

230 CMR 12.00 – 17.00 Private Occupational Schools

SECTION 12.00: DEFINITIONS

SECTION 13.00: LICENSING OF SCHOOLS AND SALES REPRESENTATIVES

SECTION 14.00: FACILITIES, EQUIPMENT, CURRICULUM, INSTRUCTORS, AND
STAFF

SECTION 15.00: GENERAL PROVISIONS AND STANDARDS OF PRACTICE

SECTION 16.00: LICENSE DENIALS AND DISCIPLINARY ACTION

SECTION 17.00: EFFECTIVE DATES AND REGULATION REVIEW

230 CMR 12.00: DEFINITIONS

For the purpose of 230 CMR 13.00 through 17.00, the following terms shall have the meanings indicated in 230 CMR 12.00 unless context clearly indicates otherwise. No attempt is made to define ordinary words that are used in accordance with their established dictionary meaning except where it is necessary to define their meaning to avoid misunderstanding. Definitions in M.G.L. c. 112, § 263(a) are not repeated here unless further clarity is required.

Abusive Practices. Practices that:

- (a) interfere with the ability of an individual to understand a term or condition of an enrollment contract or a financing agreement, or to understand information contained in a disclosure required under 230 CMR 15.05;
- (b) include an affirmation, promise, description, or representation that is either false, fraudulent, or that, in the light of all the circumstances, would mislead the individual to whom the affirmation, promise, description or representation is made, including a prospective student or family member of a prospective student; such acts include but are not limited to misleading a prospective student, whether explicitly or by omission, about any of the information contained in an enrollment contract or the financing of a Course or Program;
- (c) mislead an individual about the roles of Sales Representatives, Administrators, Admissions Representatives, or other school employees who provide information about paying for or financing the cost of a Course or Program; such acts include but are not limited to referring to a Sales Representative or Admissions Representative as a “counselor” for the student;
- (d) include Unsolicited Contact with an individual exceeding two such contacts by or on behalf of a School in a one-month period;
- (e) violate 230 CMR 15.06(14); or
- (f) induce enrollment or retention of a student for any Course or Program for which the School knows that, due to the student’s criminal history or other material disqualification, the student will not meet the requirements for employment or licensure in the occupation to which the Course or Program is represented to lead. If the student has a disability, the determination shall be made based on the student’s ability to complete the Course or Program or meet the requirements for employment with the provision of a reasonable accommodation for that disability. In no event shall 230 CMR 12.00 contravene the requirements of, or obligations of a school to accommodate students in accordance with the Americans with Disabilities Act, the Rehabilitation Act, or any other applicable law concerning students with disabilities.

Administrator. An individual: (1) who directs or manages the day-to-day operation of a School; and (2) whose job responsibilities do not include Solicitation.

Admissions Representative. Any person: (1) who assists in the process of admitting and enrolling students in a School; and (2) whose job responsibilities do not include Solicitation.

Advertising. All marketing or public relations materials including but not limited to all print or electronic media, letters, signs, stationery, etc. used to advertise or promote the availability of a service provided by a School in a manner reasonably calculated to attract the attention of the general public.

Course. A unit of learning which is offered as part of a Program.

Curriculum. The planned sequence of occupational lessons and assignments and the instructional methods and materials used to meet specified learning outcomes.

Director. The director of the division of professional licensure.

Equipment. Occupational, instructional, or training equipment.

Instructional Hour. A period of 50-60 minutes in length, during which instruction is being provided.

Instructor. An individual who provides occupational instruction or training to students at a School licensed by the division. The term Instructor does not include guest speakers, tutors, or instructor assistants who only supplement instruction or training when the instructor is present.

Monies Paid. Money paid to a school by or on behalf of a prospective or current student which includes but is not limited to money paid for tuition, fees, and other charges for goods or services, excluding funds governed by 34 CFR 668.22.

Principal. An officer of a School, or an individual with a 25 percent or greater ownership interest in a School.

Program. A series of Courses organized for the purpose of a specific occupational training outcome, or a stand-alone Course when offered independently for the purpose of a specific occupational training outcome.

Promotional Claims. Assertions made in Advertising or representations including but not limited to: the likelihood of gaining employment or obtaining advanced employment after graduation; the cost of a Program; the likelihood of affording a Program, based on current or future income; time required for completion of a Course or Program; the comparative value of one School versus another; and qualifications of Instructors or other agents of the School.

Regular Student. A person who is enrolled or accepted for enrollment at a School for the purpose of obtaining a certificate or other educational credential offered by that institution.

Sales Representative. Any person who engages in Solicitation within the Commonwealth of Massachusetts regardless of the location of the School, provided however that Administrators and Admissions Representatives are not considered Sales Representatives.

School. A private occupational school as defined by M.G.L. c. 112, § 263(a).

Solicitation. Contact with an individual that includes an attempt to obtain his or her enrollment in a School, provided however that supplying information in response to a request shall not be considered Solicitation.

Staff. All School employees other than Instructors.

