

OCCUPATIONAL CODE (EXCERPT)

Act 299 of 1980

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.

Compiler's note: For transfer of powers and duties of certain occupational 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.

Popular name: Act 299

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.

Popular name: Act 299

Administrative rules: R 339.1001 et seq. of the Michigan Administrative Code.

339.202a Preliminary determination; procedure; effect.

Sec. 202a. (1) The department shall establish a procedure that allows an individual to obtain a preliminary determination from the department concerning whether any court judgments against him or her would likely result in a denial of a license or registration for failing to meet the good moral character requirement for that license or registration.

(2) All of the following apply for purposes of subsection (1):

(a) To obtain a preliminary determination under this section, an individual must file a request that meets all of the following:

(i) Is submitted on a form provided by the department.

(ii) Identifies the license or registration for which he or she may apply.

(iii) Includes a detailed description of any criminal proceedings that resulted in a judgment against him or her.

(iv) Includes the nonrefundable fee required by the department.

(b) The department shall only consider the information provided by an individual under subdivision (a)(ii) and (iii) in making a preliminary determination.

(c) A preliminary determination under this section that is adverse to an individual does not prevent the individual from subsequently applying for a license or registration.

(d) The department or a board is not bound by a preliminary determination under this section if the individual applies for a license or registration under this act.

(e) The issuance of a preliminary determination under this section does not limit the authority of the department to review applications for a license or registration, or to issue or deny a license or registration.

(f) The department shall notify an individual of a preliminary determination by delivering a preliminary determination letter to the individual, in a form determined by the department.

(3) An individual shall not request more than 1 preliminary determination under this section in any 120-day period.

History: Add. 2018, Act 455, Eff. Mar. 21, 2019.

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.

Popular name: Act 299

339.204 License or registration; renewal; requirements; evidence of attendance in continuing education program; waiver; imposition of limitation; review; renewal as responsibility of licensee or registrant; renewal application; failure to notify department of change of address; delivery or service of notice or communication by electronic mail.

Sec. 204. (1) Unless otherwise provided in this act and subject to the limitations under this section, the department shall renew the license or registration of a person that does all of the following:

(a) Applies to the department on a form provided by the department for renewal of a license or registration. The applicant must deliver the application for renewal to the department on or before the expiration date of the person's current license or registration.

(b) Pays the appropriate fees under article 4.

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

(2) Except as otherwise provided in this act, a board that requires evidence of attendance in a continuing education program as a condition to license renewal may waive that requirement if, after receiving a written application, the board finds the failure of the licensee to attend was due to the licensee's disability, military service, or absence from the continental United States or due to circumstances beyond the control of the licensee that the board considers sufficient cause to waive the requirement.

(3) Except as otherwise provided in article 7, the department may renew a license or registration under this act 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, does not approve or disapprove the imposition of a limitation, the department may impose the limitation. A person that receives a license or registration renewed with a limitation may receive a review of that limitation under 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 does not extend the expiration date of a license or registration and may result in disciplinary action.

(5) A licensee or registrant shall report to the department a change in name or mailing address, or a change of electronic mail address if the licensee or registrant has provided an electronic mail address under subsection (6), not later than 30 days after the change occurs.

(6) If the department is required or permitted under this act to deliver or serve a notice or other communication to a licensee or registrant by mail, the department may deliver or serve the notice or

communication by electronic mail rather than by first-class mail if the licensee or registrant has provided an electronic mail address to the department, authorized the department in writing to deliver or serve notices and communications to the licensee or registrant at the electronic mail address, and agreed in writing that the licensee or registrant consents to the service of any notice or communication sent to the electronic mail address that the department would otherwise serve by mail.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 1988, Act 463, Eff. Sept. 1, 1989;—Am. 2016, Act 502, Eff. Mar. 29, 2017.

Popular name: Act 299

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.

Popular name: Act 299

Administrative rules: R 285.901.1 et seq.; R 338.551 et seq.; R 338.581 et seq.; R 338.861 et seq.; R 338.881; R 338.1301 et seq.; R 338.1401 et seq.; R 338.1511 et seq.; R 338.1801 et seq.; R 338.1841 et seq.; R 338.1861; R 338.1901 et seq.; R 338.2001 et seq.; R 338.2101 et seq.; R 338.2401 et seq.; R 338.2601 et seq.; R 338.2701 et seq.; R 338.2801 et seq.; R 338.2841 et seq.; R 338.2901 et seq.; R 338.4001 et seq.; R 338.5101 et seq.; R 339.1001 et seq.; R 339.18901 et seq.; R 339.22101 et seq.; R 339.23101 et seq.; R 431.101 et seq.; and R 451.501 et seq. of the Michigan Administrative Code.

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.

Popular name: Act 299

339.207 Licensing or approval of school, institution, or other person offering training or education; approval or recognition of continuing education program; processing request within certain period of time; 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, Act 264, Imd. Eff. July 23, 2004.

Popular name: Act 299

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.

Popular name: Act 299

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.

Popular name: Act 299

339.210 Contracting with persons or agencies to implement act and fulfill responsibilities of department or board; electronic continuing education tracking system; agreement; provisions; rules.

Sec. 210. (1) 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.

(2) Under subsection (1), the department may enter into an agreement with any of the following to provide an electronic continuing education tracking system that provides an electronic record of the continuing education courses, classes, or programs completed by individuals who are licensed or registered under this act:

(a) For individuals who are licensed under article 7, a statewide accountancy trade organization.

