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STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
BUREAU OF PROFESSIONAL LICENSING

- - -

PUBLIC HEARING

Tuesday, September 22, 2020

1:00 p.m.

- - -

Held on-line via Zoom
under Executive Order 2020-154

- - -

Re: Accountancy - General Rules (MOAHR #2020-30 LR)
Counseling - General Rules (MOAHR #2020-33 LR)

HEARING FACILITATOR:

Weston MacIntosh, Analyst
Bureau of Professional Licensing
611 West Ottawa
Lansing, Michigan 48909

Also Present:

Kerry Przybylo
Kimberly Catlin

Reported by: Marie T. Schroeder, CSR-2183
Metro Court Reporters, Inc.

1 Lansing, Michigan

2 Tuesday, September 22, 2020

3 1:00 p.m.

4 - - -

5 WESTON MacINTOSH: My name is Weston
6 MacIntosh and I am the analyst for the Bureau of
7 Professional Licensing in the Department of Licensing and
8 Regulatory Affairs, and I will be conducting the hearing
9 today.

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

21 We are calling this hearing to order at
22 1:00 p.m. on September 22, 2020, via Zoom under Executive
23 Order 2020-154 in response to the COVID-19 pandemic. The
24 notice of public hearing was published in three
25 newspapers of general circulation, the Grand Rapids Press

1 and the Flint Journal on August 23, 2020, the Mining
2 Journal on September 2, 2020, as well as the Michigan
3 Register, Issue No. 16, published on September 15, 2020.

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

11 We will take the comments in the
12 following manner: For those using the video conference
13 portion, not calling by telephone, please use the Raise
14 Your Hand feature in Zoom. I will call on individuals to
15 speak and they will be unmuted at that time.

16 For participants that are available only
17 by telephone, we will ask if you wish to make a comment
18 after the video participants have finished.

19 If you have a comment but do not wish to
20 speak, please note that the Department will also accept
21 written statements e-mailed or postmarked to
22 BPL-boardsupport@michigan.gov until 5:00 p.m. today.

23 Those making comments should clearly and
24 slowly say and spell your name and advise if you are
25 speaking on behalf of an organization. We will limit

1 comments to three minutes per person. Please remember
2 that only one person should speak at a time.

3 The Department staff from the Bureau of
4 Professional Licensing includes myself, Kerry Przybylo,
5 and Stephanie Wiacek. We will group the comments by rule
6 sets so that we can group the comments together.

7 The first rule set that we will take
8 comments for is Accountancy - General Rules. Is there
9 anyone who wishes to speak on the Accountancy - General
10 Rules? And again you can Raise Your Hand if you're on
11 Zoom, in the Participants tab. And if you are on the
12 phone, I believe it's *6 to unmute your call. (Pause.)

13 O.K. It doesn't look like I am seeing
14 anyone with a raised a hand. Oh, Andy Schut?

15 ANDY SCHUT: Oh, "Scott".

16 WESTON MacINTOSH: Go ahead. You have a
17 comment on the Accountancy - General Rules?

18 ANDY SCHUT: Thank you. I just wanted to
19 mention -- my name is Andy Schut, and I'm from Hope
20 College. And wanted to be very much in support of the
21 State allowing for the continuous testing to be able to
22 sit for one section more than once in the same timeframe,
23 in the same quarter. A number of states have already
24 enacted this. I think the only state behind us is South
25 Carolina, they expect to do that next year. So I just

1 wanted to let you know that there's a lot of students
2 that would really appreciate quick action by the State on
3 this. Thanks.

4 WESTON MacINTOSH: Thank you, Andy. Do
5 we have any other comments on the Accountancy - General
6 Rules? And again if you are on Zoom, you would be the
7 Raise Your Hand tab under the Participants tab, and then
8 if you're on the telephone, *6. (Pause)

9 I'm not seeing anyone else, so we'll go
10 ahead and move forward. So the second rule set then we
11 are taking comments for is Counseling - General Rules.
12 Is there anyone who wishes to speak on the Counseling -
13 General Rules?

