

Cosmetology Law Book

*Occupational Code, Related Statutes,
Administrative Rules and Related Rules*



Michigan Department of
Labor & Economic Growth
Board of Cosmetology
P.O. Box 30244 – Lansing, MI 48909
www.michigan.gov/cosmetology

PREFACE

This book is reprinted under the editorial direction of the Legislative Service Bureau from the text of the Michigan Compiled Laws, and from the Michigan Administrative Code.

Materials in boldface type, particularly catchlines and annotations to the statutes, are not part of the statutes as enacted by the Legislature.

Legal Editing and Law Publications Division
Legislative Services Bureau

NOTE: All references to the department, department of licensing and regulation, department of commerce, or the department of Consumer & Industry Services mean the Department of Labor & Economic Growth by authority of sections 308 and 721 of 1980 PA 299, MCL 339.308 and 339.721, Executive Reorganization Order No.1996-2, MCL 445.2001, and Executive Reorganization Order No. 2003-0018, MCL 445.2011.

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P.A. 299 of 1980, as amended.

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**ARTICLES 1-6 OF
THE OCCUPATIONAL CODE**

ACT NO. 299 OF 1980, AS AMENDED

(applicable to all occupations in the Code)

**OCCUPATIONAL CODE
Act 299 of 1980**

An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

ARTICLE 1

339.101 Short title.

Sec. 101. This act shall be known and may be cited as the "occupational code".
History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.102 Meanings of words.

Sec. 102. For purposes of this act, the words defined in sections 103 to 105 have the meanings ascribed to them in those sections.
History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.103 Definitions; B, C.

Sec. 103. (1) "Board" means, in each article which deals with a specific occupation, the agency created in that article composed principally of members of the regulated occupation. In all other contexts, board means each agency created under this act.

(2) "Censure" means an expression of disapproval of a licensee's or registrant's professional conduct, which conduct is not necessarily a violation of this act or a rule promulgated or an order issued under this act.

(3) "Competence" means a degree of expertise which enables a person to engage in an occupation at a level which meets or exceeds minimal standards of acceptable practice for the occupation.

(4) "Complaint" means an oral or written grievance.

(5) "Controlled substance" means a drug, substance, or immediate precursor as set forth in section 7212, 7214, 7216, 7218, or 7220 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7212, 333.7214, 333.7216, 333.7218, and 333.7220 of the Michigan Compiled Laws, not excluded pursuant to section 7227 of Act No. 368 of the Public Acts of 1978, being section 333.7227 of the Michigan Compiled Laws.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1994, Act 257, Imd. Eff. July 5, 1994.

339.104 Definitions; D to K.

Sec. 104. (1) "Department" means the department of commerce.

(2) "Director" means the director of the department of commerce or an authorized representative of the director of the department of commerce.

(3) "Disability" means an infirmity that prevents a board member from performing a duty assigned to the board member.

(4) "Files" means the records, memoranda, opinions, minutes, and similar written materials that were formerly in the physical dominion of a board abolished by this act and the records, memoranda, opinions, minutes, and similar written materials of a board created under this act.

(5) "Formal complaint" means a document that states the charges of each alleged violation and is prepared by the department or the department of attorney general after a complaint has been received by the department.

(6) "General public" means each individual residing in this state who is 18 years of age or older, other than a person or the spouse of a person who is licensed or registered in the occupation or who has a material financial interest in the occupation being regulated by the specific article in which the term is used.

(7) "Good moral character" means good moral character as defined in section 1 of Act No. 381 of the Public Acts of 1974, being section 338.41 of the Michigan Compiled Laws.

(8) "Incompetence" means a departure from, or a failure to conform to, minimal standards of acceptable practice for the occupation.

(9) "Knowledge and skill" means the information, education, practical experience, and the facility in applying that information, education, and practical experience.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1996, Act 151, Imd. Eff. Mar. 25, 1996.

339.105 Definitions; L to S.

Sec. 105. (1) "License" means the document issued to a person under this act which will enable that person to use a designated title and practice an occupation, which practice would otherwise be prohibited by this act. License includes a document issued by the department which permits a school, institution, or person to offer training or education in an occupation or which permits the operation of a facility, establishment, or institution in which an occupation is practiced. License includes a permit or approval.

(2) "Licensee" means a person who has been issued a license under this act.

(3) "Limitation" means a condition, stricture, constraint, restriction, or probation attached to a license or registration relative to the scope of practice including the following:

(a) A requirement that the licensee or registrant perform only specified functions of the licensee's or registrant's occupation.

(b) A requirement that the licensee or registrant perform the licensee's or registrant's occupation only for a specified period of time.

(c) A requirement that the licensee or registrant perform the licensee's or registrant's occupation only within a specified geographical area.

(d) A requirement that restitution be made or certain work be performed before a license or registration is issued, renewed, or reinstated.

(e) A requirement that a financial statement certified by a person licensed as a certified public accountant be filed with the department at regular intervals.

(f) A requirement which reasonably assures a licensee's or registrant's competence to perform the licensee's or registrant's occupation.

(g) A requirement that all contracts of a licensee or registrant be reviewed by an attorney.

(h) A requirement that a licensee or registrant have on file with the department a bond issued by a surety insurer approved by the department or cash in an amount determined by the department.

(i) A requirement that a licensee or registrant deposit money received in an escrow account which can be disbursed only under certain conditions as determined by the licensee or registrant and another party.

(j) A requirement that a licensee or registrant file reports with the department at intervals determined by the department.

(4) "Occupation" means a field of endeavor regulated by this act.

(5) "Person" means an individual, sole proprietorship, partnership, association, corporation, common law trust, or a combination of those legal entities. Person includes a department, board, school, institution, establishment, or governmental entity.

(6) "Physical dominion" means control and possession.

(7) "Physician" means that term as defined in section 17001 and section 17501 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.17001 and 333.17501 of the Michigan Compiled Laws.

(8) "Probation" means a sanction which permits a board to evaluate over a period of time a licensee's or registrant's fitness to practice an occupation regulated by this act.

(9) "Public access" means the right of a person to view and copy files pursuant to the freedom of information act, Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(10) "Registrant" means a person who is registered under this act.

(11) "Registration" means the document issued to a person under this act which will enable that person to use a designated title, which use would be otherwise prohibited by this act.

(12) "Rule" means a rule promulgated under this act and pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(13) "State" means the District of Columbia or a commonwealth, state, or territory of the United States.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1988, Act 463, Eff. Sept. 1, 1989.

ARTICLE 2

339.201 Department of licensing and regulation; appointment of director; designation of persons to investigate licensees or persons against whom complaints lodged.

Sec. 201. The department shall consist of a director as its executive head and other officers and employees appointed or employed by the department. The director shall be appointed by the governor, subject to the advice and consent of the senate, and shall hold office at the pleasure of the governor. The department shall designate only those persons who meet the qualifications for licensure established for an occupation regulated under article 7, 20, or 22 to investigate licensees or persons against whom complaints have been lodged.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.202 Licensure or registration; application; form; fees; requirements for issuance of license or registration; expiration date.

Sec. 202. (1) An application for licensure or registration shall be made on a form provided by the department and accompanied by the appropriate fees prescribed in article 4. Except as otherwise provided in this act, the department shall issue a license or registration to a person who meets the licensure or registration requirements set forth in a specific article and in rules promulgated under this act, subject to the exceptions set forth in section 203.

(2) The expiration date of a license or registration issued under this act shall be established by rule promulgated by the department under section 205, which rule shall not permit the issuance of a permanent license or registration.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1988, Act 463, Eff. Sept. 1, 1989.

339.203 License or registration; issuance upon demonstration of unfair or inadequate requirements; review; fees; limitation; notice; approval or disapproval; practice by person licensed, registered, or certified under repealed act.

Sec. 203. (1) The department may issue a license or registration to a person pursuant to a specific article, if the person demonstrates to the satisfaction of the department and a board that the licensure or registration requirements do not constitute a fair and adequate measure of the person's knowledge and skills or that a required examination for receipt of a license or registration does not serve as an adequate basis for determining whether a person could perform an occupation with competence. The procedure to be followed in obtaining the review by the director and a board is prescribed in article 5. A person shall not have a license or registration issued under this section until the person pays the appropriate fees as prescribed in article 4.

(2) A license or registration issued under this article may be issued with a limitation. The department shall notify the appropriate board of the department's intent to impose a limitation on the issuance of a license or registration of a person seeking a license or registration in the occupation for which the board serves. The department may impose the limitation only with the approval of the notified board. However, if the notified board, within 60 days after receipt of the notification by the department, neither approves nor disapproves the imposition of a limitation, the department may impose the limitation. A person who receives a license or registration with a limitation may receive a review of the limitation as provided in section 519.

(3) Notwithstanding any other provision of this act, a person licensed, registered, or certified under an act repealed by this act to practice an occupation on the day immediately preceding the effective date of this act shall be considered to be appropriately licensed, registered, or certified under this act until the expiration of the licensure, registration, or certification granted under the repealed act.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1988, Act 463, Eff. Sept. 1, 1989.

339.204 License or registration; renewal; requirements; continuing education requirement not subject to waiver; review procedure; fees; limitation; review; renewal as responsibility of licensee or registrant; renewal application; failure to notify department of change of address.

Sec. 204. (1) Unless otherwise provided in this act and subject to the limitations set forth in this section, the department shall renew the license or registration of a person who fulfills all of the following requirements:

(a) Has applied to the department on a form provided by the department for renewal of a license or registration. The application for renewal shall be received by the department on or before the date prescribed by the department for the expiration of the current license or registration.

(b) Has paid the appropriate fees prescribed in article 4.

(c) Has met the renewal requirements set forth in a specific article, rule, or an order issued under this act.

(2) Except as otherwise provided in this act, the department may renew the license or registration of a person who does not meet the requirements for renewal, if the person demonstrates to the satisfaction of the department and a board that the requirements for renewal as set forth in an article or rule do not constitute a fair and adequate measure of the person's knowledge and skills or that the requirements for renewal do not serve as an adequate basis for determining whether a person could continue to perform an occupation with competence. However, a requirement of attendance in a continuing education program shall not be waived as a requirement for the renewal. The procedure to be followed in obtaining a review of requirements for renewal by the director and a board is prescribed in article 5. The department shall not issue a license or registration under this subsection until the person seeking renewal pays the appropriate fees as prescribed in article 4.

(3) Except as otherwise provided in article 7, a license or registration renewed under this section may be renewed with a limitation. The department shall notify the appropriate board of the department's intent to impose a limitation on the renewal of a license of a person seeking license renewal in the occupation for which the board serves. The department may impose the limitation only with the approval of the notified board. However, if the notified board, within 30 days after receipt of the notification by the department, neither approves nor disapproves the imposition of a limitation, the department may impose the limitation. A person who receives a license or registration renewed with a limitation may receive a review of that limitation as provided in section 519.

(4) It is the responsibility of the licensee or registrant to renew a license or registration. The department shall send a renewal application to the last known address of a licensee or registrant on file with the department. The failure of a licensee or registrant to notify the department of a change of address shall not extend the expiration date of a license or registration and may result in disciplinary action.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1988, Act 463, Eff. Sept. 1, 1989.

339.205 Promulgation of rules.

Sec. 205. The department shall promulgate rules to implement articles 1 to 6 and rules which are necessary and appropriate to enable the department to fulfill its role under this act.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.206 Examination or test; review and approval of form and content; administration, scoring, and monitoring; providing equipment, examination room, written form, and other items; delegation of duties.

Sec. 206. (1) Before an examination or other test required under this act is administered and except as otherwise provided in this act, the department and the appropriate board, acting jointly, shall review and approve the form and content of the examination or other test. The examination or test shall be structured to provide a measure of whether a person has sufficient knowledge and skills to perform an occupation with competence.

(2) Except as otherwise provided in this act, the department shall administer, score, and monitor the examination or test, but may delegate any or all of those duties to a board or to any other person.

(3) Except as otherwise provided in this act, the department shall provide the equipment, examination room, written form, and any other item needed to administer the examination or test, but may delegate all or any of these duties to a board or any other person.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.207 Licensing or approval of school, institution, or other person offering training or education; approval or recognition of continuing education program; recommendation by board; request.

Sec. 207. (1) If provided in an article, the department may issue a license to, or grant approval to, a school, institution, or other person offering training or education in an occupation.

(2) If provided in an article, the department may grant approval or recognition to a program of continuing education, unless the approval or recognition of the program is the responsibility of a board.

(3) The department shall process a request under subsection (1) within 90 days after the submission of the completed application in the manner described in section 411(6), which 90-day period includes the time period described in subsection (4) regarding board approval.

(4) A board shall make a recommendation on the licensure or approval or recognition of a school, institution, or other person or a program within 90 days after a request for that recommendation is made by the department.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980—Am. 2004 PA 264, Eff. July 23, 2004.

339.208 Files of board; physical dominion; public access.

Sec. 208. The department shall have physical dominion over the files of each board. The department shall ensure that applicable laws concerning public access to the files are met.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.209 Office services; administrative and secretarial staff, clerks, and employees.

Sec. 209. (1) The department shall furnish office services to each board and perform managerial, administrative, and budgetary functions for each board.

(2) The department shall appoint administrative and secretarial staff, clerks, and employees necessary for the proper exercise of the powers and duties of a board.

(3) The department, subject to the strictures imposed by the civil service commission, may fire, suspend, promote, demote, or transfer a person providing administrative or secretarial service for a board.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.210 Contracting with persons or agencies to implement act and fulfill responsibilities of department or board.

Sec. 210. The department, on its own behalf and on behalf of a board created under this act, may contract with persons or agencies who are not employees or agencies of the department to implement this act and to fulfill the responsibilities of the department or a board.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.211 Orientation program for board members.

Sec. 211. The department shall provide a comprehensive orientation program for each individual appointed and confirmed as a member of a board.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.212 Annual report.

Sec. 212. The department shall prepare and publish an annual report describing the activities of the department and each agency created pursuant to this act. The annual report shall be filed with the governor and the legislature.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.213 Temporary license or certificate of registration; nonrenewable; validity; limitation.

Sec. 213. (1) If a person has not previously been denied a license or a certificate of registration or had a license or a certificate of registration revoked or suspended, the department may grant a nonrenewable temporary license or certificate of registration to an applicant for licensure or registration or transfer of licensure or registration pursuant to articles 8 to 25.

(2) As approved by a board, a temporary license or certificate of registration issued under this section is valid until 1 or more of the following occurs:

(a) The results of the next scheduled examination are available.

(b) The results of the next required evaluation procedure are available.

(c) A license or certificate of registration is issued.

(d) The next examination date of an examination for licensure or registration in the applicable occupation, if the applicant does not take the examination.

(e) The applicant fails to meet the requirements for a license or certificate of registration.

(f) A change in employment is made.

(3) A temporary license or certificate of registration may be limited as defined in article 1.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.214 Applicant whose records unavailable from foreign country; examination; reciprocal license.

Sec. 214. An applicant for licensure or registration pursuant to articles 8 to 25 whose records relative to education or experience required by an article are unavailable from a foreign country shall be allowed, upon approval of the board and the department, to take an examination or apply for a reciprocal license upon submitting the following to the department:

(a) A notarized affidavit approved by the department stating the total number of years of education received, the name of the school or schools attended, the dates each school was attended, the degree obtained, the courses taken, the grades received, and the names of each former employer.

(b) A notarized statement approved by the department from a governmental official testifying to unavailability of the necessary records.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

ARTICLE 3

339.301 Boards; composition; qualifications of members; director as ex officio member.

Sec. 301. Each board shall consist of 9 voting members. Except as otherwise provided in this act, 6 of the members of a board shall be individuals who have a license or registration in the occupation which the board monitors. Except as otherwise provided in this act, 3 of the members of a board shall represent the general public. The director shall be an ex officio member without vote of a board, but is not a member for purposes of section 5 of article V of the state constitution of 1963 or for determining a quorum. A member, in addition to fulfilling the requirements set forth in an article, shall be not less than 18 years of age and shall be a resident of this state.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1990, Act 269, Imd. Eff. Oct. 17, 1990.

339.302 Nomination and appointment of board members.

Sec. 302. The governor shall appoint an individual as a member of a board with the advice and consent of the senate, including an individual appointed to fill a vacancy on a board. In making an appointment, the governor shall seek nominations from a wide range of interested groups and persons, including appropriate professional associations, consumer associations, labor unions, and other organizations or individuals.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.303 Terms of board members; vacancy; appointment and removal of members; qualifications; terms.

Sec. 303. (1) The term of a member appointed to a board shall be 4 years except that an individual appointed to fill a vacancy on a board which vacancy results from a member's resignation, death, disability, or removal for cause by the governor shall serve for the balance of the term of the member replaced and may be reappointed for not more than 2 full terms. A vacancy shall be filled in the same manner as the original appointment was made. The governor shall appoint an individual as a member of a board, subject to the advice and consent of the senate, within 60 days after a vacancy

occurs and within 60 days after the senate disapproves an appointment by the governor. The governor may remove a member of a board or committee in accordance with section 10 of article V of the state constitution of 1963.

(2) Except as provided in subsection (1), an individual shall not be appointed to or serve for more than 2 consecutive terms.

(3) Subject to subsection (4), for a board created or first appointed on or after January 1, 1990, the governor may appoint, as the initial members of the board who are required to be licensed or registered, individuals who meet either or both of the following qualifications:

(a) Are certified or otherwise approved by a national organization that certifies or otherwise approves individuals in the occupation to be licensed or registered by the board.

(b) Have actively practiced the occupation licensed or registered by the board or taught in an educational institution which prepares applicants for licensure or registration in that occupation, or a combination of both, for not less than the 2 years immediately preceding their appointment.

(4) Within 3 years after October 17, 1990, each individual appointed under subsection (3) shall be licensed or registered in the occupation licensed or registered by the board to which the individual was appointed.

(5) Of the initial members of a board created or first appointed after January 1, 1990, the terms of 3 of the members, including 2 of the members who have a license or registration in the occupation which the board monitors and 1 of the members representing the general public, shall be 4 years; the terms of 2 of the members, including 1 of the members who has a license or registration in the occupation which the board monitors and 1 of the members representing the general public, shall be 3 years; the terms of 2 of the members, including 1 of the members who has a license or registration in the occupation which the board monitors and 1 of the members who represents the general public, shall be 2 years; and the terms of the remaining members shall be 1 year.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1981, Act 83, Imd. Eff. July 1, 1981;--Am. 1990, Act 269, Imd. Eff. Oct. 17, 1990;--Am. 1994, Act 257, Imd. Eff. July 5, 1994.

339.303a Commencement of terms.

Sec. 303a. The terms provided for in this act shall commence on the following dates:

Accountancy	July 1
Architects.....	April 1
Athletic board of control.....	April 1
Barbers.....	October 1
Collection agencies	July 1
Cosmetology	January 1
Employment agencies	October 1
Land surveyors.....	April 1
Landscape architects	July 1
Mortuary science	July 1
Nursing home administrators.....	January 1
Professional engineers	April 1
Real estate appraisers	July 1

Real estate brokers and salespersons	July 1
Residential builders	April 1
Social workers	October 1

History: Add. 1990, Act 269, Imd. Eff. Oct. 17, 1990;--Am. 1995, Act 104, Imd. Eff. June 23, 1995;--Am. 1995, Act 183, Imd. Eff. Oct. 23, 1995;BA. 1996, Exec. Order 1996-2.

339.304 Compensation and expenses of board members.

Sec. 304. Annually the legislature shall fix the per diem compensation of a member of a board. Travel or other expenses incurred by a member of a board in the performance of an official function shall be payable by the department pursuant to the standardized travel regulations of the department of management and budget.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.305 Board; meetings; quorum; voting by proxy prohibited; conduct of meeting; availability of files.

Sec. 305. (1) A board shall meet as often as necessary to fulfill its duties under this act, but shall meet not less than 2 times a year and at other dates set by the director. A majority of the members appointed and serving shall constitute a quorum. A member of a board shall not vote by proxy. A board shall conduct its meetings pursuant to Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(2) The files of the board shall be available to the public under section 208.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.306 Board; election of officers; vacancy; bylaws; report.

