

**Michigan Office of Administrative Hearings and Rules**  
MOAHR-Rules@michigan.gov

**AGENCY REPORT TO THE  
JOINT COMMITTEE ON ADMINISTRATIVE RULES (JCAR)**

**1. Agency Information**

**Agency name:**

Licensing and Regulatory Affairs

**Division/Bureau/Office:**

Corporations, Securities, & Commercial Licensing

**Name of person completing this form:**

Mitchell Page

**Phone number of person completing this form:**

517-241-6659

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PageM6@michigan.gov

**Name of Department Regulatory Affairs Officer reviewing this form:**

Elizabeth Arasim

**2. Rule Set Information**

**MOAHR assigned rule set number:**

2023-17 LR

**Title of proposed rule set:**

Mortuary Science

**3. Purpose for the proposed rules and background:**

The proposed rules will provide a regulatory structure to implement and enforce new continuing education requirements. They will establish and clarify standards of conduct for the mortuary science industry, set minimum requirements for physical funeral establishments, and clarify how licensees should care for and store dead human bodies and cremated remains.

**4. Summary of proposed rules:**

The proposed rules will provide a regulatory structure to implement and enforce new continuing education requirements. They will establish and clarify standards of conduct for the mortuary science industry, set minimum requirements for physical funeral establishments, and clarify how licensees should care for and store dead human bodies and cremated remains.

**5. List names of newspapers in which the notice of public hearing was published and publication dates:**

- 1.)The Grand Rapids Press, June 16, 2024.
- 2.)The Oakland Press, June 21, 2024.
- 3.)Marquette Mining Journal, June 15, 2024.

**6. Date of publication of rules and notice of public hearing in Michigan Register:**

7/1/2024

**7. Date, time, and location of public hearing:**

7/18/2024 10:00 AM at Sun Room , 2407 N Grand River Ave, Lansing, MI 48906

**8. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:**

<https://ARS.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1444>

**9. List of the name and title of agency representative(s) who attended the public hearing:**

- Linda Clegg, LARA.
- Bradley Horton, LARA.
- Caitlin Keene, LARA.
- Mitchell Page, LARA.
- Charlotte Goutimy, Board of Examiners in Mortuary Science.
- Brian Joseph, Board of Examiners in Mortuary Science.
- Vern Pixley, Board of Examiners in Mortuary Science.

**10. Persons submitting comments of support:**

Arthur McNabb, Adams-Redmond Funeral Home.

**11. Persons submitting comments of opposition:**

Tate Goodwin, Lighthouse Funeral & Cremation; Spencer A. Skorupski, Skorupski Family Funeral Home & Cremation Services; Benjamin Joffe, Benjamin D. Joffe PPLC; Mark Bucchi, Esq, counsel to Paul Buchanan; Paul Buchanan, Generations Funeral and Cremation Service Inc.; Timothy Gagern, Generations Funeral and Cremation Service Inc.; Nicole Crist, Generations Funeral and Cremation Service Inc.; Matthew Varga, affiliation unknown; Scott Shepard, affiliation unknown; Sally A. Bazan, Generations Funeral and Cremation Services; Melissa H., affiliation unknown; Morgan Minger-Szyniszewski, affiliation unknown; Shane Wright, affiliation unknown; Daniel Jansen, licensed funeral director; Alan Jowett, Jowett Funeral Home.

**12. Persons submitting other comments:**

Jennifer Simsack, Lewis E. Wint & Son Funeral Home, Inc.; Thomas Macksoud, Simple Funerals; Jared Rozycki, MFDA; Steve McCowen, Avink, McCowen & Secord Funeral Home and Cremation Society; Lee Karelse, Heritage Life Story Funeral Homes; Rodney Wakeman, Former State Representative and Author of PA 265'2020; Kyle Schweiker, licensed funeral director; Scott Hurrell, Service Corporation International; Greg McClary, MFDA; Craig Harms, Lennox Cremation & the Michigan Concrete Barrier Vault and Crematory Association; Sean Allen, Service Corporation International; Peggy Wesley-Fitzthum, Skorupski Family Funeral Home & Cremation Services; Mark Sayles, Hyatt Ewald Funeral Home.