14 STEPHANIE WAICEK: Wes, I believe Jim
15 Blundo was trying to raise his hand. He may have clapped
16 instead.

17 WESTON MacINTOSH: Oh, O.K. Jim, can you
18 unmute. It looks like you are on Zoom. Can you unmute
19 yourself? There you go.

20 MR. BLUNDO: O.K. I am on. On behalf of
21 the Michigan Mental Health Counselors Association, my
22 name is James Blundo. I am the Executive Director. I
23 can spell it, J-a-m-e-s, B-l-u-n-d-o. I'd like to thank
24 you for the opportunity to provide comment on the
25 proposed Counseling rules set, 2020-33 LR.

1 MMHCA believes the rules as presented
2 appropriately implement the legislative intent of the
3 current licensed professional counseling statute, and
4 that if promulgated will ensure licensed professional
5 counselors the opportunity to practice their full scope
6 education and training as provided for by Public Act 96
7 of 2019.

8 In light of actions taken by Governor
9 Whitmer under the COVID-19 state of emergency declaration
10 that suspended mandatory in-person supervision during the
11 pandemic, we strongly recommend that this rule, that
12 these rules, this rule opportunity also be utilized to
13 allow for similar accommodations in future state
14 emergencies.

15 To that end, MMHCA recommends the
16 following provision to be added to the proposed rule set:
17 Under a Governor declared state of disaster or emergency,
18 the Board may allow for an alternative supervision
19 arrangement to the immediate physical presence required
20 between a supervisor and a supervisee such as, but not
21 limited to, use of two-way real-time audiovisual
22 technology that allows for a direct remote interaction by
23 sight, sound, and observation between the supervisor and
24 the supervisee to obtain the required supervision hours.

25 Thank you again for this opportunity to

1 provide comment and for all the Department's efforts
2 throughout this inclusive and collaborative rules
3 process. Please allow this letter to serve as MMHCA's
4 formal communication of our full support for the proposed
5 general counseling rules, with the addition of the
6 proposed rule allowing for an alternative supervision
7 arrangement under a future state of emergency. Jim
8 Blundo. Thank you.

9 WESTON MacINTOSH: Thank you, Jim. Do we
10 have any other comments on the Counseling - General
11 Rules? Let me see. Dr. Irene Ametrano, do you want to
12 go ahead?

13 DR. AMETRANO: Well, I would like to
14 support the MMHCA proposed amendment. Is it appropriate
15 to do that at this time?

16 WESTON MacINTOSH: You can just basically
17 make comments on any proposed changes to the rules.

18 DR. AMETRANO: Yes, O.K. So I am the
19 co-chair of the Michigan Mental Health Counselor Public
20 Policy and Licensure Committee. I am also the program
21 coordinator of counseling at Eastern Michigan University.
22 So in that capacity, I do a lot of supervision with
23 counseling students and their practicum internship. I
24 also do supervision with post-Master's limited licensed
25 counselors.

1 And what I would like to say is that
2 without the provision that we could provide remote
3 supervision, I would not have been able to do any
4 supervision since March, and all of those counselors and
5 students would not be able to have seen their clients
6 since March. Therefore, many, many clients would not
7 have been able to get services. So in terms of access,
8 this is a critical need for a time like this during the
9 pandemic, that we would be able to do remote supervision.

10 In terms of the effectiveness, I was a
11 skeptic before. I didn't do remote supervision before.
12 And since I have been doing it, I think it really is
13 quite -- I mean I don't have any data, but it feels as
14 effective to me as in-person supervision, so we have not
15 had any problems, and it has worked out quite well. So I
16 would urge support of the proposed amendment to the
17 rules.