Sec. 306. (1) Annually a board shall elect a chairperson, a vice-chairperson, and other officers the board determines necessary. A board may fill a vacancy in an office of the board for the balance of the 1-year term.

(2) A board may adopt bylaws for the regulation of its internal affairs.

(3) A board shall report its activities to the department annually and as often as the director orders.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.307 Board; creation within department; duties; attendance of board member at informal conference; assisting department.

Sec. 307. (1) Each board created by this act shall be created within the department.

(2) A board's duties shall include the interpretation of a licensure or registration requirement of an article, and, if necessary, the furnishing of aid in an investigation conducted under article 5. At the discretion of the board, a member of that board may attend an informal conference conducted under section 508. A board shall assist the department in the implementation of this act.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.308 Promulgation of rules.

Sec. 308. (1) A board shall promulgate rules as required in the article in which it is created as are necessary and appropriate to fulfill its role.

(2) A board may promulgate rules to set the minimal standards of acceptable practice for an occupation for which the board is created.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.309 Assessment of penalties.

Sec. 309. A board, upon completion of a hearing conducted pursuant to section 511, shall assess a penalty or penalties as provided in article 6.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.310 Aiding department in interpreting licensure or registration requirements.

Sec. 310. A board shall aid the department in interpreting a licensure or registration requirement set forth in this act which is incomplete or subjective in nature to determine whether the person seeking a license or a certificate of registration or a renewal has met the requirements for the issuance or renewal.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.313 Recommending licensure of school, institution, or other person; recommending approval or recognition of program offering training or education.

Sec. 313. (1) A board shall recommend to the department whether to grant licensure to a school, institution, or other person or approval or recognition of a program which offers training or education in the occupation for which the board is created, unless it is the board's function to grant the licensure, approval, or recognition.

(2) Before recommending the licensure, approval, or recognition of a school, institution, or other person or a program, a board shall ascertain whether the school, institution, or other person or program provides the type of training which will provide a graduate with the knowledge and skills required to perform the occupation with competence.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.314 Recommending approval or recognition of continuing education program.

Sec. 314. A board shall recommend to the department the approval or recognition of a program of continuing education which is required by an article, unless it is the board's function to grant the approval or recognition.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.315 Failure to receive licensure, approval, or recognition; protest; review.

Sec. 315. A school, institution, or other person which fails to receive licensure or approval, or approval or recognition of a program offered by the school, institution, or person may protest that decision and be granted an opportunity for review of that decision by the department under section 520 or 521.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.316 Examination or test; development; consideration of material in closed session; alternative form of testing.

Sec. 316. (1) Unless otherwise provided in an article, a board and the department shall develop an examination or test required by an article. The board and the department in developing an examination or test may adopt an examination or test prepared by another agency if the board and the department determine that the examination or test serves as a basis for determining whether a person has the knowledge and skills to perform an occupation with competence.

(2) The material required by the board and the department to develop an examination or test may be considered by the board in a closed session, if the board meets the requirements of section 7 of the open meetings act, 1976 PA 267, MCL 15.267.

(3) A board and the department, in determining the form the recommended examination or test shall take, shall give special emphasis to an alternative form of testing which permits a person to demonstrate a special qualification a person may have which is not evident under a written examination, but which is related to an occupation. The alternative form of testing shall be structured to give weight to a person's experience, noninstitutional training, and innate skills and shall be flexible enough to enable a person with a mental or physical disability to demonstrate that the person has the requisite knowledge and skills.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980, Am 1998, Act 90, Imd Eff. May 13, 1998.

339.317 Surrendering files of abolished board; personnel, office space, and items or equipment to be utilized by successor board.

Sec. 317. (1) A board abolished under this act shall surrender physical dominion over any files to the department.

(2) The successor board, until the department determines otherwise, shall utilize the personnel, office space, and items or equipment which were utilized by the abolished board and which are needed for the board to function.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

ARTICLE 4

339.401 Specific amounts to be charged for licenses, registrations, and other activities.

Sec. 401. The specific amounts to be charged for licenses, registrations, and other activities provided for in this act shall be as prescribed in the state license fee act, Act No. 152 of the Public Acts of 1979, being sections 338.2201 to 338.2277 of the Michigan Compiled Laws.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1988, Act 463, Eff. Sept. 1, 1989.

339.402 Definitions.

Sec. 402. As used in this article:

(a) "Expiration date" means the date prescribed in rules promulgated by the department in accordance with section 202(2).

(b) "Reinstatement" means the granting of a license or registration, with or without limitations or conditions, to a person whose license or registration has been revoked.

(c) "Relicensure" means the granting of a license to a person whose license has lapsed for failure to renew the license within 60 days after the expiration date.

(d) "Reregistration" means the granting of a registration to a person whose registration has lapsed for failure to renew the registration within 60 days after the expiration date.

History: Add. 1988, Act 463, Eff. Sept. 1, 1989.

339.403 Collection of fees charged under contract; termination of contract.

Sec. 403. (1) This act does not prohibit a person who has a contract with the department or any other person providing direct services from collecting fees directly from an applicant, registrant, or licensee.

(2) If the department terminates a contract with a person who has been administering a licensing or registration examination to applicants for licensure or registration in a specific profession, and the department itself begins to administer the examination, the department shall not charge an applicant a fee greater than the fee charged under the terminated contract unless the examination fee for that profession is increased under the state license fee act, Act No. 152 of the Public Acts of 1979, being sections 338.2201 to 338.2277 of the Michigan Compiled Laws.

History: Add. 1988, Act 463, Eff. Sept. 1, 1989.

339.405 Nonrefundable application processing fee; examination or inspection fee; fee for initial license or registration period.

Sec. 405. An application for a license or registration shall be accompanied by a nonrefundable application processing fee. The department may also require that the application be accompanied by the fee for a required examination or inspection or the fee for the initial license or registration period.

History: Add. 1988, Act 463, Eff. Sept. 1, 1989.

339.407 Examination fee; forfeiture; reexamination fee; publication of application deadline.

Sec. 407. (1) An individual who is required to take an examination shall pay an examination fee before being scheduled for an examination.

(2) An individual who is scheduled for examination or reexamination and who fails to appear shall forfeit the examination fee.

(3) An individual who fails all or part of an examination may be reexamined, if eligible, after paying for the complete examination or such parts of the examination as must be repeated.

(4) The department shall publish in its application instructions the deadline by which applications must be received in order for an applicant to be scheduled for a required examination.

History: Add. 1988, Act 463, Eff. Sept. 1, 1989.

339.409 Payment of fee as condition to issuance of license and registration; amount; period for completion of requirements for licensure or registration; forfeiture of fees; effect of void application.

Sec. 409. (1) Except as otherwise provided in section 411, the department shall not issue a license or registration to a person who has completed the requirements for a license or registration or who seeks to renew a license or registration until the person has paid the license or registration fee.

(2) License and registration fees shall be prescribed on a per year basis. If licenses and registrations are established by rules promulgated by the department under section 202 as biennial or triennial renewals, the fee required shall be twice or 3 times, as appropriate, the per year amount.

(3) Unless otherwise provided by this act or rules promulgated under this act, all requirements for licensure or registration shall be completed by the applicant within 1 year after receipt of the application by the department or mailing of a notice of an incomplete application to the last known address on file with the department, whichever is later. If the requirements are not completed, the fees paid shall be forfeited to the department and the application shall be void. A person whose application has been determined to be void under this subsection shall submit a new application and fees and shall meet the standards in effect on the date of receipt by the department of the new application.

History: Add. 1988, Act 463, Eff. Sept. 1, 1989;--Am 2002, Act 611, Eff. Dec 20, 2002.—Am 2004 PA 264, Eff. July 23, 2004.

339.411 Failure to renew license or registration; lapse; extension; conditions to relicensing or reregistration; rules; procedure for reinstatement of license or registration.

Sec. 411. (1) Subject to subsection (2), a person who fails to renew a license or registration on or before the expiration date shall not practice the occupation, operate, or use the title after the expiration date printed on the license or registration. A license or registration shall lapse on the day after the expiration date.

(2) A person who fails to renew a license or registration on or before the expiration date shall be permitted to renew the license or registration by payment of the required license or registration fee and a late renewal fee within 60 days after the expiration date.

(3) Except as otherwise provided in this act, a person who fails to renew a license or registration within the time period set forth in subsection (2) may be relicensed or reregistered without examination and without meeting additional education or training requirements in force at the time of application for relicensure or reregistration if all of the following conditions are met:

(a) The person applies within 3 years after the expiration date of the last license or registration.

(b) The person pays an application processing fee, the late renewal fee, and the per year license or registration fee for the upcoming licensure or registration period, subject to subsection (8).

(c) Penalties and conditions imposed by disciplinary action in this state or any other jurisdiction have been satisfied.

(d) The person submits proof of having completed the equivalent of 1 year of continuing education within the 12 months immediately preceding the date of application or as otherwise provided in a specific article or by rule, if continuing education is required of licensees or registrants under a specific article.

(4) Except as otherwise provided in this act, a person may be relicensed or reregistered subsequent to 3 or more years after the expiration date of the last license or registration upon showing that the person meets the requirements for licensure or registration as established by the department in rules or procedures which may require

a person to pass all or part of a required examination, to complete continuing education requirements, or to meet current education or training requirements.

(5) Unless otherwise provided in this act, a person who seeks reinstatement of a license or registration shall file an application on a form provided by the department, pay the application processing fee, and file a petition to the department and the appropriate board stating reasons for reinstatement and including evidence that the person can and is likely to serve the public in the regulated activity with competence and in conformance with all other requirements prescribed by law, rule, or an order of the department or board. The procedure to be followed in conducting the review of a petition for reinstatement is prescribed in article 5. If approved for reinstatement, the person shall pay the per year license or registration fee for the upcoming license or registration period if appropriate, in addition to completing any requirements imposed in accordance with section 203(2).

(6) Beginning the effective date of the amendatory act that added this subsection, the department shall issue an initial or renewal license or registration not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license or registration and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license or registration.

(7) Notwithstanding the time periods described in subsection (6), in the case of a real estate broker and associate broker licensed under article 25, the time period for approval by the department of a completed application is 30 days and the time period for notification sent in writing, or made electronically available, by the department to the applicant regarding an incomplete application is 15 days after the receipt of the application by any agency or department of the state of Michigan.

(8) If the department fails to issue or deny a license or registration within the time required by this section, the department shall return the license or registration fee, and shall reduce the license or registration fee for the applicant's next renewal application, if any, by 15%. The failure to issue or deny a license or registration within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of an application based upon the fact that the license or registration fee was refunded or discounted under this subsection.

(9) Beginning October 1, 2005, the director shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with occupational issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 90-day time period described in subsection (6) and the 30-day time period described in subsection (7).

(b) The number of applications denied.

(c) The number of applicants not issued a license or registration within the applicable time period and the amount of money returned to licensees and registrants under subsection (8).

(10) Subsection (6) does not apply to licenses or registrations for any of the following:

(a) An interior designer listed under article 6.

(b) A certified public accountant and registered accountant under article 7.

(c) A professional boxer, second, judge, physician, announcer, timekeeper, manager or matchmaker, amateur referee, and professional referee under article 8.

(d) An agency non-owner manager of a collection agency under article 9.

(e) A barber, student barber, student instructor, and barber instructor under article 11.

(f) An employment and consulting agent of a personnel agency under article 10.

(g) A cosmetologist, manicurist, natural hair culturist, esthetician, electrologist, instructor, and registered student under article 12.

(h) A hearing aid salesperson and trainee under article 13.

(i) A mortuary science licensee, embalmer, and resident trainee in mortuary science under article 18.

(j) An individual architect, surveyor, and engineer under article 20.

(k) A forester under article 21.

(l) An individual landscape architect under article 22.

(m) A community planner under article 23.

(n) An individual residential builder and alteration and maintenance contractor and a salesperson for a residential builder and alteration and maintenance contractor under article 24.

(o) A real estate salesperson under article 25.

(p) A real estate appraiser under article 26.

(q) An ocularist and ocularist apprentice under article 27.

(11) Notwithstanding any provision in this act to the contrary, an individual or qualifying officer who is a licensee or registrant under this act and who is on active duty in the armed forces of the United States in an area designated as a combat zone by the president of the United States is temporarily exempt from the renewal license fee, continuing education requirements, and any other related requirements of this act. It is the obligation of the licensee or registrant to inform the department by written or electronic mail of the desire to exercise the temporary exemption under this subsection. If the licensee applying for the temporary exemption is the individual responsible for supervision and oversight of licensed activities, notice of arrangements for adequate provision of that supervision and oversight shall be provided to the department. The licensee or registrant shall accompany the request with proof, as determined by the department, to verify the active duty status. The department, upon receiving a request for a temporary exemption under this subsection, shall make a determination of the requestor's status and grant the temporary exemption after verification of active duty status under this subsection. A temporary exemption is valid until 90 days after the licensee's or registrant's release from the active duty upon which the exemption was

based, but shall not exceed 36 months from the date of expiration of the license or registration.

(12) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing or registration fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

History: Add. 1988, Act 463, Eff. Sept. 1, 1989;--Am. 1989, Act 261, Eff. Jan. 1, 1990; --Am. 2002, Act 611, Eff. Dec. 20, 2002—Am 2004 PA 264, Eff. July 23, 2004.—Am. 2004 PA 373, Eff. Oct.11, 2004.

ARTICLE 5

339.501 Lodging or filing complaint.

Sec. 501. A complaint which alleges that a person has violated this act or a rule promulgated or an order issued under this act shall be lodged with the department. The department of attorney general, the department, a board, or any other person may file a complaint.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.501a Definitions.

Sec. 501a. As used in this article:

(a) "Complainant" means a person who has filed a complaint with the department alleging that a person has violated this act or a rule promulgated or an order issued under this act. If a complaint is made by the department, the director shall designate 1 or more employees of the department to act as the complainant.

(b) "Respondent" means a person against whom a complaint has been filed who may be a person who is or is required to be licensed or registered under this act.

History: Add. 1989, Act 261, Eff. Jan. 1, 1990.

339.502 Investigation; correspondence file; acknowledgment of complaint; complaint made by department.

Sec. 502. The department, upon receipt of a complaint, immediately shall begin its investigation of the allegations of the complaint and shall open a correspondence file. The department shall make a written acknowledgment of the complaint within 15 days after receipt of the complaint to the person making the complaint. If the complaint is made by the department, the director shall designate 1 or more employees of the department to act as the person making the complaint.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.503 Investigation; petition to issue subpoena.

Sec. 503. The department shall conduct the investigation required under section 502. In furtherance of that investigation, the department may request that the attorney general petition the circuit court to issue a subpoena requiring a person to appear before the department and be examined with reference to a matter within the scope of the investigation and to produce books, papers, or documents pertaining to the investigation.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.504 Investigation; status report; time extension; closing and reopening complaint; preparation of appropriate action; informal conference.

Sec. 504. (1) The investigative unit of the department, within 30 days after the department receives the complaint, shall report to the director on the status of the investigation. If, for good cause shown, an investigation cannot be completed within 30 days, the director may extend the time in which a report may be filed. The total number of extensions permitted under this section shall be included in the report required by section 212.

(2) If the report of the investigative unit of the department does not disclose a violation of this act or a rule promulgated or an order issued under this act, the complaint shall be closed by the department. The reasons for closing the complaint shall be forwarded to the respondent and complainant, who then may provide additional information to reopen the complaint.

(3) If the report of the investigative unit made pursuant to subsection (1) discloses evidence of a violation of this act or a rule promulgated or an order issued under this act, the department or the department of attorney general shall prepare the appropriate action against the respondent which may be any of the following:

- (a) A formal complaint.
- (b) A cease and desist order.
- (c) A notice of summary suspension.
- (d) A citation.

(4) At any time during its investigation or after the issuance of a formal complaint, the department may bring together the complainant and the respondent for an informal conference. At the informal conference, the department shall attempt to resolve issues raised in the complaint and may attempt to aid the parties in reaching a formal settlement or stipulation.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1989, Act 261, Eff. Jan. 1, 1990.

339.505 Summary suspension of license or certificate of registration; order; affidavit; petition to dissolve order; hearing; granting requested relief; record.

Sec. 505. (1) After an investigation has been conducted, the department may issue an order summarily suspending a license or a certificate of registration issued pursuant to articles 8 to 25 based on an affidavit by a person familiar with the facts set forth in the affidavit, or, if appropriate, based upon an affidavit on information and belief, that an imminent threat to the public health, safety, and welfare exists. Thereafter, the proceedings described in this article shall be promptly commenced and decided.

(2) A person whose license or certificate of registration has been summarily suspended under this section may petition the department to dissolve the order. Upon receiving a petition, the department immediately shall schedule a hearing to decide whether to grant or deny the requested relief.

(3) An administrative law hearings examiner shall grant the requested relief dissolving the summary suspension order, unless sufficient evidence is presented that an imminent threat to the public health, safety, and welfare exists which requires emergency action and continuation of the director's summary suspension order.

(4) The record created at the hearing to dissolve a summary suspension order shall become part of the record on the complaint at a subsequent hearing in a contested case.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.506 Cease and desist order; hearing; request; application to restrain and enjoin further violation.

Sec. 506. (1) After an investigation has been conducted, the director may order a person to cease and desist from a violation of this act or a rule promulgated or an order issued under this act.

(2) A person ordered to cease and desist shall be entitled to a hearing before the department if a written request for a hearing is filed within 30 days after the effective date of the order.

(3) Upon a violation of a cease and desist order issued under this act, the department of the attorney general may apply in the circuit court of this state to restrain and enjoin, temporarily or permanently, or both, a person from further violating a cease and desist order.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.507 Informal conference; criminal prosecution; other action authorized by act.

Sec. 507. A summary suspension order, cease and desist order, or injunctive relief issued or granted in relation to a license or certificate of registration issued pursuant to articles 8 to 25 shall be in addition to and not in place of an informal conference; criminal prosecution; or proceeding to deny, revoke, suspend, or place a limitation on, a license or certificate of registration or any other action authorized by this act.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.508 Formal complaint and notice; service; options; attendance at informal conference; methods of settlement; representation.

Sec. 508. (1) After an investigation has been conducted and a formal complaint prepared, the department shall serve the formal complaint upon the respondent and the complainant. At the same time, the department shall serve the respondent with a notice describing the compliance conference and hearing processes and offering the respondent a choice of 1 of the following opportunities:

(a) An opportunity to meet with the department to negotiate a settlement of the matter.

(b) If the respondent is a licensee or registrant under this act, an opportunity to demonstrate compliance prior to holding a contested case hearing, as required by section 92 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.292 of the Michigan Compiled Laws.

(c) An opportunity to proceed to a contested case hearing as set forth in section 71 of Act No. 306 of the Public Acts of 1969, being section 24.271 of the Michigan Compiled Laws.

(2) A respondent upon whom service of a formal complaint has been made pursuant to this section may select, within 15 days after the receipt of notice, 1 of the options described in subsection (1). If a respondent does not select 1 of those options within the time period described in this section, then the department shall proceed to a contested case hearing as described in subsection (1)(c).

(3) An informal conference may be attended by a member of the board, at the discretion of that board, or by a member of a committee and may result in a settlement, consent order, waiver, default, or other method of settlement agreed upon by the parties and the department. A settlement may include the revocation, suspension, or

limitation of a license or registration; censure; probation; restitution; or a penalty provided for in article 6. A board may reject a settlement and require a contested case hearing under section 71 of Act No. 306 of the Public Acts of 1969, as amended, being section 24.271 of the Michigan Compiled Laws.

(4) An authorized employee or agent of the department may represent the department in any contested case hearing held pursuant to Act No. 306 of the Public Acts of 1969.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1989, Act 261, Eff. Jan. 1, 1990.

339.510 Showing compliance with act, rule, or order.

Sec. 510. This act does not prevent a person against whom a complaint has been filed from showing compliance with this act, or a rule or an order promulgated or issued under this act, under section 92 of Act No. 306 of the Public Acts of 1969, as amended. History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.511 Hearing.

Sec. 511. If an informal conference is not held or does not result in a settlement of a complaint, a hearing pursuant to section 92 of Act No. 306 of the Public Acts of 1969, as amended, shall be held. A hearing under this section may be attended by a member of a board.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.512 Subpoena.