(b) For individuals who are licensed under article 25, a statewide real estate trade organization.

(c) For the individuals who are licensed or registered under all of the other specific articles of this act, except the individuals described in subdivision (a) or (b), an entity that is not an agency of a state or the federal government.

(3) All of the following apply to an electronic system provided by an agreement under subsection (2):

(a) All continuing education tracking provided by the system must accurately reflect the continuing education requirements under this act and rules promulgated under this act.

(b) A confirmation of completion of continuing education requirements generated by the system is considered verification of completion of those requirements for renewal of a license or registration and for purposes of any audit of licensees or registrants conducted by the department.

(c) The system must provide access to continuing education information about an individual who is licensed or registered under this act to the individual, to the appropriate board for the individual's occupation, and to the department.

(4) The department shall promulgate any rules it considers appropriate to implement and administer subsections (2) and (3).

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2016, Act 30, Eff. June 6, 2016.

Popular name: Act 299

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.

Popular name: Act 299

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.

Popular name: Act 299

339.213 Temporary license or certificate of registration; nonrenewable; validity; applicant married to member of armed forces; 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 under any of articles 7 to 26a. If approved by a board, a temporary license or certificate of registration issued under this subsection 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.
- (2) In addition to a temporary license or certificate of registration under subsection (1), beginning September 9, 2014, the department shall grant a temporary license or certificate of registration for an occupation under this act to an applicant who meets both of the following:
- (a) He or she provides proof acceptable to the department that he or she is a dependent of a member of the armed forces, a dependent of a member of the uniformed services, or a dependent of a veteran.
 - (b) He or she provides proof acceptable to the department that he or she holds a current license in good standing, or a current registration in good standing, in that occupation, issued by an equivalent licensing department, board, or authority, as determined by the department, in consultation with the board, in another state of the United States or a foreign country.
- (3) A temporary license or registration issued under subsection (2) is valid for 6 months and may be renewed for 1 additional 6-month term if the department determines the temporary licensee or registrant continues to meet the requirements of subsection (2) and needs additional time to fulfill the requirements for initial licensure or registration in this state. The department may place a limitation on a temporary license or certificate of registration granted under this section.

History: 1980, Act 299, Imd. Eff. Oct. 21, 1980;—Am. 2014, Act 149, Imd. Eff. June 11, 2014;—Am. 2021, Act 26, Eff. Sept. 7, 2021.

Popular name: Act 299

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.

Popular name: Act 299

339.215, 339.216 Repealed. 1994, Act 257, Imd. Eff. July 5, 1994.

Compiler's note: The repealed sections pertained to creation of the commission on professional and occupational licensure and recommendations made to the legislature.

Popular name: Act 299

339.217 License or certificate of registration without examination; member of armed forces, veteran, or dependent of member or veteran; requirements.

Sec. 217. (1) Subject to subsection (2), the department shall issue a license or a certificate of registration for an occupation under this act without examination to an individual who demonstrates to the satisfaction of the department that he or she meets all of the following at the time of application:

- (a) Provides proof that the individual is 1 of the following:
 - (i) A member of the armed forces or uniformed services.
 - (ii) A veteran.
 - (iii) A dependent of a member of the armed forces, a member of the uniformed services, or a veteran.
- (b) Holds a valid license or registration in that occupation from an equivalent licensing department, board, or authority, as determined by the department, in at least 1 other state of the United States. For each license or registration described in this subdivision that he or she holds, all of the following must be met:
 - (i) The license or registration is in good standing and he or she has held that license or registration for at least 1 year.

(ii) There were minimum education requirements and, if applicable, work experience requirements in effect for licensure or registration in the other state, and the other state verifies that he or she met those requirements for licensure or registration in that state.

(iii) If the other state required an examination for licensure or registration, he or she passed the examination.

(iv) The requirements for licensure or registration in the other state are substantially equivalent to or exceed the requirements of this act and any rule promulgated under this act for the license or registration.

(c) Has not had a license or registration revoked, and has not voluntarily surrendered a license or registration, in any other state of the United States or a foreign country while under investigation for unprofessional conduct.

(d) Has not had discipline imposed by any equivalent licensing department, board, or authority in another state of the United States. If another state of the United States has taken disciplinary action against the applicant, the department shall determine if the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that other state, the department shall not issue or deny a license or registration until the matter is resolved.

(e) Does not have a complaint, allegation, or investigation pending before an equivalent licensing department, board, or authority in another state of the United States or a foreign country that relates to unprofessional conduct. If the applicant has any complaints, allegations, or investigations pending, the department shall suspend the application process and shall not issue or deny a license or registration to the applicant until the complaint, allegation, or investigation is resolved.

(f) Pays all applicable fees.

(g) Is of good moral character.

(h) Meets the age requirement of that occupation under this act, if applicable.

(2) If the department determines that the issuance of a license or a certificate of registration under subsection (1) for an occupation under this act may result in a violation of a federal oversight or licensing guideline for that occupation, the department shall not issue a license or a certificate of registration.

(3) This section does not prevent the department from issuing a temporary license under section 213, a courtesy license under section 1806a, or issuing a license under section 726, 1108(2), 1211, 1806(9), 2013, 2209, or 2623.

History: Add. 2021, Act 26, Eff. Sept. 7, 2021.

Popular name: Act 299