18 WESTON MacINTOSH: Thank you,
19 Dr. Ametrano.

20 DR. AMETRANO: You're welcome.

21 WESTON MacINTOSH: Dr. Sue Schaeffer?
22 Oh, you're on mute.

23 DR. S. SCHAEFFER: I think I'm unmuted.
24 Thank you. Thanks for the opportunity to testify today.
25 I am Dr. Sara Sue Schaeffer. Sara is S-a-r-a, and

1 Schaeffer is S-c-h-a-e-f-f-e-r. I co-chair the MMHCA
2 Licensure Committee with Dr. Ametrano. I am also a
3 practicing supervisor, and I provide, provide the clients
4 with supervised training for the counselors who are
5 qualified to provide.

6 I first want to support the rules as
7 proposed with MMHCA's proposed addition. I want to
8 briefly share why I think the addition is important.

9 In mid March it became clear that it was
10 unsafe to provide supervision in person. It was a
11 significant health risk to do so. The Governor's
12 emergency order giving us authorization to do that was
13 not yet in effect. And so it was clear that the only way
14 to connect with supervisees was virtually. Our ethics
15 direct that supervisors have a responsibility to ensure
16 the well being of supervisee clients as well as
17 supervise, direct, and oversight those you are
18 supervising. But we were in a situation that raised a
19 lot of questions. Were we in violation of the Public
20 Health Code if we were not providing supervision? It
21 appeared that we were satisfying the general provisions
22 of the Health Code by doing supervision virtually, but
23 the specific requirements in the licensure portion of the
24 law said that it must be in person. And so some of the
25 questions were: What do we do? Could LPC (inaudible)

1 clients? If not, there was a disruption. And it also
2 delayed the ability of LPCs to continue to count hours
3 toward their supervision, which meant that the ten-year
4 timeframe for some people could become a problem, and it
5 meant that some faced loss of employment opportunities
6 because they weren't able to finish their supervision in
7 the timeframe they had planned. By mid April the
8 emergency order was in place, and that resolved the
9 problem for us.

10 So we believe that the Board has the
11 ability to allow for an alternative such as that during a
12 Governor's declared state of emergency, that will avoid
13 that situation (inaudible) will avoid the confusion and
14 the potential disruption of services. And I myself
15 support that that be included along with the rules that
16 have been proposed. Thank you.

17 WESTON MacINTOSH: Thank you, Dr.
18 Schaeffer. Do we have any other comments on Counseling -
19 General Rules? Go ahead.

20 MICHAEL JOY: Michael Joy.

21 WESTON MacINTOSH: Go ahead.

22 MICHAEL JOY: Thank you. My name is
23 Michael Joy. That's spelled M-i-c-h-e-a-l. Last name is
24 spelled J-o-y. I'm the President of the Michigan
25 Counseling Association, but I'm also an LPC supervisor,

1 as well as I work in private practice. And I just want
2 to echo the sentiments of those expressed by MMHCA and
3 others, that I definitely support the proposed amendment
4 in terms of allowing non face-to-face supervision to be
5 allowed, especially under the executive order and the
6 current times that we are living in.

7 Under the pandemic I do have a few
8 supervisees myself who have been able to continue their
9 supervision hours with me virtually, and it has made it
10 possible for them to, as said by others, you know,
11 continue to practice safely. And there's many situations
12 where good a discussion has been had regarding ways in
13 which they can help their clients.

14 So I definitely support this as a measure
15 that will not only help build their practice, but help
16 the safety of the clients that we serve. That's all I
17 wanted to add. And again thank you for allowing us to be
18 here today to discuss the proposed rules.

19 WESTON MacINTOSH: Thank you, Michael.
20 Do we have any other comments on the Counseling rules?
21 Again just a reminder, if you're on Zoom, it's under the
22 Participants tab. You can Raise Your Hand. If you're on
23 the telephone you can -- although I'm not seeing anybody
24 on the telephone -- you can hit star 6.

