

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Licensing and Regulatory Affairs

Bureau name:

Bureau of Professional Licensing

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2021-37 LR

Title of proposed rule set:

Public Health Code - Disciplinary Rules

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no federal rules or standards set by a national or state agency that the proposed rules can be compared to.

A. Are these rules required by state law or federal mandate?

The rules are not mandated by state or federal law.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

The rules do not exceed a federal standard or citation.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The Public Health Code Disciplinary Rules establish rules applicable to disciplinary matters administered by the department. The proposed rules are consistent with the standards required by the Public Health Code and are largely consistent with the requirements of other states in the Great Lakes region.

In Indiana, complaints against a health care professional are filed with, investigated by, and prosecuted by the State Attorney General's Office.

In Illinois, New York, Pennsylvania, and Wisconsin a state agency administers complaints, investigations, and prosecutions against a health care professional.

In Kentucky, Minnesota, and Ohio the administration of complaints, investigations, and prosecutions are completed by the board that licenses the health care professional.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

Each state in the Great Lakes region provides for a disciplinary process that includes complaint intake, investigation, and prosecution. The proposed rules do not exceed the standards of other states in the Great Lakes region.

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

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

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

No coordination is needed because there are no other applicable federal, state, or local laws that regulate the same areas addressed in the proposed rules.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(8) does not apply.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(9) does not apply.

Purpose and Objectives of the Rule(s)

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The Public Health Code Disciplinary Rules pertain to the administration of disciplinary matters for all health care professions regulated under Article 15 of the Michigan Public Health Code. The intended purpose of the proposed rules is set forth below:

R 338.1601b This rule pertains to disciplinary action that can be taken against a person's license or registration for conduct that took place before the license or registration was issued. The proposed changes will clarify the action that can be taken and that sanctions may also be imposed against the license or registration for conduct that took place before relicensure or reregistration occurs. The proposed changes are intended to inform an applicant that he or she may be subject to sanctions for conduct occurring before licensure, registration, relicensure, or reregistration.

R 338.1602a This rule pertains to an individual's duties following the expiration, lapse, suspension, revocation, or surrender of a license or registration. The proposed changes clarify those duties. The proposed changes will also advise the individual of his or her duties if he or she applies for relicensure or reregistration. The proposed changes are intended to inform a former licensee or registrant of his or her duties to continue providing certain information to the department and of the duties that will arise if he or she applies for relicensure or reregistration.

R 338.1604 This rule pertains to investigations. The proposed changes will advise a licensee or registrant that the department may conduct a review of all allegations and historical records to determine if reasonable grounds for an investigation exist, clarify statutory references, and advise that the investigation may encompass violations that were not initially identified. The intended purpose is to provide notice to a licensee or registrant that allegations and historical records may be reviewed to determine if there are grounds for an investigation and that violations other than those originally alleged by the complainant may also be investigated.

R 338.1607a This rule pertains to pleadings. The proposed rule will permit an administrative complaint to be amended at any time before the hearing. The proposed rule is intended to advise that a complaint may be amended as needed and that the respondent will be given a reasonable time to amend the answer and prepare a defense before a hearing if the complaint is substantially amended.

R 338.1610 This is a new proposed rule. The proposed rule will advise an individual who receives a cease and desist order that failure to request a hearing within 30 days will result in the order becoming final without further proceedings. It will also provide for an informal conference before the hearing, if the parties determine that it will assist in the resolution of the matter.

R 338.1630 This rule pertains to the entry of a final order. The proposed rules provide references to other statutes that also permit the disciplinary subcommittee to consider prior final orders in determining an appropriate sanction. The rule is intended to provide clarity regarding the sanctioning process.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

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

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

Part 1: The proposed rules advise a person who has violated the Public Health Code that he or she may be subject to disciplinary action, even if the action occurred before the individual was licensed or registered. The desired behavior is in compliance with the Public Health Code.

Additionally, the proposed rules clarify a former licensee's or registrant's duties to include the reporting of criminal convictions and advise the former licensee or registrant that if he or she applies for relicensure or reregistration, the applicant will be required to disclose each health care credential he or she has ever held and verify that any disciplinary action taken against the applicant has been resolved at the time he or she files the application for relicensure or reregistration. The desired behavior is in compliance with relicensure or reregistration requirements to ensure public safety.