**13. Identify any changes made to the proposed rules based on comments received during the public comment period:**

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	<b>Name &amp; Organization</b>	<b>Comments made at public hearing</b>	<b>Written Comments</b>	<b>Agency Rationale for Rule Change and Description of Change(s) Made</b>	<b>Rule number &amp; citation changed</b>
1	Jared Rozycki, Michigan Funeral Director's Association (MFDA)		<p>“Proposed Rule 1 (1)(d) and (g), which define “Continuing Education” and “Course,” exceed statutory authority by limiting both definitions to continuing education and courses covering the topics listed in section 1806b (2)(a) of the Code. The Code clearly states, however, that only two of the four hours of continuing education required each year must cover subjects under 1806b(2)(a). As such, these regulatory definitions would amend the statute by requiring that all continuing education and courses, not just the minimum 2 hours per year, cover the listed subjects under section 1806b(2) (a). For this</p>	<p>Amend (d) to read “...means an instructional course or activity that meets the requirements under 1806b of the code, MCL 339.1806b.</p> <p>Amend (g) to read “means any qualifying activity or approved program with a clear purpose and objective that maintains, improves, or expands the skills and knowledge of the practice of mortuary science under section 1806b of the code, MCL 339.1806b. Regular duties for compensation are not considered activities, except for employer compensated continuing education activities.”</p> <p>Remove (l).</p> <p>The department maintains that the rule as written was</p>	<p>R 339.18901 (d) R 339.18901 (g) R 339.18901 (l)</p>

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		<p>reason, MFDA strongly urges the department to broaden the definitions by deleting reference to 1806b(2)(a).”</p> <p>“Proposed Rule 1 (1)(L) adds a definition for the term “Supervision,” which poses a number of problems. First, it includes arranging for mortuary science services within the “practice of funeral directing.” The Code defines “practice of funeral directing” and makes no mention of arranging for mortuary science services. MFDA will discuss this issue more fully when commenting on proposed Rule 42, but an administrative rule promulgated under a statute cannot amend the statutory definition. Furthermore, the Code makes clear that the practice</p>	<p>within the bounds of statutory authority and did not exceed it. However, as demonstrated by these public comments, there may have been misunderstandings about the extent to which this rule was establishing new requirements. Therefore, these changes will enhance the clarity of the rules and ensure that licensees do not get confused about the statutory authority that the rule derives from.</p>	
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			of funeral directing is a part of the practice of mortuary science, and therefore requires a mortuary science license. The proposed rule, however, contemplates that it could be done by a non-licensee, albeit under “supervision.””		
2	Jared Rozycki, Michigan Funeral Director’s Association (MFDA)		<p>“Proposed Rule 21 begins: “An applicant for a mortuary science license shall satisfy the requirements of the Code. In addition to the requirements of the Code, an applicant shall satisfy all of the following:”.</p> <p>MFDA notes that administrative rules may not add licensing requirements to the statute. Consequently, MFDA advocates that Rule 21 simply begin with “An applicant for a mortuary science license shall satisfy all of the following:”.</p> <p>Furthermore, the last sentences of</p>	<p>Remove “...the requirements of the code. In addition to the requirements of the code, an applicant shall satisfy...” ;</p> <p>Amend (a) to read “Completion of not less than 90 semester or the equivalent quarter hours with not less than a 2.00 grade point average of nonremedial college level courses at an accredited college or university, including graduation from an accredited mortuary science program.”</p> <p>Remove (b).</p> <p>These comments</p>	R 339.18921

			<p>Rules 21(a) and (b) are designed to ensure the 60 hours of general education and the 30 hours of mortuary science education are separate. But in practice these sentences taken together could result in requiring a total of four years of post-secondary education – not the three years prescribed by the Code. For example, at a two-year mortuary science program, a student who graduates with an Associate's Degree upon completion could, under the proposed rules, be required to obtain an additional 60 hours of general education. To address this concern, MFDA recommends that proposed Rules 21(a) and (b) be deleted, and replaced with a new Rule 21(a) requiring completion of not less than 90</p>	<p>on (b) voiced concerns that the proposed rule could lead to misinterpretations about additional requirements that do not exist in statute. The changes to (b) intend to clarify the educational requirements derived from statute and avoid any perceived confusion.</p>	
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			semester (or its equivalent quarter) hours, with not less than a 2.00 grade point average, of non-remedial college level courses at an accredited college or university, including graduation from an accredited mortuary science program pursuant to R 339.18922 (1).”		
3	Jared Rozycki, Michigan Funeral Director’s Association (MFDA)		<p>“Proposed Rule 23(1) and (2) conflict with one another as currently drafted. The third sentence of Rule 23(1) states that a resident trainee license may not be renewed more than once, and (2) provides a process for an exception to that restriction.”</p> <p>&amp;</p> <p>“Proposed Rule 23(8) states a resident trainee performing an embalming be personally supervised by a mortuary science licensee, however, the proposed rule</p>	<p>Add “except as provided in (2),” to (1).</p> <p>Add “... embalming or assisting in the preparation of dead human bodies under Rule 25(a)...” to (8).</p> <p>The changes are intended to better clarify the boundary of responsibilities and requirements expected of resident trainees and the licensees that interact with them.</p>	<p>R 339.18923 (1) R 339.18923 (8)</p>