Sec. 512. The department or the department of the attorney general may petition a circuit court to issue a subpoena which shall require the person subpoenaed to appear or testify or produce relevant documentary material for examination at a proceeding conducted under section 511 or 508.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.513 Findings of fact and conclusions of law; hearing report; copies; complaint involving professional standards of practice.

Sec. 513. (1) Except as provided in subsection (3), at the conclusion of a hearing conducted under section 511, the administrative law hearings examiner shall submit a determination of findings of fact and conclusions of law to the department and the department of the attorney general and the appropriate board in a hearing report. The submitted hearing report may recommend the penalties to be assessed as prescribed in article 6.

(2) A copy of a hearing report shall be submitted to the person who made the complaint and to the person against whom the complaint was lodged.

(3) For a complaint involving professional standards of practice under article 7, a majority of the members of the board who have not participated in an investigation of the complaint or who have not attended an informal conference, shall sit to make findings of fact in relation to the complaint.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.514 Determination of penalties to be assessed; hearing report; transcript; time limit; board member prohibited from participating in final determination.

Sec. 514. (1) Within 60 days after receipt of an administrative law hearings examiner's hearing report, the board receiving the hearing report shall meet and make a determination of the penalties to be assessed under article 6. The board's determination shall be made on the basis of the administrative law hearings examiner's report. A transcript of a hearing or a portion of the transcript shall be made available to a board upon request. If a transcript or a portion of the transcript is requested, the board's determination of the penalty or penalties to be assessed under article 6 shall be made at a meeting within 60 days after receipt of a transcript or portion of the transcript.

(2) If a board does not determine the appropriate penalty or penalties to be assessed within the time limits prescribed by subsection (1), the director may determine the appropriate penalty and issue a final order for occupations regulated under articles 8 to 25.

(3) A member of a board who has participated in an investigation on a complaint filed with the department or who has attended an informal conference shall not participate in making a final determination in a proceeding on that complaint.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.515 Petition for review generally.

Sec. 515. A person seeking a license or certificate of registration or renewal under this act may petition the department and the appropriate board for a review if that person does not receive a license or certificate of registration or renewal.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.516 Petition for review; contents.

Sec. 516. A petition submitted under section 515 shall be in writing and shall set forth the reasons the petitioner feels the licensure or registration should be issued.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.517 Consideration of petition; alternative form of testing; personal interview.

Sec. 517. In considering a petition submitted under section 515 for an occupation regulated under articles 8 to 25, the department and the appropriate board may administer an alternative form of testing to the petitioner, or conduct a personal interview with the petitioner, or both.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.518 Issuance of license or certificate of registration or renewal based on review of petitioner's qualifications.

Sec. 518. The department may issue a license or certificate of registration or renewal for an occupation regulated under articles 8 to 25, if based on a review of the qualifications of the person who submitted a petition under section 515, the department and the appropriate board determine that the person could perform the occupation with competence.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.519 Petition to review limitation on license, certification of registration, or renewal; reply; removal of limitation.

Sec. 519. (1) A person who has had a limitation placed on a license, a certificate of registration, or the renewal of a license or certificate of registration under section 203 or 204, within 30 days after the limitation is placed on the license, certificate of registration, or renewal of the license or certificate of registration, may petition the department in writing for a review of the decision to place the limitation.

(2) The department, in reply to a petition submitted under subsection (1), shall set forth the reasons the department determined that the limitation should be placed on the license, certificate of registration, or renewal of a license or certificate of registration. The reply to the person who submits a petition under section 519 shall be sent to the petitioner within 15 days after receipt of the petition.

(3) The department and a board may remove the limitation, if, based on a review of the petitioner's qualifications, the department and the appropriate board determine that the person who submitted a petition under subsection (1) could perform with competence each function of the occupation without the limitation.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.520 Petition to review decision denying person licensure, approval, or recognition.

Sec. 520. A school, institution, program, or other person which has been denied licensure, approval, or recognition within 30 days after the decision, may petition the department in writing for a review of that decision.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.521 Consideration of petition; reinvestigation; reply.

Sec. 521. In considering a petition submitted under section 520, the department and an appropriate board may reinvestigate the school, institution, or person and the curriculum of the school, institution, or program offered by the person before replying to the petition. The reply to the petition shall set forth the reasons licensure, approval, or recognition had not been granted. The reply shall be sent to the petitioning school, institution, or person.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.522 Conducting proceedings on grievance lodged before effective date of act.

Sec. 522. Notwithstanding any other provision of this act, if an oral or written grievance was lodged before the effective date of this act against a person licensed under an act repealed by this act, the proceedings on that grievance shall be conducted in the manner prescribed in the repealed act.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.551 Additional definitions.

Sec. 551. As used in sections 553 to 559:

(a) "Employee of the department" means an individual employed by the department or a person under contract to the department whose duty it is to enforce the provisions of this act or rules promulgated or orders issued under this act.

(b) "Citation" means a form prepared by the department pursuant to section 553.

History: Add. 1989, Act 261, Eff. Jan. 1, 1990.

339.553 Citation generally.

Sec. 553. (1) An employee of the department may issue a citation to a person licensed or registered under this act or required to be licensed or registered under this act if the employee observes or deduces from an investigation, inspection, or complaint that conduct or conditions exist or have existed which are in violation of this act or rules promulgated or orders issued under this act.

(2) A citation may be sent to a respondent by certified mail, return receipt requested, or may be delivered in person by the issuing employee.

(3) A citation shall contain all of the following:

(a) The date of the citation.

(b) The name and title of the individual issuing the citation.

(c) The name and address of the respondent, indicating that the respondent is being cited for a violation of the act or rules promulgated or orders issued under the act.

(d) A brief description of the conduct or conditions which are considered to be a violation of the act or rules or orders issued under the act and a reference to the section of the act, the rule, or order the respondent is alleged to have violated.

(e) The proposed penalties or actions required for compliance, including the payment of a fine which shall not exceed \$100.00 for each violation.

(f) A space for the respondent to sign as a receipt for the citation.

(g) A space where the respondent may accept the citation and agree to comply or may indicate that the violation contained in the citation is contested.

(h) A notice that the respondent must accept or reject the terms of the citation within 30 days.

(i) A brief description of the hearing process and the process for settlement through an informal conference as described in section 508.

History: Add. 1989, Act 261, Eff. Jan. 1, 1990.

339.555 Citation; notice of acceptance or denial of violation; signature; return; records; citation as final order; disclosure; removal from records; explanation; statement.

Sec. 555. (1) A respondent shall have 30 days in which to notify the department in writing that the person accepts the conditions set forth in the citation or that the person does not admit to the violation cited.

(2) If the respondent accepts the conditions set forth in the citation, the respondent, within 30 days after receiving the citation, shall sign the citation and return it to the department along with any fine or other material required to be submitted by the terms of the citation. The citation and accompanying material shall be placed in the person's records with the department, indicating the nature of the violation and that the person accepted the conditions imposed. A citation issued under this section shall have the same force and effect as a final order issued by a board and may be disclosed to the public. If no further disciplinary actions are placed upon the person's record within 5 calendar years after the citation is issued, the department shall remove the citation and accompanying material from the records. If a respondent so chooses, a 1-page explanation prepared by the respondent shall be placed in the department's files and shall be disclosed each time the issuance of the citation is disclosed.

(3) If the respondent does not admit to the violation cited, the person may so state on the citation and return 1 copy to the department within the 30 days after the receipt of the citation. Upon receiving a copy of the citation not admitting to the violation, the process initiated by section 508 of the act shall be invoked, with the citation serving as the formal complaint.

History: Add. 1989, Act 261, Eff. Jan. 1, 1990.

339.557 Effect of signing citation.

Sec. 557. The signing of a citation as an indication that the citation was received by the respondent shall be considered to be only a receipt of, not an admission to, the violation cited.

History: Add. 1989, Act 261, Eff. Jan. 1, 1990.

339.559 Review of pending cases; notice.

Sec. 559. Beginning on January 1, 1990, the department may review all pending cases and identify those matters occurring before January 1, 1990 which would have been addressed by a citation, had such a program existed at the time the complaint was filed with the department. The department shall notify each respondent that the person may conclude the department's proceedings by accepting the penalties and proposed compliance actions as set forth in a citation or may continue the proceedings under the provisions of the process initiated in section 508.

History: Add. 1989, Act 261, Eff. Jan. 1, 1990.

ARTICLE 6

339.601 Practicing regulated occupation or using designated title without license or registration; operation of barber college, school of cosmetology, or real estate school without license or approval; violation as misdemeanor; penalties; injunctive relief; exceptions; "affected person" defined; investigation; remedies; performance of services by interior designer.

Sec. 601. (1) A person shall not engage in or attempt to engage in the practice of an occupation regulated under this act or use a title designated in this act unless the person possesses a license or registration issued by the department for the occupation.

(2) A school, institution, or person shall not operate or attempt to operate a barber college, school of cosmetology, or real estate school unless the school, institution, or person is licensed or approved by the department.

(3) A person, school, or institution which violates subsection (1) or (2) is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or imprisonment for not more than 90 days, or both.

(4) A person, school, or institution which violates subsection (1) or (2) a second or any subsequent time is guilty of a misdemeanor, punishable, except as provided in section 735, by a fine of not more than \$1,000.00, or imprisonment for not more than 1 year, or both.

(5) Notwithstanding the existence and pursuit of any other remedy, an affected person may maintain injunctive action to restrain or prevent a person from violating subsection (1) or (2). If successful in obtaining injunctive relief, the affected person shall be entitled to actual costs and attorney fees.

(6) Nothing in this act shall apply to a person engaging in or practicing the following:

(a) Interior design.

(b) Building design.

(c) Any activity for which the person is licensed under 1929 PA 266, MCL 338.901 to 338.917.

(d) Any activity for which the person is licensed under the Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to 338.988.

(e) Any activity for which the person is licensed under the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892.

(7) As used in subsection (5), "affected person" means a person directly affected by the actions of a person suspected of violating subsection (1) or (2) and includes, but is not limited to, a board established pursuant to this act, a person who has utilized the services of the person engaging in or attempting to engage in an occupation regulated under this act or using a title designated by this act without being licensed or registered by the department, or a private association composed primarily of members of the occupation in which the person is engaging in or attempting to engage in or in which the person is using a title designated under this act without being registered or licensed by the department.

(8) An investigation may be conducted under article 6 to enforce this section. A person who violates this section shall be subject to the strictures prescribed in this section and section 506.

(9) The remedies under this section are independent and cumulative. The use of 1 remedy by a person shall not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

(10) An interior designer may perform services in connection with the design of interior spaces including preparation of documents relative to finishes, systems furniture, furnishings, fixtures, equipment, and interior partitions that do not affect the building mechanical, structural, electrical, or fire safety systems.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1994, Act 400, Imd. Eff. Dec. 29, 1994; Am. 1998, Act 250, Eff. Oct. 1, 1998.

339.601a Advisory subcommittee on interior design; membership; purpose; list of qualified individuals; rules; stamp; "interior designer" defined.

Sec. 601a. (1) There is created in the department an advisory subcommittee on interior design to consist of not more than 5 individuals selected by the department. Of the 5 individuals, 2 shall be licensed architects and the remaining members shall be interior designers chosen from a list of interior designers submitted to the department by nationally recognized associations of interior designers. The department shall assure that the advisory subcommittee on interior design is fully functional not later than 6 months after the effective date of the amendatory act that added this section and shall cease to exist after it has reviewed the last application made under subsection (4)(c). The purpose of the advisory subcommittee on interior design is to verify, by majority vote of its members, the qualifications of interior designers who have not passed an examination as further described in subsection (4)(c) but who seek qualification for the performance of services described in section 601(10) on the basis of education and experience and to recommend the qualifications of those interior designers to perform the services described in section 601(10). The advisory

subcommittee on interior design shall also compile a list of all individuals considered qualified to perform the services described in section 601(10). The advisory subcommittee on interior design shall give the list to the board of architects for review and consideration of those persons determined to have met the standards described in subsection (4). The approval of individuals considered qualified shall occur not less than 90 days after the list is submitted to the board of architects. A person whose qualifications are not approved by the board of architects may appeal that determination to the director or his or her designee. The department shall make the list of persons determined to have met the standards described in subsection (4) electronically available to the state or any local unit of government capable of issuing permits under the state construction code act of 1972, 1972 PA 230, MCL 125.1501 to 125.1531.

(2) The director may promulgate rules to administer this section. The rules may include, but are not limited to, reasonable fees charged to individuals seeking qualification for performing services under section 601(10) and procedures for adding and removing individuals from the list of qualified interior designers.

(3) An interior designer shall have a rectangular nonembossed stamp with the interior designer's name, business address, title "interior designer", and certificate number issued by the national council for interior design qualification, if applicable. Use of the stamp shall be accompanied by the original signature of the interior designer.

(4) As used in this section and section 601, "interior designer" means an individual engaged in the activities described in section 601(10) who meets 1 or more of the following:

(a) Beginning on the effective date of the amendatory act that added this subsection, has proof of passing the complete 1997 examination or other examination adopted by reference by the department and offered by the national council for interior design qualification. For purposes of this subsection, that examination and the qualifications to sit for that examination are adopted by reference and any subsequent update or revision of that examination or the qualifications to sit for that examination may, by rule promulgated by the director, be adopted by reference by the department.

(b) Was engaged, before the effective date of the amendatory act that added this subsection, in the activities described in section 601(10) and has proof of passing any complete examination offered by the national council for interior design qualification. Passage of any past examination offered by the national council for interior design qualification is adequate to qualify an interior designer for the exemption described in section 601(10).

(c) Until the expiration of 1 year after the date of the establishment of the advisory subcommittee on interior design, demonstrates to the advisory subcommittee on interior design that he or she was engaged in the activities described in section 601(10) and meets the qualifications of education and experience that would confer eligibility for sitting for the 1997 or other examination offered by the national council for interior design qualification.

History: Add. 1998, Act 250, Eff. Oct. 1, 1998.

339.602 Violation of act, rule, or order; penalties.

Sec. 602. A person, school, or institution which violates a section of this act or a rule or order promulgated or issued under this act shall be assessed 1 or more of the following penalties:

- (a) Placement of a limitation on a license or certificate of registration for an occupation regulated under articles 8 to 25.
- (b) Suspension of a license or certificate of registration.
- (c) Denial of a license, certificate of registration, or renewal of a license or certificate of registration.
- (d) Revocation of a license or certificate of registration.
- (e) A civil fine to be paid to the department, not to exceed \$10,000.00.
- (f) Censure.
- (g) Probation.
- (h) A requirement that restitution be made.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1981, Act 83, Imd. Eff. July 1, 1981.

339.603 Restitution; suspension of license or certificate of registration.

Sec. 603. If restitution is required to be made under section 602, the license or certificate of registration of the person required to make the restitution may be suspended until the restitution is made.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.604 Violation of article regulating occupation or commission of prohibited act; penalties.

Sec. 604. A person who violates 1 or more of the provisions of an article which regulates an occupation or who commits 1 or more of the following shall be subject to the penalties prescribed in section 602:

- (a) Practices fraud or deceit in obtaining a license or registration.
- (b) Practices fraud, deceit, or dishonesty in practicing an occupation.
- (c) Violates a rule of conduct of an occupation.
- (d) Demonstrates a lack of good moral character.
- (e) Commits an act of gross negligence in practicing an occupation.
- (f) Practices false advertising.
- (g) Commits an act which demonstrates incompetence.
- (h) Violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.
- (i) Fails to comply with a subpoena issued under this act.
- (j) Fails to respond to a citation as required by section 555.
- (k) Violates or fails to comply with a final order issued by a board, including a stipulation, settlement agreement, or a citation.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1981, Act 83, Imd. Eff. July 1, 1981;--Am. 1989, Act 261, Eff. Jan. 1, 1990.

339.605 Action in name of state; intervention and prosecution by attorney general.

Sec. 605. The department may bring any appropriate action in the name of the people of this state to carry out this act and to enforce this act. If the attorney general considers it necessary, the attorney general shall intervene in and prosecute all cases arising under this act.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

**ARTICLE 12 OF
THE OCCUPATIONAL CODE**

ACT NO. 299 OF 1980, AS AMENDED

(regulating the practice of cosmetology)

ARTICLE 12 COSMETOLOGY

339.1201 Definitions.

Sec. 1201. As used in this article:

- (a) "Apprentice" means an individual engaged in learning cosmetology in a cosmetology establishment.
- (b) "Braiding" means providing or offering to the general public for compensation any of the following services solely for development or improvement of physical qualities of the natural hair structure:
 - (i) Intertwining in a systematic motion to create patterns in a 3-dimensional form.
 - (ii) Inversion or outversion flat against the scalp along the part of a straight or curved row.
 - (iii) Twisting in a systematic motion.
 - (iv) Extension with natural or synthetic fibers.
- (c) "Cosmetologist" means an individual who renders or offers to render cosmetology services.
- (d) "Cosmetology" means 1 of the following services or a combination of the following services:
 - (i) Hair care services.
 - (ii) Skin care services.
 - (iii) Manicuring services.
 - (iv) Electrology.
- (e) "Cosmetology establishment" means the premises on which cosmetology or 1 or more of its services are rendered or are offered to be rendered. Cosmetology establishment does not include a school of cosmetology.
- (f) "Electrologist" means an individual who renders or offers to render electrology.
- (g) "Electrology" means the permanent removal of hair from the body of an individual by the use of electricity.
- (h) "Esthetician" means an individual who renders or offers to render skin care services.
- (i) "Hair care services" means arranging, cutting, dressing, curling, waving, cleansing, singeing, bleaching, coloring, tinting, trimming, styling, relaxing, perming, straightening, or similar work upon the hair of the head or a wig that an individual is wearing.
- (j) "Instructor" means an individual who teaches or offers to teach 1 or more cosmetology services in a school of cosmetology.
- (k) "Manicuring services" means the cleansing, filing, shaping, buffing, polishing, or beautifying of the nails of the hands or feet, and the cleansing, massaging, stimulating, exercising, or beautifying of the skin of the hands, arms, and feet, manually or with the use of tools, appliances, or cosmetic preparations, including the repair of nails, or the creation or decoration of artificial nails. Manicuring services do not include the practice of podiatric medicine and surgery as defined in section 18001 of the public health code, 1978 PA 368, MCL 333.18001.
- (l) "Manicurist" means an individual who renders or offers to render manicuring services.

(m) "Natural hair cultivation" means techniques that result in tension on hair strands such as twisting, wrapping, weaving, extending, locking, or braiding of the hair by hand, which work does not include the application of dyes, reactive chemicals, or other preparations to alter the color or to straighten, curl, or alter the structure of the hair.

(n) "Natural hair culturist" means a person engaged in natural hair cultivation but does not include a person engaged in natural hair cultivation if that activity is performed as part of the practice of a recognized religion.

(o) "Owner" means a person who owns and conducts a cosmetology establishment or a school of cosmetology.

(p) "School of cosmetology" means the premises where cosmetology or 1 or more of its services are taught.

(q) "Skin care services" includes the following services or combination of services:

(i) Beautifying the skin of the body of an individual by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams, including body wrapping.

(ii) Cleansing or stimulating the skin of the body by the use of the hands, devices, apparatus, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(iii) The temporary removal of hair from the body of an individual by the use of depilatories, waxes, razors, scissors, clippers, or tweezers.

(iv) Giving facials, applying removable makeup, applying eyelashes, or any other application of a preparation or beauty enhancement to the body of an individual but does not include applying permanent makeup or the use of tanning equipment.

(r) "Student" means an individual engaged in learning cosmetology or 1 or more of its services in a school of cosmetology.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1202 Board of cosmetology; creation; qualifications of members.

Sec. 1202. A board of cosmetology is created. Five of the members of the board shall be licensed cosmetologists who have been actively engaged in the practice of cosmetology for at least 3 years immediately preceding their appointment. One member shall be a person who has been actively engaged in teaching cosmetology in this state for not less than 3 years immediately before appointment and who owns an interest in a school of cosmetology. Three members shall represent the general public.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.1203 Promulgation of sanitary rules.

