

Michigan Office of Administrative Hearings and Rules
 611 West Ottawa Street; 2nd Floor, Ottawa Building
 Lansing, MI 48933
 Phone: (517) 335-8658 FAX: (517) 335-9512

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

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 Michigan Office of Administrative Hearings and Rules (MOAHR) at o'berryd@michigan.gov.

1. Agency Information:

Agency name:	Department of Licensing and Regulatory Affairs		
Division/Bureau/Office:	Bureau of Professional Licensing		
Name, title, phone number, and e-mail of person completing this form:	Rick Roselle, Senior Policy Analyst, 517-335-1769, roseller1@michigan.gov		
Name of Departmental Regulatory Affairs Officer reviewing this form:	Liz Arasim Department of Licensing and Regulatory Affairs		

2. Rule Set Information:

MOAHR assigned rule set number:	2018-065 LR
Title of proposed rule set:	Barbers – General Rules

3. Purpose for the proposed rules and background:

The purpose of the proposed rules is to amend the previously adopted rules to eliminate outdated language and create consistency with 1980 PA 299, known as the Occupational Code. Many of the rules establishing sanitation and equipment requirements have not been revised since 1991. The proposed rules will amend the sanitation and equipment standards to reflect current standards that the Board of Barber Examiners considers acceptable for the profession and revise the barber college curriculum requirements to add a new subject and adjust the minimum hours of training required in each subject.

4. Summary of proposed rules:

R 339.6031: This rule pertains to sanitation requirements of a premises used by a licensee. The rule will be amended to add work surfaces among the areas that must be kept clean, allow the use of plastic bags in waste containers, require keeping waste containers covered, and prohibit locating a washbasin that is used to satisfy the sanitation requirements under the rules in a restroom or out of view of the work area where services are performed on patrons.

R 339.6033: This rule pertains to sanitation requirements of tools and equipment. The rule will be amended to remove a reference to the Michigan Department of Public Health and replace the United States Department of Agriculture with the United States Environmental Protection Agency (EPA) as the federal agency used for determining registration of chemicals that are acceptable for sanitizing tools and equipment. The proposed rule will also require maintaining tools and equipment in a sanitary and safe condition and storing certain tools and equipment in covered containers.

R 339.6037: This rule pertains to patron protection requirements. The rule will be amended to require disposing of used cloth neck strips in covered containers.

R 339.6041: This rule pertains to barber college construction standards and required equipment. The rule will be amended to require adequate toilet facilities to meet the needs of the number of enrolled students while eliminating design requirements pertaining to separate facilities for men and women, lighting and ventilation, and water supply. In addition, the proposed rule will remove requirements for barber schools to provide a chalkboard, a chart of the skin and hair, and a standard dictionary and medical dictionary.

R 339.6047: This rule pertains to curriculum requirements of a barber college. The rule will be amended to add state board examination preparation as a new subject and adjusts the required theory and practical hours of various subjects. The proposed rule also clarifies that a total of 1,800 hours of training is required, which is the minimum amount required under statute.

5. List names of newspapers in which the notice of public hearing was published and publication dates (attach copies of affidavits from each newspaper as proof of publication).

The Grand Rapids Press, April 4, 2019
The Mining Journal, March 18, 2019
The Flint Journal, April 4, 2019

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

Issue No. 5 – 2019 (Published April 1, 2019)

7. Time, date, location, and duration of public hearing:

9:00 a.m., April 22, 2019, G. Mennen Williams Building Auditorium, 525 W. Ottawa Street, Lansing, Michigan. The hearing lasted for 15 minutes.

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

https://dtmb.state.mi.us/ORRDocs/RIS/1844_2018-065LR_ris.pdf

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

Weston MacIntosh, Dena Marks, and Rick Roselle, Department Analysts from the Bureau of Professional Licensing.
Kerry Przybylo, Manager from the Bureau of Professional Licensing.

10. Persons submitting comments of support:

There were no comments received in support of this rule set.

11. Persons submitting comments of opposition:

There were no comments received in opposition of this rule set.

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

	Name & Organization	Comments Made at Public Hearing	Written Comments	Agency Rationale for Change	Rule Number & Citation Changed
1.	There were no comments received from the public regarding this rule set.				
2.					
3.					
4.					

13. Date report completed:

<u>April 30, 2019</u>

Being duly sworn deposes and say he/she is Principal Clerk of



THE FLINT JOURNAL

DAILY EDITION

a newspaper published and circulated in the County of Genesee and otherwise qualified according to Supreme Court Rule; and that the annexed notice, taken from said paper, has been duly published in said paper on the following day(day(s))

April 4 A.D. 20 19

Sworn to and subscribed before me this 4th day of April 2019

Janice M. DeGraaf
JANICE M. DEGRAAF
NOTARY PUBLIC, STATE OF MI
COUNTY OF KENT
MY COMMISSION EXPIRES Oct 3, 2020
ACTING IN COUNTY OF Kent

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing

NOTICE OF PUBLIC HEARING

April 22, 2019 1:00 p.m.

Location: G. Mennen Williams Building Auditorium
525 W. Ottawa Street, Lansing, Michigan

The hearing is held to receive public comments on the following administrative rules:

Athletic Trainers – General Rules (ORR 2018-062 LR)

Authority: MCL 333.16145; MCL 333.16146; MCL 333.16178; MCL 333.16186; MCL 333.16204; MCL 333.16205; MCL 333.16215; MCL 333.17904; MCL 333.17905; MCL 338.3501; MCL 445.2001; MCL 445.2011; MCL 445.2030.

Overview: The proposed revisions to the rules will clarify the licensure requirements for first aid, cardio pulmonary resuscitation (CPR), and automated external defibrillator (AED) training; advise when an applicant for licensure or renewal must have completed the training for identifying victims of human trafficking; clarify the first aid, CPR, and AED training required for licensure by endorsement, renewal, and relicensure; add a new rule that will advise a foreign-trained applicant that he or she must demonstrate a working knowledge of the English language; update accreditation standards; revise the rule approving first aid, CPR, and AED training and certification programs; revise the rules pertaining to continuing education; and adopt by reference the updated Standards of Professional Practice of the Board of Certification Inc.

Barbers (ORR 2018-065 LR)

Authority: MCL 339.205; MCL 339.308; MCL 339.1110; MCL 339.1112; MCL 338.3501; MCL 445.2001; MCL 445.2011; MCL 445.2025; MCL 445.2030.

Overview: The proposed revisions to the rules will amend the sanitation requirements for barber premises by updating standards for maintaining waste containers, washbasins, tools, and equipment; updating the equipment standards for a barber college by modernizing the requirements for maintaining toilet facilities and removing the requirements to possess a chalkboard, dictionary, and skin and hair charts; updating the barber training requirements to add a new training topic covering state board examination preparation and clarifying that the total minimum hours in theory instruction is 225 hours and the total minimum hours in practical training is 1,575 hours.

Psychology – General Rules (ORR 2018-107 LR)

Authority: MCL 333.16145; MCL 333.16148; MCL 333.18201; MCL 333.18223; MCL 333.18233; MCL 338.3501; MCL 445.2001; MCL 445.2011; MCL 445.2030.

Overview: The proposed revisions to the rules will revise the definitions for the rule set; revise the human trafficking rule to include a date of promulgation; rescind the rule related to prohibited conduct; update accreditation and psychological training program standards; provide criteria for consideration of possible variances for a postdoctoral internship, supervision for postdoctoral experience, a post-degree practicum, alternative supervision for a temporary limited licensee, and alternative supervision for a limited license psychologist in private practice; clarify the criteria for licensure by endorsement; add criteria related to good moral character and fingerprinting as conditions for relicensure; update requirements for a temporary limited license; update the continuing education documentation retention requirement; include clarification regarding the number of continuing education credit hours that may be obtained online; provide a list of acceptable continuing education providers; clarify qualifying continuing education activities; and add a new rule that allows other potential continuing education providers to petition the board for approval of a program.

The rules will take effect immediately upon filing with the Secretary of State, unless specified otherwise in the rules. Comments on the proposed rules may be presented in person at the public hearing. Written comments will also be accepted from date of publication until 5:00 p.m. on April 22, 2019, at the following address or e-mail address:

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing—Boards and Committees Section
P.O. Box 30670, Lansing, MI 48909-8170
Attention: Policy Analyst Email: BPL-BoardSupport@michigan.gov

A copy of the proposed rules may be obtained by contacting Board Support at (517) 241-7500 or the email address noted above. Electronic copies also may be obtained at the following link:

http://dmbinternet.state.mi.us/DMB/DTMBORR/AdminCode.aspx?AdminCode=Department&Dpt=LR&Level_1=Bureau+of+Professional+Licensing

The meeting site and parking are accessible to people with disabilities. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional accommodations (such as materials in alternative format) in order to participate in the meeting should call (517) 241-7500.