Part 3: The proposed changes in Part 3 will advise a licensee or registrant that the department's review to determine if there are reasonable grounds for investigation may include a review of allegations or historical records. The desired behavior is the ability to accurately determine if an investigation is warranted.

Part 4: The proposed rules will permit an administrative complaint to be amended at any time to assist the department in resolving all alleged violations of the Public Health Code in one action. The desired behavior is efficient use of department resources and resolution of all alleged violations of the Public Health Code by the respondent.

Part 5: A proposed new rule will be added in Part 5 to advise an individual that if he or she fails to request a hearing within 30 days after the effective date of a cease and desist order that the order will become final without further proceedings and that an informal conference may be scheduled to assist in the resolution of the matter. The desired behavior is to inform an individual of the procedures available when a cease and desist order is issued.

Part 6: The proposed rules in Part 6 will add statutorily permitted circumstances when the disciplinary subcommittee may rely on prior final orders in determining the appropriate disciplinary action to take against an applicant, licensee, or registrant who has violated the Public Health Code. The desired behavior is to inform an individual of additional situations when a prior order may be considered by the disciplinary subcommittee.

C. What is the desired outcome?

Part 1: The proposed rules in this part advise a person who has violated the Public Health Code that he or she may be subject to disciplinary action, even if the action occurred before the individual was licensed or registered. The desired outcome is compliance with the Public Health Code.

Additionally, the proposed rules clarify a former licensee's or registrant's duties to provide information, and they advise a former licensee or registrant that if he or she applies for relicensure or reregistration, the applicant will be required to disclose each health care credential he or she has ever held and verify that any disciplinary action taken against the applicant has been resolved at the time he or she files the application for relicensure or reregistration. The desired outcome is in compliance with the Public Health Code to ensure public safety.

Part 3: The proposed changes in Part 3 will advise a licensee or registrant that the department may review allegations and historical records to determine if there are reasonable grounds for an investigation. The desired outcome is the ability to accurately determine if an investigation is reasonable.

Part 4: The proposed rules will permit an administrative complaint to be amended at any time to assist the department in resolving all alleged violations of the Public Health Code in one action. The desired outcome is efficient use of department resources and resolution of all alleged violations of the Public Health Code by the respondent.

Part 5: A proposed new rule will be added in Part 5 to advise an individual that if he or she fails to request a hearing within 30 days after the effective date of a cease and desist order that the order will become final without further proceedings and that an informal conference may be scheduled to assist in the resolution of the matter. The desired outcome is to inform the individual of the effect of failure to request a hearing and to assist in the resolution of the matter after a cease and desist order has been issued.

Part 6: The proposed rules in Part 6 will add statutorily permitted circumstances when the disciplinary subcommittee may rely on prior final orders in determining the appropriate disciplinary action to take against an applicant, licensee, or registrant who has violated the Public Health Code. The desired outcome is to assist the disciplinary subcommittee in its determination of an appropriate sanction for a violation of the Public Health Code.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

R 338.1601b This rule pertains to disciplinary action that can be taken against a person's license or registration for conduct that took place before the license or registration was issued. The proposed changes will also clarify the action that can be taken and advise that sanctions are may also be imposed against the license or registration for conduct that took place before relicensure or reregistration occurs. The harm that could occur without the proposed rule is that an applicant may be unaware of the sanctions that may be imposed.

R 338.1602a This rule pertains to an individual's duties following the expiration, lapse, suspension, revocation, or surrender of a license or registration. The proposed changes clarify those duties. The proposed changes will also advise the individual of his or her duties if he or she applies for relicensure or reregistration. The proposed changes are intended to inform a former licensee or registrant of his or her duties to continue providing certain information to the department and of the duties that will arise if he or she applies for relicensure or reregistration.

R 338.1604 This rule pertains to investigations. The proposed changes will advise a licensee or registrant that the department may review all allegations and historical records to determine if reasonable grounds for an investigation exist. The proposed changes will also clarify statutory references and advise that the investigation may encompass violations that were not initially identified. The intended purpose is to provide notice to a licensee or registrant that allegations and historical records may be reviewed to determine if there are grounds for an investigation, and that violations other than those alleged by the original complainant may also be investigated. The harm that may result without the rule change is that a respondent may be unaware of these investigative procedures.