Surety. A surety bond or other form of indemnification meeting the requirements of M.G.L. c. 112, § 263(g) in a form acceptable to the Director.

Unsolicited Contact. Solicitation by telephone, email, text message, or any other mode of communication with an individual who did not, prior to the contact, knowingly initiate communication with the School.

230 CMR 13.00: LICENSING OF SCHOOLS AND SALES REPRESENTATIVES

Section

13.01: Licensing of Schools

13.02: School Application Process

13.03: Financial Qualification and Surety Requirement for Schools

13.04: Licensing of Sales Representatives

13.05: Renewal of Licenses

13.06: Exemptions from Licensure

13.01: Licensing of Schools

- (1) Unless exempted from licensure under M.G.L. c. 112, § 263(c)(i)-(x), a School shall be licensed to operate as: (1) a private occupational School; or (2) a post-secondary private occupational School.
- (2) A School may be licensed to operate as a post-secondary private occupational School if it admits as Regular Students only those individuals who: (i) have a high school diploma; or (ii) have the recognized equivalent of a high school diploma; or (iii) are beyond the age of compulsory school attendance as defined under M.G.L. c. 76, § 1.
- (3) A School that requires the licensure or approval of another state or federal authority must be so licensed or approved. The division, in its discretion, may accept proof of such licensure or approval as the school's demonstration of compliance with 230 CMR 13.02, 14.01, 14.02, 14.03, 14.04, and 14.05 in whole or in part.

13.02: School Application Process

- (1) All applicants for a license to operate a School shall submit, in a form acceptable to the division, the following to the division:
 - (a) a completed application on a form provided by the division;
 - (b) the required fee;
 - (c) certification from the State Auditor that the applicant is financially qualified to operate a School;
 - (d) Surety in the amount determined by the State Auditor;
 - (e) proof that the School maintains adequate insurance, including liability insurance;
 - (f) an inspection report from the local building inspector certifying that the premises comply with the State Building Code;

- (g) an inspection report from the local fire department certifying that the premises comply with applicable fire codes;
 - (h) criminal offender record information acknowledgment forms, as prescribed by the division, for Principals, Administrators, employees, and other individuals related to the School in order to facilitate division review of criminal offender record information as required under M.G.L. c. 112, § 263(b);
 - (i) pursuant to M.G.L. c. 112, § 263(e), certification on a form provided by the division that the school has performed reasonable due diligence to determine that all Principals and employees of the School are of good moral character;
 - (j) certification on a form provided by the division that the School has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, withholding and remitting of child support, unemployment insurance contributions, worker's compensation insurance coverage, and classification of employees;
 - (k) a School closure plan including the process by which the School will securely convey records to the division in the event of a closure, as required under M.G.L. c. 112, § 263(e), and assist students in securing teach-out opportunities;
 - (l) if applying for licensure as a post-secondary private occupational School, certification on a form provided by the division that it meets the requirements of 230 CMR 13.01(2); and
 - (m) information required to be submitted pursuant to M.G.L. c. 112, § 263(e) which includes:
 - (i) the training and experience of the Instructors employed or to be employed by the School (see 230 CMR 14.04);
 - (ii) the building facilities and Equipment available or to be available for the instruction to be offered by the School (see 230 CMR 14.01 and 230 CMR 14.02);
 - (iii) the form and content of the Courses to be offered by the School (see 230 CMR 14.03);
 - (iv) the particular field of instruction to be offered by the School; and
 - (v) the form of any contract or agreement to be executed by a prospective student.
- (2) The division may return incomplete applications to the applicant. If the applicant seeks licensure thereafter, the division may require a new completed application to be filed with the required fee.

13.03: Financial Qualification and Surety Requirement for Schools

- (1) An applicant for a license to operate a School shall apply to the State Auditor for certification that the School is financially qualified, by submitting financial statements and other such information as the State Auditor may require.
- (2) Pursuant to M.G.L. c. 112, § 263(g), no School shall operate without valid Surety in the amount determined by the State Auditor.
- (3) A School shall timely apply to the State Auditor for a reevaluation of its financial qualification upon renewal and at such other time as may be required by the State Auditor pursuant to M.G.L. c. 112, § 263(d) by submitting current financial statements and such other information as the State Auditor may require.
- (4) If the State Auditor increases the amount of Surety a School must have, the School shall submit additional Surety to the division within 30 days.
- (5) If the Surety is canceled, the School shall procure new Surety 30 days prior to the effective cancellation date.

