

State Budget Office
Office of Regulatory Reinvention
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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RISCBA)**

PART 1: INTRODUCTION

Under the Administrative Procedures Act (APA), 1969 PA 306, the agency that has the statutory authority to promulgate the rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) at orr@michigan.gov no less than 28 days before the public hearing.

1. Agency Information

Agency name:	Licensing and Regulatory Affairs		
Division/Bureau/Office:	Bureau of Professional Licensing		
Name, title, phone number, and e-mail of person completing this form:	Dena Marks, Board Analyst 517-335-3679 MarksD1@michigan.gov		
Name of Departmental Regulatory Affairs Officer reviewing this form:	Liz Arasim, Department of Licensing and Regulatory Affairs		

2. Rule Set Information

ORR assigned rule set number:	2018-040-LR
Title of proposed rule set:	Nursing Home Administrators General Rules R 339.14001 – R 339.14045

PART 2: KEY SECTIONS OF THE APA

24.207a “Small business” defined.

Sec. 7a. “Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated, and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.

24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).

Sec. 40. (1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

- (a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.
- (b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.
- (c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.
- (d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

- (a) 0-9 full-time employees.
- (b) 10-49 full-time employees.
- (c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

MCL 24.245 (3) Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** which shall contain specific information (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5].

MCL 24.245b Information to be posted on office of regulatory reinvention website.

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
- (b) Instructions on any existing administrative remedies or appeals available to the public.
- (c) Instructions regarding the method of complying with the rules, if available.
- (d) Any rules filed with the secretary of state and the effective date of those rules.

(2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

PART 3: AGENCY RESPONSE

Please provide the required information using complete sentences. **Do not answer any question with “N/A” or “none.”**

Comparison of Rule(s) to Federal/State/Association Standards:

1. Compare the proposed rule(s) 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 nursing home administrators, 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 rule(s) required by state law or federal mandate?

MCL 333.16145; MCL 333.16148; MCL 333.16178; MCL 333.17309; Executive Reorganization Order No. 1991-9, MCL 338.3501; 1996-2, MCL 445.2001; Executive Reorganization Order No. 2003-1, MCL 445.2011; Executive Reorganization Order No. 2011-4, MCL 445.2030.

B. If these rule(s) exceed a federal standard, identify the federal standard or citation, describe why it is necessary that the proposed rule(s) 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 rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

Education: In Michigan, an applicant for a nursing home administrator (NHA) license must have completed at least 9 credit hours of instruction at an educational institution accredited under the standards used by Council of Higher Education Accreditation (CHEA) or the United States Department of Education. The course of instruction must include certain subjects relevant to the practice of a NHA, including the following: management, laws and regulations regarding the nursing home industry, emergency preparedness, and protection of patient health, safety, and welfare.

Illinois: An applicant must have graduated from a college or university and studied the following: supervision of staff, operations and services of facility performance, government relations, accounting and finance, and the social roles of the aging and the aging process. If an applicant has qualifying experience, a 3-year diploma from a nursing program or an associate degree may be deemed sufficient to meet the educational requirements.

Indiana: The applicant must possess a baccalaureate degree from an accredited institution, or an associate's degree in health care and complete a specialized course of study approved by the board, or complete a specialized course of study approved by the board. The specialized course is 4-6 weeks long and includes subjects related to dementia, medical terminology, physiological changes with aging, accounting, financial reporting, management, labor law, state and federal laws and regulations, patient assessments, patient care, dietary needs, patient billing, and insurance. The board may waive the educational requirements if it determines that the applicant is otherwise qualified.

Kentucky: An applicant must have been awarded a baccalaureate degree from a college or university accredited by an agency recognized by the United States Department of Education.

Minnesota: An applicant must have obtained a bachelor's degree from an accredited postsecondary institution. The courses taken must prepare the applicant to perform the duties of a nursing home administrator. The courses must include organizational management, managerial accounting, gerontology, health care and medical needs, long-term care supports and services, human resources, regulatory management, quality measurement and performance improvement, and a practicum, unless the practicum requirement is waived by the board based on the applicant's experience.

