

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:

Board of Midwifery

5. Rule numbers or rule set range of numbers:

R 338.17101 – R 338.17141

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 purpose of the Board of Midwifery rules is to regulate the prelicensure education, licensure, practice, conduct, disclosure and consent, classification of conditions for consultation, referral, and emergent transfer, administration of prescriptions drugs and medications, licensure renewal, relicensure, and continuing education for licensed midwives.

The proposed rules are intended to add prescription drugs to the drug formulary in the rules and provide any other updates that arise during the promulgation process.

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

The department in consultation with the board are authorized to establish rules.

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

MCL 333.16145; MCL 333.16148; MCL 333.16174; MCL 333.16178; MCL 333.16181; MCL 333.16182; MCL 333.16186; MCL 333.16201; MCL 333.16204; MCL 333.16205; MCL 333.16215; MCL 333.16287; MCL 333.17105; MCL 333.17107; MCL 333.17111; MCL 333.17112; MCL 333.17115; MCL 333.17116; MCL 333.17117; MCL 333.17121; 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.

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

MCL 333.16204 states that if a board requires completion of continuing education as a condition for renewal, it shall require an appropriate number of hours or courses in pain and symptom management.

MCL 333.16287 requires the department, in consultation with the board, to promulgate rules to implement MCL 333.16284 and MCL 333.16285 regarding telehealth.

MCL 333.17107 requires the board to promulgate rules to require a midwife to report patient data.

MCL 333.17111 requires the department in consultation with the board to promulgate rules concerning the administration of prescription drugs or medications by midwives.

MCL 333.17112 requires the department to promulgate rules that include standards for the delineation of findings that preclude a woman or newborn from being classified as having a normal pregnancy, labor, delivery, postpartum period, or newborn period.

MCL 333.17117 requires the department in consultation with the board to promulgate rules regarding licensure, continuing education, the acts, tasks, and functions by midwives, obtaining informed consent, and transfer of care.

MCL 333.17431 requires the board to promulgate rules requiring continuing education, including pain and symptom management, for license renewal.

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 establishes its own requirements with respect to the licensing requirements of midwives, so there is no federal rule or standard set by a national or state agency that the proposed rules can be in conflict with or duplicate.

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 the proposed 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?

No.

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 department will work with associations, related businesses, and lobbyists in preparing the proposed rules.

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 rules were promulgated on March 21, 2023. There have been no technological factors, economic conditions or other factors that would necessitate 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 rules that demonstrate there is no continued need for the rules, or any portion of 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.