Sec. 1203. The department and the board shall promulgate sanitary rules they consider necessary, with particular reference to the precautions necessary to be employed to prevent the spreading of an infectious or contagious disease, and shall arrange an inspection as they consider necessary to safeguard the public health.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980.

339.1203a Cosmetology services; license required; exception; scope of license; limitations.

Sec. 1203a. (1) An individual shall not render any form of cosmetology services, with or without compensation, on any individual other than a member of his or her immediate family without a license under this article. However, this article does not

apply to an individual, person, or premises licensed under article 11 while rendering the services of a barber.

(2) An individual licensed as a cosmetologist under this article may render hair care services, skin care services, natural hair cultivation, and manicuring services as part of the practice of cosmetology, but shall not render electrology without being licensed as an electrologist.

(3) The department may license an individual to render manicuring services, natural hair cultivation, or skin care services in accordance with his or her training. An individual licensed as a manicurist, natural hair culturist, or esthetician shall only render that particular service and shall not render any other cosmetology service without being licensed for that service. An individual licensed as a manicurist, natural hair culturist, or esthetician shall not render electrology without being licensed as an electrologist.

(4) An individual licensed as an electrologist shall render only electrology services and shall not render any other cosmetology service without separately being licensed to render those services.

History: Add. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1203b Cosmetology establishment or school of cosmetology; school or establishment license required.

Sec. 1203b. A person shall not conduct or operate a cosmetology establishment or school of cosmetology without a school or establishment license issued under this article.

History: Add. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1204 Cosmetology establishment; issuance of license; separation from dwelling or school of cosmetology; limited license; temporary license; effect of transferring ownership or location; displaying or posting license.

Sec. 1204. (1) The department shall issue a license to a person for the operation of a cosmetology establishment if all of the following requirements are met:

(a) An application is submitted by the owners or managers of the establishment.

(b) The application includes a drawing or diagram indicating the premises to be licensed and the location of required equipment and facilities.

(c) The premises has satisfactorily passed an inspection conducted by the department for the purpose of determining whether the establishment has met sanitation and equipment standards prescribed in rules promulgated by the director.

(d) Except as provided in subsection (3), the cosmetology establishment shall be under the daily attendance and supervision of a licensed cosmetologist who is not less than 18 years of age and has had not less than 1 year's practical experience in cosmetology.

(2) A cosmetology establishment shall be completely separated by full partitions and doors from a dwelling or a school of cosmetology.

(3) The department may issue a limited cosmetology establishment license to a person who seeks to perform only 1 or more services of cosmetology on the premises. If the establishment license is limited to only manicuring services or skin care services, the supervising licensee may be an individual licensed only in that service. A licensed cosmetologist working in a limited licensed cosmetology establishment shall not perform cosmetology services for which the premises are not licensed. If the

cosmetology establishment license is limited to electrology, the supervising licensee shall be a licensed electrologist. A licensed cosmetologist shall not supervise a cosmetology establishment whose cosmetology license is limited to rendering electrology unless the cosmetologist is licensed as an electrologist.

(4) The department may grant a temporary establishment license to a person who has fulfilled all licensure requirements except for the completion of the inspection.

(5) The transfer of ownership or location of a cosmetology establishment voids the license. The filing of a new license application is a predicate to the change in ownership or location of an establishment.

(6) The license of the establishment and of each individual working in the establishment shall be displayed in a prominent place which is visible to the public at all times. The license of an individual working in the establishment may be posted at the individual's work station.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1981, Act 83, Imd. Eff. July 1, 1981;--Am. 1982, Act 377, Eff. Mar. 30, 1983;--Am. 1988, Act 463, Eff. Sept. 1, 1989;--Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997;--Am. 2003, Act 57, Imd. Eff. July 14, 2003.

339.1205 Operation of school of cosmetology; issuance of license; requirements; apprenticeship program; license limited to teaching electrology; effect of transferring ownership or location.

Sec. 1205. (1) The department shall issue a license to a person for the operation of a school of cosmetology if all of the following requirements are met:

(a) An application is submitted by the owner or manager of the school.

(b) The application includes a drawing or diagram that indicates the premises to be licensed, showing that the premises are fully partitioned from any other activity, business, or dwelling. The location of required equipment and facilities shall also be shown on the diagram.

(c) A cash or surety bond of \$10,000.00 has been furnished in favor of the people of this state for the use and benefit of students and conditioned upon the faithful performance and satisfaction of the contractual rights of students.

(d) Provisions have been made for the school to be under the daily supervision of a licensed instructor who has at least 3 years' experience in all services of cosmetology being taught in the school.

(e) The premises has successfully passed an inspection by the department conducted for the purpose of determining whether the school has met the standards set forth in this article and rules promulgated by the director.

(2) A school of cosmetology shall fulfill all of the following requirements:

(a) Shall maintain a course of practical training and technical instruction, as outlined in the various curricula set forth in rules promulgated by the director, equal to the requirements for prelicensure training under this article. A school of cosmetology shall teach hair care services, skin care services, and manicuring services and may hold a limited license for the teaching of electrology. However, a school of cosmetology with a license limited only to the teaching of electrology shall teach only electrology and not any other cosmetology service.

(b) Shall possess efficient apparatus and equipment prescribed in rules promulgated by the director sufficient for the ready and full teaching of each subject in the curriculum.

(c) Shall maintain 1 person licensed as an instructor, competent to impart instruction in each subject of its curriculum, for every 20 students.

(d) Shall be operated for teaching purposes only. Instructors shall practice on the public only to demonstrate techniques to students and to correct the work of students.

(e) Shall provide for the display of the license of the school of cosmetology and of each instructor working in the school in a prominent place that is visible to the public at all times. A sign shall be displayed indicating that services are rendered by students of the school.

(f) At the time of the enrollment of a student, shall furnish the student a financial contract showing the total cost and all charges involved in the complete course of study. Advertising matter put out by schools, when mentioning the cost of tuition or related subjects, shall furnish the same financial information as described in this subsection.

(3) A cosmetology establishment exacting a fee for the teaching of cosmetology or 1 or more services of cosmetology is considered a school of cosmetology and is required to comply with this section. A cosmetology establishment conducting an apprenticeship program without charging a fee for the teaching of cosmetology shall comply with subsection (5). A cosmetology establishment which has successfully trained 1 apprentice is eligible to train additional apprentices except that a cosmetology establishment shall not have more than 2 apprentices at the same time.

(4) The department may issue a limited school of cosmetology license to a school teaching only electrology. A school of cosmetology whose license is limited to teaching only electrology shall fulfill all of the requirements of this section, except that daily supervision of the school shall be provided by an electrology instructor and the curriculum offered and equipment and facilities required shall be only those required for the teaching of electrology.

(5) A school of cosmetology or a cosmetology establishment conducting an apprenticeship program shall comply with all of the following requirements:

(a) Require that a student or apprentice be in attendance not more than 7 hours per day or not more than 40 hours per week.

(b) Keep a daily record of the attendance of each student or apprentice, a copy of which shall be sent to the department monthly, establish grades, and require a student or apprentice to pass an examination before certifying to the department that an individual has completed training.

(c) Permit a cosmetology student or apprentice to practice on the public only after completing at least 350 hours of instruction in the general cosmetology curriculum, including both theory and practical hours. A student or apprentice in a natural hair cultivation, manicuring, skin care, or electrology curriculum may practice on the public only after completing at least 1/4 of the hours required by the applicable curriculum, including both theory and practical hours.

(6) The transfer of ownership or location of a school of cosmetology voids the license. The filing of a new license application is a predicate to the change in ownership or location of a school.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1981, Act 83, Imd. Eff. July 1, 1981;--Am. 1988, Act 463, Eff. Sept. 1, 1989;--Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1206 Issuance of license as cosmetology, electrology, limited, or specialist instructor.

Sec. 1206. (1) The department shall issue a license as a cosmetology instructor to an individual who meets all of the following requirements:

- (a) Is of good moral character.
- (b) Has a high school diploma or its equivalent.
- (c) Is licensed as a cosmetologist under this article.

(d) Has at least 3 years of practical experience in natural hair cultivation, hair care services, skin care services, and manicuring services, at least 1 year of which shall be in a cosmetology establishment.

- (e) Has completed not less than 500 hours of instructor training.
- (f) Has passed an examination approved by the department and the board.

(2) The department shall issue a license as an electrology instructor to an individual who meets all of the following requirements:

- (a) Is of good moral character.
- (b) Has a high school diploma or its equivalent.
- (c) Is licensed as an electrologist under this article.

(d) Has at least 3 years of practical experience in electrology, at least 1 year of which shall be in a cosmetology establishment holding a limited license for the practice of electrology.

- (e) Has completed not less than 300 hours of instructor training.
- (f) Has passed an examination approved by the department and the board.

(3) The department may issue a limited instructor's license to an individual who meets all of the requirements of either subsection (1) except for subsection (1)(d) or subsection (2) except for subsection (2)(d). The holder of a limited instructor's license shall not supervise a school of cosmetology at any time.

(4) The department may issue a limited specialist instructor's license to an individual who meets all of the following requirements:

- (a) Is of good moral character.
- (b) Has a high school diploma or its equivalent.
- (c) Is licensed as a manicurist, natural hair culturist, or esthetician.
- (d) Has completed not less than 300 hours of instructor training.
- (e) Has passed an examination approved by the department and the board.

(5) The specialist instructor's license shall limit the instruction given by that individual to only the service in which he or she is licensed.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1207 Cosmetologist; qualifications.

Sec. 1207. The department shall issue a cosmetologist license to an individual who fulfills all of the following requirements:

- (a) Is not less than 17 years of age.
- (b) Is of good moral character.
- (c) Has had an education equivalent to the completion of the ninth grade.

(d) Has completed either not less than a 1,500-hour course of study in a licensed school of cosmetology or has served as an apprentice for not less than 2 years in a licensed cosmetology establishment in which hair care services, skin care services,

and manicuring services are offered. The training shall include a minimum number of practical applications as prescribed in rules promulgated by the director.

(e) Has passed an examination prescribed by the department and the board.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1981, Act 83, Imd. Eff. July 1, 1981;--Am. 1982, Act 377, Eff. Mar. 30, 1983;--Am. 1988, Act 463, Eff. Sept. 1, 1989;--Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1208 Electrologist; qualifications.

Sec. 1208. The department shall issue a license as an electrologist to an individual who fulfills all of the following:

(a) Is not less than 18 years of age.

(b) Is of good moral character.

(c) Has had an education equivalent to the completion of the ninth grade.

(d) Has completed not less than 400 hours of training in a licensed school of cosmetology in which the practice is taught or has studied for not less than 6 months as an apprentice in a licensed cosmetology establishment where electrology services are offered. The training shall include a minimum number of practical applications as prescribed in rules promulgated by the director.

(e) Has passed an examination prescribed by the board and the department.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1981, Act 83, Imd. Eff. July 1, 1981;--Am. 1988, Act 463, Eff. Sept. 1, 1989;--Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1209 Manicurist; qualifications.

Sec. 1209. The department shall issue a license as a manicurist to an individual who fulfills all of the following:

(a) Is at least 17 years of age.

(b) Is of good moral character.

(c) Has had an education equivalent to the completion of the ninth grade.

(d) Has completed not less than 400 hours of training either in a licensed school of cosmetology or as an apprentice for not less than 6 months in a licensed cosmetology establishment where manicuring is practiced. The training shall include a minimum number of practical applications as prescribed in rules promulgated by the director.

(e) Has passed an examination prescribed by the board and the department.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1981, Act 83, Imd. Eff. July 1, 1981;--Am. 1988, Act 463, Eff. Sept. 1, 1989;--Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1210 Esthetician; qualifications.

Sec. 1210. (1) After the expiration of 12 months after the effective date of the 1997 amendatory act that amended this section, the department shall issue a license as an esthetician to an individual who fulfills all of the following requirements:

(a) Is at least 17 years of age.

(b) Is of good moral character.

(c) Has had an education equivalent to the completion of the ninth grade.

(d) Has completed not less than 400 hours of training either in a licensed school of cosmetology or as an apprentice for not less than 6 months in a licensed cosmetology establishment where skin care services are rendered. The training shall include a minimum number of practical applications as prescribed in rules promulgated by the director.

(e) If an examination is available, has passed an examination prescribed by the board and the department.

(2) Until the expiration of 12 months after the effective date of the 1997 amendatory act that added this subsection, the department shall issue a license as an esthetician to an individual who fulfills all of the following requirements:

(a) Is at least 17 years of age.

(b) Is of good moral character.

(c) Has had an education equivalent to the completion of the ninth grade.

(d) Provides evidence of having obtained the equivalent of 6 months of full-time experience in skin care services in this or any other state within the 12 months immediately preceding the date of application.

(e) If an examination is available, has passed an examination prescribed by the board and the department.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1210a License to practice natural hair cultivation; qualifications.

Sec. 1210a. (1) After December 31, 1999, the department shall issue a license to practice natural hair cultivation to an individual who fulfills all of the following:

(a) If an examination is available, has passed an examination prescribed by the department and the board. In lieu of an examination being available, the department shall evaluate the experience of an applicant, which experience shall include at least 6 months of field practice or experience.

(b) Is at least 17 years of age.

(c) Is of good moral character.

(d) Has an education equivalent to the completion of the ninth grade.

(e) Has training either of at least 400 hours extending over a period of at least 3 months in a school of cosmetology approved by the department where services relating to natural hair cultivation are rendered or has served at least 6 months as an apprentice in a licensed cosmetology establishment in which natural hair cultivation is practiced.

(2) Until December 31, 1999, the department shall issue a license to practice natural hair cultivation to an individual who fulfills all of the following:

(a) If an examination is available, has passed an examination prescribed by the board and the department. In lieu of an examination being available, the department shall evaluate the experience of an applicant, which experience shall include at least 6 months of field practice or experience.

(b) Is at least 17 years of age.

(c) Is of good moral character.

(d) Has an education equivalent to the completion of the ninth grade.

(3) Notwithstanding any other provision in this article, an individual may engage in natural hair cultivation for compensation and may operate an establishment where natural hair cultivation only is practiced without having first obtained an individual or establishment license under this article.

History: Add. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1211 Granting license to individual licensed to perform cosmetology services in another state; application; qualifications; applicant for licensure having qualifications acquired outside United States; proof of training or experience; determination.

Sec. 1211. (1) Upon submission of an application to the department, an individual licensed to perform cosmetology services under the laws of another state shall, without examination, be granted a license to practice the services for which that individual was previously licensed if the applicant is not less than 17 years of age, is of good moral character, and the requirements for registration or licensure in the particular state were substantially equal to the requirements then in force in this state.

(2) Years or months of experience may be substituted for hours of training in a ratio of 100 hours of training credited for each 6 months of experience. An individual applying for licensure having qualifications acquired outside of the United States shall provide proof of training or experience, or both. The department may determine whether or not an applicant is qualified to be licensed without examination.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1981, Act 83, Imd. Eff. July 1, 1981;--Am. 1988, Act 463, Eff. Sept. 1, 1989;--Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1214 Enrolling student or apprentice in cosmetology school or establishment; application; proof of ninth grade education or equivalent; exception.

Sec. 1214. (1) A school of cosmetology upon enrolling a student or a cosmetology establishment upon accepting an apprentice shall file an application with the department and shall obtain proof of at least a ninth grade education or the equivalent of a ninth grade education. The application and proof of education shall be kept on file until the student or apprentice applies for examination to obtain a license.

(2) The ninth grade education requirement does not apply to a student enrolling in a program offered as a part of the regular curriculum of a public school and approved by the state board of education.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1982, Act 377, Eff. Mar. 30, 1983;--Am. 1988, Act 463, Eff. Sept. 1, 1989;--Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1217 Prohibited conduct; penalties.

Sec. 1217. A licensee who commits or has committed 1 or more of the following is subject to the penalties set forth in article 6:

(a) Continued practice by a person knowingly having an infectious or contagious disease.

(b) Practicing cosmetology on the public outside of a licensed cosmetology establishment or school of cosmetology. However, a licensed cosmetologist may serve a patron in premises not licensed as a cosmetology establishment provided that the services rendered involve a special event in which the cosmetology service is required to be performed for an on-site participant of the event.

(c) Contracting with, being employed by, or being provided space or leasing space from a hospital, nursing home, convalescent home, or similar facility for the purpose of practicing cosmetology, without a cosmetology establishment license. However, a

licensed cosmetologist may practice on a patient in a hospital, nursing home, convalescent home, or similar facility, or on a person requiring home care because of an illness or infirmity.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

339.1217a Demonstration of product on face of customer.

Sec. 1217a. Nothing in this act shall be construed to prevent a salesperson from demonstrating a product on the face of a customer or potential customer, if direct or indirect compensation for the practice, other than the sale of the product, is not received nor expected from the customer or potential customer. "Demonstrating a product" means applying to the face of a customer or potential customer only as much of a product as is necessary to demonstrate its correct use.

History: Add. 1981, Act 83, Imd. Eff. July 1, 1981.

339.1218 Cosmetological establishment and school of cosmetology; inspections.

Sec. 1218. (1) The department shall inspect each cosmetology establishment at least once annually. The department shall inspect each school of cosmetology or cosmetology establishment training apprentices at least twice annually.

(2) A representative of the department shall be allowed to enter and inspect, during regular business hours, a cosmetology establishment or school of cosmetology to determine whether the licensee is conforming to this article and the rules promulgated under this article.

(3) A representative of the department, when inspecting a cosmetology establishment or school of cosmetology, may require an individual working in the establishment or school to present identification in order to substantiate his or her identity as the holder of a posted license.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;--Am. 1997, Act 97, Imd. Eff. Aug. 7, 1997.

**DEPARTMENT OF LABOR & ECONOMIC GROWTH
DIRECTOR'S OFFICE
COSMETOLOGY**

(By authority conferred on the director of the department of labor & economic growth by section 308 of Act. No. 299 of the Public Acts of 1980, as amended, and Executive Reorganization Order No. 1996-2, being §§339.308 and 445.2001 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 338.2101 Definitions.

Rule 1. As used in these rules:

(a) "Act" means 1980 PA 299, MCL 339.101.

(b) "Apprenticeship practitioner" means a licensee who is approved by the department and who is engaged in training an apprentice within an establishment.

(c) "Branch facility" is a secondary classroom location to an existing school.

(d) "Dry sanitizer" means a closed cabinet or container that holds a fumigant chemical sanitizing agent.

(e) "Establishment" means a facility, other than a school, where cosmetology or electrology services are rendered to the public.

(f) "Junior student or apprentice" means a person who has not qualified to work on the general public.

(g) "Minimum practical application" means a service performed on a mannequin, student, or patron.

(h) "Reactive chemicals" means, but is not limited to, any of the following:

(i) Permanent wave solutions.

(ii) Relaxers.

(iii) Temporary, semipermanent, or permanent hair colorings.

(iv) Hair lighteners.

(v) Acids.

(vi) Bases.

(vii) Creams.

(viii) Fluids.

(ix) Any other preparation designed to modify or rearrange the structure of the hair, skin, or nails.

(i) "School" means a school of cosmetology as defined in section 1201(p) of the act, and may include a branch facility as approved by the department.

(j) "Senior student or apprentice" means a person who has qualified to work on the general public.

(k) "Specialist demonstrator" means a person imparting specialized knowledge to students under the supervision of a licensed instructor within a school of cosmetology or electrology.

(l) "Wet sanitizer" means a container that holds a liquid chemical sanitizing agent.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 11, Eff. Nov. 17, 1999. Am. 2004 MR 2, Eff. July 15, 2004, Eff. May 26, 2006.

R 338.2102 Board meetings.

Rule 2. All board meetings are open to the public, in accordance with Act No. 267 of the Public Act of 1976, as amended, being section 15.261, and known as the open meetings act.

History: 1999 MR 10, Eff. Nov. 17, 1999.

PART 2. APPLICATION AND LICENSE PROVISIONS

R 338.2122 Specialist demonstrators.

Rule 22. A specialist demonstrator who gives a classroom demonstration under the supervision of a licensed instructor is not teaching.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1999 MR 11, Eff. Nov. 17, 1999.

R 338.2123 School applications.

Rule 23. (1) A person applying for a license to conduct a school shall submit all of the following to the department:

(a) A copy of the student contract to be used, which shall be subject to department approval.

