

State Budget Office  
**Office of Regulatory Reinvention**  
111 S. Capitol Avenue; 8th Floor, Romney Building  
Lansing, MI 48933  
Phone: (517) 335-8658 FAX: (517) 335-9512

## AMENDED REQUEST FOR RULEMAKING (RFR)

Under the Administrative Procedures Act (APA), 1969 PA 306, the department/agency that has the statutory authority to promulgate the rules must file a request for rulemaking with the Office of Regulatory Reinvention before initiating any changes or additions to the rules. Please submit an electronic copy to the ORR at [orr@michigan.gov](mailto:orr@michigan.gov).

**1. Department:**

Licensing and Regulatory Affairs

**2. Division/agency/bureau:**

Bureau of Community and Health Systems

**3. Name, address, e-mail, and phone number of agency contact person:**

Tammy Bagby, 611. W. Ottawa- 1<sup>st</sup> Floor, Lansing, MI 48933, [bagbyt@michigan.gov](mailto:bagbyt@michigan.gov), 517-335-4084

**4. Title of proposed rule(s) or rule set:**

Licensing Health Facilities or Agencies

**5. Rule number(s) or rule set range of numbers:**

New rule set R 325.45101 to R 325.45499

**6. Estimated timetable for completion, or statutory deadline, if applicable:**

September 30, 2018

**7. Describe the general goal/purpose of these rules. Include a discussion of the problem(s) - the rule rescissions, additions, or amendments intended to address:**

There are six rule sets for licensing health facilities and agencies. Although most of them have undergone periodic review and revision, it has been too long since a comprehensive review and revision was done to assure they comport with current practice standards, to harmonize them with current federal law and regulations, and to reflect the current organization of state licensing functions. Some of these rules are obsolete and there is a significant amount of duplication between rule sets. The purpose of promulgating a single new rule set for health facility licensing is to better protect the health, safety, and welfare of individuals receiving care and services in or from a health facility or agency, and to assure the medical accountability for reimbursed care provided by a certified health facility or agency participating in a federal or state health program. The new rule set will: Focus on core principles and standards of health facility licensing; fulfill statutory requirements; comport with current practice standards; harmonize with federal law and regulations; and be free of

redundant, obsolete, or unnecessary language. The new rule set will replace the following six rule sets, which will be rescinded:

1. Minimum Standards for Hospitals – R 325.1001 to R 325.1101
2. Complaints – R 325.1213 to R 325.1217
3. Public Inspection of License Records – R 325.1281 to R 325.1282
4. Freestanding Surgical Outpatient Facilities – R 325.3801 to R 325.3877
5. Hospice Licensure Rules – R 325.13101 to R 325.13541
6. Nursing Homes and Nursing Care Facilities – R 325.20101 to R 325.22004.

**8. Please cite the specific promulgation authority for the rule(s) (i.e. department director, commission, board, etc.), listing all applicable statutory references. Are the rule(s) mandated by any applicable constitutional or statutory provision? If so, please explain.**

Article 17 of the Public Health Code includes 14 sections that require the department to establish a comprehensive system of licensure and certification for health facilities or agencies and to promulgate rules to administer this program. Section 20131 (MCL 333.20131) is the cornerstone; it requires the department to establish the program. Section 20171 (MCL 333.20171) requires the department to promulgate and enforce rules to implement Article 17. The following sections establish additional requirements and limitations on the department's rule-making authority for licensing health facilities or agencies:

1. Section 20115 (MCL 333.20115)
2. Section 20131 (MCL 333.20131)
3. Section 20132 (MCL 333.20132)
4. Section 20171 (MCL 333.20171)
5. Section 20141 (MCL 333.20141)
6. Section 21419 (MCL 333.21419)
7. Section 21521 (MCL 333.21521)
8. Section 21523 (MCL 333.21523)
9. Section 21561 (MCL 333.21561)
10. Section 21562 (MCL 333.21562)
11. Section 21563 (MCL 333.21563)
12. Section 21615 (MCL 333.21615)
13. Section 21741 (MCL 333.21741)
14. Section 21795 (MCL 333.21795).

**9. Please describe the extent to which the rule(s) conflict with or duplicate similar rules or regulations adopted by the state or federal government [include statutory references and public acts, as applicable]:**

The proposed rules will replace six rule sets, which will be rescinded. The new rules will not duplicate similar rules or regulations adopted by the state or federal government.

**10. Is the subject matter of the rule(s) currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?**

Yes, the health facility licensing rules are referenced in license application forms and in a variety of bureau documents pertaining to the operation of the health facilities licensing program.

**11. Is the rule(s) listed on the department's annual regulatory plan as a rule to be processed for the current year?**

Yes, promulgation of the new rule set and rescission of the six existing rule sets are included in the LARA Annual Regulatory Plan for 2017-2018.

**12. Will the proposed rule(s) be promulgated under Sections 44 or 48 of the Administrative Procedures Act, 1969 PA 306, as amended, being MCL 24.244 or 24.248? Will the rule(s) be promulgated under the full rulemaking process? Please explain.**

No, the proposed rules will not be promulgated under Sections 44 or 48 of the APA; they will be promulgated under the full rulemaking process.

**Note:** If this request for rulemaking applies to rules that will be promulgated pursuant to **Sections 44 or 48** of the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.244 or 24.248, you do not have to answer questions 13 to 18.

**13. Please describe the extent to which the rule(s) exceed national or regional compliance requirements or other standards:**

The rules do not exceed national or regional compliance requirements or standards.

**14. Do the rule(s) incorporate the recommendations of any Advisory Rules Committee formed pursuant to Executive Order 2011-5? If yes, please explain.**

No

**15. Do the rule(s) incorporate the recommendations received from the public regarding any complaints or comments regarding the rule(s)? If yes, please explain.**

Promulgation of a new rule set for licensing health facilities and agencies is proposed because the current, multiple rule sets need to be updated and harmonized to improve their effectiveness and efficiency. The bureau has invited input from stakeholders representing consumers and the regulated health facilities and agencies. The bureau will continue to communicate with stakeholders and incorporate recommendations for improvement.

**16. If amending an existing rule set, please provide the date of the last evaluation of the rule(s) and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rule(s) since the last evaluation:**

Six rule sets, encompassing 315 rules, will be rescinded. Most of these rules have been evaluated periodically; some of them have recently been revised, but a few have

not been revised since 1979. However, these rules have not undergone a comprehensive evaluation and update. During the last 20 years, there have been many changes in health care that affect the licensing and regulation of health facilities and agencies.

**17. Are there any changes or developments since implementation that demonstrate there is no continued need for the rule(s), or any portion of the rules?**

Yes, in the rules proposed to be rescinded, there are many rules that are obsolete. One of the objectives of promulgating this new rule set is to eliminate them.

**18. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.**

No (not applicable)

**19. Reviewed by the following Departmental Regulatory Affairs Officer (RAO):**

Liz Arasim  
Department of Licensing and Regulatory Affairs

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↓ To be completed by the ORR ↓

**Date RFR received:**

1-9-2018

☒ Based on the information provided in this RFR, the ORR concludes that there are sufficient policy and legal bases for approving the RFR.

<b>ORR assigned rule set number:</b>	2017-101 LR
<b>Date of approval:</b> 01/25/2018	Explanation: <i>This Request for Rulemaking satisfies the requirements of the Administrative Procedures Act, 1969 PA 306, MCL 24.201 et seq., and Executive Order 2011-5.</i>

☐ Based on the information provided in this RFR, the ORR is not approving the RFR at this time.

<b>Date of disapproval:</b>	Explanation:
<b>More information needed:</b>	Explanation: