



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

**MICHIGAN BOARD OF REAL ESTATE BROKERS
AND SALESPERSONS
RULES COMMITTEE WORK GROUP
MEETING**

**MINUTES
NOVEMBER 18, 2019**

The Michigan Board of Real Estate Brokers and Salespersons Rules Committee Work Group, met on November 18, 2019, at 611 West Ottawa Street, Upper Level Conference Center Room 2, Lansing, Michigan 48933.

CALL TO ORDER

Dena Marks, Analyst, called the meeting to order at 11:04 a.m.

ROLL CALL

Members Present: Hassan Ahmad, Real Estate Associate Broker
Karen Greenwood, Real Estate Salesperson
Natalie Rowe, Real Estate Associate Broker
Ronald Zupko, Real Estate Associate Broker

Members Absent: None

Staff: Dena Marks, Analyst, Boards and Committees Section
Stephanie Wysack, Board Support, Boards and Committees Section

Public Present: Gwyn Besner - ACME Institute, Inc
Matt Davis – Michigan Realtors
Ann Millben representing Jack Waller – NCI Associates Ltd.
Brian Westrin – Michigan Realtors

WELCOME

Marks provided a reminder of what the Rules Committee and the Department can do within the rules. She explained the heading at the top of draft rules.

Marks explained the plan for the flow of the meeting.

RULES DISCUSSION – Copy of Draft Rules is attached.

R 339.22101 Definitions.

Marks stated that Distance-learning was added as it is in statute.

R339.22203 Prelicensure education credits for broker’s license; prelicensure education credits equivalents; prelicensure education credits for real estate salesperson’s license.

Marks stated that minor changes were made for clarification.

Provision (1): Millben suggested that the use of “clock hours” instead of credits would be clearer.

The Rules Committee agreed with suggested change.

Millben suggested removing “classroom” as courses can be completed online.

The Rules Committee agreed with suggested change.

Davis pointed out that hours could be considered credit or clock hours, depending on how they were completed.

Millben agreed and suggested not using credits or clock hours.

Marks clarified that provision would read “Prelicensure education for broker’s....”

The Rules Committee agreed with suggested change.

R 339.22217 Acceptable related experience for broker and associate broker applicants.

Marks stated there were no changes made to this rule.

R 339.22219 Lapse of broker’s license.

Marks stated that there were no changes to this rule.

Provision (1): Ahmad suggested adding wording about the associate broker license to clarify so that the individual knows that if they have more than one license, it only applies to the lapsed one, not both.

Millben suggested adding the word “lapsed” in front of “real estate broker” on second line.

Besner suggested adding “that real estate” in front of “broker” on the third line.

Davis suggested simplifying the wording by using the word “that” in both of the above spots.

The Rules Committee agreed with using “that”.

R 339.22221 Death or disability of broker.

Marks stated that she made minor changes for clarification.

Millben asked if there was a definition of reasonable anywhere.

Marks indicated that there wasn't.

Westrin questioned whether the intent was to be a capacity issue.

Greenwood stated that the state does not get into defining disabled.

Davis stated that it would not be possible to define all scenarios.

Greenwood suggested adding unable to perform or temporary.

Ahmad asked if the supervision was required to be done in person.

Marks will research Ahmad's question and the rule will be looked at again at the next Rules Committee Work Group meeting.

R 339.22305 Service provision agreement.

Marks stated that she added a reference to the statutory requirement.

Provision (1): Westrin stated that the language boxes realtors in with the provision agreement within this one section. Suggested using the wording “code” instead of the full number.

Marks clarified that the provision will read “In addition to complying with the provisions of the code, a broker...”

The Rules Committee agreed with suggested change.

R 339.22307 Delivery of offer to purchase to buyer; delivery of written offers to seller; delivery of copies of acceptance to buyer and seller; inclusion of terms and conditions in offer to purchase.

Provision (2): Marks stated that the Uniform Electronic Transaction Act (UETA) is very large and that the Department should not be interpreting it. Reference to the UETA is sufficient.

Westrin provided language that the Michigan Realtors use.