13.04: Licensing of Sales Representatives

- (1) An individual who acts as a Sales Representative shall be licensed by the division. A Sales Representative's license shall remain valid for a period of two years from the date of issue so long as the School under which the Sales Representative operates maintains a current license.
- (2) Schools must apply on behalf of applicants for a Sales Representative's license, or renewal of such license, and shall submit, in a form acceptable to the division, the following to the division:
 - (a) a completed application on a form provided by the division;
 - (b) the required fee;
 - (c) evidence that the applicant has completed division approved training in ethics. The division may require Schools to offer this training to its Sales Representatives as a condition of being able to utilize Sales Representatives;
 - (d) certification that the School has performed reasonable due diligence to determine that the Sales Representative is of good moral character as required under M.G.L. c. 112, § 263(f);
 - (e) Surety in the amount of at least \$1,000; and

- (f) information required to be submitted pursuant to M.G.L. c. 112, § 263(f), which includes:
 - (i) The applicant's name and address;
 - (ii) The applicant's educational qualifications;
 - (iii) The name and address of three business references; and
 - (iv) The name and address of three personal references.
- (3) A license to practice as a Sales Representative is valid only for use at the School named in the application and is not transferable. A separate Sales Representative license must be obtained for each School for which the Sales Representative wishes to provide services.
- (4) If the Surety is canceled, the School shall procure new Surety for the Sales Representative 30 days prior to the effective cancellation date.

13.05: Renewal of Licenses

- (1) Unless otherwise determined by the Director, every license shall remain valid for a period of two years from the date of issue, unless the license is suspended or revoked pursuant to M.G.L. c. 112, § 263 and 230 CMR 16.00.
- (2) A School shall submit to the division an application for license renewal no later than 60 days before the expiration of its current license by submitting the information listed in 230 CMR 13.02. A failure to submit all materials required prior to this deadline may be grounds for denial of renewal, late fees, and/or disciplinary action.
- (3) A School shall submit to the division an application for Sales Representative license renewal no later than 60 days before the expiration of the current license by submitting the information listed in 230 CMR 13.04(2). A failure to submit all materials required prior to this deadline may be grounds for denial of renewal, late fees, and/or disciplinary action.
- (4) Failure to renew a license in accordance with this section shall result in expiration of the license. Provided, however, that if a licensee has, in accordance with any law and regulation, made timely and sufficient application for renewal, the license shall not expire until the application has been finally determined by the division.

13.06: Exemptions from Licensure

- (1) Schools are not required to be licensed if they meet one of the exemptions in M.G.L. c. 112, § 263(c)(i) to (ix).

- (2) Exemptions pursuant to M.G.L. c. 112, § 263(c)(x)
- (a) Exemptions to licensure under M.G.L. c. 112, § 263(c)(x) are valid only when issued by the division in writing.
 - (b) Consistent with public health, safety, and welfare, the division may exempt a School from licensure subject to certain conditions as determined by the division.
 - (c) Rescinding of exemptions
 - (i) No exemptions from licensure granted by the division shall be deemed permanent or grandfathered. Further, the division may rescind exemptions at any time if it determines that they have been expired or superseded by any new laws, regulations, division policies, or are otherwise determined to no longer be in the best interests of the public health, safety, or welfare.
 - (ii) A School that previously operated under an exemption under M.G.L. c. 112, § 263(c)(x) must obtain a license in a timeframe established by the division if the exemption expires or is otherwise rescinded. If a School continues to operate thereafter without meeting the requirements of this section, it shall be subject to penalties as outlined in M.G.L. c. 112, § 263(l).

230 CMR 14.00: FACILITIES, EQUIPMENT, CURRICULUM, INSTRUCTORS, AND STAFF

Section

- 14.01: Facilities
- 14.02: Equipment
- 14.03: Curriculum
- 14.04: Instructors
- 14.05: Staff
- 14.06: Limitation of Approvals

14.01: Facilities

- (1) Pursuant to M.G.L. c. 112, § 263(e), at the time of license application and renewal, all building facilities available or to be available for instruction shall be approved by the division.
- (2) A School's premises shall comply with all applicable building and fire codes.
- (3) A School shall not conduct classes in any building facility unless it has obtained the inspection reports required by 230 CMR 13.02(1)(f) and (g).
- (4) A School may not operate in any location other than at locations reflected on its license.

14.02: Equipment

- (1) Pursuant to M.G.L. c. 112, § 263(e), at the time of application and renewal, all Equipment available or to be available for instruction shall be approved by the division.
- (2) A School shall maintain a list of all books, supplies, material, Equipment and tools used for instructional purposes. The list shall be made available for inspection upon request by the division.
- (3) A School shall provide Equipment, tools, and supplies consistent with generally accepted standards, in a variety sufficient to allow instruction in all current methods and in quantities sufficient to enable each student to work effectively and continuously towards the desired skill level. The Equipment shall comply with all applicable safety standards. The School shall provide adequate space for the use of any Equipment on its premises and establish procedures sufficient to ensure the safety of students.

14.03: Curriculum

- (1) Pursuant to M.G.L. c. 112, § 263(b), (e), all Curriculum shall be approved by the division.

