

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF HEALTH CARE SERVICES

GENERAL RULES

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16145, 16174(1)(e), 16194, and 16201 of 1978 PA 368, MCL 333.16145, 333.16174(1)(e), 333.16194, and 333.16201, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2011-4, MCL 330.3101, 445.2001, 445.2011, and 445.2030)

R 338.7001 Definitions.

Rule 1. As used in these rules:

- (a) "CMS" means centers for medicare and medicaid services, U.S. department of health and human services.
- (b) "Code" means 1978 PA 368, MCL 333.1101 to 333.25211.
- (c) "Department" means the department of licensing and regulatory affairs.
- (d) "Stark law" means section 1877 of part d of title XVIII of the social security act, 42 U.S. code 1395nn.

History: 1979 AC; 2009 AACCS; 2014 AACCS.

R 338.7001a Biennial renewal; authorized boards; license renewal content; fees.

Rule 1a. (1) The license or registration renewals issued for the following boards, task forces, or committees shall be valid for a period of 2 years commencing on the following dates and shall be renewed every 2 years upon receipt of payment and compliance with renewal requirements, if appropriate:

Acupuncture	10/1
Audiology	1/1
Chiropractic	12/1
Dietetics and nutrition	10/1
Marriage and family therapy	2/1
Nursing	4/1
Nursing home administrators	11/1
Occupational therapy	6/1
Optometry	7/1
Pharmacy	7/1
Physical therapy	8/1
Physician's assistants	9/1
Psychology	9/1
Respiratory therapy	1/1
Sanitarians	12/1
Speech-Language Pathology	10/31
Veterinary medicine	1/1

- (2) The biennial fees are double the per annum fees approved by the legislature.
- (3) A license or registration having a limitation may be renewed for a term less than the biennial cycle.

History: 2009 AACCS; 2014 AACCS.

R 338.7002 Triennial renewal; authorized boards; license renewal content; fees.

Rule 2. (1) The license renewals issued for the following boards shall be valid for a period of 3 years commencing on the following dates and shall be renewed every 3 years upon receipt of payment and compliance with renewal requirements, if appropriate:

Athletic training	10/1
Counseling	6/1
Dentistry	9/1
Massage Therapy	10/31
Medicine	2/1
Osteopathic medicine and surgery	1/1
Podiatric medicine and surgery	3/1
Social work	5/1

- (2) The triennial fees are triple the per annum fees approved by the legislature.
- (3) A license having a limitation may be renewed for a term less than the triennial cycle.

History: 1979 AC; 2009 AACCS; 2014 AACCS.

R 338.7003 "Stark Law" revision; adoption by reference.

Rule 3. (1) In accordance with section 16221(e)(iv)(B) of the code, the department has officially taken notice of the regulations promulgated by cms under the stark law that have been published since June 3, 2002 when the department adopted the federal physician self-referral law. The department has found that the regulations pertain to referrals by physicians for designated health services and that they continue to protect the public from inappropriate referrals by physicians. Therefore, the department adopts by reference, as provided for in section 16221(e)(iv)(B) of the code, the new regulations promulgated by cms known as "Phase III" which includes the following: Final Rule, 72 Fed. Reg. 51012 (September 5, 2007), effective December 4, 2007, Final Rule, 72 Fed. Reg. 64161 (November 15, 2007), effective December 4, 2007, (rule delaying effect of certain provisions in 72 FR 51012 until December 4, 2008), and Correction Notice of Final Rule, 72 Fed. Reg. 68075 (December 4, 2007). The department also adopts by reference the new exceptions to the stark law promulgated by cms concerning electronic prescribing and health records arrangements which include the following: Final Rule, 71 Fed. Reg. 45140 (August 8, 2006), effective October 10, 2006.

(2) All federal regulations noted in subrule (1) of this rule are available at no cost at www.access.gpo.gov. These regulations also are available for inspection and

distribution at cost from the Bureau of Health Professions, Michigan Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.

History: 2009 AACCS.

R 338.7005 Assessment of fines.

Rule 5. When a fine is designated as an available sanction for a violation of section 16221 to 16226 of the code, MCL 333.16221 to 333.16226, in the course of assessing a fine, the disciplinary subcommittee shall take into consideration the following factors without limitation:

- (a) The extent to which the licensee obtained financial benefit from any conduct comprising part of the violation found by the disciplinary subcommittee.
- (b) The willfulness of the conduct found to be part of the violation determined by the disciplinary subcommittee.
- (c) The public harm, actual or potential, caused by the violation found by the disciplinary subcommittee.
- (d) The cost incurred in investigating and proceeding against the licensee.

History: 2014 AACCS.