Westrin questioned whether using “acceptable” is clear or should it be removed.

Marks stated that acceptable is used because the parties have to agree to the method.

Greenwood suggested moving “acceptable” to the end of the provision.

Marks suggested tabling to the next meeting.

Ahmad asked if the UETA identified what electronic was.

Marks stated that the UETA does not define this term, but it states that the communication has to be acceptable to both parties.

Provision (1): Rowe suggested adding the word “promptly” before deliver and to remove the word “immediately.”

Besner agreed with the suggestion.

The Rules Committee agreed to the suggested change.

R 339.22313 Broker’s trust or escrow.

Marks stated that she researched Michigan law and other states’ laws and rules to find information about the disbursement of funds. She found nothing addressing that in statute, therefore no change made to the rule.

Provision (3): Millben asked if this provision included security deposits.

Westrin stated that security deposits are handled as their own thing. He suggested changing the provision to read “A broker shall deposit all funds received in a fiduciary capacity, including escrow funds and earnest money deposits.”

Committee agreed with the suggested change.

Provision (4): Westrin understood the intent of the provision but stated the list may be making it more confusing.

Marks stated that the list was added for clarification.

Subrule (4)(d): Rowe suggested adding “any of” prior to “the following.”

Westrin stated that there could be consequences to having too much information. He wanted to know if subrule (4)(d)(iv) meant the card number.

Greenwood and Marks stated that this would be the approval number issued through the bank.

The Rules Committee agreed to the suggested change.

R 339.22315 Prohibition of licensee becoming party to net service provision agreement.

Marks stated that no changes were made to this rule.

R 339.22321 Licensee commissions for other services; disclosure and consent of buyer and seller required.

Marks stated that she added a reference to the statutory requirement.

Page 6 – Headings

Marks stated that both headings have been removed as all the content under them has been rescinded. The new heading is renumbered and renamed to encompass the content of the section.

R 339.22618 Application for approval to offer prelicensure courses; forms; required information.

Marks stated that at the previous meeting, the Rules Committee asked about adding a policy and procedure. There is nothing in statute that provides authority for providing a policy or procedure. Therefore, no language will be added.

Marks stated that she moved the sponsor record provision to the continuing education section.

Provision (1): Marks stated that “on the form” was added for clarification.

Davis asked if this was the section that covered schools applying for approval. Marks indicated it was.

R 339.22619 Expiration date for prelicensure courses; renewal.

Marks stated that minor changes were made for clarification.

The Rules Committee agreed with the proposed rule as presented.

R 339.22620 Program coordinator.

Marks stated that minor changes were made for clarification.

The Rules Committee agreed with the proposed rule as presented.

R 339.22621 Instructors.

Besner stated that there was no longer a form available to apply with The Proprietary Schools within the Corporations, Securities & Commercial Licensing Bureau (CSCL).

Marks asked who the form needed to be sent to within the Department.

Besner confirmed that the form needed to go to CSCL.

Marks will follow up with CSCL regarding the form.

R 339.22621a Approved prelicensure course criteria.

Davis stated that other groups should have a chance to attend a meeting to discuss the criteria under this rule.

Davis stated that post-education should be added that is not part of the continuing education requirement. Marks stated that statute does not allow for that so it cannot be added.

Davis questioned how the content of the PSI exam is being determined and delivered. What are they testing on? Material in schools appears to be based on the exam and not vice versa. He would like transparency with PSI.

Greenwood stated that the exam is more focused on national than state (70/30).

Marks will research who has the authority to choose the exam company.

Rule is tabled for discussion at next Rules Committee Work Group meeting.

R 339.22624 Student records; content; inspection.

Subrule(5)(b): Marks asked if anyone was familiar with the term sponsor.

Marks stated that the word “education” will be changed to “learning.”

The Rules Committee agreed with the change.

R 339.22626 Distance-learning.

Marks stated that no changes were made to this rule.

R 339.22629 Continuing education requirements for licensees.

Marks stated that minor changes were made for clarification.

R 339.22630 Waiver of continuing education.

Marks stated she made a change to the citation and removed the word “cycle.”