STATE OF MICHIGAN)

County of Kent
and County of Ottawa

ss Daun Sutton

Being duly sworn deposes and say he/she is Principal Clerk of



THE GRAND RAPIDS PRESS

DAILY EDITION

a newspaper published and circulated in the County of Kent and the County of Ottawa and otherwise qualified according to Supreme Court Rule; and that the annexed notice, taken from said paper, has been duly published in said paper on the following day(days)

April 4 A.D. 20 19

Sworn to and subscribed before me this 4th day of April 2019

Department of Licensing and Regulatory Affairs Bureau of Professional Licensing

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Janice M. DeGraaf
JANICE M. DEGRAAF
NOTARY PUBLIC, STATE OF MI
COUNTY OF KENT
MY COMMISSION EXPIRES Oct 3, 2020
ACTING IN COUNTY OF Kent

The Mining Journal

Upper Michigan's Largest Daily Newspaper

249 W. Washington St., P.O. Box 430, Marquette, Michigan 49855. Phone (906)228-2500. Fax (906)228-3273.

AFFIDAVIT OF PUBLICATION

STATE OF MICHIGAN

AFFIDAVIT OF PUBLICATION

For the County of **MARQUETTE**

In the matter of: Notice of Public Hearing
April 22, 2019
Bureau of Professional Licensing
Athletic Trainers – General Rules
Barbers
Psychology - General Rules

Size: 3 x 11

State of **MICHIGAN**, County of Marquette ss.

JAMES A. REEVS

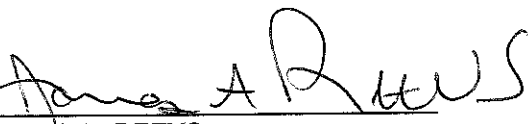
being duly sworn, says that he is

PUBLISHER


of **THE MINING JOURNAL**

a newspaper published and circulated in said county and otherwise qualified according to Supreme Court Rule; that annexed hereto is a printed copy of a notice which was published in said newspaper on the following date, or dates, to-wit

March 18, 2019


JAMES A. REEVS

Subscribed and sworn to before me this 18th day of March 2019.


HOLLY GASMAN
Notary Public for MARQUETTE County, Michigan
Acting in the County of Marquette
My commission expires: May 25, 2025

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Mr. Don, owner of Mr. Don's Restaurant, hangs the marquee in front of his business in downstate Michigan on March 4. Top: photo shows Mr. Don's Restaurant in Springfield. (Nick Buckley/Battle Creek Enquirer)

Family Friendly

FRIDAY
Huge Fish Fry
You Can Eat
ALL DAY!

SATURDAY
Prime Rib Dinner
Starting at 4:00 pm
In or Take-Out



2433 US 41 West,
Marquette
225-5119

REPUBLIC TOWNSHIP PLANNING COMMISSION NOTICE OF PUBLIC HEARING

You are notified that on April 8, 2019 at 7:00 p.m. the Republic Township Planning Commission will hold a public hearing at their regular scheduled meeting at the Republic Township Hall, 279 Kloman Ave., Republic, MI.

The Township is requesting public input and comment on the Township's proposed Amendments to the Ordinance definitions permitting Hobby Farms specific guidelines, in the R-1, R-2, RR, WR-1, WR-2, RP and MR. Districts.

Comments may be reviewed at the Republic Township Planning Commission from 9:00 a.m. to 4:00 p.m. Monday thru Friday. Written comments will be received until the date of the hearing. Anyone wishing to give testimony will be given an opportunity to be heard.

This notice is posted in compliance with Public Act 267 of 2008 as amended, the Open Meetings Act, MCLA 41.72A and the Americans with Disabilities Act (ADA).

Johnson, Zoning Administrator

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STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING

- - -

PUBLIC HEARING

MONDAY, APRIL 22, 2019

AT ABOUT 1:00 P.M.