25 KERRY PRZYBYLO: Weston, I don't see any

1 further hands raised.

2 WESTON MacINTOSH: I'm not seeing any.

3 O.K. So if there is no one who wishes to speak at this
4 time, we'll take a short recess, we'll wait until I think
5 maybe 1:20 to see if there is anyone else. If not, we'll
6 adjourn. So other than that, unless there's anybody at
7 the moment?

8 Oh. Michael, you still have your hand
9 raised.

10 MICHAEL JOY: Sorry. Thank you, Weston.
11 Just another question. Is there a limit on how many
12 hours can be done non face-to-face for supervision, on
13 the proposed changes?

14 WESTON MacINTOSH: You have to take a
15 look at the proposed set. If you're looking at 17 --
16 hold on one second. If you're looking at 1774, and what
17 was your question, as far as how many hours must be in
18 person?

19 MICHAEL JOY: Yes. How many hours have
20 to be in person out of the 100.

21 WESTON MacINTOSH: Yeah. So for those,
22 this is of course for folks with a Master's degree. So
23 right now within the proposed rules we have the in-person
24 requirement of 100 hours. But then we also have the
25 caveat that they can do 25 of those hours via the

1 two-way real-time, that's the current, the current
2 proposed rule.

3 MICHAEL JOY: O.K. That's what I thought
4 it was. I just wanted to get clarification. What is the
5 process for getting that through, you know, if it passes?

6 WESTON MacINTOSH: Well, if -- what I'll
7 have to do next is, based off of any comments that I have
8 received today and also in written comments, go back to
9 the rules committee, and we'll consider any of the
10 comments and see if we're going to make any potential
11 changes based on the comments. The rules committee,
12 we'll talk about it at the rules committee, see what the
13 rules committee thinks, and then we'll take those
14 comments to the full Board and see if there's any changes
15 to make. Beyond that, they go on to JCAR.

16 MICHAEL JOY: O.K. Sounds great. Thank
17 you.

18 WESTON MacINTOSH: Yes. Let's see. I
19 see Rachel Toiv. Hopefully I'm pronouncing that
20 correctly. Oh, Rachel, I think you're on mute. Sorry.

21 RACHEL TOIV: Can you hear me?

22 WESTON MacINTOSH: Yes, I can hear you
23 now.

24 RACHEL TOIV: Rachel Toiv. I wanted to
25 show support for the NCMHCE examination. I didn't know

1 if this was the place to do it, or if that will be
2 (inaudible).

3 WESTON MacINTOSH: That's fine. If you
4 have, it's comments on the rules. So if there is
5 something, you know, positive, negative, any comments, go
6 ahead.

7 RACHEL TOIV: Yes. I would just like to
8 show my support for the acceptance of the NCMHCE state
9 examination as it is created by the NDCC, which also
10 gives out the NCE examination. Those tests are composed
11 of pretty much the same content outline. It's just a
12 matter of the format and they're very thorough, help, you
13 know, analyze, identify, treat, think of, you know, ways
14 to support all diagnoses. So I just want to show my
15 support for the acceptance and addition of that
16 examination to the Michigan state licensing.

17 WESTON MacINTOSH: Thank you, Rachel.
18 Dr. Ametrano, did you raise your hand again, or did you
19 leave your hand up?

20 DR. AMETRANO: I raised it again.

21 WESTON MacINTOSH: O.K. Go ahead.

22 DR. AMETRANO: This goes back to the
23 question about the number of hours allowed in the
24 proposed rules, that 25 hours we're allowed in remote
25 supervision in the proposed rules. But I wanted to

1 clarify that my understanding is that then any hours that
2 are done remotely under a Governor's emergency orders
3 would not count as part of that 25 percent. Is that
4 correct?

5 WESTON MacINTOSH: Well, it would depend.
6 I think we're talking in hypotheticals at this point,
7 right. It depends on what the executive order says.

