compliance has been made for small businesses, so there is no impact on the public interest.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

No small businesses were involved in the development of the proposed rules.

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 proposed rules.

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.

No additional costs will be imposed on business or other groups as a result of the proposed rules.

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.

The only cost associated with the proposed rules is the cost for renewal of a license or registration, but the rules do not increase the cost for renewing a license or registration. The proposed rules only establish expiration dates and renewal requirements.

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

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

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

There is no impact to an individual because there is no additional compliance costs as a result 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 for businesses, individuals, groups of individuals, or governmental units as a result 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.

There are no estimated benefits as a result of the proposed rules.

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 or job creation.

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.

No disproportionate effect on an industrial sector, segment of the public, business size, or geographic location is expected as a result of the proposed rules.

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.

Illinois: <http://www.ilga.gov/commission/jcar/admincode/068/06801420sections.html>;
<http://www.ilga.gov/commission/jcar/admincode/068/068011750B02250R.html>;
<http://www.ilga.gov/commission/jcar/admincode/068/068011750D04250R.html>;
<http://www.ilga.gov/commission/jcar/admincode/068/068014500A01400R.html>

Indiana: <https://secure.in.gov/pla/files/2018%20SBCBE%20October%20Compilation.pdf>;
<http://iga.in.gov/legislative/laws/2015/ic/titles/025/articles/34.1/>

Kentucky: <https://barbering.ky.gov/licensure/Pages/Barbers.aspx>; <http://www.lrc.ky.gov/kar/201/014/180.PDF>;
<http://www.lrc.state.ky.us/kar/201/012/030.pdf>; <http://www.lrc.state.ky.us/kar/201/012/260.pdf>;
<http://www.lrc.state.ky.us/kar/201/011/225.pdf>

Minnesota: <https://www.revisor.mn.gov/rules/2100.5600/>; <https://www.revisor.mn.gov/statutes/cite/154.15>;
<https://www.revisor.mn.gov/rules/2105.0200/>; <https://www.revisor.mn.gov/rules/2105.0330/>;
<https://www.revisor.mn.gov/statutes/cite/82.62>

New York: <https://www.ny.gov/services/apply-professional-license>;
<https://www.dos.ny.gov/licensing/lawbooks/barber.pdf>;
https://www.dos.ny.gov/licensing/cosmetology/cosmetology_faq.html#1;

<https://www.dos.ny.gov/licensing/cosmetology/cosmetology.html>; <https://www.dos.ny.gov/licensing/lawbooks/RE-Law.pdf>

Ohio: <http://codes.ohio.gov/orc/4709>; <http://codes.ohio.gov/oac/4709>; <http://codes.ohio.gov/orc/4713>;
<http://codes.ohio.gov/oac/4713>; <http://codes.ohio.gov/oac/1301%3A5-1>

Pennsylvania:

<https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/BarberExaminers/Documents/Board%20Information/Barber%20Law.pdf>; <https://www.pacode.com/secure/data/049/chapter3/s3.103.html>;
<https://www.pacode.com/secure/data/049/chapter7/chap7toc.html>;
<https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Cosmetology/Documents/Board%20Documents/COSMETOLOGY%20LAW.pdf>; <https://www.pacode.com/secure/data/049/chapter7/s7.2.html>;
<https://www.pacode.com/secure/data/049/chapter35/chap35toc.html>;
<https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/RealEstateCommission/Documents/Board%20Documents/Act%2015.pdf>

Wisconsin: https://docs.legis.wisconsin.gov/code/admin_code/sps/professional_services/050/50.pdf;
https://docs.legis.wisconsin.gov/code/admin_code/cos/9.pdf; <https://docs.legis.wisconsin.gov/statutes/statutes/452/12>

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

There were no estimates made because the rules impact a licensee or registrant. No estimate could consider the setting where a licensee or registrant may use his or her license or registration. Because the rules impact all licensees and registrants in the same way, the assumption made was that no additional cost or benefit would result from the proposed rules.

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

These rules are required by statute; there is no reasonable alternative to the proposed rules.

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

There is no reasonable alternative to the proposed rules.

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.

MCL 339.202 provides that the department shall promulgate rules to establish the expiration date of a license or registration. MCL 339.205 provides that the department shall promulgate rules necessary and appropriate to enable it to fulfill its role under the Occupational Code. The proposed rule will clarify the date of renewal for all licenses and registrations issued by the Bureau of Professional Licensing pursuant to the Occupational Code. Without this rule, license and registration regulation would not be manageable. All licenses and registrations issued by the Bureau of Professional Licensing and regulated under the Occupational Code are included in this rule. A private market-based system cannot serve as an alternative.

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.

No alternatives were considered because MCL 339.202 provides that the department shall promulgate rules to establish the expiration date of a license or registration.

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The rules will explicitly inform licensees and registrants of renewal requirements. The renewal information will be clearly listed on the department's website and on renewal application forms.