The Rules Committee agreed with the proposed rule as presented.

R 339.22632 Eligible continuing education program.

Provision (3): Westrin stated that the burden of keeping continuing education records should be on the licensee, not the sponsor. All records should be on file with CE Marketplace.

Greenwood asked if changing the timeframe to 3 years would be better.

Marks stated that auditing requires documentation to be kept for one year beyond the license cycle, which would mean 4 years.

Westrin stated that sponsors could be unprepared for the change.

Greenwood suggested tabling this provision in order to obtain more info from sponsors and get their thoughts.

ADJOURNMENT

Marks adjourned the meeting at 12:50 p.m.

Prepared by:
Stephanie Wysack, Board Support
Bureau of Professional Licensing

Date: November 21, 2019

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

REAL ESTATE BROKERS AND SALESPERSONS - GENERAL RULES

Filed with the secretary of state on

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 sections 205, ~~and 308~~, and **2504(3)(a)** of the **occupational code**, 1980 PA 299, MCL 339.205, ~~and 339.308~~, and **339.2504** and Executive Reorganization Order Nos. **1991-9**, 1996-2, 2003-1, ~~2008-4~~, and 2011-4, MCL **338.3501**, 445.2001, 445.2011, ~~445.2025~~, and 445.2030)

R 339.22101, R 339.22203, R 339.22217, R 339.22219, R 339.22221, R 339.22305, R 339.22321, R 339.22618, R 339.22619, R 339.22624, R 339.22625, R 339.22629, and R 339.22630 of the Michigan Administrative Code are amended, R 339.22621a is added, and as follows:

PART 1. GENERAL PROVISIONS

R 339.22101 Definitions.

Rule 101. As used in these rules:

- (a) "Code" means **the occupational code**, 1980 PA 299, MCL 339.101 to 339.2919.
- (b) "Disability" means a determinable physical or mental characteristic which may result from disease, injury, congenital condition of birth, or functional disorder that prevents a broker from performing his or her duties under ~~1980 PA 299, MCL 339.101 to 339.2919~~ **the code**.
- (c) "**Distance-learning**" means **that technology and educational process defined in section 2501(f) of the code, MCL 339.2501**.
- (d) ~~(e)~~ "Instructor" means an individual who is approved to teach prelicensure classes pursuant to section 2504(4) of the code, MCL 339.2504(4).
- (e) ~~(d)~~ "Program coordinator" means the individual ~~who assumes the responsibility under these rules~~ **responsible** for supervising the administration of approved courses.
- (f) ~~(e)~~ "Real estate school" or "institution" means an approved entity that represents to the public that any of its courses fulfill, in whole or in part, the requirements of section 2504(1) and (2) of the code, MCL 339.2504(1) ~~and (2)~~, for prelicensure education.

PART 2. LICENSING

R 339.22203 ~~Validity of broker~~ **Prelicensure education credits for broker's license; prelicensure education credits equivalents; validity of salesperson prelicensure education credits for real estate salesperson's license.**

Rule 203. (1) **An applicant for a real estate broker's license shall satisfy all requirements of section 2504(1) of the code, MCL 339.2504, including completing 90 hours of approved prelicensure classroom courses in real estate, which included 9 clock hours of instruction on civil rights and fair housing law. The broker prelicensure education must be completed not more than 36 months before the date of application, unless the applicant held an active real estate salesperson license during that period.**

(2) Approved prelicensure education for a real estate broker's license ~~Acceptable courses for prelicensure education~~ must meet the criteria established by the department and the board pursuant to **R. 339.22621a**, but may be reviewed and preapproved by a statewide real estate trade association for subject matter relevant to the practice of real estate. Not more than 1 broker course on the same subject will be accepted for credit.

~~(2)~~ **(3) In meeting the broker prelicensure education requirements, the** The department shall give **prelicensure education credit for a real estate broker's license** for the following:

(a) Possession of a law degree, ~~will be~~ **is** considered equivalent to 60 clock hours of real estate education ~~which shall include~~ **including credit** for 6 hours of instruction **credit** in civil rights law and fair housing law.

