

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

OCCUPATIONAL CODE—DISCIPLINARY RULES

Filed with the secretary of state on May 3, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by section 33(3) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, section 205 of the occupational code, 1980 PA 299, MCL 339.205, and Executive Reorganization Orders Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 339.1706 and R 339.1731 of the Michigan Administrative Code are amended, R 339.1702, R 339.1708, R 339.1710, R 339.1712, R 339.1714, and R 339.1716 are added, and R 339.1703 and R 339.1726 are rescinded, as follows:

PART 1. GENERAL RULES

R 339.1702 Definitions.

Rule 702. (1) As used in these rules “code” means the occupational code, 1980 PA 299, MCL 339.101 to 339.2677.

(2) The applicable terms defined in the code have the same meaning when used in these rules.

R 339.1703 Rescinded.

R 339.1706 Continuing duty to report name, postal address, and electronic mail address change.

Rule 706. In addition to complying with sections 204(5) and (6) of the code, MCL 339.204, a licensee, registrant, or qualifying officer, director, owner, or manager of a licensee or registrant whose license or registration has expired, lapsed, or has been suspended, revoked, or surrendered shall notify the department of a change of name, postal address, or electronic mail address until the later of 1 of the following, occurs:

(a) Seven years after the license or registration status change occurs.

(b) The licensee, registrant, or qualifying officer, director, owner, or manager of a licensee or registrant is in full compliance with all final orders issued against the licensee, registrant, or qualifying officer, director, owner, or manager of a licensee or registrant.

R 339.1708 Disciplinary action; unlicensed or unregistered person.

Rule 708. (1) A person who violates the code is subject to disciplinary action and sanctions based upon that conduct under the code without regard to whether he or she becomes licensed or registered or whether the department knew of the violation at the time that the license or registration was issued.

(2) A person considered unlicensed or unregistered under section 601(3) of the code, MCL 339.601, or whose license or registration has been suspended, revoked, or surrendered shall not engage in the practice of any profession requiring licensure or registration under the code.

(3) A person who becomes unlicensed or unregistered remains subject to disciplinary action for violating the code, a rule promulgated under the code, or a final order issued under the code until the later of 1 of the following occurs:

(a) Seven years after a change in license or registration status change occurs.

(b) The licensee or registrant is in full compliance with all final orders issued against the licensee or registrant.

R 339.1710 Service of formal complaints and orders.

Rule 710. (1) The department may serve a formal complaint, summary suspension order, cease and desist order, or final order on a respondent by personal service, first class United State mail, or certified mail, return receipt requested, to the most current address of record on file with the department.

(2) If service is made by mail, it is deemed received 3 business days after the date of mailing, unless otherwise indicated by the returned certified mail receipt.

(3) Non-delivery does not affect the validity of service if it was caused by the respondent's refusal to take delivery.

PART 2. HISTORICAL RECORDS

R 339.1712 Historical records.

Rule 712. The department may obtain and maintain all of the following in a person's historical record:

(a) Reports, information, or a final order from a state department or agency.

(b) Reports or information from a professional association or professional society.

(c) Reports or information from the secretary of state's office.

(d) Reports or information related to prior complaints made against the person.

(e) Reports or information from any federal, state, or local law enforcement agency.

(f) Reports, information, or a final order or judgment from any federal, state, or local court or other adjudicating body.

PART 3. INVESTIGATIONS

R 339.1714 Investigations.

Rule 714. The department's investigations, conducted as required by section 502 of the code, MCL 339.502, may encompass violations other than those specifically identified when the investigation was initiated.

PART 4. CONTESTED CASE PROCEEDINGS

R 339.1716 Pleadings and orders.

Rule 716. (1) As used in this rule, “contested case” means that term as defined by section 3(3) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.203.

(2) Until the Michigan office of administrative hearings and rules issues a notice of hearing, all documents and any related attachments must be filed with the department or the department of the attorney general as set forth in the formal complaint, summary suspension order, cease and desist order, or attached notice document.

(3) After the Michigan office of administrative hearings and rules issues a notice of hearing, all documents and pleadings and any related attachments must be filed with the Michigan office of administrative hearings and rules and simultaneously served to all parties listed in the case caption of the notice, as required in the notice of hearing and R 792.10101 to 792.10137.

(4) A formal complaint may be withdrawn or amended at any time consistent with the code, the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and R 792.10101 to 792.10137. If the department adds a new charge, the department must give the respondent an opportunity to request a compliance conference.

(5) All pleadings, documents, and any related attachments that are properly filed become a part of the official record of the hearing under sections 76 and 86 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.276 and 24.286, and R 792.10101 to 792.10137.

PART 5. COMPLIANCE CONFERENCE AND REQUEST FOR ADJOURNMENT

R 339.1726 Rescinded.

R 339.1731 Compliance conferences; requests for adjournment; written statements.

Rule 731. (1) The department may conduct a compliance conference held under section 508 of the code, MCL 339.508, informally and not as an evidentiary hearing.

(2) A respondent may request and may be granted an adjournment of the compliance conference for good cause shown. As used in this subrule, “good cause” means that the respondent submitted a written request for adjournment to the department that provides legally sufficient grounds to warrant the adjournment, such as circumstances beyond the respondent’s control.

(3) A respondent may request to submit a written statement in lieu of requesting or appearing for a compliance conference.