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			fails to acknowledge that the minimum embalming requirement for a resident trainee can be fulfilled by a resident trainee “assisting a licensee in the preparation of dead human bodies.” This proposed rule should be amended to include the act of assisting in the preparation of dead human bodies under Rule 25(a).”		
4	Rodney Wakeman, Author of PA 265 of 2020		The statute already allows the practitioner to obtain all 4 hours of continuing education credit from the eight prescribed topics as outlined if he or she wishes. But limiting the hours to just these eight topics closes opportunities for other timely and important topics to be discussed, which is contradictory to the purpose of adopting continuing education. Those	Replace “...obtain not less than 4 hours of eligible continuing education courses each year preceding the expiration date of the license, and satisfy both of the following:” with “...comply with section 1806b of the code, MCL 339.1806b.”  Remove (a) and (b).  These changes clarify the requirements necessary to complete	R 339.18928



			<p>of us in the profession understand that changes in the business happen. The language was purposely open ended to allow for new, emerging topics to be made available. The eight prescribed topics merely serve as the foundation of our continuing education instruction. Therefore, the department's proposed language wrongly amends the statute.</p> <p>Therefore, I recommend that the department deletes the "all 4 hours" reference in R339.18928 Rule 28(1)(b) so it conforms to the statute.</p>	<p>continuing education The rule as written could be misinterpreted to limit the CE hours to the subjects in section 1806b. By creating this change, the department maintains the requirements and intent of the rule while hoping to remove the chance of erroneous interpretation.</p>	

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5	Rodney Wakeman, Author of PA 265 of 2020		<p>“Section 1806b (2)(a) reads, “(a) Not less than 2 of the 4 hours of the courses required in each year of a license cycle shall involve 1 or more of the following subjects:...” and the statute goes on to list the eight prescribed topics. I purposely wrote this section into the law in such a way for clear understanding that the statute is to allow other relevant continuing education topics beyond the eight prescribed topics listed. If I intended to require that all 4 hours are to be comprised of only these eight topics, I would have included “all 4 hours” in the language.”</p>	<p>Remove “...or activity related to the topics under section 1806b(2) (a) of the code, MCL 339.1806b.” from (a).</p> <p>The change to (a) is intended to clarify the extent of statutory requirements. While the department maintains that the rule as written did not exceed statutory authority and was merely attempting to list all the options for a licensee to complete continuing education, it became clear based on comments that it was being misinterpreted as doing so.</p>	R 339.18928a (1)(a)

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6	Jared Rozycki, Michigan Funeral Director's Association (MFDA)		<p>“Proposed Rule 28a(1)(b) provides one continuing education credit hour for licensees that attend a board meeting. That subsection should be clarified by stating that a continuing education credit be granted to licensees that attend a State Board of Examiners in Mortuary Science meeting, not a board meeting of another entity.”</p>	<p>Amend (b) to read “Physically attending a board of examiners in mortuary science...”.  The change to (b) is intended to make certain that this credit would only count for physically attending a meeting of the state Board of Examiners in Mortuary Science, as in theory, it could be read to allow any meeting, virtually or in-person, of any board.</p>	R 339.18928a (1)(b)
7	Jared Rozycki, Michigan Funeral Director's Association (MFDA)		<p>“In regard to Part 4 of the proposed rules: Care and Storage of Remains, there are two separate subsections pertaining to recordkeeping that need to be addressed. The first being proposed Rule 32 (1)(h)(iii). It is common for multiple licensees to be in contact with a decedent throughout the duration of the decedent's care at the funeral</p>	<p>Add the word “each” preceding the word “licensee” in (1)(h)(iii) and (1)(i)(iii).  Replace “licensee” with “funeral establishment” in (2)(c).  These changes are intended to capture the possibility that multiple licensees may be handling and/or embalming any 1 decedent, and to clarify that it is the funeral</p>	R 339.18932