Ohio: The applicant must have completed no less than 100 clock hours of academic directed study in core subjects in nursing home administration or accredited college courses covering the subject areas of the core knowledge in nursing home administration or have successfully completed an approved baccalaureate or master's degree program in nursing home administration. An accredited educational institution is an academic institution of higher learning that has received institutional accreditation from at least one of the following: Middle States Commission on Higher Education, New England Association of Schools and Colleges, Higher Learning Commission of the North Central Association of Colleges and Schools, Northwest Commission on Colleges and Universities, Southern Association of Colleges and Schools Commission on Colleges, or Senior College and University Commission of the Western Association of Schools and Colleges.

Pennsylvania: The applicant must complete a program of study offered by an accredited university or college registered with the board. The course of instruction must include 7 ½ hours of administration, gerontology, government health policy and regulation, fiscal management, personnel management and labor relations, government and third-party reimbursement, preparing for licensure, certification, accreditation surveys and other regulatory requirements, regulation, deficiencies, plans of correction, and quality assurance, nursing department and residential care management, rehabilitation and special care services, health support services, facility support services, dietary requirements and resident nutrition, social services, risk management, and strategic planning.

Wisconsin: The applicant must complete a program of study approved by the board. Applications for approval must include the college or university catalog containing a summary of the requirements for completing the program.

Licensure: To be licensed in Michigan an applicant must meet the education requirements, or he or she must have been employed as a chief executive or administrative officer at a state-licensed hospital for not less than 5 years of the 7 years immediately preceding the date of application. In addition to either the educational or employment requirement, the applicant must also pass the Core Of Knowledge Examination for Long Term Care Administrators (CORE) and the National Nursing Home Administrators line of service examination (NHA LOS) administered by the National Association of Long-term Care Administrator Boards (NAB). The proposed rules will no longer require an applicant to pass a state law examination to be licensed.

Illinois: To be licensed in Illinois, an applicant must have a baccalaureate degree, a 3-year diploma from a school of nursing and 2 years of fulltime employment as an assistant nursing home administrator or director of nursing at a nursing home, or an associate degree and 2 years of management experience in a corporation which owns and operates licensed nursing homes. That experience must include direct contact with the nursing home administrator. The applicant must also pass the CORE administered by the NAB and the Illinois Supplemental examination.

Indiana: To be licensed as a health or residential facility administrator, the applicant must meet the educational requirements and complete a 6-month administrator-in-training program supervised by a board-certified preceptor. Upon application, the board may waive the administrator in training program, if deemed appropriate. The board may require the applicant to appear for an interview. The applicant must also pass the NAB Nursing Home Administrator or Residential Care Assisted Living Examination and a state law examination.

Kentucky: To be licensed as a long-term care administrator the applicant must meet the educational requirements, pass the NAB boards, have 6 months of continuous management experience in a long-term care facility including responsibility for personnel management, budget preparation, fiscal management, public relations, compliance, or an internship, or a bachelor's or master's degree from an academic program accredited by the NAB. The applicant must be a citizen of the United States or have declared his or her intent to become a citizen.

Minnesota: To be licensed as a nursing home administrator the applicant must meet the educational requirements, pass the national examination for nursing home administrator developed by the NAB, and pass the state nursing home facility operations examination.

Ohio: In addition to the educational requirements, the applicant must also meet the qualifying administrative experience requirements, which vary dependent on the applicant's educational level. The applicant must also pass a state examination.

Pennsylvania: The applicant must have completed 120 hours in a program of study approved by the board, successfully completed 2 academic years of college-level study, and acquired experience which varies depending on the applicant's education. The applicant must also pass a written examination administered by a professional testing agency and a state law exam.

Wisconsin: In addition to meeting the educational requirements, the applicant must pass the NAB national exam and a state law exam.

Continuing Education: In Michigan, a renewal applicant must have completed 36 hours of continuing education (CE) within the prior 2-year licensing cycle. Programs offered by the NAB or an accredited

college or university are approved by the board for CE credits. Other programs must first apply to the board for approval as a CE provider.

Illinois: A renewal applicant must have completed 36 hours of CE within the prior 2-year licensing cycle. CE credits may be earned by attending a program offered by the NAB, approved by the NHA board of another jurisdiction, offered by a college or university, or approved by the board.

Indiana: A renewal applicant must have completed 40 hours of CE within the prior 2-year licensing cycle. CE credits may be earned by attending a program offered by a college or university accredited by the United States Department of education or council on post-secondary education, offered by the joint commission on accreditation of hospitals or healthcare organizations, a governmental agency, a national, state, district or local organization approved by the board, or approved by the NHA board in another state.