8 DR. AMETRANO: O.K. So if the executive
9 order implied over and above? I mean --

10 WESTON MacINTOSH: If there is -- just to
11 clarify. So hypothetically speaking, if there was an
12 executive order that said as far as how many hours you
13 could do in person or what-have-you, the executive order
14 would essentially trump anything that we would have in
15 the rules regardless of, you know. Even if we put in
16 here that the Board, you know, could waive the in-person
17 requirement, just hypothetically speaking, if the
18 Governor issued some executive order saying something
19 contrary to that, the executive order would trump that.
20 Is that kind of what you're asking?

21 DR. AMETRANO: Yes. I am not sure that
22 it would be clarified in the order. The order I thought
23 would go over and above any hours counted towards the
24 25 percent that are in the rules, in the proposed rules.
25 So 25 percent is allowed outside of the Governor's

1 executive order. But if the Governor's executive
2 order goes --

3 WESTON MacINTOSH: I think you're
4 confusing two different circumstances. Right now in the
5 proposed rules we have nothing that addresses any
6 executive order.

7 DR. AMETRANO: Right.

8 WESTON MacINTOSH: Right now it's
9 addressing morbid circumstances. So in other words,
10 right now under normal circumstances, staying completely
11 irrelevant of the current emergency, you would have a 100
12 hours in-person requirement. But we would have, we have
13 in there, in the proposed rules, an allowance of the 100
14 you can do 25, up to 25 of those hours via two-way
15 real-time communication. That's irrespective of any
16 executive order.

17 DR. AMETRANO: Right.

18 WESTON MacINTOSH: If there were an
19 executive order in place, whatever the executive order --
20 if an executive order addressed specifically anything
21 related to in-person requirements, the executive order is
22 going to trump it, anything that we would put in the
23 rules. And right now, if an executive order addressed
24 the in-person requirement, it would basically nullify
25 this, too. Does that make sense?

1 DR. AMETRANO: Yes. Yes. The
2 proposed -- but the MMHCA proposed amendment is not
3 during the executive order we can do remote supervision.
4 And I'm confused.

5 WESTON MacINTOSH: I'll have to take a
6 look and -- yes. I understand you, what the comments
7 are.

8 DR. AMETRANO: I just, theoretically
9 someone could, if the executive order goes on for two
10 years, theoretically somebody could end up with 100 hours
11 of remote supervision, and that would be O.K., even
12 though the rule says 25 percent.

13 WESTON MacINTOSH: The ultimate effect of
14 it, you know, remains to be determined. And then again,
15 that depends on what ultimately is adopted in the rules.

16 DR. AMETRANO: O.K. Yes. I'm just
17 confusing things so I'll back off now.

18 WESTON MacINTOSH: Next, let's see.
19 Andrea Casarillo, go ahead.

20 ANDREA CASARILLO: Yes. I just want --
21 Andrea Casarillo with the (inaudible). And I'm also on
22 behalf of MMHCA, the Michigan Mental Health Counselors
23 Association. I just want to clarify. The intent of the
24 proposed addition to the rules regarding remote
25 supervision would, is, you know, today we are under a

1 stay of emergency. The Governor has included executive
2 orders with that, that exempts in-person provision and
3 allows for full remote supervision.

4 The proposed amendment to the supervision
5 rules would allow, while we allow for 25 percent being
6 remote in the proposed rules, this would allow the Board
7 to determine in a future state of emergency, so not the
8 current one that is dictated by executive orders, but in
9 a future state of emergency, they could waive that
10 in-person requirement and allow that full remote
11 supervision at their discretion, if that was warranted.
12 So I just wanted to offer that clarification in case
13 there was any misunderstanding.

14 WESTON MacINTOSH: Thank you, Andrea.
15 Dr. Schaeffer, did you raise your hand again or was that
16 from earlier? Oh, you're on mute.