- - -

G. MENNEN WILLIAMS BUILDING AUDITORIUM

525 W. OTTAWA STREET

LANSING, MICHIGAN

- - -

RE: Athletic Trainers - General Rules (ORR 2018-062 LR)
Barbers - General Rules (ORR 2018-065 LR)
Psychology - General Rules (ORR 2018-107 LR)

- - -

HEARING FACILITATOR:

WESTON MacINTOSH
Bureau of Professional Licensing
611 W. Ottawa Street
Lansing, Michigan 48909

ALSO PRESENT: Dena Marks
Kerry Przybylo
Rick Roselle
Stephanie Wysack

REPORTED BY: Lori Anne Penn, CSR-1315
33231 Grand River Avenue
Farmington, Michigan 48336

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I N D E X

Opening Statement - Weston MacIntosh 3

- - -

COMMENTS: PAGE

Tracey Covassin - Athletic Trainers 5

Frances Brown - Psychology 6

Dennis Kayes - Psychology 9

Jason Moser - Psychology 12

Eric Ozkan - Psychology 14

- - -

Closing Statement - Weston MacIntosh 20

1 Lansing, Michigan

2 Monday, April 22, 2019

3 At 1:00 p.m.

4 - - -

5 MR. MacINTOSH: My name is Weston
6 MacIntosh and I'm an analyst for the Bureau of
7 Professional Licensing in the Department of Licensing and
8 Regulatory Affairs, and I will be facilitating the
9 hearing today.

10 This is a public hearing on proposed
11 administrative rules entitled "Athletic Trainers-General
12 Rules", "Barbers-General Rules", and "Psychology-General
13 Rules". The hearing is being conducted under the
14 authority of the Administrative Procedures Act, Public
15 Act 306 of 1969, on behalf of the Department of Licensing
16 and Regulatory Affairs, Bureau of Professional Licensing.

17 The hearing is being called to order at
18 1:00 o'clock p.m. on April 22, 2019, at the G. Mennen
19 Williams Building Auditorium located at 525 West Ottawa
20 Street in Lansing, Michigan. The notice of public
21 hearing was published in three newspapers of general
22 circulation, as well as the Michigan Register, Issue No.
23 5, published on April 1, 2019.

24 We are here today to receive your
25 comments on the proposed rules. If you wish to speak,
 Metro Court Reporters, Inc. 248.360.8865

1 please make sure you have signed in and indicated your
2 willingness to speak. You may use the cards provided in
3 the lobby for this purpose. I will organize the cards by
4 rule set so that the comments for that profession will be
5 grouped together in the transcript. If you would like to
6 testify and have not signed in, please do so now. For
7 those of you who do not wish to sign with a card, you may
8 speak at the microphone once we have exhausted the stack
9 of cards submitted to me.

10 If you have comments, please make sure
11 that they relate directly to the proposed rules. If you
12 have questions regarding the rules, please submit your
13 questions as part of your testimony for the Department's
14 review. If you have suggested changes to the proposed
15 rules, please include the specific reasons why the
16 changes would be in the public interest.

17 For the record, when you testify, please
18 identify yourself by spelling your name and organization,
19 if any, that you may be speaking for today. This will
20 help the Department preparing the hearing record that
21 will go before the Boards. Written statements can be
22 submitted directly to me at the table. The Department
23 will also accept written statements e-mailed or
24 postmarked until 5:00 o'clock p.m. today.

25 The Department staff from the Bureau of
Metro Court Reporters, Inc. 248.360.8865

1 Professional Licensing includes myself, Kerry Przybylo,
2 Dena Marks, Rick Roselle, and Stephanie Wysack.

3 So do we have cards? Okay. So the first
4 set we will take comments for is Athletic Trainers. The
5 first card I have is from Tracy Covassin. So if you'd
6 like to come down and speak.

7 TRACEY COVASSIN: I just got these, I
8 haven't really read it. Can I ask a question?

9 MR. MacINTOSH: Yeah, it will be part of
10 your -- the transcript, but I mean we can't clarify --

11 TRACEY COVASSIN: Okay. So where it says
12 Board here under Rule 1(a), it originally had said:
13 "Board" means Michigan board of athletic trainer, and now
14 it says Michigan trainer board. Do you mean athletic
15 trainer, because you crossed off athletic and you listed
16 us as a trainer, and we're not trainers, we're athletic
17 trainers?

18 MS. MARKS: I don't have that on my copy;
19 is it on that copy?

20 TRACEY COVASSIN: Yes.

21 MS. MARKS: I'll double check that.

22 TRACEY COVASSIN: So yeah, if you could
23 just double check that everything should say athletic
24 trainer, not trainer.

25 MS. MARKS: Correct. Trainers was marked
Metro Court Reporters, Inc. 248.360.8865

1 off because the Board is called Athletic Trainer Board in
2 the statute, so it should still include the Athletic.