- (2) Each School shall submit Curriculum for approval by describing each proposed Program to the division, including the following information:
 - (a) a brief description of each Course;
 - (b) a total number of Instructional Hours in each Program and Course;
 - (c) the tuition charged for each Program;
 - (d) the minimum entrance requirements;
 - (e) a description of the off-campus training experiences and the number of off-campus training hours required in each Program and Course;
 - (f) a list of occupations for which each Program will prepare students; and
 - (g) the estimated number of students anticipated to be enrolled in each Program.
- (3) A School shall notify the division regarding any addition, modification or elimination of any Program or Course at least 30 days prior to making the addition, modification, or elimination.
- (4) Curriculum that requires the approval of another state or federal authority must be so approved as a condition precedent to division approval.
- (5) Division approvals for Curriculum are not permanent and shall be subject to reevaluation as determined by the division and to expiration when the School's license expires or is renewed.
- (6) A School shall submit course catalogues and any addendums to the division upon application for licensure and license renewal and, if amended, prior to distribution to current and prospective students.

14.04: Instructors

- (1) Pursuant to M.G.L. c. 112, § 263(b), (e), all Instructors shall be approved by the division.
- (2) Pursuant to M.G.L. c. 112, § 263(b), the approval process for instructors shall include division review of criminal offender record information.
- (3) A School shall employ Instructors sufficient in number to provide instruction that meets or exceeds minimum standards applicable in the field of instruction.
- (4) Prior to hiring an Instructor, a School shall conduct due diligence to ensure in good faith that the Instructor is qualified in accordance with 230 CMR 14.04.

- (5) Except as provided in 230 CMR 14.04(9), prior to allowing an Instructor to teach a class, a School shall, on a form supplied by the division, certify that an Instructor is qualified and meets any Program-specific qualifications as determined by the division, and receive division approval for said Instructor.
- (6) An Instructor of a Course meant to prepare an individual for an occupation that requires its practitioners to be licensed shall be so licensed unless the Instructor is otherwise qualified and the School receives a waiver to that effect from the division, or the Instructor is teaching only general content Courses. An Instructor whose license is expired, suspended, or revoked shall notify the School immediately, and the School shall notify the division immediately. The Instructor may not provide further instruction until the license is reinstated.
- (7) An Instructor of an occupation that requires its practitioners to be approved by another state or federal authority must be so approved. An Instructor who loses such approval shall notify the School immediately, and the School shall notify the division immediately. The Instructor may not provide further instruction until the approval is reinstated.
- (8) Division approvals for Instructors are not permanent and shall be subject to reevaluation as determined by the division and to expiration when the School's license expires or is renewed.
- (9) Schools may utilize unapproved Instructors as substitute Instructors for up to 15 School days without division approval subject to the following provisions:
 - (a) The occasion for the substitution must be a sudden, unforeseen circumstance, such as an illness or sudden vacancy.
 - (b) After a substitute Instructor has taught for 15 School days, he or she may not teach any further classes at that School within a three-month period without division approval.
 - (c) A substitute Instructor must be designated on all School records as a substitute Instructor, not a principal Instructor. Schools must maintain separate records of the use of substitute Instructors. These records must document the reason that a substitute was used, the classes taught, and the name and credentials of the substitute Instructor. These records must be maintained with other School records under 230 CMR 15.03.
 - (d) Notwithstanding the other provisions of subsection 14.04(9), the division may prohibit or limit the use of substitute Instructors if such use would cause any Instructional Hours earned by attending students to be unusable toward licensure or certification in an occupational field.
 - (e) Whenever a class is taught by a substitute Instructor, the School shall notify the students in the class as to the School policy on substitute Instructors, and as to

how the students may submit a complaint to the School and to the division. If a written notice is provided, a copy of the written notice shall be maintained with other School records under 230 CMR 15.03.

- (f) The use of substitute Instructors in a single Course may not exceed 20 percent of the overall Course meetings.
- (g) A School may petition the division for relief from 230 CMR 14.04.

14.05: Staff

- (1) Pursuant to M.G.L. c. 112, § 263(b), all Staff shall be approved by the division.
- (2) Pursuant to M.G.L. c. 112, § 263(b), the approval process for staff shall include division review of criminal offender record information.
- (3) Prior to hiring Staff, a School shall conduct due diligence to ensure in good faith that the Staff member is qualified.
- (4) A School shall certify that the Staff member is qualified on a form supplied by the division and receive division approval for said Staff member.

14.06: Limitation of Approvals

- (1) Any approvals granted by the division may be rescinded by the division for cause, including but not limited to, the grounds for disciplining a licensee pursuant to M.G.L. c. 112, § 263(i).
- (2) No approvals granted by the division shall be deemed permanent. All approvals shall be deemed expired at the time a School's license expires or is renewed. Further, approvals may be rescinded at any time if they are determined to have been expired or superseded by any new laws, regulations, or policies.
- (3) Any approvals granted by the division may be subject to such reasonable conditions as the division determines are appropriate to protect the public health, safety, or welfare. Such conditions may include, but not be limited to, restrictions on the duration in which an approval is granted, additional reporting to the division, and/or other restrictions on the time, place, or manner in which instruction is given. Adherence to any such conditions may be considered a requirement for retention, future consideration, or reinstatement of licensure.
- (4) The denial of an approval and/or the placement of conditions on an approval shall be subject to reconsideration pursuant to procedures published under M.G.L. c. 112, § 263(b).

