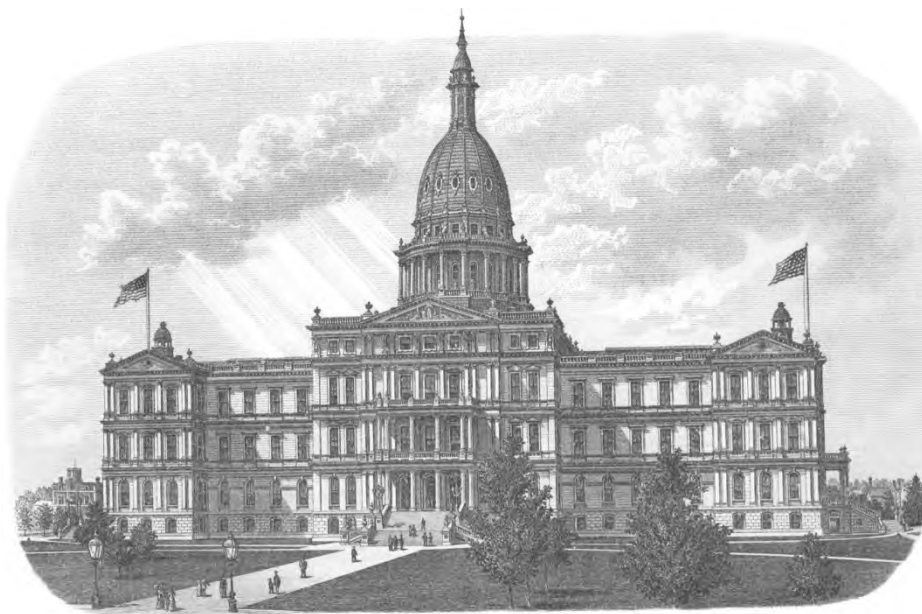


# Michigan Register

Issue No. 19 – 2023 (Published November 1, 2023)



## GRAPHIC IMAGES IN THE MICHIGAN REGISTER

### COVER DRAWING

#### *Michigan State Capitol:*

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

### PAGE GRAPHICS

#### *Capitol Dome:*

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19<sup>th</sup> century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

#### *East Elevation of the Michigan State Capitol:*

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

# Michigan Register

Published pursuant to § 24.208 of  
The Michigan Compiled Laws



Issue No. 19— 2023

(This issue, published November 1, 2023, contains  
documents filed from September 15, 2023 to October 15, 2023)

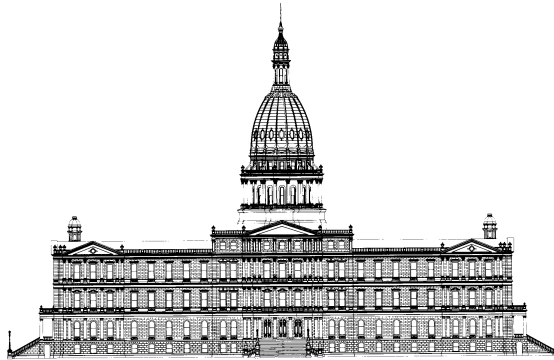
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Katie Wienczewski, Administrative Rules Division Director, Michigan Office of Administrative Hearings and Rules; Deidre O’Berry, Administrative Rules Specialist for Operations and Publications.

**Gretchen Whitmer, Governor**



**Garlin Gilchrist, Lieutenant Governor**

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## PREFACE

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### PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Michigan Office of Administrative Hearings and Rules publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

**24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.**

Sec. 8.

(1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
- (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
- (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
- (d) Proposed administrative rules.
- (e) Notices of public hearings on proposed administrative rules.
- (f) Administrative rules filed with the secretary of state.
- (g) Emergency rules filed with the secretary of state.
- (h) Notice of proposed and adopted agency guidelines.
- (i) Other official information considered necessary or appropriate by the office of regulatory reform.
- (j) Attorney general opinions.
- (k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.

(2) The office of regulatory reform shall publish a cumulative index for the Michigan register.

(3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.