3 TRACEY COVASSIN: Okay. It was crossed
4 off on whatever I just picked up outside.

5 MS. MARKS: All right. I will double
6 check that. Thank you.

7 TRACEY COVASSIN: Thank you.

8 MR. MacINTOSH: Okay. Do we have any
9 other comments for Athletic Trainers? (No response.)

10 Any other comments for Barbers? (No
11 response.)

12 Okay. So we'll go next to Psychology,
13 and I'll just go alphabetically from what I have up here
14 so far. So I have Dr. Brown from the Michigan School of
15 Psychology.

16 FRANCES BROWN: Thank you, Wes. So I'm
17 Frances Brown, F-r-a-n-c-e-s, Brown, B-r-o-w-n, from the
18 Michigan School of Psychology. Okay. So I have a
19 statement to read, and this is about a differentiation in
20 training of psychologists for doctoral students and
21 post-doctoral graduates. And Wes, would you please,
22 there's multiple copies in there.

23 (Documents provided to Mr. MacIntosh.)

24 MR. MacINTOSH: Thank you.

25 FRANCES BROWN: You're welcome.

1 Okay. So respectfully submitted for
2 consideration: On behalf of the Michigan School of
3 Psychology, and in consideration of other institutions of
4 higher education, we request greater clarity in the
5 language pertaining to monthly hours of supervision as
6 outlined in Part 3, Limited Licensed Psychologists,
7 R 338.2561, Rule 61(1)(b)(iv). Training:

8 (ii) The practicum must require not less
9 than 500 clock hours of psychological work. The
10 applicant shall be supervised by a psychologist who is
11 licensed in this state, eligible for licensure in this
12 state, or licensed or certified at the independent
13 practice level in the state where the practicum takes
14 place. That's not of issue.

15 The second point, (iv) The applicant
16 shall meet in person with his or her supervisor for a
17 minimum of eight hours a month during the practicum. So
18 we have had difficulty enacting this practice and this is
19 why.

20 The beginning and end of an academic
21 semester does not coincide with the beginning and end of
22 a month. For your consideration, a student in a graduate
23 program will fulfill the 500-hour practicum requirement
24 over multiple semesters of enrollment, which may also
25 span multiple years. A semester, and consequently,

1 practicum work, often will begin and/or end mid-month or
2 with partial months of active practicum work due to
3 semester breaks or training site schedules.

4 Clarification is sought as to the intent
5 of the language of eight hours per month. During this
6 important time in a student's training, supervision is
7 provided weekly, with at least two hours per week spent
8 in supervision. In certain months, December for example,
9 students are typically enrolled for only a two-week
10 period at the beginning of the month with a winter break
11 after that. Additionally, in months that contain more
12 than four weeks, in a five-week month, the student may
13 have more than eight hours of supervision that month if
14 they're getting their two hours every week.

15 Below is proposed language for your
16 consideration, intended to provide clarity and maintain
17 the required hours and function of supervision. The
18 proposed language is: .

19 Eight hours of supervision per month, to
20 be pro-rated during the training experience to no less
21 than two hours per week while in practicum.

22 In contrast to the language pertaining to
23 limited licensed psychologists, the following is the
24 language for those with a doctoral degree. So what I was
25 just speaking about was for the masters level clinicians.

1 For doctoral students, it says:

2 Training: The applicant shall have
3 successfully completed an internship that was an
4 integrated part of a doctoral degree that satisfies the
5 requirements in subdivision (a)(i) and (a)(ii) of this
6 rule, or an equivalent postdoctoral internship as
7 determined by the Board.

8 This section does not specify hours per
9 month or week, nor is it specified in the Psychology
10 Supervision Evaluation form for doctoral applicants.

11 We thank you for your consideration.

12 MR. MacINTOSH: Thank you. So next I
13 have Dennis Kayes.

14 DENNIS KAYES: I have only one copy. My
15 name is Dennis Kayes, K-a-y-e-s. Do you need my address?

16 MR. MacINTOSH: No.

17 DENNIS KAYES: Good afternoon. My name
18 is Dennis Kayes, and I live in Huntington Woods. I'm a
19 retired attorney, but more importantly, for eight years
20 (ending this past December), I was a public member of the
21 Michigan Board of Psychology. While serving on the
22 Board, I was a member of the Disciplinary Subcommittee,
23 and twice I was on an ad hoc subcommittee working on
24 revisions to the rules. The amendments to the rules
25 being discussed today are amendments I worked on. One of

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1 the amendments, the deletion of Rule 27 (formerly known
2 as R 338.2527), is one of the rules -- is one that the
3 Rules Subcommittee opposed and which the whole Board, by
4 a large majority, voted to oppose. At both levels I was
5 one of the principal opponents of the deletion, and I am
6 here today to continue that opposition and to urge you
7 not to delete the rule.