(b) Possession of a master's degree in business administration or finance from a degree or certificate granting public or independent nonprofit college or university, junior college, or community college is considered equivalent to 60 clock hours of real estate education.

(c) Possession of a bachelor's degree in business or finance from a degree or certificate granting public or independent nonprofit college or university, junior college, or community college is considered equivalent to 30 clock hours of real estate education.

(3) An applicant for a salesperson license shall have completed 40 clock hours of qualifying prelicensure education **pursuant to R. 339.22621a**, of which 4 clock hours must be on civil rights law and fair housing law, as defined in section 2504(2) of the code, MCL 339.2504(2). The salesperson prelicensure education must be completed not more than 36 months before the date of application.

R 339.22217 Acceptable related experience for broker and associate broker applicants.

Rule 217. For purposes of calculating the time an applicant for a license as a broker or an associate broker has been engaged in the real estate business, as required by section 2505(7)(b)(viii) of the code, MCL 339.2505(7)(b)(viii), ~~any~~ **both** of the following apply:

(a) A person holding a real estate license in another state will be given 1 year of credit for each year in which he or she closed 5 or more real estate transactions.

(b) An applicant will be given 1 year of credit for managing at least 10 units, located in the state of Michigan, for 3 or more years.

PART 3. LAPSE OF BROKER'S LICENSE AND BROKER'S DEATH OR DIABILITY

R 339.22219 Lapse of broker's license.

Rule 219. (1) If a broker's license is lapsed, the licenses of all real estate salespersons and all affiliated associate real estate brokers employed by the real estate broker are automatically suspended, until the broker is relicensed in accordance with section 2502a(3) of the code, MCL 339.2502a(3), or until there is a change of employer and the issuance of a new license.

(2) **If a real estate salesperson or affiliated associate real estate broker whose license was suspended pursuant to subrule (1) of this rule there is a change in employer becomes employed by a different licensed broker**, the department shall issue a new license to the salesperson or associate real estate broker without charge if the license is issued during the same term in which the original license was issued.

R 339.22221 Death or disability of broker.

Rule 221. (1) ~~In the event of the death or disability of~~ **If a broker's sole principal associate broker dies or becomes disabled**, the department shall allow all affiliated real estate licensees a reasonable time, not to exceed 1 year, to either wind up the business of the real estate broker or designate a new sole principal associate broker.

(2) **The license of the deceased or disabled sole principal associate broker shall not be used to enter into new** ~~New business transactions shall not be entered into utilizing the license of a broker whose sole principal associate broker is deceased or disabled.~~

(3) One year after the date of death or disability of a broker's sole associate principal broker, the licenses of all affiliated salespersons and associate real estate brokers who are employed by the broker ~~shall~~ **will** be automatically suspended, pending a replacement of the sole principal associate broker or change of employer and the issuance of a new license.

(4) **If a real estate salesperson or affiliated real estate broker whose license was suspended pursuant to subrule (3) of this rule becomes employed by a different licensed broker**, ~~there is a change in employer~~, the department shall issue a new license to the ~~associate broker or salesperson~~ **or associate real estate broker** without charge if the license is issued during the same term in which the original license was issued.

PART 3. 4. PRACTICE AND CONDUCT

R 339.22305 Service provision agreement.

Rule 305. (1) ~~A~~ **In addition to complying with the provisions of section 2515d of the code, MCL 339.2512d**, a broker or a licensee acting on behalf of the employing broker who enters into a service provision agreement with a party or parties shall provide, at the time of signing, a true executed copy of the agreement to the party or parties signing the agreement. Every agreement shall be fully completed by the licensee before the party or parties sign it.

(2) A service provision agreement shall include a definite expiration date and shall not contain a provision requiring the party signing the agreement to notify the broker of the party's intention to cancel the agreement upon or after the expiration date.

R 339.22307 Delivery of offer to purchase to buyer; delivery of written offers to seller; delivery of copies of acceptance to buyer and seller; inclusion of terms and conditions in offer to purchase.

Rule 307. (1) A licensee shall deliver to the buyer a signed copy of the offer to purchase immediately after it has been signed by the buyer.