230 CMR 15.00: GENERAL PROVISIONS AND STANDARDS OF PRACTICE

Section

- 15.01: General Provisions
- 15.02: Certificates, Diplomas, and Transcripts
- 15.03: School Records
- 15.04: Enrollment Contracts and Student Refunds
- 15.05: Disclosures
- 15.06: Advertisements and Representations
- 15.07: Student Complaints

15.01: General Provisions

- (1) All Schools subject to M.G.L. c. 112, § 263 and not exempt from licensure under M.G.L. c. 112, § 263(c)(i)-(x) must obtain a license from the division to operate.
 - (a) A School shall display its license in a prominent location on its premises.
 - (b) All School websites shall include a link whereby the public can view a School's license and its status.
 - (c) A School shall not transfer its license.
- (2) A School shall not advertise, recruit, enroll, or accept money from students until licensed by the division, unless it is otherwise specifically required by another state or federal authority.
- (3) No change in name, address or ownership of a School shall occur until the division approves the requested change(s).
- (4) Once granted a license, a School must continue to meet the requirements set out in its application for licensure or renewal as provided in 230 CMR 13.00 and 14.00 and conduct Courses in a manner that demonstrates to the division that a bona fide School business exists.
- (5) A School shall not provide any commission, bonus, or other incentive payment based in any part, directly or indirectly, upon success in securing enrollments or the award of financial aid, to any person or entity who is engaged in any student recruitment or admission activity. Such persons include but are not limited to Sales Representatives, Admissions Representatives, and Administrators. Commission, bonus, or other incentive payment means a sum of money or something of value, other than a fixed salary or wages, paid to or given to a person or an entity for services rendered.

- (6) A School, its employees, and agents acting on its behalf, including, but not limited to, Sales Representatives, Admissions Representatives, and Administrators, shall not engage in Abusive Practices as defined under 230 CMR 12.00.
- (7) A School must require and document evidence that Admissions Representatives and Administrators have completed the division-approved training in ethics required of Sales Representatives under 13.04(2)(c), upon application for school licensure and every two years upon license renewal.
- (8) A School shall immediately notify the division if it is the subject of any investigative action, complaint, or disciplinary matter with an accrediting agency, or with any state or federal agency.
- (9) A School must require Instructors to keep attendance for each class taught. Such attendance records must contain the signature or electronic authentication of the Instructor who taught the class or the school must otherwise maintain a system to verify student attendance acceptable to the division.
- (10) For Courses beginning after [INSERT DATE], a School must provide students with appropriate reports of progress at least once during each Course with durations of 15 hours or more. A progress report must be provided by the time 50 percent of the Course has been completed.
- (11) After [INSERT DATE], Schools must maintain and file with the division the School closure plan required under 230 CMR 13.02(1)(k).
- (12) The division may observe and inspect any location used for instructional purpose by a School at any time. These locations include, but are not limited to, the premises of a School and the site of any clinical training or on-site job training.
- (13) The division may, at any time, inspect School records, including, but not limited to, student files, enrollment agreements, student progress reports and grades, admission files, student payment records, Course and Program schedules and other related materials.

15.02: Certificates, Diplomas, and Transcripts

Each School shall file with the division a sample copy of any certificate, diploma, and transcript it awards to students. A description of the requirements for the certificate, diploma, or transcript shall accompany the sample copy.

15.03: School Records

- (1) Student Records. A School shall keep a record of each student who enrolls in any of the School's Courses or Programs. The record shall be kept in accordance with the following retention periods:

- (a) for at least one year after graduation or separation from the School, the results of all examinations and evaluations performed.
 - (b) for at least seven years after graduation or separation from the School:
 - (i) the student's signed enrollment contract, as well as any addendums, extensions, or amendments to that contract;
 - (ii) all records to support any effective date of termination of an enrollment contract used in a refund calculation under 230 CMR 15.04(7) or (8);
 - (iii) copies of progress reports required under 230 CMR 15.01(10);
 - (iv) student attendance records, which reflect any leaves of absence (including information about the status of the leave), the date of completion (anticipated and actual), and the date the student received a diploma or certificate;
 - (v) records of any externships;
 - (vi) copies of any student complaints and the School's response;
 - (vii) School disciplinary reports; and
 - (viii) the student's loan documents including any disclosure forms and disbursement schedules provided to the school by the lender.
 - (c) for at least 60 years after graduation or separation from the School:
 - (i) the student's official grades; and
 - (ii) records of the form and dates of any payments made by or on behalf of the student.
- (2) Instructor Records. A School shall keep a record of each Instructor who teaches any class at the School. A School shall retain Instructor records for at least six years from the date that the Instructor last taught at the School. The record shall contain:
- (a) a copy of the division's written approval of the Instructor;
 - (b) a copy of the Instructor certification form required under 230 CMR 14.04(5); and
 - (c) copies of all records related to the School's due diligence as required under 230 CMR 14.04(4).