(b) A copy of the school curriculum, which meets minimum requirements for each program offered.

(2) A change in the curriculum shall be promptly reported to the department and shall be subject to department approval.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2127 Change of ownership or relocation; closure.

Rule 27. (1) If an establishment or school changes ownership or location, including any branch facility to the current location, the parties involved shall inform the department of the change, in writing, within 30 calendar days. A new application showing the new ownership or the new location, together with the applicable fees and a copy of the existing license shall be filed with the department

(2) Before a school is closed or changes ownership, the department shall be notified, in writing, and shall be furnished with a copy of the school's enrolled student records of examinations, credit hours, and minimum practical applications.

(3) Branch facilities where training by a cosmetology school is conducted in a physical location apart from the main school premises, may be approved by the department if the branch facility meets the following criteria:

(a) Is not used for training students until the department has approved the use of the facility, based upon school need.

(b) Meets all requirements for Michigan cosmetology schools, except that it shall not include a full-service facility and shall not offer clinic services to the public.

(c) Provides for proper supervision of students.

(d) Is submitted for approval on an application prescribed by the department, to include, at a minimum, both of the following:

- (i) The complete address of the premises to be licensed.
 - (ii) A current, detailed floor plan, not larger than 8 ½ by 11 inches, of the proposed premises, showing arrangement of the classroom, placing of equipment, entrances, exits, and a statement of the purpose for which the premises will be used.
- History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999; 2006 MR 10, Eff. May 26, 2006.

R 338.2128 Practice or teaching by unlicensed persons.

Rule 28. A salon or school owner shall not employ or otherwise use an unlicensed person to perform cosmetological services or to teach cosmetology.

History: 1954 ACS 73, Eff. Oct. 11, 1972; 1979 AC.

PART 3. GENERAL TRAINING ADMINISTRATION

R 338.2131 “Equivalent” defined; proof of educational grade equivalency.

Rule 31. “Equivalent,” as used in the act when referring to educational grade levels, means the passing of a standard examination which is equal to or greater than the required grade level. If there is no grade equivalency test available, the department shall accept a statement from a school administrator indicating that the person has potential and scholastic achievement equal to the required grade.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1954 ACS 73, Eff. Oct. 11, 1972; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2132 School and apprentice training program requirements.

Rule 32. A school or apprenticeship practitioner shall have all of the following items:

- (a) Instructional visual aids for teaching the prescribed curriculum.
- (b) One bulletin board in the student or apprentice area.
- (c) Seating facilities for patrons.
- (d) One chair that has writing facilities for each attending student or apprentice.
- (e) Sufficient practical training stations and equipment so that students or apprentices are not required to share a station or equipment during practical training periods.
- (f) A shampoo bowl installed in a classroom other than the main clinic classroom, unless a limited school of electrology.
- (g) Adequate space per attending student for theory or non-practical classroom training.
- (h) A chalkboard or the equivalent of sufficient size to be seen from the back of the room in which it is used.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1954 ACS 73, Eff. Oct. 11, 1972; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2133 Credit of school hours to apprenticeship training prohibited; credit of apprenticeship training to school training prohibited.

Rule 33. (1) School credit hours shall not be credited to apprenticeship training.

(2) Apprenticeship months of training shall not be credited to school credit hours.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2134 Enrollment.

Rule 34. (1) A school shall report the enrollment of a student and submit the

registration fee to the department within 60 days after the student begins a course of instruction.

(2) A student requesting hours from a previous enrollment shall pass practical and theory examinations on the subject areas previously studied and submit the previous hours to the new school before attending the new school. The school shall notify the department of the number of hours accepted and the number of minimum practical applications verified for any student who has hours from previous training.

(3) A student shall not be granted credit for more hours than are verified by the school of previous enrollment.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 11, Eff. Nov. 17, 1999; 2006 MR 10, Eff. May 26, 2006.

R 338.2135 Temporary records.

Rule 35. (1) A school or apprenticeship practitioner shall keep temporary records of students. The temporary records shall be maintained until the termination of training and shall include all of the following information:

- (a) The daily attendance record.
- (b) A daily record of the minimum practical applications performed.
- (c) Progress records.

(2) A school or apprenticeship practitioner shall keep a monthly record of all student or apprentice enrollment. A copy of each month's report shall be placed on the school bulletin board in the student area. A report shall be submitted to the department before the tenth day of the following month and shall contain all of the following information for each student or apprentice:

- (a) Name in alphabetical order.
- (b) Hours for that month.
- (c) Accumulated hours of credit.
- (d) Enrollment status and program.

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2136 Permanent records.

Rule 36. (1) A school or apprenticeship practitioner shall keep permanent records of students or apprentices. The permanent records shall be maintained for not less than 7 years after the last date of attendance of the student or apprentice.

(2) The records shall be available to the department upon request and shall include all of the following information:

- (a) A summary of the attendance record.
- (b) A summary of the hours of training, including the number of minimal practical applications.
- (c) The date of the enrollment and the last date of attendance.
- (d) The final grades.
- (e) A copy of the contract.

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2137 Student and apprentice supplies.

Rule 37. (1) A school or apprenticeship practitioner shall furnish a copy of the act and these rules to each student or apprentice.

(2) All necessary materials, equipment, and supplies shall be furnished to students or apprentices for work performed on the public. The contract between the school or apprenticeship practitioner and the student or apprentice shall contain a list of any charges for additional materials, supplies, or equipment other than that required to adequately train students or apprentices under the prescribed curriculum.

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2138 Theory instruction.

Rule 38. Theory shall be taught throughout a course as applied to practical training under section 1205(5)(c) of the act.

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2139 Board examination.

Rule 39. (1) To be eligible to take the state board examination, a student or apprentice shall satisfactorily complete the course of study and shall pass a final examination on each subject with a score of not less than 75%.

(2) A school or apprenticeship practitioner shall provide certification, to the department or its designees, that the student or apprentice has completed all requirements before the student or apprentice applies for the state board examination.

(3) An applicant for a cosmetology, electrology, limited or specialty instructor license may be granted a partial waiver of the instructor examination if the applicant currently possess a different cosmetology, electrology, limited, or specialty instructor license. The applicant shall complete the practical portion of the instructor examination in the area of the new instructor license for which he or she applies.

(4) A passing score on an examination, or on a portion of an examination if the examination is given in separate parts, shall be valid for 1 year from the date the examination or portion of the examination was passed, except as provided in subrule (3) of this rule.

History: 1999 MR 10, Eff. Nov. 17, 1999. 2004 MR 13, Eff. July 15, 2004.

R 338.2139a Course designation and credit provisions.

Rule 39a. (1) A school may give elective or advanced courses to a person in a subject in which the person is licensed to practice. Elective or advanced courses shall not be given in conjunction with the training of students enrolled in a curriculum prescribed in these rules.

(2) A student or apprentice may be credited for a maximum of 35 hours spent in training in the cosmetology curriculum outside the school or establishment premises, provided a licensed instructor for a cosmetology school or the approved practitioner for an approved apprentice is present with the student or apprentice. Electrology, skin care, manicuring, and natural hair culturist students or apprentices may be credited with a maximum of 15 hours spent in training in their specialty outside the school or establishment premises.

(3) Lost time in any program may be made up in accordance with section 1205(5)(a) of the act.

(4) A school or apprenticeship practitioner shall report the termination of any student or apprentice to the department in writing.

History: 1999 MR 10, Eff. Nov. 17, 1999; 2006 MR 10, Eff. May 26, 2006.

PART 4. SCHOOL TRAINING PROGRAMS

R 338.2141 Student supervision.

Rule 41. (1) A student shall be supervised by a licensed instructor for all credited time and services.

(2) At least 1 instructor shall be present in the junior student work and at least 1 instructor shall be present in the senior student area to supervise all practical student work.

(3) Limited specialist instructors shall not supervise the training of students in any curriculum other than the instructor's specialty.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999; 2004 MR 13, Eff. July 15, 2004.

R 338.2142 Uniform and name badges required.

Rule 42. (1) All of the following persons shall be required to wear uniforms and name badges by which the person and program are easily identified:

- (a) Students.
- (b) Instructors.
- (c) Electrology instructors.
- (d) Limited specialist instructors.
- (e) Limited instructors.
- (f) Apprentices.

(2) Uniforms shall be kept neat, clean, and sanitary.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2143 Student practice.

Rule 43. (1) A student shall not practice in an establishment before receiving a license.

(2) A student practicing on the public outside of school may be ineligible to take the state board examination.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2144 School examinations.

Rule 44. (1) A school shall give written, practical, and oral examinations on all curriculum subjects throughout the course of instruction.

(2) A school shall administer review and final examinations, including a theory and practical examination, before certification for the state board examination.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; rescinded 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2145 Public notice.

Rule 45. (1) A school shall display a sign designating it as a licensed school at all physical premises for which the school is licensed.

(2) A school shall not operate as an establishment, but it may, for teaching purposes, practice on the public if it advertises that the work is done solely by students. An instructor shall not perform services on the public for compensation in a school.

(3) A school shall display a license, provided by the department, at the school and in any branch facility, which shows the physical address of the main school and the branch.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999; 2006 MR 10, Eff. May 26, 2006.

PART 5. APPRENTICE TRAINING PROGRAMS

R 338.2151 Application for apprenticeship.

Rule 51. (1) A licensee who has had not less than 3 years of experience as a licensed cosmetologist, electrologist, natural hair culturist, esthetician, or manicurist may submit an application to the department to train an apprentice.

(2) The application shall include the following information:

(a) A floor plan of the establishment.

(b) A list of equipment to be used in training the apprentice.

(c) A list of the books that will be used to teach theory.

(d) A copy of the licensee's contract with the apprentice showing the curriculum to be taught and the minimum number of hours per month that the apprentice must attend. The contract shall include written agreements to do all of the following:

(i) Personally train the apprentice.

(ii) Give and correct examinations.

(iii) Render a grade in each subject of the curriculum.

(iv) Submit the apprentice's hours to the department monthly.

(3) An apprentice shall not practice on the public before meeting the requirements of section 1205(5)(c) of the act. An apprentice practicing outside an approved apprenticeship establishment may be ineligible to take the state board examination.

(4) An apprentice shall be in training throughout the period of the program and shall have received an average of not less than 80 hours of instruction per month.

(5) An apprentice's registration permit shall be conspicuously displayed in the establishment.

(6) The apprenticeship practitioner shall provide certification to the department or the department's designee that the apprentice has completed all requirements before applying for the state board examination.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999; 2004 MR 13, Eff. July 15, 2004.

R 338.2153 Apprenticeship program examinations and grades.

Rule 53. (1) A licensee that trains a cosmetology apprentice shall give the apprentice an examination every 6 months.

(2) A licensee that trains an electrology, manicuring, esthetician, or natural hair culturist apprentice shall give the apprentice an examination every 3 months.
 History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999.

PART 6. CURRICULUM

R 338.2161 Cosmetology curriculum.

Rule 61. A school or apprenticeship practitioner shall provide instruction in cosmetology pursuant to the following table:

TABLE 1

Subject	Theory Hours	Practical Hours	Unassigned Hours	Total Hours	Minimum Practical Application
Sanitation/patron protection Laws and rules Personal hygiene Salon management Mechanical and electrical equipment safety	90	40	0	130	585 (Sanitation and patron protection shall be included in all services)
Facials Skin analysis and care Manipulation, massage, electricity removal of hair by the use of wax, tweezers, or depilatories Makeup and eyebrow arch	35	80	0	115	40 (a minimum of 5 services in each category)
Hairdressing Arranging, cutting, dressing, curling, pressing, artificial hair and finger waving, natural hair cultivation	125	400	0	525	300 (a minimum of 20 services in each category)
Scalp and hair treatments	10	15	0	25	30

Hair coloring Temporary Semipermanent Permanent Bleaching and dimensional coloring Color mixing	40	170	0	210	80 (a minimum of 8 services in each category)
Chemical hair restructuring Permanent waving Straightening and relaxing	40	180	0	220	80 (a minimum of 15 services each category)
Applied chemistry/ occupational safety and health administration as related to skin, hair, nails, and scalp	20	10	0	30	5
Applied anatomy, physiology, and histology of the human head, hands, nails, skin and hair	45	0	0	45	0
Manicuring/ pedicuring	15	55	0	70	35
Artificial nails	5	15	0	20	5
Unassigned hours	0	0	110	110	0
Totals	425	965	110	1500	1160

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2161a Crossover hours; manicuring.

Rule 61a. A student, before enrolling in a cosmetology curriculum in a licensed school of cosmetology, may be granted a maximum of 70 hours toward completion of the curriculum if the student provides proof to the school of successful completion of a curriculum in manicuring in a licensed school of cosmetology within the previous 3 years. A student, before enrolling in a cosmetology apprenticeship program, may be granted a maximum of 70 hours toward completion of the curriculum if the student

provides proof to the practitioner of successful completion of an apprenticeship program approved by the department in manicuring with the previous 3 years.

History: 2004 MR 13, Eff. July 15, 2004.

R 338.2161b Crossover hours; esthetics.

Rule 61b. A student, before enrolling in a cosmetology curriculum in a licensed school of cosmetology, may be granted a maximum of 115 hours toward completion of the curriculum if the student provides a proof to the school of successful completion of a curriculum in esthetics in a licensed school of cosmetology within the previous 3 years. A student, before enrolling in a cosmetology apprenticeship program, may be granted a maximum of 115 hours toward completion of the curriculum if the student provides proof to the practitioner of successful completion of an apprenticeship program approved by the department in esthetics with the 3 years.

History: 2004 MR 13, July 15, 2004.

R 338.2162 Manicuring curriculum.

Rule 62. A school or apprenticeship practitioner shall provide instruction in manicuring pursuant to the following table:

TABLE 2

Subject	Theory Hours	Practical Hours	Unassigned Hours	Total Hours	Minimum Practical Application
Sanitation/patron Protection Laws and rules Personal hygiene Salon management Mechanical and electrical equipment safety	50	50	0	100	100 (Sanitation and patron protection shall be included in all services)
Anatomy and disorders	25	0	0	25	0
Artistic principles	10	0	0	10	0
Manicuring/ pedicuring techniques	20	50	0	70	40
Chemistry/ occupational safety and health administration	15	0	0	15	0

Artificial nails/extensions/repairs	25	105	0	130	50
Unassigned hours	0	0	50	50	0
Totals	145	205	50	400	190

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2162a Crossover hours.

Rule 62a. A student, before enrolling in a manicuring curriculum in a licensed school of cosmetology, may be granted a maximum of 70 hours toward completion of the curriculum if the student provides proof to the school of successful completion of a curriculum in cosmetology at a licensed school of cosmetology within the previous 3 years. A student, before enrolling in a manicuring apprenticeship program, may be granted a maximum of 70 hours toward completion of the curriculum if the student provides proof to the practitioner of successful completion of an apprenticeship program approved by the department in cosmetology within the previous 3 years.

History: 2004 MR 13, Eff. July 15, 2004.

R 338.2163 Electrology curriculum.

Rule 63. An electrology school or apprenticeship practitioner shall provide instruction in electrology pursuant to the following table:

TABLE 3

Subject	Theory Hours	Practical Hours	Unassigned Hours	Total Hours	Minimum Practical Applications
Sanitation/patron protection Laws and rules Personal hygiene Salon management	40	10	0	50	160 (Sanitation and patron protection shall be included in all services)
Applied anatomy, physiology, and histology	25	0	0	25	0

Applied electrolysis Mechanical and electrical equipment safety Techniques	25	250	0	275	150
Unassigned hours	0	0	50	50	0
Totals	90	260	50	400	310

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1954 ACS 73, Eff. Oct. 11, 1972; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2163a Esthetics curriculum.

Rule 63a. (1) A school or apprenticeship practitioner shall provide instruction in skin care service pursuant to the following table:

TABLE 4

Subject	Theory Hours	Practical Hours	Unassigned Hours	Total Hours	Minimum Practical Applications
Sanitation/patron protection Laws and rules Personal hygiene Salon management	25	25	0	50	90 (sanitation and patron protection shall be included in all services)
Mechanical and electrical equipment safety	25	25	0	50	15
Anatomy and disorders	40	0	0	40	0
Artistic principles/makeup	20	20	0	40	0
Facial/skin care techniques	20	125	0	145	50
Chemistry/occupational Safety and health administration	15	0	0	15	0

Temporary removal of hair	5	5	0	10	5
Unassigned hours	0	0	50	50	0
Totals	150	200	50	400	160

(2) A student, before enrolling in an esthetics curriculum in a licensed school of cosmetology, may be granted a maximum of 115 hours toward completion of the curriculum if the student provides proof to the school of successful completion of a curriculum in cosmetology at a licensed school of cosmetology within the previous 3 years. A student before enrolling in an esthetics apprenticeship program, may be granted a maximum of 115 hours toward completion of the curriculum if the student provides proof to the practitioner of successful completion of an apprenticeship program approved by the department in cosmetology with the previous 3 years.

History: 1999 MR 10, Eff. Nov. 17, 1999; 2004 MR 13, Eff. July 15, 2004.

R 338.2163b Natural hair cultivation curriculum.

Rule 63b. A school or apprenticeship practitioner may provide instruction in natural hair cultivation pursuant to the following table:

TABLE 5

Subject	Theory Hours	Practical Hours	Unassigned Hours	Total Hours	Minimum Practical Applications
Sanitation/patron protection Laws and rules Personal hygiene Salon management	25	25	0	50	50 (Sanitation and patron protection shall be included in all services)
Anatomy and disorders	25	0	0	25	0
Artistic principles	30	0	0	30	0
Braiding techniques/extensions	40	215	0	255	40
Occupational safety and health administration	5	0	0	5	0
Unassigned hours	0	0	35	35	0
Totals	125	240	35	400	90

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2163c. Cosmetology instructor curriculum.

Rule 63c. (1) In training a cosmetology instructor, a school shall give instruction pursuant to the following table:

TABLE 6

Subject	Theory Hours	Practical Hours	Total Hours	Minimum Practical Applications
Orientation and review of the cosmetology curriculum	25	50	75	20
Introduction to teaching	30	0	30	0
Course outlining and development Lesson planning Teaching techniques Teaching aids Developing, administering, and grading examinations	80	85	165	20 (a minimum of 5 services in each category)
Laws and rules Record keeping School administration	15	10	25	70
Teaching Assisting in the clinic and theory classrooms	0	75	75	15
Practice teaching in the clinic and theory classrooms	0	130	130	25
Totals	150	350	500	150

(2) A student, before enrolling in a cosmetology instructor curriculum, may be granted a maximum of 300 hours toward completion of the curriculum if the student provides proof to the school of both of the following:

- (a) Successful completion of a curriculum in any limited specialist instructor curriculum.
- (b) Possession of a current limited specialist instructor license.

History: 1999 MR 10, Eff. Nov. 17, 1999; 2004 MR 13, Eff. July 15, 2004.

R 388.2166 Electrology instructor curriculum.

Rule 66. In training an electrology instructor, a school shall give instruction pursuant to the following table:

TABLE 7

Subject	Theory Hours	Practical Hours	Total Hours	Minimum Practical Applications
Orientation and review of the curriculum	10	15	25	10
Introduction to teaching	30	0	30	0
Course outlining and development Lesson planning Teaching techniques Teaching aids Developing, administering, and grading examinations	80	85	165	20 (a minimum of 5 services in each category)
Laws and rules Record keeping School administration	15	10	25	40
Teaching Assisting in the clinic and theory classrooms Practice teaching in the clinic and theory classrooms	0	55	55	15
Totals	135	165	300	85

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2167 Limited specialist manicuring instructor curriculum.

Rule 67. In training a limited specialist manicuring instructor, a school shall give instruction pursuant to the following table:

TABLE 8

Subject	Theory Hours	Practical Hours	Total Hours	Minimum Practical Applications
Orientation and review of the curriculum	10	15	25	10
Introduction to teaching	30	0	30	0
Course outlining and development Lesson planning Teaching techniques Teaching aids Developing, administering, and grading examinations	80	85	165	20 (a minimum of 5 services in each category)
Laws and rules Record keeping School administration	15	10	25	40
Teaching Assisting in the clinic and theory classrooms Practice teaching in the clinic and theory classrooms	0	55	55	15
Totals	135	165	300	85

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1999 MR 10 Eff. Nov. 17, 1999.