R 338.1607a This rule pertains to pleadings. The proposed amendment to this rule will permit an administrative complaint to be amended at any time before the hearing. The proposed rule is intended to advise that a complaint may be amended as needed and that the respondent will be given a reasonable time to amend the answer and prepare a defense before a hearing if the complaint is substantially amended. The harm that may result without the rule change is that a respondent may be unaware that an administrative complaint may be amended before the hearing.

R 338.1610 This is a new proposed rule. The proposed rule provides that an individual who receives a cease and desist order must request a hearing within 30 days or the order will become final without further proceedings. It will also provide for an informal conference before the hearing, if the parties determine that it will assist in the resolution of the matter. The harm that may result without the rule change is that an individual may not understand the need to request a hearing before the cease and desist order becomes a final order.

R 338.1630 This rule pertains to final orders. The proposed amendment to the rules provides additional statutorily permitted situations when the disciplinary subcommittee may consider prior final orders in determining an appropriate sanction. The rule is intended to provide clarity regarding the sanctioning process. The harm that may result without the rule change is that a respondent may be unaware that several statutes permit a disciplinary subcommittee to consider prior final orders when determining an appropriate sanction for a violation of the Public Health Code.

A. What is the rationale for changing the rules instead of leaving them as currently written?

R 338.1601b The proposed change to this rule will inform an individual that conduct prior to licensure, registration, relicensure, or reregistration may be the basis for the disciplinary subcommittee to impose a sanction. Without the proposed rule change the individual may be unaware that they may be subject to a sanction.

R 338.1602a The proposed changes to this rule will inform an individual of his or her duties following the expiration, lapse, suspension, revocation, or surrender of a license or registration. The proposed changes will also advise the individual of his or her duties if he or she applies for relicensure or reregistration. The proposed changes are intended to inform a former licensee or registrant of his or her duties to disclose information. The purpose of the proposed changes cannot be accomplished without a rule change.

R 338.1604 The proposed changes to this rule will advise a licensee or registrant that the department may conduct a review of all allegations or historical records to determine if reasonable grounds for an investigation exist. They will also clarify statutory references and advise that an investigation may encompass violations there were not initially identified. The changes are intended to advise a respondent of investigative procedures that may be used, which cannot be accomplished with a rule change.

R 338.1607a The proposed changes to this rule will permit an administrative complaint to be amended at any time. The charges are intended to advise a respondent that an administrative complaint may be amended before hearing. The intended purpose cannot be achieved without a rule change.

R 338.1610 This is a new proposed rule. The proposed rule provides that an individual who receives a cease and desist order that failure to request a hearing within 30 days will result in the order becoming final without further proceedings. It will also provide for an informal conference before the hearing, if the parties determine that it will assist in the resolution of the matter. The addition of this proposed rule is necessary to inform an individual of the actions available when a cease and desist order is issued.

R 338.1630 This rule pertains to final orders. The proposed amendment to the rules provide statutory references to sections that permit the disciplinary subcommittee to consider prior final orders in determining an appropriate sanction. The rule is intended to provide clarity regarding the process for rendering a sanction and this cannot be accomplished without amending this rule.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rules provide a regulatory mechanism for the administration of disciplinary matters for a violation of the Public Health Code. To protect the public, it is important that members of the health care professions adhere to the Public Health Code and applicable administrative rules.

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

No rules will be rescinded.

Fiscal Impact on the Agency

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

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

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

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

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

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules establish rules applicable to disciplinary matters administered by the department. There is no specific burden placed on an individual, other than what may result from his or her conduct in violation of the Public Health Code.

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

There are no identified burdens imposed by the proposed rules.

Impact on Other State or Local Governmental Units

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

No increases or decreases in revenues to other state or local governmental units are expected as a result of the proposed rules.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

There are no anticipated or intended programs, services, duties, or responsibilities imposed on any city, county, township, village, or school district as a result of these proposed rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

There are no anticipated actions that a governmental unit must take to comply with these proposed rules.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

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

Rural Impact

16. In general, what impact will the rules have on rural areas?

The proposed rules are not expected to impact rural areas. The proposed rules apply to an individual licensed or registered under the Public Health Code, regardless of his or her location.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

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

Environmental Impact

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules do not have an environmental impact.

Small Business Impact Statement

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The proposed rules provide for the administration of disciplinary matters under the Public Health Code. Even if a licensee's or registrant's workplace qualifies as a small business, the department could not exempt his or her business from such a matter because it would create a disparity in the regulation of health care professionals.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The rules cannot exempt a small business because the rules do not directly regulate small businesses. The rules regulate individual licensees and registrants.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

Small businesses will not be affected by the proposed rules. The proposed rules will impact individuals only.

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

The agency did not establish separate compliance or reporting requirements for small businesses.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The agency did not consolidate or simplify compliance and reporting requirements with the proposed rules as the proposed rules have no impact on small businesses.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

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

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

The proposed rules impact the actions of an individual licensee or registrant rather than small businesses. Therefore, there is no disproportionate impact on a small business because of its size or geographic location.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There is no separate cost for a small business to comply with the proposed rules.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

There will be no increased costs of compliance for a small business concerning the costs of equipment, supplies, labor, or administrative costs.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

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

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no expected costs to a small business that will cause economic harm to a small business or the marketplace as a result of the proposed rules.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The proposed rules have no cost impact on a small business, so no exemption was considered.

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

The proposed rules have no impact on a small business, so no exemption was considered.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

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

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

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

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

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

There are no estimated compliance costs with these rule amendments on businesses or groups.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

No businesses or groups will be directly affected or benefitted by the proposed rules. No additional costs will be imposed on any businesses or groups.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

No additional costs will be imposed on businesses or other groups as a result of the proposed rules.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

No additional compliance costs will be imposed on individuals or the public as a result of the proposed rules.

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

The number cannot be estimated because the rules affect any individual who failed, or may have failed, to comply with the Michigan Public Health Code.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The proposed rules do not have a qualitative or quantitative impact on these individuals.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

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

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The primary and direct benefit of the proposed rules is to the people in the State of Michigan because the rules provide for the administration of disciplinary matters against an individual who did or may have violated the Michigan Public Health Code. The public will be protected by ensuring that a violator will be subject to appropriate disciplinary action.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The rules are not expected to have an impact on business growth or job creation.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

There is not expected to be a disproportionate effect due to industrial sector, segment of the public, business size, or geographic location.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

Indiana: <https://www.in.gov/pla/3638.htm>

Illinois: <https://www.idfpr.com/FAQ/DPR/FAQs%20for%20Consumers.pdf>,
<https://www.idfpr.com/admin/DPR/DPRcomplaint.asp>

Kentucky: <https://kbml.ky.gov/grievances/Documents/Consumer%20Guide%20and%20Grievance%20Form.pdf>,
<https://kbn.ky.gov/investdiscp/Pages/default.aspx>

Minnesota: <https://mn.gov/boards/medical-practice/consumers/complaints/faqs/>,
<https://mn.gov/boards/nursing/public/complaints/complaint-review-process.jsp>

New York: <http://www.op.nysed.gov/opd/>

Ohio: <https://med.ohio.gov/Regulation/File-a-Complaint>, <https://nursing.ohio.gov/>

Pennsylvania: <https://www.dos.pa.gov/ProfessionalLicensing/FileaComplaint/Pages/default.aspx>

Wisconsin: <https://dps.wi.gov/Pages/SelfService/FileAComplaint.aspx>

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

There were no estimates made because the rules impact individuals whose actions are subject to Article 15 of the Michigan Public Health Code. This may include individuals who are unlicensed or unregistered.

Alternative to Regulation

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

There is no reasonable alternative to the proposed rules.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

The Public Health Code would have to be amended to provide for administration of disciplinary matters outside of the department.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Under the current structure of the Michigan Public Health Code, there are no alternatives to the proposed rules as the department is responsible for administering disciplinary matters when an individual has, or may have, violated the Michigan Public Health Code.

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

There are no alternatives to the proposed rules as they are necessary to permit the department to fulfill its function in administering disciplinary matters when an individual has, or may have, violated the Michigan Public Health Code.

Additional Information

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The rules will explicitly inform individuals of the disciplinary process. No further instruction is needed to comply with the rules.