Kentucky: A renewal applicant must have completed 30 hours of CE within the prior 2-year licensing cycle. CE credits must be earned by attending a program offered by the NAB, Leading Age, the American College of Health Care Administrators, the American College of Healthcare Executives, the American Health Care Association, the American Hospital Association, the Kentucky Board of Nursing, the American Medical Directors Association, or a program approved by the board.

Minnesota: A renewal applicant must have completed 20 CE hours in the preceding year. CE programs must be approved by the board.

Ohio: A renewal applicant must complete a minimum of 20 clock hours of CE every year. A licensee may accumulate CE credits by attending a NAB-approved course, a college course if the participant earned a “C” or better, or a program approved by the board.

Pennsylvania: A renewal applicant must complete 48 clock hours of continuing education within the 2-year licensing cycle. CE credits may be earned by attending courses approved by the NAB or the board.

Wisconsin: A renewal applicant must complete 24 contact hours of approved CE programs in each 2-year licensing cycle. Approved courses include those approved by the NAB or completed at an accredited college or university, if the course covers a relevant topic.

A. If the rule(s) exceed standards in those states, explain why and specify the costs and benefits arising out of the deviation.

The standards pertaining to licensure, relicensure, and renewal of a nursing home administrator differ from state to state. Overall the standards for education and examination in the proposed rules do not exceed those of the other states in the Great Lakes region. Not all jurisdictions require fingerprinting and a demonstration of a working knowledge of the English language for a foreign-trained applicant.

If applicable to the applicant, these requirements would result in a cost of approximately \$61.60 for fingerprints and \$195.00 for the Test of English as a Foreign Language Internet-Based Test (TOEFL-IBT). However, the costs are outweighed by the benefit of ensuring that the applicant is qualified and safe to practice. Further, these rules are required by statute.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s).

There are no other laws, rules, or other legal requirements that may duplicate, overlap, or conflict with these proposed rules.

A. Explain how the rule has 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.

Purpose and Objectives of the Rule(s):

4. Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter.

Part 1. General Provisions: The rules in this part pertain to the definitions used throughout the general rules. The proposed rules will clarify the meaning of the term “board,” which is used throughout the rules.

Part 2. Education: The proposed rules update the accreditation standards that have been adopted by reference. The current rules are outdated, and the proposed rules will provide an applicant with the current information needed to determine if his or her educational program has been approved and to identify new topics to be included in an approved educational program.

Part 3. Licensure: The rules in this part pertain to the requirements for licensure. The proposed rules update and clarify the requirements that an applicant must satisfy including the education or work experience and examination passage. The examination information will be updated. The requirement that the applicant pass a state nursing home examination will be removed in the proposed rules. Other sections will be revised for clarity.

The rule pertaining to the training standards for identifying the victims of human trafficking will be relocated and revised to include the date by which an applicant for licensure or renewal must have completed this training.

The proposed rules will advise a foreign-trained applicant for licensure that he or she must demonstrate a working knowledge of the English language, pursuant to MCL 333.16174(1)(d).

The rule pertaining to professional designation will be rescinded, as it is unnecessary and, in part, duplicative of codified law.

The proposed rules will reorganize the requirements for relicensure after lapse. The applicant will be advised that if his or her license has lapsed for more than 3 years, he or she must establish that he or she is of good moral character and must submit fingerprints. The proposed rules will also add the requirements for relicensure after lapse if the applicant has a current license or registration in a territory of the United States, another state, or in a province of Canada.

The proposed rules will remove the requirement to pass the state nursing home administrator examination from the requirements to be licensed by endorsement.

Part 4. Continuing Education: The current rules pertaining to continuing education will be reorganized into a logical order for clarity to make the requirements easy for licenses to understand. The proposed rules will amend and update the continuing education rules. The rules pertaining to the department approving continuing education programs will be rescinded and new rules will be added requiring board approval of continuing education programs not otherwise approved in the rules. Other rules will be revised for clarity.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s).

The proposed rules are not expected to change the frequency of any behavior.

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

Part 1. General Provisions: The definition of board is imprecise in the current rules. The proposed rules will clarify the meaning of that term as it is used throughout the proposed rules.

Part 2. Education: The current rule includes outdated information regarding the accreditation standards adopted by reference. The information in the proposed rules is updated to inform an applicant of the educational standards and the course content required for licensure.

Part 3. Licensure: The proposed rules will update and clarify the requirements for licensure. The requirements for education or work experience and examination passage will be amended and clarified. The requirement that the applicant pass a state nursing home examination will be removed in the proposed rules. Other rules will be revised for clarity.

The current rules include the training standards for identifying the victims of human trafficking in the general provisions. It will be relocated to the licensure part of the rules and revised to include the date when an applicant for licensure or renewal must complete this training.

The rules do not currently inform an applicant who was trained outside of the United States that he or she must demonstrate a working knowledge of the English language pursuant to MCL 333.16174(1)(d). The proposed rules inform an applicant that this is required for licensure.

The proposed rule pertaining to professional designation will be rescinded, as it is unnecessary and, in part, duplicative of codified law.

The proposed rules will reorganize the requirements for relicensure after lapse. The applicant will be advised that if his or her license has lapsed for more than 3 years, he or she must establish that he or she is of good moral character and must submit fingerprints. The proposed rules will also add the requirements for relicensure after lapse if the applicant has a current license or registration in a territory of the United States, another state, or in a province of Canada.

The proposed rules will remove the requirement to pass the state nursing home administrator examination from the requirements to be licensed by endorsement.

Part 4. Continuing Education: The current rules pertaining to continuing education will be reorganized into a logical order for clarity to make it easier for licensees to understand the requirements. The proposed rules will amend and update the continuing education rules. The rules pertaining to the department approving continuing education programs will be rescinded and new rules will be added requiring board approval of continuing education programs not otherwise approved in the rules. Other rules will be revised for clarity.

C. What is the desired outcome?

Part 1. General Provisions: The desired outcome is to provide a clearer definition of the terms used throughout the rules.

Part 2. Education: The proposed rules are intended to inform an applicant of the educational standards and the course content required for licensure.

Part 3. Licensure: The desired outcome is to update and clarify licensure requirements. The rule pertaining to training for identifying the victims of human trafficking will be updated for clarity.

The proposed rules will inform a foreign-trained applicant that he or she must demonstrate a working knowledge of the English language pursuant to MCL 333.16174(1)(d). An applicant for relicensure after lapse will be advised what is required for relicensure and that, if his or her license has lapsed for more than 3 years, he or she must establish that he or she is of good moral character and submit fingerprints.

An applicant for relicensure who holds a current license or registration in a territory of the United States, another state, or in a province of Canada will also be advised of his or her relicensure requirements. The proposed rules will remove the requirement to pass the state nursing home administrator examination from the requirements to be licensed by endorsement.

Part 4. Continuing Education: The desired effect is to inform a licensee of his or her continuing education requirements in a clear and logical order. A continuing education sponsor will also be informed of the requirements to seek board approval of a continuing education program.

5. Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule.

Part 1. General Provisions: It is unlikely that the current definitions will cause harm, but the revised rules are intended to provide clarity.

Part 2. Education: The current rule includes outdated information regarding the accreditation standards adopted by reference. The information in the proposed rules is updated to inform an applicant of the educational standards and the course content required for licensure. The harm that could result from the current rule is that accreditation standards would be outdated and potentially result in out of date curriculum for applicants.

Part 3. Licensure: The harm that could result from the current rules is failure to comply with all licensing requirements, which may delay licensure. The proposed rules will amend this section to clarify licensing requirements and add rules to advise a foreign-trained applicant that he or she must demonstrate a working knowledge of the English language.

The harm that could result from the current rules pertaining to licensure by endorsement is that the applicant may fail to comply because he or she was not aware of all the requirements. The proposed rules are designed to inform an applicant for licensure by endorsement of the requirements so that the applicant will understand the requirements to be licensed by endorsement.

The harm that could result from the current rules is that an applicant is not made aware of all the requirements for relicensure after lapse. In the proposed rules, the applicant will be informed that if his or her license has lapsed for more than 3 years, he or she must establish that he or she is of good moral character and submit fingerprints to the department.