8 Here is why:

9 To begin, the push to delete the rule did
10 not come from any member of the Board; it came solely
11 from the Department of Licensing and Regulatory Affairs.
12 When I asked the Department's representative, Weston
13 MacIntosh, why the Department wanted the rule deleted, he
14 responded that the Department believed the rule was not
15 authorized under the Public Health Code. I then asked
16 him whether there was any case in which the court had
17 opined that the rule was not authorized. He did not
18 respond then or numerous times thereafter when I repeated
19 the question. It's obvious that the answer is no, there
20 is no such opinion. This despite the fact that during my
21 eight years on the disciplinary subcommittee there were
22 numerous times when the Department filed complaints
23 against psychologists alleging violations of the rule.
24 In fact, I went further and asked Mr. Weston whether
25 there was any time when a psychologist, in defending

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1 against a complaint, even alleged that the rule was not
2 authorized. Again, he never answered me. I am sure that
3 the answer again is no, there are no opinions; in fact,
4 no one ever objected.

5 But just as importantly, the rule is in
6 fact authorized under the Code. First, MCL 333.16145(2)
7 provides that, "A Board or task force may promulgate
8 rules necessary or appropriate to fulfill its functions
9 as prescribed in this article." Second, MCL 333.16221
10 provides that a Board, through its Disciplinary
11 Subcommittee, shall punish certain behavior, including,
12 as set forth in Clause (a), "A violation of general duty,
13 consisting of negligence or failure to exercise due
14 care,... or any conduct...that impairs or may impair the
15 ability to...skillfully practice the health profession."
16 It seems to me (and must have seemed to every
17 psychologist who was ever charged with a violation of
18 Rule 27) that Rule 27 is appropriate for the Board in
19 fulfilling its functions under Section 16221. I simply
20 cannot understand why the Department not only feels
21 otherwise, but feels otherwise so strongly that it is
22 pushing to delete a rule to which nobody has ever
23 objected and which has helped make the psychology
24 profession a very respected one.

25 One further point I'd like to make.

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1 Because the rule is not -- because deleting the rule is
2 not being proposed by the Board, I tried to find in the
3 statutes and regulations some authority for this to be
4 forced upon the Board, and I could find none. The Public
5 Health Code provides that rules governing psychologists
6 are adopted by the Board, not by some other entity.

7 Thank you for allowing me to speak to
8 you.

9 MR. MacINTOSH: Next we have Jason Moser.

10 JASON MOSER: Good afternoon. My name is
11 Jason Moser, J-a-s-o-n M-o-s-e-r, I'm Associate Professor
12 and Associate Director of Clinical Training at the
13 Michigan State University. I'm here representing my
14 clinical psychology doctoral program, as well as the
15 clinical psychology doctoral program at the University of
16 Michigan headed by the Director of Clinical Training
17 there, Patricia Deldin.

18 I'm here today to provide additional
19 support and thanks for the addition under Rule 41
20 pertaining to the standards for doctoral-level psychology
21 programs that are adopted by reference in the rules, the
22 approved programs that now appear as -- under 41(1)(d),
23 the accreditation standards of the Psychological Clinical
24 Science Accreditation System, or (PCSAS). Our two
25 Universities, our two programs are very supportive of

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1 this addition to the rules that the PCSAS is a program
2 that's recognized by the Board for licensure in Michigan,
3 and we continue that support and are very happy to see
4 that addition on there, and that we wanted to just add a
5 couple of things since we first submitted our white paper
6 in support of PCSAS to being an option for clinical
7 licensure in Michigan in 2016, we also appeared before
8 the Board in 2018, and we appreciate the time that the
9 Board took to read over those materials and to have us
10 comment.

11 Since those meetings and since those
12 times, PCSAS, as an alternative accrediting body, has
13 also been approved by APPIC, the major internship system
14 for students in clinical psychology. It has also been
15 recognized by the Department of Veterans Affairs, and has
16 also been recognized by a number of other states so far,
17 including Delaware, Missouri, Illinois, New Mexico,
18 Arizona, as well as other states that don't require any
19 changes but are recognizing obviously PCSAS, California
20 and New York, two states that don't require any
21 additional changes to their rules, but many states are
22 already allowing PCSAS graduates to be licensed in their
23 state, and we fully support Michigan adopting that
24 alternative as well so that graduates from our program,
25 Michigan State, as well as University of Michigan and

1 others, can seek licensure here in the State of Michigan.