R. 338.2168a Limited specialist skin care instructor curriculum.

Rule 68a. In training a limited specialist skin care instructor, a school shall give instruction pursuant to the following table:

TABLE 9

Subject	Theory Hours	Practical Hours	Total Hours	Minimum Practical Applications
Orientation and review of the curriculum	10	15	25	10
Introduction to teaching	30	0	30	0
Course outlining and development Lesson planning Teaching techniques Teaching aids Developing, administering, and grading examinations	80	85	165	20 (a minimum of 5 services in each category)
Laws and rules Record keeping School administration	15	10	25	40
Teaching Assisting in the clinic and theory classrooms Practice teaching in the clinic and theory classrooms	0	55	55	15
Totals	135	165	300	85

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2169 Limited specialist natural hair culturist instructor curriculum.

Rule 69. In training a limited specialist natural hair culturist instructor, a school may give instruction pursuant to the following table:

TABLE 10

Subject	Theory Hours	Practical Hours	Total Hours	Minimum Practical Applications
Orientation and review of the curriculum	10	15	25	10 (Sanitation and patron protection shall be included in all services)
Introduction to teaching	30	0	30	0
Course outlining and development Lesson planning Teaching techniques Teaching aids Developing, administering, and grading examinations	80	85	165	20 (a minimum of 5 services in each category)
Laws and rules Record keeping School administration	15	10	25	40
Teaching Assisting in the clinic and theory classrooms Practice teaching in the clinic and theory classrooms	0	55	55	15
Totals	135	165	300	85

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1999 MR 10, Eff. Nov. 17, 1999.

PART 7. HEALTH AND SAFETY

R 338.2171 Establishment and school premises; compliance with codes, rules, and regulations required.

Rule 71. (1) An owner of an establishment or school shall ensure that the establishment or school have all of the following:

- (a) An adequate supply of running hot and cold water.
- (b) Adequate electrical outlets and wiring to supply all electrical equipment used.

- (c) Adequate lighting and ventilation in all rooms.
 - (d) Floors, walls, and ceilings, which shall be maintained in good condition.
 - (e) A source of drinking water in an area other than that used to mix chemicals.
 - (f) Covered waste containers that are large enough to contain 1 day's accumulation of waste materials.
- (2) An establishment or school shall comply with all of the following:
- (a) Local building codes.
 - (b) Local and state health rules.
 - (c) Local fire prevention and fire safety rules.
 - (d) Applicable industrial, occupational, safety, and health regulations.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2173 Practice areas; chairs and work stations; sinks, tubs, spas, showers, baths, and shampoo bowls.

Rule 73. (1) The licensee or owner of an establishment or school shall keep the establishment or school clean, safe, and sanitary at all times, disposing of temporary waste materials, including, but not limited to, hair clippings, paper, and tissues, after servicing a patron.

(2) The licensee or owner of an establishment or school shall keep chairs and work station surfaces clean and sanitary at all times, covering the headrest of a patron chair and the working surface of any table or chair with fresh, clean paper, linen, or cloth before the chair or table is used.

(3) The licensee or owner of an establishment or school shall keep sinks, tubs, spas, showers, baths, and shampoo bowls clean and sanitary at all times and shall thoroughly cleanse and sanitize sinks, tubs, spas, showers, baths, and shampoo bowls immediately after each use.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2176 Equipment, tools, implements, and supplies; dryer hoods; removable parts of certain equipment; electrical equipment.

Rule 76. (1) The licensee or owner of an establishment or school shall keep all equipment, tools, implements, and supplies, including all of the following, clean and sanitary at all times, and if the equipment, tools, implements, or supplies are intended for use on more than 1 patron, then the licensee or owner shall sanitize the equipment, tools, implements, or supplies pursuant to rules promulgated by the department:

- (a) Combs.
- (b) Brushes.
- (c) Rollers.
- (d) Rods.
- (e) Clips.
- (f) Hair nets.
- (g) Razors.
- (h) Shears.
- (i) Hair pins.
- (j) Hair coverings.
- (k) Nippers.
- (l) Pushers.
- (m) Extractors.
- (n) Electrodes.

(2) The licensee or owner of an establishment or school shall ensure all of the following:

- (a) Dryer hoods are clean and sanitary.
- (b) Removable parts of equipment designed to touch the skin, hair, or nails shall be removed and sanitized according to rules promulgated by the department.
- (c) The main body of electrical equipment is clean and sanitary.
- (d) Electrical equipment and apparatus is used and maintained in accordance with the manufacturer's recommendations.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2178 Creams and other semisolid substances; fluids and powders; reactive chemical supplies.

Rule 78. The licensee or owner of an establishment or school shall ensure all of the following:

- (a) Creams and other semisolid substances shall be removed from containers with clean sanitary spatulas and shall be covered when not in use.
- (b) Fluids and powders used on a patron are dispensed from a bottle or shaker-type dispenser.
- (c) Reactive chemical supplies are used in accordance with the manufacturer's recommendations.

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2179 Capes and hair cloths; towels and linens.

Rule 79. (1) The licensee shall place a clean towel, neck strip, or other protection around the patron's neck when using a cape or hair cloth on a patron, to prevent the cape or hair cloth from touching the skin.

(2) The licensee or owner of an establishment or school shall ensure all of the following:

- (A) a towel or linen is laundered after being used on a patron.
- (B) clean towels and linens are stored in a closed cabinet or drawer.
- (C) soiled towels and linens are stored in a covered container until laundered.

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2179a Sanitizing procedures generally.

Rule 79a. (1) The licensee or owner of an establishment or school shall sanitize equipment, tools, implements and supplies that will not be damaged by immersion in water using all of the following steps:

- (a) Thoroughly washing in a detergent solution.
- (b) Rinsing in clean water.
- (c) Completely immersing in a wet sanitizer for the period of time recommended by the manufacturer of the disinfectant used.
- (d) Rinsing in clean water and allowing to air dry.

(2) The licensee or owner of an establishment or school shall sanitize other equipment, tools, implements, and supplies by wiping with a disinfectant solution.

(3) The licensee or owner of an establishment or school shall sanitize sharp-edged tools, including the blades of electrical clippers, by wiping with a 70% alcohol solution after each use.

(4) The licensee or owner of an establishment or school shall ensure that, after sanitization, the equipment, tools, implements, and supplies are put in a dry sanitizer, closed cabinet or drawer, or covered container.

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2179b Personal hygiene.

Rule 79b. A licensee shall do all of the following:

- (a) Keep attire clean and sanitary when services are being rendered.
- (b) Wash his or her hands immediately before and after serving each patron.
- (c) Apply antiseptic after washing his or her hands when manicuring or electrology services are to be performed.
- (d) Request that a patron for manicure services wash his or her hands before beginning the service.

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2179c Manicuring implements and work tables.

Rule 79c. (1) A licensee or owner shall ensure all of the following:

- (a) Manicuring implements are kept in a jar-type wet sanitizer.
- (b) Manicuring tables are clean and sanitary at all times and tables are wiped with a disinfectant solution before each use.
- (c) Porous materials, that cannot be sanitized, including, but not limited to, abrasive boards/blocks/buffers, orangewood sticks, or pumice stones, are used on only 1 patron.
- (d) Vaporous chemical waste materials are disposed of by placing the materials in an airtight, covered waste container.

(2) The owner of an establishment or school shall ensure that there is adequate ventilation or filtration to prevent the concentration of chemical vapors and strong odors.

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2179d Electrology sanitation and sterilization procedures.

Rule 79d. (1) For electrology services, a licensee shall use only the following sterile equipment:

- (a) Tweezers.
- (b) Scissors.
- (c) Needles.
- (d) Needle holder tips.
- (e) Probes.
- (f) Removable needle caps.

(2) After using equipment on a patron, a licensee shall sanitize the equipment specified in subrule (1) of this rule utilizing all of the following steps:

- (a) Soaking in liquid, protein-dissolving enzyme detergent for the period of time recommended by the manufacturer of the enzyme detergent used or thoroughly soaking in a soap and water solution for not less than 20 minutes.
- (b) Rinsing in clean water and drying with sanitary paper towels.
- (c) Placing in an ultrasonic cleaner for not less than 5 minutes or wiping with 70% alcohol.
- (d) Rerinsing in clean water and drying with sanitary paper towels.

(3) After equipment is sanitized, a student, apprentice, or licensee shall sterilize the items specified in subrule (1) of this rule by placing the items in an autoclave or dry

heat sterilizer for the period of time recommended by the manufacturer of the autoclave or dry heat sterilizer.

(4) After sterilizing all nonprepackaged equipment, a licensee shall wrap or package the tools, implements, and supplies.

(5) A licensee shall keep all sterilized equipment in a dry sanitizer, closed cabinet or drawer, or covered container.

(6) A licensee shall properly discard disposable needles after being used on a patron.

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2179e Blood spill procedures.

Rule 79e. (1) A licensee or owner shall comply with all of the following provisions if a blood spill occurs:

(a) Temporarily suspend the service being performed.

(b) Provide the bleeding person with adequate first aid supplies so that the bleeding person can stop the bleeding and cover the wound.

(c) Sterilize any equipment, tool, or implement that comes into contact with blood.

(d) Immediately discard porous materials, including abrasive boards/blocks/buffers, orangewood sticks, and pumice stones, if involved in a blood spill.

(e) Immediately clean floors and other durable surfaces soiled with blood with a sodium hypochlorite solution such as household bleach or other approved hospital grade disinfectant.

(f) Dispose of blood spill waste in clearly labeled containers or bags.

(2) A licensee shall not perform services until all bleeding has ceased and the wound has been covered. A licensee shall keep an open sore, cut, burn, or other wound covered when services are being performed.

History: 1999 MR 10, Eff. Nov. 17, 1999; 2004 MR 13, Eff. July 15, 2004.

R 338.2179f Open flame fusing.

Rule 79f. If a cosmetologist or natural hair culturist fuses hair using an open flame, then the owner or practitioner of the establishment or school shall ensure that a minimum of 1 abc-type fire extinguisher is located not more than 20 feet from the work station.

History: 1999 MR 10, Eff. Nov. 17, 1999.

R 338.2179g Student, apprentice and licensee; prohibitions.

Rule 79g. (1) A student, apprentice, or licensee shall not do any of the following, and a licensee shall not allow another to do any of the following:

(a) Use or possess methyl methacrylate monomers.

(b) Abrade, roughen, buff, or file the nail plate to the extent that the nail bed is exposed or that deeply filed trenches or ridges in the nail plate are created.

(c) Use a nail white pencil.

(d) Use lump alum or a styptic pencil to stop bleeding.

(e) Carry any equipment, tools, implements, or supplies in the pocket of a uniform.

(f) Use the same powder puffs, makeup brushes, or cosmetic pencils on more than 1 patron.

(g) Use an ultraviolet ray electrical sanitizer, unless the items placed in the sanitizer have been sanitized according to the rules promulgated by the department.

(h) Use or possess a blade in the practice of manicuring or pedicuring.

(i) Provide services that require a license without posting a current, unexpired, and valid license or permit for that person in the establishment where cosmetology services are being rendered.

(j) Fail to provide proof of identity with a picture I.D. or alternative acceptable to the department at the time of an inspection, if requested by the department representative performing an inspection of the licensed establishment.

(2) An esthetician shall not use razors, scissors, or clippers on the face or head of a patron.

(3) A natural hair cultivation student, apprentice, or practitioner shall not use reactive chemicals or perform any service included in the practice of cosmetology as defined in section 1201 of the act.

History: 1999 MR 10, Eff. Nov. 17, 1999; 2004 MR 13, Eff. July 15, 2004.

R 338.2179h Advertising; use of false, confusing, or misleading statements prohibited.

Rule 79h. A licensee or owner shall not use false, confusing, or misleading statements in advertising.

History: 1999 MR 10, Eff. Nov. 17, 1999.

STATE LICENSE FEE ACT (Excerpts)
Act 152 of 1979

AN ACT to provide for the establishment and collection of fees for the investigation, regulation, and enforcement of certain occupations and professions, and for certain agencies and businesses; to create certain funds for certain purposes; and to prescribe certain powers and duties of certain state agencies and departments.

History: 1979, Act 152, Eff. Jan. 1, 1980; --Am. 1988, Act 461, Eff. Step. 1, 1989; --Am. 1990, Act 268, Imd. Eff. Oct. 17, 1990;--Am. 2006, Act 645, Imd. Eff. Jan. 5, 2007.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commission from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

338.2201 Short title.

Sec. 1. This act shall be known and may be cited as the "state license fee act".

History: 1979, Act 152, Eff. Jan. 1, 1980.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commission from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

338.2202 Definitions.

Sec. 2. As used in this act:

(a) "Department" means the department of consumer and industry services.

(b) "Occupational code" means 1980 PA 299, MCL 339.101 to 339.2721.

History: Add. 1988, Act 461, Eff. Sept. 1, 1989; - Am. 1999, Act 171 Imd. Eff. Nov. 10, 1999.

338.2203 Fees; use; disposition.

Sec. 3. (1) Except as otherwise provided for in section 37, the fees prescribed by this act shall be used only to offset the cost of operating the department.

(2) Except as otherwise provided in sections 37, 38, and 51, the fees collected pursuant to this act shall be credited to the general fund of the state.

History: 1979, Act 152, Eff. Jan. 1, 1980;--Am. 1988, Act 461, Eff. Sept. 1, 1989;--Am. 1990, Act 268, Imd. Eff. Oct. 17, 1990;--Am. 1993, Act 139, Imd. Eff. Aug. 2, 1993; --Am. 2006, Act 645, Imd. Eff. January 5, 2007;--Am. 2007, Act 77, Imd. Eff. Sept. 30, 2007.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commission from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

MCL 338.2203, which was purported to be amended by 2007 PA 77, was not amended and should not have appeared in the title as an amended section.

338.2205 Refund of fees; rules.

Sec. 5. (1) Except under rules promulgated by the department pursuant to this section or as provided under section 411 of the occupational code, a fee collected by the department, when paid pursuant to this act, shall not be refunded.

(2) The department shall promulgate rules concerning the refund of fees, pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, MCL 24.201 to 24.328.

History: 1979, Act 152, Eff. Jan. 1, 1980;--Am. 1988, Act 461, Eff. Sept. 1, 1989; -- Am. 2004, Act 263, Imd. Eff. July 23, 2004.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commission from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws. Administrative rules; R 338.941 et seq. of the Michigan Administrative Code.

338.2206 Late renewal fee.

Sec. 6. The department shall charge a \$20.00 late renewal fee if a person fails to renew a license or registration on or before the expiration date prescribed by the department by rule as authorized under the occupational code.

History: Add. 1988, Act 461, Eff. Sept. 1, 1989; Am. 1999, Act 171, Imd. Eff. Nov. 10, 1999.

338.2207 Duplicate license or registration; signed statement; fee.

Sec. 7. The department may charge a fee for the issuance of a duplicate license or registration. The duplicate shall not be issued unless the person applying for the duplicate signs a statement that the original document has been lost, stolen, or destroyed. The fee for the duplicate shall be \$10.00.

History: 1979, Act 152, Eff. Jan. 1, 1980;--Am. 1988, Act 461, Eff. Sept. 1, 1989.

338.2208 Written verification that person not licensed or registered; fee; charge for specific detailed information.

Sec. 8. (1) The department may charge a \$5.00 fee for providing written verification that a person is or is not licensed or registered at the time of the request for verification.

(2) If the person requesting written verification seeks specific detailed information beyond the information described in subsection (1), the charge for verification shall be \$15.00.

History: Add. 1988, Act 461, Eff. Sept. 1, 1989.

338.2209 Publication and distribution of public act and rules; fee.

Sec. 9. The department may charge a fee for the publication and distribution of the public act from which a board's authority is derived and the rules promulgated under that act. The fee shall be \$2.00 or the cost of the publication, whichever is greater.

History: 1979, Act 152, Eff. Jan. 1, 1980;--Am. 1988, Act 461, Eff. Sept. 1, 1989.

338.2210 Correcting records and issuing new document; fee.

Sec. 10. The department may charge a \$10.00 fee for correcting its records and issuing a new document when a person notifies the department of a change of name, address, or employer. If the change does not require the issuance of a new document, no charge shall be made for correcting the department's records.

History: Add. 1988, Act 461, Eff. Sept. 1, 1989.

338.2217 Barber, student barber, student instructor, barber instructor, person operating barbershop or barber college, or person seeking permit for demonstration or demonstrator's permit; fees.

Sec. 17. (1) Fees for a person licensed or seeking licensure as a barber, student barber, student instructor, or barber instructor for a person licensed or seeking licensure to operate a barbershop or barber college, or for a person seeking a permit for a demonstration or a demonstrator's permit under article 11 of the occupational code, MCL 330.1101 to 339.1118, are as follows:

- (a) Application processing fees:
 - (i) Student barber as follows:
 - (A) If paid through September 30, 2012 \$15.00
 - (B) Beginning October 1, 2003 through September 30, 2012 20.00
 - (ii) Barber as follows:
 - (A) If paid through September 30, 2012 15.00
 - (B) Beginning October 1, 2003 through September 30, 2012 20.00
 - (iii) Student instructor as follows:
 - (A) If paid through September 30, 2012 15.00
 - (B) Beginning October 1, 2003 through September 30, 2012 20.00
 - (iv) Barber instructor as follows:
 - (A) If paid through September 30, 2012 15.00
 - (B) Beginning October 1, 2003 through September 30, 2012 20.00
 - (v) Barbershop as follows:
 - (A) If paid through September 30, 2012 40.00
 - (B) Beginning October 1, 2003 through September 30, 2012 50.00
 - (vi) Barber college as follows:
 - (A) If paid through September 30, 2012 50.00
 - (B) Beginning October 1, 2003 through September 30, 2012 75.00
- (b) Examination fees:
 - (i) Complete barber examination 75.00
 - (A) Written portion only 35.00
 - (B) Practical portion only 45.00
 - (ii) Complete instructor examination 75.00
 - (A) Written portion only 35.00
 - (B) Practical portion only 45.00
- (c) Examination review 20.00
- (d) License fees, per year:
 - (i) Student barber as follows:
 - (A) If paid through September 30, 2012 15.00
 - (B) Beginning October 1, 2003 through September 30, 2012 30.00
 - (ii) Barber as follows:
 - (A) If paid through September 30, 2012 15.00
 - (B) Beginning October 1, 2003 through September 30, 2012 30.00
 - (iii) Student instructor as follows:
 - (A) If paid through September 30, 2012 15.00
 - (B) Beginning October 1, 2003 through September 30, 2012 30.00
 - (iv) Barber instructor as follows:
 - (A) If paid through September 30, 2012 25.00
 - (B) Beginning October 1, 2003 through September 30, 2012 40.00

- (v) Barbershop as follows:
 - (A) If paid through September 30, 2012 30.00
 - (B) Beginning October 1, 2003 through September 30, 2012..... 40.00
- (vi) Barber college 150.00
- (e) Demonstrator's temporary permit as follows:
 - (i) If paid through September 30, 2012 10.00
 - (ii) Beginning October 1, 2003 through September 30, 2012 15.00
- (f) Demonstration temporary permit as follows:
 - (i) If paid through September 30, 2012 10.00
 - (ii) Beginning October 1, 2003 through September 30, 2012 15.00

History: 1979, Act 152, Eff. Jan. 1, 1980;--Am. 1984, Act 24, Imd. Eff. Mar. 12, 1984;--Am. 1988, Act 461, Eff. Sept. 1, 1989;--Am. 2003, Act 87, Eff. July 23, 2003; Am. 2007, Act 77, Imd. Eff. Sept. 30, 2007.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commission from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 3328.3501 of the Michigan Compiled Laws.

338.2225 Cosmetologist, manicurist, natural hair culturist, esthetician, electrologist, instructor, operator of cosmetology establishment or school of cosmetology, person seeking student registration or transfer, or person conducting apprenticeship program; fees.