17 DR. S. SCHAEFFER: I just also wanted to
18 chime in the conversation to help clarify that. And Wes,
19 my understanding is that we have an emergency declaration
20 or declaration of a state of emergency and then we have
21 executive orders. And so right now we have an emergency
22 declaration and an executive order that allows us, per
23 the emergency declaration, to do the remote supervision.

24 My understanding is that the MMHCA
25 amendment is for a situation where a state of emergency

1 was declared but there wasn't an executive order that
2 gave us direction about providing supervision in
3 virtually. And the amendment was to give the Board the
4 authority to do that. And you can correct me if I'm
5 right or wrong on that.

6 But then the second question, I think,
7 that Dr. Ametrano was getting at is, if that were the
8 case, we want to make sure that those hours that the
9 Board said were waiving the in-person requirement because
10 of the state of emergency, that it wouldn't count against
11 the 25 percent that are already allowed to be done that
12 way.

13 So can you, first of all, is my
14 understanding right about the difference between the
15 executive order and the state of emergency? And then, is
16 it also your interpretation that if the Board declared
17 that in-person required hours could be performed
18 virtually because of the state of emergency, am I correct
19 in understanding that that doesn't count against the 25
20 hours that are already allowed?

21 WESTON MacINTOSH: I'd have to take a
22 closer look at the comment and consider it and the
23 effectiveness under the present circumstances. It would
24 probably be inappropriate for me to try and provide a
25 full interpretation of what would happen in a

1 hypothetical situation. Just because, you know, it's not
2 really -- it's also not really the appropriate place to
3 do it. I mean, if you're going to, you know, if you're
4 going to throw a hypothetical, it's hard to say without
5 considering all the potential factors.

6 DR. S. SCHAEFFER: O.K. I think what we
7 want to make sure to communicate is that was our
8 intention in proposing it. So if we didn't say it just
9 right, so that you might be able to help us say it in a
10 way that honors the intention that was proposed.

11 WESTON MacINTOSH: Any other comments?
12 Sheri Pickover.

13 SHERI PICKOVER: Thank you. I'm from
14 Central Michigan University. And I apologize, I kind of
15 came in later so if this was already addressed, please
16 forgive me. I was at another meeting.

17 I really just wanted to make a comment
18 about the plan to require the graduates to seek outside
19 credentialed and just express my concern about that, the
20 fee, and the kind of social justice issues around that.
21 Central Michigan work primarily with a lot of students
22 who are in rural communities, who are trying to service
23 the same rural communities where there are no access to
24 mental health services. They have -- obviously they were
25 paying tuition, but money and finances, especially in

1 this time, are a concern. And so then to have that extra
2 burden added, and we haven't been able to quantify how
3 much they would have pay, because we are in the process
4 of accreditation but aren't -- we don't have the stamp of
5 approval yet. So I just wanted to kind of put that on
6 the record, to advocate for our graduates.

7 WESTON MacINTOSH: Thank you, Sheri. Any
8 other comments? (No response.)

9 And just to circle back, any other
10 comments on either Accounting or Counseling? (No
11 response.)

12 O.K. So we're at 1:28. So if there are
13 no further comments at this time, I hereby declare this
14 hearing closed. The record will remain open until today
15 at 5:00 o'clock p.m. for any other comments you may wish
16 to share about those rules. Thank you for attending.

17 (The hearing was closed at 1:29 p.m.)

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C E R T I F I C A T E

I, Marie T. Schroeder, CSR-2183, do hereby certify that I reported in stenotype the proceedings had in the within-entitled matter, via Zoom, before the Bureau of Professional Licensing, LARA, MOAHR, Lansing, Michigan, on Tuesday, September 22, 2020; and do further certify that the foregoing transcript, consisting of 22 pages, is a true and correct transcript of my stenotype notes.

Marie T. Schroeder, CSR-2183
P.O. Box 1313
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metrostate@sbcglobal.net

Dated: September 24, 2020