2 Thank you for your time.

3 MR. MacINTOSH: Next I have Eric Ozkan.

4 ERIC OZKAN: My name is Eric Ozkan, it's
5 E-r-i-c, last name is O-z-k-a-n. My name is Dr. Eric
6 Ozkan, and I am appearing today as both a concerned
7 citizen and as a professional psychologist who has
8 practiced in Michigan for the past 16 years. While I
9 feel it is relevant to mention that I currently serve as
10 Chair of the Michigan Board of Psychology and have had
11 significant responsibility in drafting today's proposed
12 rule set, I must emphasize that the following statement
13 is my personal view and should not be seen as reflecting
14 the view of the Board of Psychology as whole. I am
15 speaking only for myself on this matter.

16 I believe the overall revision to our
17 rule set is an outstanding piece of collaboration between
18 Licensing and Regulatory Affairs (LARA) and the Michigan
19 Board of Psychology. It significantly improves upon our
20 last update in 2015, but does contain one change that I
21 strongly disagree with.

22 The change is the removal of an entire
23 section of the rules entitled R 338.2527, Prohibited
24 Conduct, or simply, Rule 27. This section clearly and
25 specifically enumerates seven groups of unacceptable

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1 conduct that all competent psychologists view as
2 potentially damaging to their clients. Examples of such
3 prohibited conduct include: Engaging in unfair
4 discrimination against clients; engaging in sexual
5 relationships with clients, their family members,
6 supervisees, or students; engaging in other multiple
7 relationships, such as business relationships, with
8 clients or their family members; exploiting clients in
9 other ways that use the therapeutic relationship to
10 directly benefit the licensee, and; neglecting to provide
11 continuity of care to clients.

12 While I'm confident that nobody disagrees
13 with the necessity of having these prohibitions applied
14 to psychologists, the entire section comprising Rule 27
15 was rescinded from the current proposed revision. The
16 reasoning, as I understand it, falls along two lines:

17 (1) It is suggested that Michigan's Public Health Code
18 does not actually provide any statutory authority to the
19 Board of Psychology allowing them to promulgate rules
20 regarding prohibited conduct, even though these rules
21 have existed for decades, and (2) It is suggested that
22 even if the Board of Psychology had such authority,
23 explicitly stating specific examples of prohibited
24 conduct in the rules is unnecessary as it merely
25 duplicates more general language already present in the

1 Public Health Code. It is feared that such duplication
2 may lead to confusion about precisely what conduct is and
3 is not prohibited.

4 Although I feel I understand LARA's
5 reasoning on this matter, I disagree with it based on the
6 following seven points:

7 (1) I have found it difficult to
8 understand precisely why the language of the Public
9 Health Code does not allow the Board of Psychology to
10 promulgate rules for the conduct of its own licensees.
11 Not being an attorney myself, I have deferred to
12 individuals who are attorneys and have observed some
13 disagreement among them on this matter. Given that, I'm
14 not sure that the primary rationale put forth rescinding
15 Rule 27 is uncontestable.

16 (2) Whether or not the new -- whether or
17 not the Public Health Code provides language allowing the
18 Board of Psychology to promulgate new rules or not, no
19 new rules are being proposed or added with this revision.
20 I would merely request that rules already present and
21 having a long history be maintained without modification.
22 Even if the authority to promulgate rules by the Board is
23 legitimately open to question, it seems there would be
24 little danger in maintaining the current rules while the
25 matter is resolved.

1 (3) The existence of Rule 27 is not mere
2 window-dressing. The rules on prohibited conduct,
3 particularly those related to sexual misconduct and other
4 forms of boundary crossing, are routinely cited by
5 attorneys from the Office of the Attorney General as a
6 basis for misconduct charges brought against licensees.
7 As it stands, Rule 27 is relied upon by attorneys as an
8 effective and convenient tool for dealing with
9 professional misconduct.

10 (4) The presence of similar sections
11 entitled "Prohibited Conduct" are found in the
12 administrative rules for other professions, including
13 Massage Therapy, Physical Therapy, and Acupuncture. The
14 long-standing presence of such a section in the
15 psychology rule set and its continuing presence in these
16 newer professions suggests that there is no inherent
17 problem having such a section in addition to the more
18 general language present in the Public Health Code.