- (3) Staff Records. A School shall keep a record of each staff person. The record shall contain:
- (a) a copy of the division's written approval of each staff person;
 - (b) a copy of the staff certification form required under 230 CMR 14.05(4);
 - (c) copies of all records related to the School's due diligence required under 230 CMR 14.05(3).
- (4) Advertisement Records. A School shall maintain copies of all advertisements used by the School and shall retain such records in either paper form or electronically for at least seven years after use ceases.
- (5) A School shall keep and maintain any additional financial records required by or submitted to the State Auditor for a period of at least seven years.
- (6) All records shall be maintained in a complete and orderly fashion in paper form acceptable to the division. However, the division may waive the requirement to retain paper records if the School demonstrates to the satisfaction of the division that comparable electronic records are created and stored in a manner to ensure that they are as authentic and genuine and as readily accessible as records not produced by electronic means.
- (7) Schools shall take steps to ensure that all records are stored securely and confidentially. Upon request, all records must be made available for inspection, review, and copying by the division.
- (8) Pursuant to M.G.L. c. 112, § 263(e), if a School closes or ceases to do business as a School, it shall convey all student records (in both paper and electronic formats) to the division and pay the required fee. For purposes of this subsection student records shall be defined as:
- (a) attendance records;
 - (b) documents referencing leaves of absence;
 - (c) transcripts;
 - (d) progress reports;
 - (e) student complaints and the School's response;
 - (f) externship records;
 - (g) diplomas or certificates of completion;

- (h) documents reflecting the form and dates of any payments made by or on behalf of students;
- (i) loan documents including any disclosure forms and disbursement schedules provided to the school by the lender;
- (j) enrollment contracts, as well as any addendums, extensions, or amendments to that contract; and
- (k) all records to support any effective date of termination of an enrollment contract used in a refund calculation under 15.04(7) or (8).

15.04: Enrollment Contracts and Student Refunds

- (1) A School shall use only student enrollment contracts which comply with 230 CMR 15.04 and shall timely provide each student with a copy of his or her fully executed enrollment contract. For enrollment contracts entered into after [INSERT DATE], the enrollment contract shall include the following information:
 - (a) the student's name and address;
 - (b) the student's date of enrollment;
 - (c) the title of the Program to be taken by the student as well as any entrance requirements which had to be met to enroll in that Program;
 - (d) the total number of Instructional Hours to be taken by the student;
 - (e) the tuition charges and any other charges;
 - (f) the student's method of payment;
 - (g) the refund policy and how to withdraw from the Program;
 - (h) in a form acceptable to the division, a refund calculation for each individual student demonstrating the specific dollar amount of Monies Paid to be refunded upon termination of the enrollment contract on specific calendar dates in accordance with the percentages prescribed under 230 CMR 15.04(6) and M.G.L. c. 255, § 13K;
 - (i) applicable payment due dates;
 - (j) any periods beyond which late registration will not be accepted;

- (k) in clear and conspicuous type that is readily noticed and legible directly adjacent to the student's signature line, a disclosure from the School, where applicable under 230 CMR 15.04(6), that states the following: "You have the right to cancel this enrollment contract before the completion of five school days or five percent of this Program, whichever occurs first, and to receive a full refund of all monies paid by you, less actual reasonable administrative costs up to \$50 and actual reasonable costs of non-reusable supplies or equipment."
- (2) Any agreement that contains a finance charge or that provides for five or more payments is subject to M.G.L. c. 255D, § 9.
- (3) Any changes, addendums, or additions made subsequent to the signing of the enrollment agreement must be in writing and signed by both the School and the student and are subject to the regulations of 230 CMR 15.04.
- (4) Notwithstanding any exemptions in M.G.L. c. 255, §13K, all Schools licensed by the division shall have and include in the enrollment contract a refund policy that conforms to the requirements of M.G.L. c. 255, §13K and 230 CMR 15.04.
- (5) After [INSERT DATE], if a School allows a student to begin participation in a Program while an initial award for financial aid, including student loans, is pending, and the student subsequently is denied some or all of that student loan or financial aid amount, the School shall offer that student in writing an opportunity to terminate the enrollment agreement with a full refund of all Monies Paid, less actual reasonable administrative costs as defined under M.G.L. c. 255, § 13K.
- (6) For programs beginning after [INSERT DATE], prior to the completion of five school days or five percent of the Program, whichever occurs first, a School shall afford a student the opportunity to withdraw with a full refund of all Monies Paid, less: (1) actual reasonable administrative costs as defined under M.G. L. c. 255, § 13K; and (2) actual reasonable costs of non-reusable supplies or Equipment where a School reasonably provided the student with the supplies or Equipment, so long as the student receives the refund to which they are entitled under M.G.L. c. 255, § 13K. Provided, however, that this provision shall not apply to: (1) Programs not subject to division approval; and (2) Programs 80 hours or less in duration and \$2,000 in total cost.
- (7) If a student withdraws from a Program in accordance with the School's withdrawal policy, the School shall:
 - (a) treat the withdrawal as a termination of the enrollment contract, effective immediately;
 - (b) complete a refund calculation for the student, including all fees and payments, in a form acceptable to the division; and