(2) A licensee shall promptly deliver all written offers to purchase to the seller upon receipt. **Delivery may be made through any acceptable method including in person, by mail, or through an electronic communication pursuant to the uniform electronic transactions act, Acceptable methods of delivery include, but are not limited to, either of the following:**

~~—(a) Delivery in person or by mail.~~

~~—(b) Delivery by electronic communication as defined in 2000 P.A. PA 305, MCL 450.831 et seq to 450.849.~~ The use of electronic records or digital signatures for any real estate transaction requires the prior agreement of the parties.

(3) Upon obtaining a proper acceptance of the offer to purchase, signed by the seller, the licensee shall promptly deliver true executed copies of the acceptance to the purchaser and seller.

(4) A licensee shall make certain that all terms and conditions of the real estate transaction are included in the offer to purchase.

(5) A licensee shall not be subject to disciplinary action for failing to submit to the seller any additional offers to purchase which are received after the seller has accepted an offer and the sales agreement is fully executed, unless a service provision agreement requires that subsequent offers be presented.

R 339.22313 ~~Broker's trust~~ **Trust or escrow** accounts.

Rule 313. (1) **In addition to complying with section 2512 of the code, MCL 339.2512, a broker's Trust trust or escrow accounts must comply with all requirements of this rule.**

~~(2) be Trust or escrow accounts must be a~~ maintained in demand accounts only. Checks drawn on the trust or escrow accounts must be signed by a broker or an associate broker. Cosignatories may be used; however, the signature of a broker or associate broker must accompany this signature.

~~(3) (2)~~ A broker ~~must~~ **shall deposit all trust funds received, including escrow funds, security deposits, and other funds received in a fiduciary capacity in maintain** a non-interest-bearing demand trust account ~~when any earnest money deposits or money belonging to others comes into his or her possession.~~ The account must be maintained in accordance with the requirements of section 2512(k) of the code, MCL 339.2512(k).

~~(4) (3)~~ A broker shall maintain a **record of all funds received.** ~~bookkeeping system in the office.~~ At a minimum, the ~~system~~ **record** must **include all** ~~consist~~ of the following **information:**

(a) ~~A record that shows the chronological sequence in which funds are received and disbursed, as follows:~~ **The date that the funds were received and deposited.**

~~(i) For funds received, the record must include all of the following information:~~
~~(A) The date of receipt and date of deposit.~~

(b) The name of the party who provided the funds.

- (c) **The amount of the funds received and deposited.**
- (d) **The method of receipt including the following:**
 - (i) **The cash amount and associated receipt number.**
 - (ii) **The check or money order number.**
 - (iii) **The electronic transfer number.**
 - (iv) **The credit or debit card transaction number.**
- ~~(B) The name of the party who provided the funds to the broker.~~
- ~~(C) The name of the seller.~~
- ~~(D) The amount of the funds.~~
- (5) **A broker shall maintain a record of all funds dispersed. At a minimum, the record must include all of the following information:**
 - (a) ~~(ii) For funds disbursed, the record must include all of the following information:~~
The name of the party to whom funds were dispersed.
 - (b) ~~(A) The date of the disbursement.~~
~~(B) The payee.~~
 - (c) ~~(C) The check number.~~
 - (d) ~~(D) The purpose of the disbursement.~~
 - (e) ~~(E) The amount of the disbursement.~~
- (6) ~~(iii) The record must reflect~~ **A a current balance of the account or accounts and must be maintained and be available to the department upon request.**
- (7) ~~(b) A The record must that shows reflect the receipts and disbursements as they affect a single, particular transaction between a buyer and seller and must contain, at a minimum, all of the following information shall record each transaction, as follows:~~
 - (a) ~~(i) For funds received, the record must include all of the following information:~~
 - (i) ~~(A) The names of both parties to a transaction.~~
 - (ii) ~~(B) The property address or brief legal description.~~
 - (iii) ~~(C) The dates and amounts received.~~
 - (b) ~~(ii) For funds disbursed, the record must include all of the following information:~~
 - (i) ~~(A) The date of the disbursement.~~
 - (ii) ~~(B) The name of the payee.~~
 - (iii) ~~(C) The check number.~~
 - (iv) ~~(D) The amount of the disbursement.~~
- (8) ~~(4) All trust or escrow account records must be maintained for a period of not less than 3 years from the date of inception of the records.~~
- (9) ~~(5) A broker or associate broker's disbursement of an earnest money deposit must be made at consummation or termination of the agreement in accordance with the agreement signed by the parties. However, any deposit in the trust account of the broker for which the buyer and seller have made claim must remain in the broker's trust account until a civil action has determined to whom the deposit must be paid, or until the buyer and seller have agreed, in writing, to the disposition of the deposit. The broker may also commence a civil action to interplead the deposit with the proper court.~~