19 (5) The practice of psychology presents
20 unique challenges regarding client safety as compared
21 with other professions. For us, the rules regarding
22 boundary crossing are particularly important because of
23 the private, one-on-one, and often emotionally intimate
24 nature of our work with clients. Our training and ethics
25 rigorously and explicitly address these challenges and we

1 have no problem ensuring that our public rules do so as
2 well. Rule 27 provides bright lines for misconduct that
3 are not subject to interpretation. Psychologists welcome
4 such transparency as good for both our profession and for
5 the public.

6 (6) All competent psychologists are
7 acutely aware of the rules and ethics surrounding the
8 complex relationships we engage in as a matter of course.
9 While we are clear-thinkers in this regard, we are not
10 lawyers. Delving into the minutiae of the carefully
11 crafted language present in the Public Health Code is
12 akin to deciphering hieroglyphics for many of us. Given
13 that, every psychologist I know relies on the
14 Administrative Rules for Psychology as their source for
15 guidelines regulating our profession. Until I became a
16 member of the licensing board in 2012, I had never even
17 thought of consulting the Public Health Code for
18 professional guidance, and I never needed to. I think
19 this is likely true of most practicing psychologists. As
20 with most professions, I believe, we rely on what is
21 present in the rules as a more accessible and
22 understandable distillation of the Public Health Code.

23 (7) A final consideration regards the
24 optics of removing Rule 27; how it would appear to our
25 colleagues and the public at large. With the release of

1 any new rule set, the most natural first question to ask
2 is, "What's changed?" In the current cultural and
3 political climate, matters of sexual impropriety by
4 professionals are rightly being taken more seriously by
5 all of us. Why would we chose to remove rules clearly
6 forbidding such misconduct? The fact that the Public
7 Health Code may contain duplicate protections may be lost
8 on many as those protections are relatively hidden from
9 view. I am proud to be a member of a profession that has
10 clearly written rules specifically identifying sexual and
11 other misconduct as unacceptable. I can see no danger in
12 keeping those rules specific and stating them clearly in
13 an easily accessible document like this rule set.

14 Overall, the current set of proposed
15 rules represents a clearer, leaner set of guidelines for
16 the psychologists of Michigan to follow. Additions have
17 been made which clarify the requirements for licensure,
18 and inconsistencies in many areas have been disposed of.
19 Expanded opportunities for obtaining continuing education
20 credits are especially important to push forward at this
21 time. I strongly support the content of this proposed
22 revision of the rules, except for one controversial but
23 consequential issue regarding the recision of Rule 27.

24 Please consider reinstating R 338.2527,
25 Prohibited Conduct, Rule 27. The rationale for
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1 rescinding it is simply inadequate in the face of
2 numerous and varied reasons for keeping it. In informal
3 discussions among colleagues, I have not found a single
4 instance where its removal from the rules was considered
5 anything but a mistake.

6 Thank you very much.

7 MR. MacINTOSH: Do I have anyone else who
8 wishes to speak at this time?

9 FRANCES BROWN: I'm sorry, I forgot to
10 mention that on this document that I gave you, on the
11 back --

12 MR. MacINTOSH: You might want to state
13 your name again.

14 FRANCES BROWN: Oh, I'm sorry. Frances
15 Brown, President, Michigan School of Psychology.

16 On the back of this document, for your
17 information, we've provided the semester information
18 where the breaks are for the major psychology programs in
19 the State of Michigan. Thank you.

20 MR. MacINTOSH: Okay. If there's no one
21 else who wishes to speak at this time, we'll take a short
22 recess.

23 (Recess held from 1:26 p.m. to 1:44 p.m.)

24 MR. MacINTOSH: Okay. If there are no
25 further comments at this time, I hereby declare the
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1 hearing closed. The record will remain open until 5:00
2 p.m. today for any additional comments you may wish to
3 share regarding the proposed rules. Thank you for
4 coming.

5 (Hearing concluded at 1:45 p.m.)

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I, Lori Anne Penn, certify that this transcript, consisting of 22 pages, is a complete, true, and correct record of the public hearing held on Monday, April 22, 2019.

I further certify that I am not responsible for any copies of this transcript not made under my direction or control.

April 26, 2019
Date

Lori Anne Penn, CSR-1315
Notary Public, Macomb County, Michigan
My Commission Expires June 15, 2019