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			<p>establishment.          This subsection should be made plural, thus ensuring that every licensee at the funeral establishment that cared for the decedent is included on the case report.          Secondly, proposed Rule 32 (2)(c) should be amended requiring that a funeral establishment, rather than a licensee, retain recordkeeping of cremated remains. In practice, it would be the funeral establishment maintaining a database for all records of cremated remains stored in the facility.          Additionally, this provision implies a licensee would remain employed at the same funeral home for the 7 years a cremated remains report is required to be maintained, which may not be the case.”</p>	<p>establishment, not just any licensee, that maintains the release, disposition, or location of cremated remains records.</p>	
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8	Thomas Macksoud		<p>“This should have added to it, a requirement for the container not to be leaking bodily fluids. A plastic liner should be required to prevent this. I have witnessed several container leaking fluids brought over to crematories and this should be addressed.”</p>	<p>Amend the proposed rule to read “The body is encased in a rigid container for cremation that is resistant to leakage or spillage”.</p> <p>This will ensure that the rule more clearly protects the health and safety of the public and workers from hazards that arise out of transporting a dead human body, including the various bodily fluids that the public should not be exposed to.</p>	R 339.18935 (a)
9	Steve McCowen, Avink, McCowen & Secord Funeral Home and Cremation Society		<p>“1. Identifying a decease: This code seems unreasonable when you take into account, not everyone passes away pleasantly. I plan to spare you the details of the many ways someone can tragically die. It seems inhumane to me that a next of kin would be subjust [sic] to seeing their loved one that died tragically in a car accident, fire, suicide, and other</p>	<p>Remove in (1), “visually identify the decedent’s remains or”, and “through a photograph or other visual image”, “If visual identification is not feasible...”.</p> <p>Remove (2).</p> <p>By simplifying the language of the rule to state that a licensee simply must obtain positive identification of a dead human body, LARA intends to</p>	R 339.18937

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			<p>means not consistent with a peaceful death. Many times in these cases, the person has already been identified by the medical examiner and released into the funeral home's care. So is duplicating that process necessary? Or making a family view a body that was tragically killed, even by photo? Why do that to the family? This also potentially creates additional revenue to the funeral home in embalming and restoration of a body, and not meeting the needs of the client family that may be trying to keep costs lower.”</p>	<p>assuage concerns voiced in this comment and others, that the language of the current proposed rule stressing visual and photographic identification methods would lead to upsetting families of the deceased. Furthermore, the change keeps intact the aspect of the rule that requires documentation that a body has been positively identified prior to final disposition. This is important for protecting the interests and well-being of consumers and the public because it ensures there is documentation that a body in a licensee’s care for final disposition is in fact the correct body.</p>	
10	Jennifer Simsack		<p>“I have been a licensed funeral director in Michigan for 36 years. My main concerns are the proposed requirements of funeral</p>	<p>Remove this proposed rule (1) through (4) for the sake of eliminating redundancy and confusion. LARA already has the authority to</p>	<p>R 339.18942 (1), (2), (3), (4)</p>

		<p>arrangements being completed in the funeral home establishment, identification of bodies prior to disposition and only arrangements by licensed funeral directors. With today's technology and the public's embracement of technology since COVID, many times our customers appreciate the convenience of making funeral arrangements via zoom/email and signing necessary paperwork via DocuSign. We often need to complete arrangements in this format due to the next of kin being out of town or physically unable to travel, as well. Often times, we help the grieving by going to them in their home or nursing home for arrangements."</p> <p>"Lastly is the requirement of</p>	<p>enforce against unlicensed activity in statute. While this rule was intended to clarify these parameters for the benefit of licensees, (and by association, the public and consumers), the comments received have demonstrated that the rule may instead lead to confusion and misinformation about what is and isn't permitted.</p>	
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		<p>only a licensed funeral director making arrangements. We employ a prearrangement counselor that has years of experience. If the licensed funeral directors are out of the building at a church service, at a out of town cemetery or transporting a person from their place of death, our prearrangement counselor assists with atneed funeral arrangements. Many times, grieving people walk in to the funeral home without an appointment and she can assist if a licensed funeral director is not available.”</p>		



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11	Arthur McNabb		<p>“As for the licensed person in the building yes we need this, who better to over see [sic] state laws and make sure rules and regulations are being followed not just state regulations but FTC.”</p>	<p>Amend the proposed rule to read “The statement of funeral goods and services selected must be retained for not less than 7 years.”</p> <p>The department believes that keeping in the record retention requirement for this document is an important aspect of consumer protection and ensuring that should any questions occur, this FTC-required statement of funeral goods and services selected is retained for a set amount of time.</p>	R 339.18942 (5)
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**14.Date report completed:**

9/27/2024