R 339.22315 Prohibition of licensee becoming party to net service provision agreement.
 Rule 315. A licensee shall not become a party to a net service provision agreement for an owner, seller, or buyer as a means of securing a real estate commission.

R 339.22321 Licensee commissions for other services; disclosure and consent of buyer and seller required.

Rule 321. (1) A licensee who is entitled to receive, either directly or indirectly, a real estate commission as a result of the sale of property, may not also receive a referral fee or other valuable consideration for placing a loan in connection with that transaction unless the licensee obtains the prior written consent of the buyer and seller in that transaction and the fee is not otherwise prohibited by the real estate settlement procedures act of 1974, 12 U.S.C. USC §§ 2601-2617-et seq., or other applicable law.

(2) A licensee who is entitled to receive, either directly or indirectly, a real estate commission as a result of the sale of property, may not also receive a referral fee or other valuable consideration from an abstract, home warranty, title insurance, or other settlement service provider in connection with that transaction unless the licensee obtains the prior written consent of the party or parties with whom the licensee has an agency relationship and the fee is not otherwise prohibited by the real estate settlement procedures act of 1974, 12 U.S.C. USC §§ 2601-2617-et seq., or other applicable law.

~~PART 4. ENFORCEMENT~~

~~PART 5. OUT OF STATE LAND SALES~~

~~PART 6. 5. REAL ESTATE EDUCATION~~

~~SUBPART 1. GENERAL PROVISIONS PRELICENSURE EDUCATION~~

R 339.22618 Application for approval to offer prelicensure courses; forms; required information.

Rule 618. (1) A real estate school shall submit a prelicensure course approval application **on the form** approved by the department. The application must include, but not be limited to, all of the following information:

- (a) The school name, business address, telephone number, facsimile number, website address, and e-mail address, if applicable.
- (b) The course title.
- (c) The names, addresses, telephone numbers, and qualifications of instructors.
- (d) The name of the program coordinator.
- (e) A summary of topics completed for each prelicensure course to be taught, including the number of hours allocated to each topic.
- (f) A sample certificate of completion that contains all of the following information:
 - (i) The date of course completion.
 - (ii) Identification of the course including the name of the course as approved by the department.
 - (iii) The name and approval number of the school.
 - (iv) The name of the student.
 - (v) The number of clock hours completed by the student.
- (g) Methodology for verifying and monitoring attendance and the make-up policy.
- (h) An enrollment application to be completed by prospective students that contains a statement disclosing the percentage of students who successfully completed the program

in the past calendar year. The enrollment application must be updated no later than February 1 of each calendar year.

(2) A real estate school shall report to the department any change in the information on the application forms within 30 days. The department shall accept or reject a change within 60 days of notification of the change.

(3) A real estate school shall apply for and obtain approval as determined by the department for real estate education courses before the courses are offered to the public.

(4) The department shall issue a certificate or letter of course approval or a notice of denial to the school within 60 days after the application is received. Denials must be based on substantive deficiencies and specify the reasons for the denial.

(5) The department shall accept courses for approval that meet the criteria established by these rules and section 2504 of the code, MCL 339.2504.

Rule 339.22619 Expiration date for prelicensure courses; renewal.

Rule 619. (1) Approval of prelicensure courses issued by the department to a real estate school ~~shall expire~~ **expires** 1 year from the date the course was approved.