Sec. 25. Fees for a person licensed or seeking licensure as a cosmetologist, manicurist, natural hair culturist, esthetician, electrologist, or instructor or a person licensed or seeking licensure to operate a cosmetology establishment or school of cosmetology, or seeking a student registration or transfer, or seeking a permit to conduct an apprenticeship program under article 12 of the occupational code, MCL 339.1201 to 339.1218, are as follows:

- (a) Application processing fees:
 - (i) Apprenticeship program \$25.00
 - (ii) Cosmetologist, manicurist, natural hair culturist, esthetician, electrologist, or instructor as follows:
 - (A) If paid after September 30, 2012 10.00
 - (B) Beginning October 1, 2003 through September 30, 2012..... 15.00
 - (iii) Cosmetology establishment..... 25.00
 - (iv) School of cosmetology..... 100.00
- (b) Examination fees:
 - (i) Complete examination for cosmetologist, manicurist, natural hair culturist, esthetician, electrologist, or instructor 25.00
 - (ii) Written portion only..... 15.00
 - (iii) Practical portion only..... 15.00
 - (iv) Examination review..... 20.00
- (c) License fees, per year:
 - (i) Cosmetologist, manicurist, natural hair culturist, esthetician electrologist, or instructor as follows:
 - (A) If paid through September 30, 2012 12.00
 - (B) Beginning October 1, 2003 through September 30, 2012..... 24.00
 - (ii) Cosmetology establishment..... 25.00
 - (iii) School of cosmetology..... 100.00
- (d) Student registration or transfer fee as follows:

OPEN MEETINGS ACT, PA 267 of 1976

- (i) If paid through September 30, 2012 5.00
 - (ii) Beginning October 1, 2003 through September 30, 2012..... 15.00
- History: 1979, Act 152, Eff. Jan. 1, 1980; -- Am. 1980, Act 295, Eff. Jan. 1, 1981; -- Am. 1988, Act 461, Eff. Sept. 1, 1989; Am. 1997, Act 98, Eff. Aug. 7, 1997;--Am. 2003, Act 87, Eff. July 23, 2003; --Am. 2007, Act 77, Imd. Eff. Sept. 30, 2007.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commission from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

**OCCUPATIONAL LICENSE FOR FORMER OFFENDERS
Act 381 of 1974**

AN ACT to encourage and contribute to the rehabilitation of former offenders and to assist them in the assumption of the responsibilities of citizenship; to prescribe the use of the term "good moral character" or similar term as a requirement for an occupational or professional license or when used as a requirement to establish or operate an organization or facility regulated by this state; and to provide administrative and judicial procedures to contest licensing board or agency rulings thereon.

The People of the State of Michigan enact:

338.41 "Good moral character" and "principal department" defined.

Sec. 1. (1) The phrase "good moral character", or words of similar import, when used as a requirement for an occupational or professional license or when used as a requirement to establish or operate an organization or facility regulated by this state in the Michigan Compiled Laws or administrative rules promulgated under those laws shall be construed to mean the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.

(2) As used in this act, "principal department" means the department which has jurisdiction over the board or agency issuing the license.

History: 1974, Act 381, Eff. Apr. 1, 1975;--Am. 1978, Act 294, Imd. Eff. July 10, 1978.

338.42 Judgment of guilt in criminal prosecution or judgment in civil action as evidence in determining good moral character; notice; rebuttal.

Sec. 2. A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used, in and of itself, by a licensing board or agency as proof of a person's lack of good moral character. It may be used as evidence in the determination, and when so used the person shall be notified and shall be permitted to rebut the evidence by showing that at the current time he or she has the ability to, and is likely to, serve the public in a fair, honest, and open manner, that he or she is rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which he or she seeks to be licensed.

History: 1974, Act 381, Eff. Apr. 1, 1975;--Am. 1978, Act 294, Imd. Eff. July 10, 1978.

338.43 Using, examining, or requesting certain criminal records prohibited; prerequisites for furnishing criminal records; rules.

Sec. 3. (1) The following criminal records shall not be used, examined, or requested by a licensing board or agency in a determination of good moral character when used as a requirement to establish or operate an organization or facility regulated by this state, or pursuant to occupational or professional licensure:

- (a) Records of an arrest not followed by a conviction.
- (b) Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction.
- (c) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest, and open manner.
- (d) Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

(2) A criminal record shall not be furnished to a licensing board or agency except by the principal department, and shall be furnished only after the director of the principal department or a person designated by the director has determined that the information to be provided to the board or agency meets the criteria set forth in this section.

(3) The director or a person designated by the director of the principal department shall promulgate rules for each licensing board or agency under that department's jurisdiction which prescribe the offenses or categories of offenses which the department considers indicate a person is not likely to serve the public as a licensee in a fair, honest, and open manner. Each licensing board or agency may make recommendations to the director regarding the rules to be promulgated. The rules shall be consistent with this act and promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. Prior to the promulgation of the rules pertaining to a board or agency, all felonies shall be considered by the board or agency to be relevant to the ability or likelihood the person will serve the public in a fair, honest and open manner.

History: 1974, Act 381, Eff. Apr. 1, 1975;--Am. 1978, Act 294, Imd. Eff. July 10, 1978.

338.44 Use of public records or other sources to determine person's fitness.

Sec. 4. This act shall not bar the use by a licensing board or agency in its determination of a person's fitness, of any other public record, not related to arrest or prosecution, or of any other source of unbiased and accurate information.

History: 1974, Act 381, Eff. Apr. 1, 1975;--Am. 1978, Act 294, Imd. Eff. July 10, 1978.

338.45 Finding person unqualified; statement; rehearing.

Sec. 5. When a person is found to be unqualified for a license because of a lack of good moral character, or similar criteria, the person shall be furnished by the board or agency with a statement to this effect. The statement shall contain a complete record of the evidence upon which the determination was based. The person shall be entitled, as of right, to a rehearing on the issue before the board if he or she has relevant evidence not previously considered, regarding his or her qualifications.

History: 1974, Act 381, Eff. Apr. 1, 1975;--Am. 1978, Act 294, Imd. Eff. July 10, 1978.

338.46 Judicial review; statement; order.

Sec. 6. A person, aggrieved by a licensing agency or board determination regarding the person's possession of good moral character, if unsatisfied by his or her administrative appeal as provided in section 5, may bring an action in circuit court for a review of the record. If, in the opinion of the circuit court, the record does not disclose a lack of good moral character, as defined in this act, the court shall so state and shall order the board to issue the license, when all other licensing requirements are complied with.

History: 1974, Act 381, Eff. Apr. 1, 1975;--Am. 1978, Act 294, Imd. Eff. July 10, 1978.

338.47 Power to discipline licensees not affected.

Sec. 7. This act does not affect the power of a licensing agency to discipline licensees under its jurisdiction for prohibited acts of professional misconduct or dishonesty.

History: 1974, Act 381, Eff. Apr. 1, 1975.

OPEN MEETINGS ACT
Act 267 of 1976

AN ACT to require certain meetings of certain public bodies to be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; to provide penalties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

15.261 Short title; effect of act on certain charter provisions, ordinances, or resolutions.

Sec. 1. (1) This act shall be known and may be cited as the "Open meetings act".

(2) This act shall supersede all local charter provisions, ordinances, or resolutions which relate to requirements for meetings of local public bodies to be open to the public.

(3) After the effective date of this act, nothing in this act shall prohibit a public body from adopting an ordinance, resolution, rule, or charter provision which would require a greater degree of openness relative to meetings of public bodies than the standards provided for in this act.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.262 Definitions.

Sec. 2. As used in this act:

(a) "Public body" means any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function, or a lessee of such a body performing an essential public purpose and function pursuant to the lease agreement; or the board of nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 Pa 279, MCL 117.4o.

(b) "Meeting" means the convening of a public body at which a quorum is present for the purpose of deliberating toward or rendering a decision on a public policy, or any meeting of the board of a nonprofit corporation formed by a city under section 4o of the home rule city act, 1909 PA 279, MCL 117.40.

(c) "Closed session" means a meeting or part of a meeting of a public body that is closed to the public.

(d) "Decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy.

History: 1976, Act 267, Eff. Mar. 31, 1977; Am. 2001, Act 38, Imd. Eff. July 11, 2001.

15.263 Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; tape-recording, videotaping, broadcasting, and telecasting proceedings; rules and regulations; exclusion from meeting; exemptions.

Sec. 3. (1) All meetings of a public body shall be open to the public and shall be held in a place available to the general public. All persons shall be permitted to attend any

meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right shall not be dependent upon the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.

(2) All decisions of a public body shall be made at a meeting open to the public.

(3) All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public except as provided in this section and sections 7 and 8.

(4) A person shall not be required as a condition of attendance at a meeting of a public body to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance.

(5) A person shall be permitted to address a meeting of a public body under rules established and recorded by the public body. The legislature or a house of the legislature may provide by rule that the right to address may be limited to prescribed times at hearings and committee meetings only.

(6) A person shall not be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.

(7) This act does not apply to the following public bodies only when deliberating the merits of a case:

(a) The worker's compensation appeal board created under the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws.

(b) The employment security board of review created under the Michigan employment security act, Act No. 1 of the Public Acts of the Extra Session of 1936, as amended, being sections 421.1 to 421.73 of the Michigan Compiled Laws.

(c) The state tenure commission created under Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, being sections 38.71 to 38.191 of the Michigan Compiled Laws, when acting as a board of review from the decision of a controlling board.

(d) An arbitrator or arbitration panel appointed by the employment relations commission under the authority given the commission by Act No. 176 of the Public Acts of 1939, as amended, being sections 423.1 to 423.30 of the Michigan Compiled Laws.

(e) An arbitration panel selected under chapter 50A of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.5040 to 600.5065 of the Michigan Compiled Laws.

(f) The Michigan public service commission created under Act No. 3 of the Public Acts of 1939, being sections 460.1 to 460.8 of the Michigan Compiled Laws.

(8) This act does not apply to an association of insurers created under the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, or other association or facility formed under Act No. 218 of the Public Acts of 1956 as a nonprofit organization of insurer members.

(9) This act does not apply to a committee of a public body which adopts a nonpolicymaking resolution of tribute or memorial which resolution is not adopted at a meeting.

(10) This act does not apply to a meeting which is a social or chance gathering or conference not designed to avoid this act.

(11) This act shall not apply to the Michigan veterans' trust fund board of trustees or a county or district committee created under Act No. 9 of the Public Acts of the first extra session of 1946, being sections 35.601 to 35.610 of the Michigan Compiled Laws, when the board of trustees or county or district committee is deliberating the merits of an emergent need. A decision of the board of trustees or county or district committee made under this subsection shall be reconsidered by the board or committee at its next regular or special meeting consistent with the requirements of this act. "Emergent need" means a situation which the board of trustees, by rules promulgated under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws, determines requires immediate action.

History: 1976, Act 267, Eff. Mar. 31, 1977;--Am. 1981, Act 161, Imd. Eff. Nov. 30, 1981;--Am. 1986, Act 269, Imd. Eff. Dec. 19, 1986;--Am. 1988, Act 158, Imd. Eff. June 14, 1988;--Am. 1988, Act 278, Imd. Eff. July 27, 1988.

Administrative rules: R 35.621 of the Michigan Administrative Code.

15.264 Public notice of meetings generally; contents; places of posting.

Sec. 4. The following provisions shall apply with respect to public notice of meetings:

(a) A public notice shall always contain the name of the public body to which the notice applies, its telephone number if one exists, and its address.

(b) A public notice for a public body shall always be posted at its principal office and any other locations considered appropriate by the public body. Cable television may also be utilized for purposes of posting public notice.

(c) If a public body is a part of a state department, part of the legislative or judicial branch of state government, part of an institution of higher education, or part of a political subdivision or school district, a public notice shall also be posted in the respective principal office of the state department, the institution of higher education, clerk of the house of representatives, secretary of the state senate, clerk of the supreme court, or political subdivision or school district.

(d) If a public body does not have a principal office, the required public notice for a local public body shall be posted in the office of the county clerk in which the public body serves and the required public notice for a state public body shall be posted in the office of the secretary of state.

History: 1976, Act 267, Eff. Mar. 31, 1977;--Am. 1984, Act 87, Imd. Eff. Apr. 19, 1984.

15.265 Public notice of regular meetings, change in schedule of regular meetings, rescheduled regular meetings, or special meetings; time for posting; statement of date, time, and place; applicability of subsection (4); recess or adjournment; emergency sessions; meeting in residential dwelling; notice.

Sec. 5. (1) A meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body.

(2) For regular meetings of a public body, there shall be posted within 10 days after the first meeting of the public body in each calendar or fiscal year a public notice stating the dates, times, and places of its regular meetings.

(3) If there is a change in the schedule of regular meetings of a public body, there shall be posted within 3 days after the meeting at which the change is made, a public notice stating the new dates, times, and places of its regular meetings.

(4) Except as provided in this subsection or in subsection (6), for a rescheduled regular or a special meeting of a public body, a public notice stating the date, time, and

place of the meeting shall be posted at least 18 hours before the meeting. The requirement of 18-hour notice shall not apply to special meetings of subcommittees of a public body or conference committees of the state legislature. A conference committee shall give a 6-hour notice. A second conference committee shall give a 1-hour notice. Notice of a conference committee meeting shall include written notice to each member of the conference committee and the majority and minority leader of each house indicating time and place of the meeting. This subsection does not apply to a public meeting held pursuant to section 4(2) to (5) of Act No. 239 of the Public Acts of 1955, as amended, being section 200.304 of the Michigan Compiled Laws.

(5) A meeting of a public body which is recessed for more than 36 hours shall be reconvened only after public notice, which is equivalent to that required under subsection (4), has been posted. If either house of the state legislature is adjourned or recessed for less than 18 hours, the notice provisions of subsection (4) are not applicable. Nothing in this section shall bar a public body from meeting in emergency session in the event of a severe and imminent threat to the health, safety, or welfare of the public when 2/3 of the members serving on the body decide that delay would be detrimental to efforts to lessen or respond to the threat.

(6) A meeting of a public body may only take place in a residential dwelling if a nonresidential building within the boundary of the local governmental unit or school system is not available without cost to the public body. For a meeting of a public body which is held in a residential dwelling, notice of the meeting shall be published as a display advertisement in a newspaper of general circulation in the city or township in which the meeting is to be held. The notice shall be published not less than 2 days before the day on which the meeting is held, and shall state the date, time, and place of the meeting. The notice, which shall be at the bottom of the display advertisement and which shall be set off in a conspicuous manner, shall include the following language: "This meeting is open to all members of the public under Michigan's open meetings act".
History: 1976, Act 267, Eff. Mar. 31, 1977;--Am. 1978, Act 256, Imd. Eff. June 21, 1978;--Am. 1982, Act 134, Imd. Eff. Apr. 22, 1982;--Am. 1984, Act 167, Imd. Eff. June 29, 1984.

15.266 Providing copies of public notice on written request; fee.

Sec. 6. (1) Upon the written request of an individual, organization, firm, or corporation, and upon the requesting party's payment of a yearly fee of not more than the reasonable estimated cost for printing and postage of such notices, a public body shall send to the requesting party by first class mail a copy of any notice required to be posted pursuant to section 5(2) to (5).

(2) Upon written request, a public body, at the same time a public notice of a meeting is posted pursuant to section 5, shall provide a copy of the public notice of that meeting to any newspaper published in the state and to any radio and television station located in the state, free of charge.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.267 Closed sessions; roll call vote; separate set of minutes.

Sec. 7. (1) A 2/3 roll call vote of members elected or appointed and serving is required to call a closed session, except for the closed sessions permitted under section 8(a), (b), (c), (g), (i) and (j). The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.

(2) A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13. These minutes may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved.

History: 1976, Act 267, Eff. Mar. 31, 1977;--Am. 1993, Act 81, Eff. Apr. 1, 1994;-- Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

15.268 Closed sessions; permissible purposes.

Sec. 8. A public body may meet in a closed session only for the following purposes:

(a) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue shall be considered after the rescission only in open sessions.

(b) To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education that the student is attending, and if the student or the student's parent or guardian requests a closed hearing.

(c) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.

(d) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

(e) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.

(f) To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, except as otherwise provided in this subdivision, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to this act. This subdivision does not apply to a public office described in subdivision (j).

(g) Partisan caucuses of members of the state legislature.

(h) To consider material exempt from discussion or disclosure by state or federal statute.

(i) For a compliance conference conducted by the department of commerce under section 16231 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.16231 of the Michigan Compiled Laws, before a complaint is issued.

(j) In the process of searching for and selecting a president of an institution of higher education established under section 4,5, or 6 of article VIII of the state constitution of 1963, to review the specific contents of an application, to conduct an interview with a candidate, or to discuss the specific qualifications of a candidate if the particular process of searching for and selecting a president of an institution of higher education meets all of the following requirements.

(i) The search committee in the process, appointed by the governing board, consists of at least 1 student of the institution, 1 faculty member of the institution, 1 administrator

of the institution, 1 alumnus of the institution, and 1 representative of the general public. The search committee also may include 1 or more members of the governing board of the institution, but the number shall not constitute a quorum of the governing board. However, the search committee shall not be constituted in such a way that any 1 of the groups described in this subparagraph constitutes a majority of the search committee.

(ii) After the search committee recommends the 5 final candidates, the governing board does not take a vote on a final selection for the president until at least 30 days after the 5 final candidates have been publicly identified by the search committee.

(iii) The deliberations and vote of the governing board of the institution on selecting the president take place in an open session of the governing board.

History: 1976, Act 267, Eff. Mar. 31, 1977;--Am. 1984, Act 202, Imd. Eff. July 3, 1984;--Am. 1993, Act 81, Eff. Apr. 1, 1994;-- Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

15.269 Minutes generally.

Sec. 9. (1) Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. Corrections in the minutes shall be made not later than the next meeting after the meeting to which the minutes refer. Corrected minutes shall be available no later than the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.

(2) Minutes shall be public records open to public inspection and shall be available at the address designated on posted public notices pursuant to section 4. Copies of the minutes shall be available to the public at the reasonable estimated cost for printing and copying.

(3) Proposed minutes shall be available for public inspection not more than 8 business days after the meeting to which the minutes refer. Approved minutes shall be available for public inspection not later than 5 business days after the meeting at which the minutes are approved by the public body.

History: 1976, Act 267, Eff. Mar. 31, 1977;--Am. 1982, Act 130, Imd. Eff. Apr. 20, 1982.

15.270 Decisions of public body; presumption; civil action to invalidate; jurisdiction; venue; reenactment of disputed decision.

Sec. 10. (1) Decisions of a public body shall be presumed to have been adopted in compliance with the requirements of this act. The attorney general, the prosecuting attorney of the county in which the public body serves, or any person may commence a civil action in the circuit court to challenge the validity of a decision of a public body made in violation of this act.

(2) A decision made by a public body may be invalidated if the public body has not complied with the requirements of section 3(1), (2), and (3) in making the decision or if failure to give notice in accordance with section 5 has interfered with substantial compliance with section 3(1), (2), and (3) and the court finds that the noncompliance or failure has impaired the rights of the public under this act.

(3) The circuit court shall not have jurisdiction to invalidate a decision of a public body for a violation of this act unless an action is commenced pursuant to this section within the following specified period of time:

(a) Within 60 days after the approved minutes are made available to the public by the public body except as otherwise provided in subdivision (b).

(b) If the decision involves the approval of contracts, the receipt or acceptance of bids, the making of assessments, the procedures pertaining to the issuance of bonds or other evidences of indebtedness, or the submission of a borrowing proposal to the electors, within 30 days after the approved minutes are made available to the public pursuant to that decision.

(4) Venue for an action under this section shall be any county in which a local public body serves or, if the decision of a state public body is at issue, in Ingham county.

(5) In any case where an action has been initiated to invalidate a decision of a public body on the ground that it was not taken in conformity with the requirements of this act, the public body may, without being deemed to make any admission contrary to its interest, reenact the disputed decision in conformity with this act. A decision reenacted in this manner shall be effective from the date of reenactment and shall not be declared invalid by reason of a deficiency in the procedure used for its initial enactment.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.271 Civil action to compel compliance or enjoin noncompliance; commencement; venue; security not required; commencement of action for mandamus; court costs and attorney fees.