Part 4. Continuing Education: The current rules pertaining to continuing education will be reorganized into a logical order. The proposed rules will amend and update the continuing education rules. The rules pertaining to the department approving continuing education programs will be rescinded and new rules added requiring board approval of continuing education programs not otherwise approved under the rules. The harm that could result from the current rules is that an applicant for renewal may miss or misunderstand the CE requirements for renewal. Other rules will be revised for clarity.

A. What is the rationale for changing the rule(s) instead of leaving them as currently written?

Part 1. General Provisions: The revised rules will provide more clarity.

Part 2. Education: The proposed rules will update outdated information contained in the current rules.

Part 3. Licensure: The current rules lack licensing requirements for an applicant who was foreign-trained and for an applicant for licensure by endorsement. The proposed rules will inform an applicant for licensure of the requirements he or she must meet.

The rules do not currently advise an applicant for relicensure after a lapse of more than 3 years that he or she must be of good moral character and submit fingerprints to the department. The proposed rule will add those requirements.

Part 4. Continuing Education: The current rules are disorganized and in an illogical order. The proposed rules will amend and update the continuing education rules.

The rules pertaining to the department approving continuing education programs will be rescinded and new rules added requiring board approval of continuing education programs not otherwise approved under the rules.

Other rule revisions will be revised for clarity.

6. Describe how the proposed rule(s) 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.

Part 1. General Provisions: The proposed rule will clearly identify the board of nursing home administrators and will protect the health, safety, and welfare of the public by ensuring that the licensee has a full understanding of the term as it is used throughout the rules.

Part 2. Education: The proposed rules will update outdated information and protect the health, safety, and welfare of the public by ensuring that the licensee's education is up to date.

Part 3. Licensure: The proposed rules will advise a foreign-trained applicant that he or she must demonstrate a working knowledge of the English language. The health, safety, and welfare of the public is protected by ensuring that a nursing home administrator can communicate effectively with a patients, staff, and others within the nursing home setting.

The proposed rules will require an applicant for relicensure after a lapse of 3 years or more to be of good moral character and submit fingerprints. These requirements will promote the health, safety, and welfare of Michigan citizens by ensuring that the applicant is safe to practice.

Part 4. Continuing Education: The current rules pertaining to continuing education will be reorganized into a logical order. The proposed rules will amend and update the continuing education rules. The rules pertaining to the department approving continuing education programs will be rescinded and new rules added requiring board approval of continuing education programs not otherwise approved in the rules. Other rules will be revised for clarity. The health, safety, and welfare of Michigan citizens is protected by ensuring that a nursing home administrator is up-to-date on topics relevant to the nursing home industry and administration.

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

R 339.14002 will be rescinded to relocate the training for identifying victims of human trafficking to Part 3, Licensure, for clarity.

R 339.14015 will be rescinded because the rule is unnecessary and, in part, duplicative of MCL 333.17303.

R 339.14023 will be rescinded, the information will be amended, and the rule related to qualifying subjects for continuing education (CE) will be relocated for clarity.

R 339.14025 will be rescinded, and the relevant portions will be added to the rule requiring the board's approval process for CE courses not otherwise approved in the rules.

R 339.14027 will be rescinded because MCL 333.17313 requires that CE courses be approved by the board and department.

R 339.14030 will be rescinded, the information will be amended, and the rule related to required CE credits will be relocated for clarity.

R 339.14031 will be rescinded, the information will be amended, and the rule related to earning CE credits will be relocated for clarity.

R 339.14033 will be rescinded, and the pertinent information will be relocated for clarity.

R 339.14035 will be rescinded, and the pertinent information will be relocated for clarity.

Fiscal Impact on the Agency:

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It does not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Describe the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings).

The proposed rules are not expected to have a fiscal impact on the agency.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

No agency appropriation has been made nor has a funding source been provided for expenditures associated with implementing these rules.

10. Describe how the proposed rule(s) is necessary and suitable to accomplish its purpose, in relationship to the burden(s) it places on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

Part 1. General Provisions: The desired outcome is to provide clearer definitions. The rules will not require a duplicate act and no fiscal or administrative burden is placed on an individual as a result of the rule.

Part 2. Education: The proposed rules update accreditation standards to keep current accreditation requirements. No duplicative act is required of, and no fiscal or administrative burden is placed on, an individual as a result of the proposed rules.