(2) A proprietary real estate school licensed under **the proprietary schools act, 1943 PA 148, MCL 395.101 to 395.103**, shall ~~comply~~ **remain compliant** with the act to maintain approval ~~of the~~ **as a** real estate prelicensure school under this subpart.

(3) To maintain course approval, a proprietary real estate school shall submit to the department a renewal application **on the form** ~~that is~~ approved by the department at least 60 days before the expiration date of the course approval.

R 339.22620 Program coordinator.

Rule 620. Each real estate school shall designate at least 1 individual as program coordinator. The program coordinator ~~shall be~~ **is** responsible for supervising the program of courses and ensuring compliance with the code and these rules.

R 339.22621 Instructors.

Rule 621. (1) The department shall approve each instructor before he or she teaches any real estate course. Instructors must possess at least 1 of the following minimum qualifications:

(a) Teaches or has taught real estate courses at an accredited institution of higher learning.

(b) Is licensed or certified by the department or other governmental agency to engage in the real estate aspects of appraising, financing, marketing, brokerage management, real property management, real estate counseling, real property law, or other related subjects.

(2) Instructors are responsible for all of the following:

(a) Complying with all laws and rules relating to real estate education.

(b) Providing students with current and accurate information.

(c) Maintaining an environment conducive to learning.

(d) Assuring and certifying accurate attendance of students enrolled in courses.

(e) Providing assistance to students and responding to questions relating to course materials.

(3) The real estate school shall submit to the department the qualifications of each instructor teaching an approved course ~~along~~ with the prelicensure course approval

application. The real estate school shall submit the qualifications to the department ~~not fewer than~~ **at least** 60 days before the instructor is scheduled to begin instruction.

R 339.22621a Approved prelicensure course criteria.

Rule 621a (1) In addition to complying with section 2504(3)(b) of the code, MCL 339.2504, real estate broker's prelicensure educational courses shall

(2) In addition to complying with section 2504(3)(b) of the code, MCL 339.2504, real estate salesperson's prelicensure educational courses shall

R 339.22624 Student records; content; inspection.

Rule 624. (1) Each real estate school shall establish and **permanently** maintain a record for each student.

(2) Student records must contain all of the following information:

(a) The student's name and address.

(b) The number of clock hours attended.

(c) The student's grade, if an examination is required to determine successful completion of the course.

(d) The date of course completion.

(e) The last 4 digits of the student's social security number.

(f) The student's date of birth.

(g) The **student's** real estate license identification number, if applicable.

(3) All records must be available for inspection during normal business hours by an authorized representative of the department.

~~(4) A real estate school shall maintain records in the following manner:~~

~~(a) Records of schools must be maintained permanently.~~

~~(b) Records of sponsors must be maintained for a minimum of 6 years from inception date of the record.~~

~~(4) (5) A real estate school shall issue a certificate of completion to a student who successfully completes an approved real estate course. The certificate must include all of the criteria set forth in R 339.22618(1)(f).~~

~~(5) (6) Each student completing a prelicensure course shall present a state-issued photo identification or acceptable alternative form of photo identification to the school before receiving the certificate of completion. Both of the following apply:~~

~~(a) For courses conducted in a traditional classroom setting, students or licensees shall present a state-issued photo identification or other acceptable alternative form of identification that verifies, to the satisfaction of the school, the identification of the student or licensee.~~

~~(b) For courses conducted through distance education, the school shall ensure that the student or licensee whose attendance is reported to the department is the same person who completed the distance education course. The school shall take appropriate measures to ensure accurate verification of the identity of each student or licensee before reporting course completion to the department.~~

~~(6) (7) At least 30 days before courses are held, schools shall submit to the department a schedule and geographic location for each course.~~

(7) ~~(8)~~ Within 5 business days of the conclusion of the last course, schools shall submit, in a format required by the department, the names of students who have successfully completed an approved course.

R 339.22625 Denial, suspension, or rescission of approval to offer courses; violation of code or rules.