(4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.

(5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

**4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.**

Sec. 203.

- (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.
- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

**CITATION TO THE MICHIGAN REGISTER**

The *Michigan Register* is cited by year and issue number. For example, 2023 MR 1 refers to the year of issue (2023) and the issue number (1).

**CLOSING DATES AND PUBLICATION SCHEDULE**

The deadlines for submitting documents to the Michigan Office of Administrative Hearings and Rules for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Michigan Office of Administrative Hearings and Rules is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Michigan Office of Administrative Hearings and Rules, Ottawa Building – Second Floor, 611 W. Ottawa Street, Lansing, MI 48933.

### **RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE**

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

### **SUBSCRIPTIONS AND DISTRIBUTION**

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: Michigan Office of Administrative Hearings and Rules, Ottawa Building –Second Floor, 611 W. Ottawa Street, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the Michigan Office of Administrative Hearings and Rules (517) 335-2484.

### **INTERNET ACCESS**

The *Michigan Register* can be viewed free of charge on the website of the Michigan Office of Administrative Hearings and Rules – Administrative Rules Division: [www.michigan.gov/ard](http://www.michigan.gov/ard).

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Michigan Office of Administrative Hearings and Rules website. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Executive Director,  
Michigan Office of Administrative Hearings and Rules



## 2023 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 1	February 1
2	January 15	February 15
3	February 1	March 1
4	February 15	March 15
5	March 1	April 1
6	March 15	April 15
7	April 1	May 1
8	April 15	May 15
9	May 1	June 1
10	May 15	June 15
11	June 1	July 1
12	June 15	July 15
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15	August 1	September 1
16	August 15	September 15
17	September 1	October 1
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20	October 15	November 15
21	November 1	December 1
22	November 15	December 15
23	December 1	January 1
24	December 15	January 15

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**ADMINISTRATIVE RULES  
FILED WITH THE SECRETARY OF STATE**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(f) Administrative rules filed with the secretary of state.”*

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**ADMINISTRATIVE RULES**

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**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**

**DIRECTOR’S OFFICE**

**DENTISTRY - GENERAL RULES**

Filed with the secretary of state on October 2, 2023

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) 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 16145, 16148, 16174, 16178, 16182, 16186, 16201, 16204, 16205, 16215, 16608, 16611, 16625, 16626, 16631, 16644, 16651, 16652, 16653, 16654, 16655, 16656, 16657, and 16658 of the public health code, 1978 PA 368, MCL 333.16145, 333.16148, 333.16174, 333.16178, 333.16182, 333.16186, 333.16201, 333.16204, 333.16205, 333.16215, 333.16608, 333.16611, 333.16625, 333.16626, 333.16631, 333.16644, 333.16651, 333.16652, 333.16653, 333.16654, 333.16655, 333.16656, 333.16657, and 333.16658, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.11101, R 338.11103, R 338.11120, R 338.11121, R 338.11201, R 338.11202, R 338.11203, R 338.11209, R 338.11213, R 338.11218, R 338.11221, R 338.11223, R 338.11233, R 338.11235, R 338.11239, R 338.11247, R 338.11255, R 338.11257, R 338.11259, R 338.11261, R 338.11263, R 338.11265, R 338.11267, R 338.11269, R 338.11301, R 338.11302, R 338.11302a, R 338.11303, R 338.11307, R 338.11401, R 338.11411, R 338.11417, R 338.11501, R 338.11512, R 338.11513, R 338.11515, R 338.11517, R 338.11519, R 338.11521, R 338.11523, R 338.11527, R 338.11601, R 338.11602, R 338.11603, R 338.11701, R 338.11703, R 338.11704, R 338.11704a, R 338.11705, R 338.11811, R 338.11813, and R 338.11821 of the Michigan Administrative Code are amended, R 338.11240, R 338.11256, R 338.11502, R 338.11504, R 338.11506, R 338.11508, R 338.11510, R 338.11611, R 338.11613, and R 338.11615 are added, and R 338.11605 is rescinded, as follows:

**PART 1. GENERAL PROVISIONS**

R 338.11101 Definitions.