Part 3. Licensure: The proposed rules will amend this section to clarify licensing requirements and add rules to advise a foreign-trained applicant that he or she must demonstrate a working knowledge of the English language. No duplicative act is required of an individual as a result of the proposed rules. The fee to take the TOEFL-IBT at a Michigan-based location is approximately \$195.00.

The proposed rules will add requirements for an applicant applying for relicensure after a lapse of more than 3 years. The applicant will be informed that he or she must be of good moral character and submit fingerprints to the department. No duplicative act is required of an individual as a result of the proposed rules. The estimated cost of fingerprinting is \$61.60.

Part 4. Continuing Education: The current rules pertaining to continuing education need to be reorganized into a logical order. The proposed rules will amend and update the continuing education rules. The rules pertaining to the department approving continuing education programs will be rescinded and new rules added requiring board approval of continuing education programs not otherwise approved in the rules. Other rules will be revised for clarity. No duplicate act is required of, and no fiscal or administrative burden is placed on, an individual as a result of the rules.

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

Part 1. General Provisions: The desired outcome is to provide clearer definitions. There is no additional burden on an individual.

Part 2. Education: The current rule includes outdated information regarding the accreditation standards adopted by reference. The information in the proposed rules is updated to inform an applicant of the educational standards and the course content required for licensure. There is no additional burden on an individual.

Part 3. Licensure: The proposed rules will amend this section to clarify licensing requirements and add rules to advise a foreign-trained applicant that he or she must demonstrate a working knowledge of the English language. The fee to take the TOEFL-IBT at a Michigan-based location is approximately \$195.00. The burden placed on the individual to take the TOEFL-IBT is outweighed by the benefit to Michigan citizens by ensuring that a foreign-trained applicant can communicate effectively with patients, staff, and others within the nursing home setting.

The proposed rules will add the requirements of good moral character and submission of fingerprints for an applicant applying for relicensure after a lapse of more than 3 years. The estimated cost of fingerprinting is \$61.60. This burden on the individual applicant is outweighed by the benefit to Michigan citizens by ensuring that an applicant for relicensure after a lapse of more than 3 years is safe to practice.

Part 4. Continuing Education: The current rules pertaining to continuing education need to be reorganized into a logical order. The proposed rules will amend and update the continuing education rules. The rules pertaining to the department approving continuing education programs will be rescinded and new rules added requiring board approval of continuing education programs not otherwise approved in the rules. Other rules will be revised for clarity. There is no identified burden imposed on an individual.

Impact on Other State or Local Governmental Units:

11. 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 such other state or local governmental units 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.

A. 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 costs to state or local governmental units as a result of the proposed rules.

12. Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s).

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 rule(s). 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.

13. 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 rule(s).

No appropriations have been made to any state or local governmental units as a result of these rules. No additional expenditures are anticipated or intended with the proposed rules.

Rural Impact:

14. In general, what impact will the rule(s) have on rural areas?

The proposed rules are not expected to impact rural areas. The proposed rules apply to individuals licensed under the Public Health Code as licensed nursing home administrators, regardless of their location.

A. Describe the types of public or private interests in rural areas that will be affected by the rule(s).

The proposed rules are not expected to impact public or private interests in rural areas.

Environmental Impact:

15. Do the proposed rule(s) have any impact on the environment? If yes, please explain.

The proposed rules do not have an environmental impact.

Small Business Impact Statement:

16. Describe whether and how the agency considered exempting small businesses from the proposed rule(s).

The proposed rules impose requirements on individual licensees rather than small businesses. Even if a licensee's work 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 profession.

17. If small businesses are not exempt, describe (a) how the agency reduced the economic impact of the proposed rule(s) 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 rule(s) upon small businesses as described below, per MCL 24.240(1)(a)-(d), or (b) the reasons such a reduction was not lawful or feasible.

The rules cannot exempt small businesses because the rules do not directly regulate small businesses. The rules regulate individual licensees. Further, the Public Health Code requires a nursing home administrator to be licensed, even if he or she works in a small business.

While a licensee may work independently or as part of a small business, the law does not allow the rules to exempt these licensees from the requirements of the rules. However, the impact on a licensee who works 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. As a result, a licensee, whether in small business or not, should not be significantly impacted by the changes.

A. Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

There are approximately 1,191 nursing home administrators in Michigan.

The licensees work in nursing homes. The nursing home may be a small business, but no matter what type of business environment the licensee works 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 individual licensee only.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

The agency did not establish separate compliance, reporting requirements, or timetables for small businesses. The proposed rules will only apply to nursing home administrator applicants and licensees.

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 because small businesses are not required to comply or report under the proposed rules.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rule(s).

The agency did not establish performance standards to replace design or operation standards required by these rules.

18. Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

The proposed rules do not impact small business; rather, they impact an individual licensee. Therefore, there is no disproportionate impact on a small business because of its size or geographic location.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rule(s).

The proposed rules impact individual licensure applications and renewals, which are already required of all licensees, regardless if they practice in a small business. There is no separate cost to small businesses.

20. Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

There are no expected increases in the costs of compliance for a small business, including costs for equipment, supplies, labor, or administration because the proposed rules do not impose any requirements on a small business.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

There are no expected costs for legal, consulting, or accounting services that a small business would incur in complying with the proposed rules.

22. 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.

23. 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.

The proposed rules impose requirements on individual licensees rather than a small business. Even if a licensee's practice qualifies as a small business, the department could not exempt his or her business because it would create disparity in the regulation of the profession. Therefore, 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.

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

The proposed rules impose requirements on individual licensees rather than a small business. Even if a licensee's work 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 profession. Therefore, exempting or setting lesser standards of compliance for a small business is not in the best interest of the public.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rule(s).

The department worked with the Michigan Board of Nursing Home Administrators in the development of the proposed rules. The Board is composed of members of the profession and public members, who represent both small and large business entities in Michigan.

- A. If small businesses were involved in the development of the rule(s), please identify the business(es).

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

Cost-Benefit Analysis of Rules (independent of statutory impact):

26. 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 rule(s).

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)? 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 any businesses or groups.

27. Estimate the actual statewide compliance costs of the proposed rule(s) 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.

If an applicant for licensure is foreign-trained, he or she must demonstrate a working knowledge of the English language. The fee to take the TOEFL-IBT at a Michigan-based location is approximately \$195.00.

An applicant for relicensure after a lapse of more than 3 years will be required to submit fingerprints. The estimated cost for obtaining fingerprints is approximately \$61.60.

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

The individuals affected are applicants who were foreign-trained and applicants for relicensure after lapse of more than 3 years.

B. What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

The fee to take the TOEFL-IBT at a Michigan-based location is approximately \$195.00. The estimated cost for obtaining fingerprints is approximately \$61.60.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

There are no cost reductions for businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Provide both quantitative and qualitative information, as well as your assumptions.

Licensure of Foreign-Trained Applicants: The proposed rules inform a foreign-trained applicant that he or she must demonstrate a working knowledge of the English language by scoring 80 or above on the TOEFL-IBT. Michigan citizens will be benefitted by ensuring that the applicant has a working knowledge of the English language so he or she can communicate effectively with patients, staff, and others within the nursing home setting. These rules are required by MCL 333.16174.

Requirements to be Relicensed after Lapse: The proposed rules inform a licensee of the relicensing requirements when his or her license has lapsed. The current rule does not contain the requirements of good moral character and the submission of fingerprints for relicensure after a lapse of more than 3 years. Michigan citizens will be benefitted by ensuring that the applicant for relicensure is safe to practice.

30. Explain how the proposed rule(s) 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.

31. 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.

There is not expected to be a disproportionate impact on individuals or businesses as a result of their industrial sector, segment of the public, business size, or geographic location.

32. 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 a proposed rule(s) and a cost-benefit analysis of the proposed rule(s).

Illinois:

[http://ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1313&ChapAct=225 ILCS 70/&ChapterID=24&ChapterName=PROFESSIONS+AND+OCCUPATIONS&ActName=Nursing+Home+Administrators+Licensin+and+Disciplinary+Act;](http://ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1313&ChapAct=225%20ILCS%2070/&ChapterID=24&ChapterName=PROFESSIONS+AND+OCCUPATIONS&ActName=Nursing+Home+Administrators+Licensin+and+Disciplinary+Act;)

[http://www.ilga.gov/commission/jcar/admincode/068/068013100000200R.html;](http://www.ilga.gov/commission/jcar/admincode/068/068013100000200R.html)