Rule 625. A real estate school or instructor may be subject to the penalties of section 602 of the code, MCL 339.602, including disciplinary action against a course approval, for any of the following reasons:

- (a) Failure to comply with the provisions of the code or these rules.
- (b) Revealing or attempting to discover, or soliciting, encouraging, or inducing a person to reveal, the questions on a real estate license examination administered by or on behalf of the department.
- (c) Making a substantial misrepresentation or inducement regarding a real estate school or course of study.
- ~~(e)~~ (d) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise.

R 339.22626 Distance-learning.

Rule 626. (1) Real estate education courses represented as fulfilling the requirements of section 2504 of the code, MCL 339.2504, and delivered through distance-learning must be approved, ~~as determined~~ by the department before being offered to the public.

(2) A distance-learning course must contain all of the following:

- (a) All requirements listed R 339.22618 for approval of a prelicensure course.
- (b) The individual modules of instruction offered on a computer or other interactive program.
- (c) A list of at least 1 learning objective for each module of instruction. The learning objective must ensure that if all the objectives are met, the entire content of the course is understood.
- (d) A structured learning method to enable the student to attain each learning objective.
- (e) A method of assessment of the student's performance during each module of instruction.
- (f) A remediation for any student who is deficient in the assessment to repeat the module until the student understands the course content material.

(3) Delivery systems that meet the distance education criteria for current certification by the Association of Real Estate License Law Officials (ARELLO) are acceptable to the department, as follows:

(a) Proof of ARELLO certification as a primary or secondary provider, including the summary sheet and certificate, are provided with the application for course approval.

(b) Upon withdrawal or expiration of ARELLO certification, the approval to offer distance-learning courses are suspended until ARELLO certification is reinstated or the real estate school has applied for and received approval from the department according to subrule (4) of this rule.

(4) Equivalent delivery systems may be used if they are approved, as determined by the department.

(5) The real estate school shall describe in detail on its application how it will remedy hardware and software failures.

SUBPART 2. CONTINUING EDUCATION

R 339.22629 Continuing education requirements for licensees.

Rule 629. ~~Beginning with the license cycle after the effective date of these rules, real estate brokers, associate brokers, and salespersons shall successfully complete 6 hours of continuing education for each year of the license cycle.~~ **A licensee shall complete 18 hours of continuing education in each license cycle as follows:**

(a) ~~A minimum of Two 2~~ **A minimum of Two 2** hours of legal education courses involving statutes, rules, and court cases ~~are required in~~ **must be completed during** each year of a license cycle pursuant to section 2504a(2)(a) of the code, MCL 339.2504a(2)(a) **for a total of 6 or more hours per license cycle.**

(b) **The remaining 12 hours of continuing education required for renewal may** ~~Remaining hours can~~ be completed at any time during the license cycle.

R 339.22630 Waiver of continuing education.

Rule 630. A request for a waiver of continuing education pursuant to section 204(2) of the code, MCL 339.204(2), must be received by the department before the expiration date of the license cycle.

R 339.22632 Eligible continuing education program.

Rule 632 (1) An eligible “continuing education course” means a course that is reviewed and certified by a statewide real estate association that has a membership representing more than 18,000 licensees.

(2) An association that reviews continuing education courses pursuant to subrule (1) of this rule shall comply with each of the following:

(a) Ensure that all continuing education courses that are offered to licensees are compliant with section 2504a of the code, MCL 339.2504a, and involve subjects that are relevant to the management, operation and practice of real estate or otherwise contribute to the professional competence of the licensee.

(b) Provide a system for monitoring a licensee’s compliance with section 2504a of the code, MCL 339.2504a.

(c) Maintain a list of approved courses and ensure the list is available to licensees.

(3) A sponsor, as defined in section 2501(x) of the code, MCL 339.2501, of an eligible continuing education course shall maintain records of student attendance for a minimum of 6 years.

(4) A school, institution, program, or other person that has been denied certification as an eligible continuing education course by a statewide real estate association that has a membership representing more than 18,000 licensees may petition the department to review the association’s decision in accordance with MCL 339.520 and 339.521.

(5) (4) If a statewide real estate association that has a membership representing more than 18,000 licensees does not exist, then continuing education courses must be approved by the board.

DRAFT