- (c) provide the calculation and any refund to the student within 45 days of the effective date of the termination
- (8) If a student stops attending School but does not withdraw in accordance with the School's withdrawal policy, the School shall:
 - (a) for purposes of any payments due from the student or refund due to the student, treat the student's nonattendance as a termination of the enrollment contract, effective no later than the last date of attendance or last participation in an instructional activity;
 - (b) determine the effective date of the termination within 30 days after the end of the period of enrollment, the term, or the Program, whichever is earliest;
 - (c) complete a refund calculation for the student, including all fees and payments, in a form acceptable to the division; and
 - (d) provide the calculation and any refund to the student within 45 days from the date the School determines the effective date of termination under 230 CMR 15.04(8)(b).

15.05: Disclosures

- (1) Prior to enrollment, a School shall, in a form acceptable to the division, provide each prospective student a written outline of each Program offered by the School. The outline shall contain:
 - (a) Course descriptions;
 - (b) entrance requirements;
 - (c) the total number of Instructional Hours required to obtain a certificate or diploma;
 - (d) the earliest possible completion date;
 - (e) a list of occupations for which each Program will prepare students;
 - (f) the cost of the Program, which includes financial education disclosures as prescribed by the division for Programs exceeding \$2,000 in total cost;
 - (g) all prerequisites for Program completion and employment in the occupation, including but not limited to whether certification or licensure is required and the conditions to obtain such certification or licensure; and
 - (h) a copy of the School's refund and withdrawal policy, specifically referencing all costs that may not be refundable upon withdrawal.

- (2) After [INSERT DATE], Schools shall, in a form acceptable to the division, disclose to current students and, prior to enrollment, prospective students:
 - (a) completion or graduation rates for each Program;
 - (b) success rates of graduates in obtaining a professional license (if applicable);
 - (c) relevant employment statistics if the School is required to maintain such information in order to receive federal or state funding or if the School refers to employment prospects or job placement in advertising;
 - (d) student loan default rates; and
 - (e) such other information designated by the division.
- (3) If a School provides a non-occupational or exempt course or program, the School shall, in a form acceptable to the division, disclose to current and prospective students that such courses or programs are not required to be approved by the division and are not approved by the division.
- (4) A School shall, in a form acceptable to the division, annually file a report with the division containing the information required under 230 CMR 15.05(2).
- (5) Each School shall post and keep posted any notice or notices furnished by the division. Such notice or notices shall be posted by the School in each facility in a conspicuous place or places where notices to employees and students are customarily posted. Each School shall take steps to ensure that such notices are not altered, defaced, or covered by other material.
- (6) After [INSERT DATE], in accordance with 230 CMR 15.05(5), a School shall post the following notice to students: You may have the right to cancel your enrollment contract before the completion of five school days or five percent of your Program, whichever occurs first, and to receive a refund as set forth in your enrollment contract.
- (7) 230 CMR 15.05 is not intended to confer any private right or action not otherwise granted by statute.

15.06: Advertisements and Representations

- (1) A School shall not offer, advertise, imply, or represent Courses, Programs, and services, including the availability of collateral services such as tutoring, translation, and childcare, in a way that is false, deceptive, misleading, or unfair.
- (2) A School shall not advertise, imply, or represent itself as a "college" or "university" in Advertising or elsewhere. If affiliated with another institution, a School must disclose the nature of the affiliation.

- (3) A School shall not advertise, imply, or represent that the division "supervises," "recommends," "endorses," "accredits," or "approves" the School. A licensed School may indicate in literature or Advertising that the School is "Licensed by the Commonwealth of Massachusetts Division of Professional Licensure."
- (4) A School shall not advertise, imply, or represent that the School guarantees employment for those who complete a Course or Program unless: (1) the guarantee is actually offered by the School; and (2) the advertisement discloses the nature of the guaranteed employment including but not limited to all conditions and limitations of the guaranteed employment such as any pre-requisites needed to obtain the employment, any limitation on the duration of employment, and any pre-existing arrangements between the School and potential employers.
- (5) A School shall not advertise, imply, or represent a specific wage per hour or gross salary for those who complete a Course or Program offered by the School unless the School discloses the source and basis for the calculation of the wage per hour or gross salary figure in accordance with subsection 15.06(9). The words "EARN \$..." or "EARN UP TO \$..." or words of similar import or meaning constitute a representation that a person who attends the School's Course or Program will earn the stated wage per hour or gross salary figure.
- (6) A School shall not advertise, imply, or represent information that contains a misrepresentation of fact or false statements regarding the professional achievements, degrees, trained skills or qualifications of the School, its Instructors, or any other employees or agents of the School.
- (7) A School shall not advertise, imply or represent any information that is deceptive, misleading, or unfair because it represents only a partial disclosure of relevant facts, such as Advertising a discounted Course without identifying the usual price for the discounted Course.
- (8) A School shall not advertise, imply, or represent the offering of any Programs or Courses requiring division approval unless it has been approved by the division, or unless it is otherwise specifically required by another state or federal authority.
- (9) A School making Promotional Claims must have and maintain documented objectively verifiable information supporting the accuracy of the claims, and must describe that information in the claims and make it available to the public and to the division upon request.
- (10) A School accredited by the Better Business Bureau shall publish the following text as a disclaimer in every place where the School uses the Better Business Bureau logo: "The Better Business Bureau accredits only the business management of the School. It does not accredit the School's curriculum or ensure quality training."