<http://www.ilga.gov/commission/jcar/admincode/068/068013100000800R.html>

Indiana:

<https://www.in.gov/pla/hfa.htm>; <https://www.in.gov/pla/2980.htm>; <https://www.in.gov/pla/2813.htm>; <https://www.in.gov/pla/2814.htm>; <https://iga.in.gov/legislative/laws/2016/ic/titles/025/articles/019/>; http://www.in.gov/legislative/iac/iac_title?iact=840

Kentucky:

<http://ltca.ky.gov/Pages/Resources.aspx>; <http://www.lrc.ky.gov/kar/201/006/020.htm>; <http://www.lrc.ky.gov/kar/201/006/070.htm>; <http://www.lrc.ky.gov/KRS/216A00/080.PDF>

Minnesota:

<https://www.revisor.mn.gov/rules/?id=6400.6800>; <https://www.revisor.mn.gov/rules/?id=6400.6000>; <https://www.revisor.mn.gov/rules/?id=6400.6400>; <https://www.revisor.mn.gov/rules/?id=6400.6550>

Ohio:

<http://codes.ohio.gov/orc/4751>; <http://codes.ohio.gov/oac/4751-1>

Pennsylvania:

<http://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/NursingHomeAdministrators/Documents/Applications%20and%20Forms/Non-Application%20Documents/NHAM%20-%20NHA%20Board%20Act.pdf>; <https://www.pacode.com/secure/data/049/chapter39/chap39toc.html>; <https://www.pacode.com/secure/data/049/chapter39/s39.11.html>; <https://www.pacode.com/secure/data/049/chapter39/s39.61.html>

Wisconsin:

https://docs.legis.wisconsin.gov/code/admin_code/nha/3.pdf; https://docs.legis.wisconsin.gov/code/admin_code/nha/2.pdf; https://docs.legis.wisconsin.gov/code/admin_code/nha/4.pdf; <https://docs.legis.wisconsin.gov/statutes/statutes/456.pdf>

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 rule(s).

There were no estimates made because the rules impact an individual licensee as well as an applicant for licensure. No estimate could consider the setting where an individual may use his or her license. Because the rules only impact an individual, and impact all in the same way, the assumptions made was that no additional cost or benefit would result from the proposed rules.

Alternatives to Regulation:

33. Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. Include any statutory amendments that may be necessary to achieve such alternatives.

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

A. In enumerating your alternatives, include any statutory amendments that may be necessary to achieve such alternatives.

There is no reasonable alternative to the proposed rules.

34. Discuss the feasibility of establishing a regulatory program similar to that in the proposed rule(s) that would operate through private market-based mechanisms. Include a discussion of private market-based systems utilized by other states.

Since the rules are required by statute, private market-based systems cannot serve as an alternative. States regulate nursing home administrators by statute, regulation, or both. Private market-based systems

are not used for licensing and regulation. The licensing and regulation of nursing home administrators are state functions, so a regulatory program independent of state intervention cannot be established.

There are professional associations that establish criteria for membership as a nursing home administrator, but these professional organizations would provide the public with significantly less protection because membership in many of these organizations is voluntary. This means an individual who meets the membership requirements, but does not join one of the professional organizations, would be able to practice and there would be no way to ensure their competency or hold them accountable.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rule(s). This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

Since the rules are specifically required by statute, there are no alternatives to the proposed rules that the agency could consider. They are necessary for the administration and enforcement of the licensing process.

Additional Information:

36. As required by MCL 24.245b(1)(c), describe any instructions on complying with the rule(s), if applicable.

Licensure of Foreign-Trained Applicants: The proposed rules will inform a foreign-trained applicant that he or she must demonstrate a working knowledge of the English language by scoring 80 or above on the TOEFL-IBT. An applicant who was foreign-trained should complete the TOEFL-IBT.

Requirements to be Relicensed after Lapse: The proposed rules will inform a licensee of the relicensing requirements when his or her license has lapsed. An applicant for relicensure, after a lapse of more than 3 years, should submit fingerprints to the department.

 ↓ **To be completed by the ORR** ↓

PART 4: REVIEW BY THE ORR

Date RISCBA received:	8-15-2018
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Date RISCBA approved:	8/27/18
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Date of disapproval:	
Explanation:	