Sec. 11. (1) If a public body is not complying with this act, the attorney general, prosecuting attorney of the county in which the public body serves, or a person may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

(2) An action for injunctive relief against a local public body shall be commenced in the circuit court, and venue is proper in any county in which the public body serves. An action for an injunction against a state public body shall be commenced in the circuit court and venue is proper in any county in which the public body has its principal office, or in Ingham county. If a person commences an action for injunctive relief, that person shall not be required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

(3) An action for mandamus against a public body under this act shall be commenced in the court of appeals.

(4) If a public body is not complying with this act, and a person commences a civil action against the public body for injunctive relief to compel compliance or to enjoin further noncompliance with the act and succeeds in obtaining relief in the action, the person shall recover court costs and actual attorney fees for the action.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.272 Violation as misdemeanor; penalty.

Sec. 12. (1) A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00.

(2) A public official who is convicted of intentionally violating a provision of this act for a second time within the same term shall be guilty of a misdemeanor and shall be fined not more than \$2,000.00, or imprisoned for not more than 1 year, or both.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.273 Violation; liability.

Sec. 13. (1) A public official who intentionally violates this act shall be personally liable in a civil action for actual and exemplary damages of not more than \$500.00 total, plus court costs and actual attorney fees to a person or group of persons bringing the action.

(2) Not more than 1 action under this section shall be brought against a public official for a single meeting. An action under this section shall be commenced within 180 days after the date of the violation which gives rise to the cause of action.

(3) An action for damages under this section may be joined with an action for injunctive or exemplary relief under section 11.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.273a Selection of president by governing board of higher education institution; violation; civil fine.

Sec. 13a. If the governing board of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963 violates this act with respect to the process of selecting a president of the institution of any time after the recommendation of final candidates to the governing board, as described in section 8(j), the institution is responsible for the payment of a civil fine of not more than \$500,000.00. This civil fine is in addition to any other remedy or penalty under this act. To the extent possible, any payment of fines imposed under this section shall be paid from funds allocated by the institution of higher education to pay for the travel and expenses of the members of the governing board.

History: Add. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

15.275 Effective date.

Sec. 15. This act shall take effect January 1, 1977.

History: 1976, Act 267, Eff. Mar. 31, 1977.

GENERAL ADMINISTRATIVE RULES
RENEWALS
DISCIPLINARY PROCEEDINGS REFUNDS
UNDER THE OCCUPATIONAL CODE
Act No. 299 of the Public Acts of 1980

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

OCCUPATIONAL BOARDS

(By authority conferred on the director of the department of consumer and industry services by section 205 of 1980 PA 299, as amended, the Executive Reorganization Order No 1996-2, MCL 339.205 and 445.2001.)

PART 1. LICENSE AND REGISTRATION RENEWALS

R 339.1001 Definitions.

(1) As used in these rules:

(a) "Act" means 1980 PA 299, as amended, MCL 339.101 et seq, and known as the occupational code.

(b) "State license fee act" means 1979 PA 152, as amended, MCL 338.2201 et seq.

(2) The terms defined in article 1 of the act have the same meanings when used in these rules.

History: 1979 ACS 8, Eff. Sept. 17, 1981; 2000 MR 13, Eff. Sept. 1, 2000.

R 339.1002 Certain occupations; license and license renewal expiration.

Rule 2. (1) License and license renewals that are issued for the collection practices board, athletic board of control, private employment board, real estate board, cosmetology establishments and schools, and mortuary science trainees shall expire annually on the following dates and shall be renewed every year thereafter:

Collection practices.....	6/30
Athletic board of control	8/31
Private employment	12/31
Real estate	10/31
Cosmetology establishments and schools	8/31
Mortuary science trainees.....	1/31

(2) Licenses and license renewals that are issued for barber apprentices and student instructors shall be valid for a period of 1 year from the date of issue and may be renewed on the same date thereafter.

History: 1979 ACS 8, Eff. Sept. 17, 1981; 1993 MR 8, Eff. Sept. 15, 1993; 2000 MR 13, Eff. Sept. 1, 2000.

R 339.1003 Certain occupations, license or registration renewals; expiration.

Rule 3. (1) Except as provided in R 339.1002 and subrule (2) of this rule, licenses or registrations and license or registration renewals that are issued for foresters, landscape architects, cosmetology, barbers, community planners, mortuary science, nursing home administrators, architects, professional surveyors, professional engineers, hearing aid dealers, accountancy, real estate appraisers, and residential builders and maintenance and alteration contractors shall expire biennially on the following dates and shall be renewed every 2 years thereafter:

ADMINISTRATIVE RULES, OCCUPATIONAL CODE BOARDS

Foresters..... 5/31
Residential builders and maintenance and alteration contractors 5/31
Landscape architects 7/31
Real estate appraisers 7/31
Cosmetology 8/31
Barbers 9/30
Community planners 10/31
Mortuary science..... 10/31
Nursing home administrators 10/31
Architects 10/31
Professional surveyors..... 10/31
Professional engineers 10/31
Hearing aid dealers..... 11/30
Accountancy 12/31
Accountancy 12/31

(2) Licenses and license renewals that are issued for barber students shall be valid for a period of 2 years from the date of issue and may be renewed on the same date thereafter.

(3) A person, firm, or corporation that has been issued a license or registration pursuant to the provisions of article 7 of the act shall renew the license or registration on or before July 31 and shall renew it every 2 years thereafter.

(4) A license or registration that has a limitation may be renewed for a term that is less than the biennial period.

(5) For licenses that are to be renewed biennially, the department may initially renew half of the licenses for 1 year and half of the licenses for 2 years to provide equal numbers of renewals in each fiscal year.

History: 1979 ACS 8, Eff. Sept. 17, 1981; 1993 MR 8, Eff. Sept. 15, 1993; 2000 MR 13, Sept. 1, 2000.

R 339.1004 Biennial renewal fees.

Rule 4. (1) Biennial renewal fees shall be double the license or registration renewal fees that are prescribed in the state license fee act.

(2) The department shall prorate fees for initial licenses and registrations issued during a biennial period.

History: 1979 ACS 8, Eff. Sept. 17, 1981; 1993 MR 8, Eff. Sept. 15, 1993.

PART 7. DISCIPLINARY PROCEEDINGS

R 339.1701 Definitions.

Rule 701. (1) As used in these rules:

(a) "Adjournment" means an adjournment, stay, continuation, or delay of a contested case hearing at any time after the issuance of a formal complaint.

(b) "Administrative procedures act" means Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws.

(c) "Compliance conference" means the conference provided for in accordance with the provisions of section 92 of the administrative procedures act.

(d) "Days" means calendar days.

(e) "Department" means the department of consumer and industry services.

(f) "Informal conference" means the conference defined in section 504 of the occupational code, but does not mean a compliance conference provided in accordance with the provisions of section 92 of the administrative procedures act.

(g) "Licensing law" means a law under which the department issues a license, registration, or other authorization to practice an occupation or profession or render other services and includes the occupational code.

(h) "Occupational code" means Act No. 299 of the Public Acts of 1980, as amended, being §339.101 et seq. of the Michigan Compiled Laws.

(i) "Party" means a person, agency, or designated agent of the department named, admitted, or properly seeking and entitled of right to be admitted, as a party in a contested case.

(j) "Presiding officer" means an administrative law judge who is employed by the department or a person who is designated, in writing, by the director of the department, to act as an administrative law judge and conduct a contested case hearing.

(k) "Respondent" means a person against whom a formal complaint has been issued.

(2) Except as provided in subrule (1) of this rule, a term defined in the administrative procedures act or the code shall have the same meaning when used in these rules.

History: 1990 MR 7, Eff. Aug. 1, 1990; 1997 MR 11, Eff. Dec. 3, 1997.

R 339.1703 Applicability of law and rules.

Rule 703. Compliance conferences, the processing of complaints, contested case hearings, and other related proceedings shall be conducted in accordance with the provisions of the licensing law, these rules, rules promulgated by a board or the department governing specific circumstances unique to the occupation, profession, facility, or service being regulated, and the administrative procedures act.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1705 Issuance of license not bar to discipline.

Rule 705. The issuance of a license by the department does not diminish the authority of a board or the department to take disciplinary action based upon conduct which occurred before the issuance of a license without regard to whether the department or a board had notice of the alleged grounds for discipline at the time the license was issued.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1709 Determination of compliance with, or violation of, licensing law, rule, or order.

Rule 709. In determining a violation of, or compliance with, the licensing law, a rule promulgated pursuant to the licensing law, or an order issued pursuant to the licensing law, the determination shall be made on the basis of compliance or violation at the time of the alleged violation.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1713 Time computations.

Rule 713. In computing a period of days prescribed or allowed by these rules, by order of a board or the department or the director, or by any applicable statute, the first

day is excluded and the last day is included. If the last day of any period or a fixed or final day is a Saturday, Sunday, or legal holiday, the period or day is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1721 Complaints; consolidation; withdrawal.

Rule 721. (1) The department may consolidate multiple complaints against a single respondent in 1 formal complaint.

(2) The department may withdraw a formal complaint at any time.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1726 Settlement of complaints.

Rule 726. (1) Parties may confer informally at any time to attempt to settle a complaint.

(2) A settlement shall be in the form of a proposed stipulation signed by all parties. The proposed stipulation shall be transmitted to the appropriate board for acceptance. If the board accepts the stipulation, a final order shall be issued. If the board does not accept the stipulation, the matter shall proceed to a contested case hearing.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1731 Written statement in place of compliance conference; conduct and adjournment of compliance conference; failure to demonstrate compliance.

Rule 731. (1) If a respondent selects a compliance conference, the respondent may submit a written statement with a request that the statement be considered in place of appearing for a compliance conference.

(2) A compliance conference shall be conducted informally by the department and shall not be conducted as an evidentiary hearing.

(3) A compliance conference may be adjourned by the department for good cause shown.

(4) If the department determines that the respondent has not demonstrated compliance, or if the respondent has waived his or her opportunity to show compliance, the matter shall proceed to a contested case hearing.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1741 Answers and amendments to formal complaint.

Rule 741. (1) A party may file an answer to a formal complaint.

(2) A formal complaint may be amended. If a formal complaint is amended, a presiding officer may find that the charges have been sufficiently altered as to warrant granting a respondent additional time to prepare a defense.

History: 1990 MR 7, Eff. Aug. 1, 1990; 1997 MR 11, Eff. Dec. 4, 1997.

R 339.1743 Consolidation of cases; procedure.

Rule 743. (1) Upon the request of a party or upon the presiding officer's own motion, the presiding officer may order a joint hearing of pending cases that involve substantial and controlling common questions of law or fact involving 1 or more respondents and 1 or more boards or other agencies of government.

(2) A party's request for the consolidation of cases shall be filed not more than 15 days after service of the notice of hearing. Copies of the request shall be served upon each party to the cases that would be consolidated. Not more than 10 days after service

of the request for consolidation, the other parties may file a response. Unless a request for oral argument is made and granted, a determination on consolidation shall be made solely upon the written pleadings.

(3) Cases consolidated under this rule shall be joined for hearing to address the common questions of law and fact and to receive commonly relevant testimony and other evidence. Testimony or evidence that does not pertain to all of the consolidated cases may be received with an appropriate limitation on its use.

History: 1990 MR 7, Eff. Aug. 1, 1990; 1997 MR 11, Eff. Dec. 4, 1997.

R 339.1745 Appearance by counsel and service.

Rule 745. (1) The department may be represented by an assistant attorney general or by a duly authorized agent. A respondent may be represented by an attorney or may appear on his or her own behalf.

(2) After a notice of hearing has been served, an attorney or agent who represents the department or an attorney representing the respondent shall file a written appearance indicating that he or she represents a party. Thereafter, service made upon an attorney or agent of record who has filed an appearance shall be deemed service upon a party. If a written appearance is not filed, then service shall be made upon the party.

History: 1990 MR 7, Eff. Aug. 1, 1990; 1997 MR 11, Eff. Dec. 4, 1997.

R 339.1747 Prehearing conference.

Rule 747. (1) After a notice of hearing has been served and upon the request of a party, or upon his or her own authority, a presiding officer may order the parties to conduct a prehearing conference for the purpose of facilitating the disposition of a contested case.

(2) At the prehearing conference, the parties shall attempt, through agreement, to do all of the following:

(a) State and simplify the factual and legal issues to be litigated.

(b) Admit matters of fact and the authenticity of documents and resolve other evidentiary matters to avoid unnecessary proof.

(c) Exchange lists of witnesses.

(d) Estimate the time required for the hearing.

(e) Resolve other matters that may aid in the disposition of the case.

(3) The presiding officer shall participate in the prehearing conference unless the order scheduling the conference indicates otherwise. The parties may request rulings pertaining to matters of evidence, law, and procedure to the extent that such rulings may be made without the presentation of testimony, except that testimony may be presented upon agreement by the parties. A presiding officer's rulings at a prehearing conference shall govern the proceedings to the same extent as rulings made during a hearing. A record of requests for rulings, the response by the parties to requests for rulings, and the decisions thereon shall be made and shall become a part of the hearing record.

(4) The parties to a contested case are encouraged to voluntarily confer for the purpose of facilitating the disposition of the case.

(5) Upon the request of a party, or upon his or her own authority, a presiding officer may order a hearing reporter to attend and record a prehearing conference.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1751 Official notice of facts; notice; objection.

Rule 751. (1) The presiding officer may take official notice of facts pursuant to section 77 of the administrative procedures act upon the request of a party or on his or her own authority in accordance with this rule.

(2) If a noticed fact pertains to a material, disputed issue which is being adjudicated, the party who requested that official notice be taken shall notify all parties of the request not less than 15 days before the hearing, unless good cause is shown for the failure to give notice. A party may file objections to the taking of official notice not less than 10 days before the hearing if the party disputes the fact or its materiality. The objections shall set forth the basis for the dispute. Upon expiration of the time for the filing of objections, the presiding officer shall rule on the request and give notice thereof to the parties.

(3) If the presiding officer takes official notice of a fact on his or her own initiative, the parties shall be so notified if the fact pertains to a material disputed issue which is being adjudicated. A party may file objections to the taking of official notice within 10 days after service of the notice thereof if the party disputes the fact or its materiality. The objection shall set forth the basis for the dispute. Upon the expiration of the time for the filing of objections, the presiding officer shall sustain or overrule the objections and give notice thereof to the parties, at which time the decision becomes final.

(4) If an objection to the taking of official notice is not filed in a timely manner, official notice may be taken.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1755 Format of hearing; opening statement; closing statement.

Rule 755. (1) The format of a hearing in a contested case shall be as set forth in this rule.

(2) The parties shall be provided an opportunity to make an opening statement before the presentation of proofs. Either party may decline the opportunity and the respondent may defer the opening statement until after the proofs of the complaining party are presented.

(3) At the conclusion of the presentation of proofs by the respondent, the complaining party may present rebuttal evidence.

(4) At the conclusion of the presentation of proofs, the parties may present closing arguments. The party who bears the burden of proof shall present the first argument and may present rebuttal argument. If so stipulated by the parties or required by the presiding officer, closing arguments may be submitted in writing if submitted within 10 days of the conclusion of the presentation of proofs.

(5) The parties may submit briefs within such time as may be agreed upon or as determined by the presiding officer.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1757 Hearing decorum.

Rule 757. At a hearing, the presiding officer shall insure decorum within the confines of legitimate advocacy and the assertion of opposing views. A person may be excluded or the hearing adjourned, when necessary, to avoid undue disruption of the proceedings.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1759 Evidence; objections; rulings.

Rule 759. (1) Evidence may be retained in the custody of a person who is designated by the presiding officer if the retention is deemed necessary to preserve the evidence without undue interference with other legal proceedings.

(2) Objections to the admissibility of evidence shall be made solely by the parties and on stated grounds. The proponent of the evidence shall be afforded an opportunity to respond.

(3) The presiding officer shall rule on objections with respect to the admissibility of evidence. A ruling on an evidentiary question shall be made on the record or reduced to a written opinion.

History: 1990 MR 7, Eff. Aug. 1, 1990; 1997 MR 11, Eff. Dec. 4, 1997.

R 339.1761 Evidence; prior adjudication of misconduct.

Rule 761. Proof of an adjudication of misconduct in a civil or disciplinary proceeding or of a judgment of guilt in a criminal proceeding may be used as evidence when relevant to establishing a violation of the licensing law, a rule promulgated pursuant to the licensing law, or an order issued pursuant to the licensing law. A copy of the court or agency record that verifies the adjudication of misconduct or judgment of guilt shall be admitted as evidence where there is no objection to its accuracy or authenticity.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1763 Formal complaint allegations; burden of proof.

Rule 763. The complaining party shall have the burden of proving, by a preponderance of the evidence, the matters alleged in the formal complaint.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1765 Stipulations.

Rule 765. (1) The parties may enter into stipulations on questions of fact and issues of law, subject to the approval of the presiding officer.

(2) The parties may enter into stipulations on matters of procedure, subject to approval by the presiding officer.

History: 1990 MR 7, Eff. Aug. 1, 1990; 1997 MR 11, Eff. Dec. 4, 1997.

R 339.1767 Witnesses.

Rule 767. (1) Upon a request and a showing of good cause, a prospective witness other than a party may be excluded from a hearing.

(2) Upon a request and a showing of good cause, a witness who has testified may be instructed not to communicate with a prospective witness regarding that testimony.

History: 1990 MR 7, Eff. Aug. 1, 1990.

R 339.1771 Findings of fact and conclusions of law; submission; recommendations.

Rule 771. (1) Unless the parties have otherwise agreed to a disposition of the matter or as otherwise provided in the licensing law, the presiding officer, at the close of the record on the matter, shall make findings of fact and conclusions of law. The presiding officer shall submit the findings to the appropriate board for the assessment of penalties if a violation of the code is found.

(2) If the presiding officer finds that the department has failed to meet its burden of proof or has otherwise not complied with the law or rules pertaining to the matter, he or she shall make findings of fact and conclusions of law to that effect.

History: 1990 MR 7, Eff. Aug. 1, 1990; 1997 MR 11, Eff. Dec. 4, 1997.

REFUND OF FEES

(By authority conferred on the department of consumer and industry services by section 5 of 1979 PA 152 and Executive Reorganization Order No. 1996-2, MCL 338.2205 and 445.2001.)

R 338.941 Definitions.

Rule 1. As used in these rules:

(a) "Department" means the department of consumer and industry services.

(b) "Fee" means a fee for a permit, license, registration, examination, reexamination, certificate, verification, transfer, publication, or change of address.

(c) "Incapacitated" means an illness or injury which prevents a person from performing the occupation for which the person is licensed, registered, or certified.

(d) "Partial refund" means a refund of the fee paid minus a service charge of \$15.00.

History: 1979 ACS 4, Eff. Nov. 19, 1980; 2000 MR 13, Eff. Sept. 1, 2000.

R 338.942 Applicability.

Rule 2. These rules apply to all fees collected pursuant to Act No. 152 of the Public Acts of 1979, being §338.2201 et seq. of the Michigan Compiled Laws.

History: 1979 ACS 4, Eff. Nov. 19, 1980.

R 338.943 Issuance of full refunds.

Rule 3. (1) The department shall, upon its own initiative or upon a request made within 1 year of a fee validation date, issue a full refund for all of the following:

(a) A duplicate payment.

(b) Payment of a fee when none is required.

(c) Payment of an amount in excess of the required fee.

(d) A renewal fee, if a licensee dies or is incapacitated before the first day of a new license period.

(e) A license, registration, or certification fee if the fee was collected at the same time as a separate examination fee and the applicant has failed the examination.

(2) A copy of a death certificate or a doctor's statement is required before the department shall issue a refund pursuant to subdivision (d) of subrule (1) of this rule.

History: 1979 ACS 4, Eff. Nov. 19, 1980.

R 338.944 Issuance of partial refunds.

Rule 4. (1) Except as provided in subrule (2) of this rule, the department shall issue a partial refund to a person whose application to take an examination or reexamination is withdrawn or denied 7 days before the date the examination is scheduled to be administered by the department.

(2) A partial refund shall not be issued to a person whose application has been denied after a formal hearing and shall not be issued if the examination fee is less than the \$15.00 service charge.

History: 1979 ACS 4, Eff. Nov. 19, 1980.