- (11) If a School advertises a non-occupational or exempt course or program, the School shall disclose in such Advertising that the course or program is not required to be approved by the division and is not approved by the division.
- (12) A School is responsible for the representations and practices made by Sales Representatives and third party vendors acting on behalf of the School.
- (13) A Sales Representative shall not advertise, imply, or represent him or herself as anything other than a “Sales Representative” when engaged in Solicitation.
- (14) A School shall maintain a “Do Not Contact List” with the names and contact information of prospective students who indicate in any way to the School a desire not to be contacted for Solicitation. When contacting prospective students for the purpose of enrollment, a School shall inform the prospective student of the opportunity to be placed on a “Do Not Contact List.” If a prospective student’s name and contact information appear on the School’s “Do Not Contact List,” a School shall not make or cause to be made an Unsolicited Contact.
- (15) Prohibited Advertising includes, but is not limited to Advertising defined as an unfair and deceptive act or practice by 940 CMR 31.00.
- (16) A School may not make general misrepresentations as prohibited by 940 CMR 31.04.
- (17) A School shall not act in any way that violates M.G.L. c. 93A, § 2 which includes the acts and practices described under 940 CMR 31.00.
- (18) A School shall keep records of all advertisements in accordance with 230 CMR 15.03(4).
- (19) 230 CMR 15.06 is not intended to confer any private right or action not otherwise granted by statute.

15.07: Student Complaints

- (1) A School shall establish a written procedure for resolving student complaints. The procedure shall be made available to students at the time of enrollment and upon request, and shall be published in the School catalogue.
- (2) A School shall respond to written student complaints in writing within ten days from when the complaint was submitted to the School and maintain records of student complaints and School responses in accordance with 230 CMR 15.03(1)(b)(vi).

230 CMR 16.00: DENIALS OF LICENSURE AND DISCIPLINARY ACTION

Sections

16.01: Denial of Licensure

16.02: Disciplinary Action

16.01: Denial of Licensure

- (1) The division may deny a license for any cause allowed by law. Such cause includes, but is not necessarily limited to, the grounds for disciplining a licensee pursuant to M.G.L. c. 112, § 263(i) and the failure to comply with 230 CMR 12.00 to 17.00.
- (2) All denials of licensure shall be in writing and shall outline the basis for that denial. An approval not granted due to the applicant failing to provide complete information shall not be considered a denial and shall not be entitled to further review. An aggrieved applicant in receipt of a denial may seek reconsideration of that denial. Such a request for reconsideration must be filed with the division, in writing, within ten business days of the division's denial. This request must address each and every ground for denial. If the division concludes that this request creates a genuine dispute of fact, the division may offer the aggrieved applicant an adjudicatory proceeding. If the request fails to create a genuine dispute of fact, the applicant may not be entitled to further review by the division. The applicant shall be entitled to appeal subject to M.G.L. c. 30A.

16.02: Disciplinary Action

- (1) The division may discipline a licensee for good cause, subject to the provisions of M.G.L. c. 30A. Such good cause includes, but is not necessarily limited to, the grounds in M.G.L. c. 112, § 263(i) and the violation of 230 CMR 12.00 to 17.00.
- (2) Prior to the disciplining of a licensee, the division shall provide the licensee written notification of the intended action and, if applicable, any rights to a hearing required by law in accordance with M.G.L. c. 30A.
- (3) In accordance with 230 CMR 15.05(5), Schools shall post any notices of discipline issued by the division.
- (4) Unless explicitly exempted by the division, all discipline imposed against a licensed individual or entity shall apply to all other licenses issued by the division to that individual or entity.

230 CMR 17.00: EFFECTIVE DATES AND REGULATION REVIEW

- (1) Any School holding a valid license prior to [INSERT EFFECTIVE DATE OF REGULATIONS] shall not be required to adhere to any new prerequisites for licensure created by these regulations until [INSERT DATE 18 MONTHS AFTER EFFECTIVE DATE OF REGULATIONS]. However, Schools subject to this extension shall remain subject to any prerequisites to licensure established in 230 CMR 12.00 to 17.00 which are the same as those established by rules and regulations made prior to August 1, 2012 under the authority of M.G.L. c. 75C, § 7; c. 75D, § 8 and c. 93, § 21B.
- (2) The division shall regularly review these regulations.

Regulatory Authority:

230 CMR 12.00 to 17.00: M.G.L. c. 112, § 263.