Rule 1101. (1) As used in these rules:

- (a) “AAOMS” means American Association of Oral and Maxillofacial Surgeons.
- (b) “AAP” means the American Academy of Pediatrics.
- (c) “AAPD” means the American Academy of Pediatric Dentistry.
- (d) “ACLS” means advanced cardiac life support.
- (e) “ADA” means the American Dental Association or a successor organization.
- (f) “ADA CERP” means the American Dental Association Continuing Education Recognition Program.

- (g) “ADEX” means the American Board of Dental Examiners, Inc. examination that is conducted by the CDCA-WREB-CITA.
- (h) “AGD” means the Academy of General Dentistry.
- (i) “AHA” means the American Heart Association.
- (j) “Allied dental personnel” means the supporting team that receives appropriate delegation from a dentist or dental therapist to participate in dental treatment.
- (k) “Analgesia” means the diminution or elimination of pain in the conscious patient as a result of the administration of an agent including, but not limited to, local anesthetic, nitrous oxide, and pharmacological and non-pharmacological methods.
- (l) “Approved course” means a course offered by either a dental, dental therapy, dental hygiene, or dental assistant program accredited by the Commission on Dental Accreditation of the American Dental Association that meets the requirements in section 16611 of the code, MCL 333.16611.
- (m) “ASA” means the American Society of Anesthesiologists.
- (n) “BLS” means basic cardiac life support.
- (o) “Board” means the Michigan Board of Dentistry.
- (p) “CDAC” means the Commission on Dental Accreditation of Canada.
- (q) “CDC infection control guidelines” means the Centers for Disease Control and Prevention infection control guidelines established by the CDC in effect on the effective date of the rules and any amendments adopted by the CDC.
- (r) “CDCA-WREB-CITA” means the Commission on Dental Competency Assessments Western Regional Examining Board Council of Interstate Testing Agencies or a successor organization.
- (s) “CODA” means the Commission on Dental Accreditation or a successor organization.
- (t) “Code” means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.
- (u) “Conscious sedation” means a minimally depressed level of consciousness that retains a patient’s ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or a non-pharmacological method or a combination of both.
- (v) “DDS” means doctor of dental surgery degree.
- (w) “Dental therapist” means a person licensed under part 166 of the code, MCL 333.16601 to 333.16659, to provide the care and services and perform any of the duties described in section 16656 of the code, MCL 333.16656.
- (x) “Dentist” means, except as otherwise provided in R 338.11801 and R 338.11218, a person licensed by the board under the code and these rules to engage in the practice of dentistry.
- (y) “Department” means the department of licensing and regulatory affairs.
- (z) “DMD” means doctor of dental medicine degree.
- (aa) “General anesthesia” means the elimination of all sensations accompanied by a state of unconsciousness and loss of reflexes necessary to maintain a patent airway.
- (bb) “INBDE” means the Integrated National Board Dental Examination.
- (cc) “JCNDE” means the Joint Commission on National Dental Examinations.
- (dd) “Licensed” means the possession of a full license to practice, unless otherwise stated by the code or these rules.
- (ee) “Local anesthesia” means the elimination of sensation, especially pain, in 1 part of the body by the topical application or regional injection of a drug.
- (ff) “NBDE” means the National Board Dental Examination.
- (gg) “NBDHE” means the National Board Dental Hygiene Examination.
- (hh) “NDEB” means the National Dental Examining Board of Canada.
- (ii) “Office” means the building or suite in which dental treatment is performed.
- (jj) “PALS” means pediatric advanced life support.

(kk) “RDA” means a person licensed as a registered dental assistant by the board under the code and these rules who performs dental procedures as specified in R 338.11411, Table 1. A RDH may perform the functions of a RDA if the RDH is licensed by the board as a RDA.

(ll) “RDH” means an individual licensed as a registered dental hygienist by the board under the code and these rules, who performs basic supportive dental procedures as specified in R 338.11411, Table 1.

(mm) “Second pair of hands” means acts, tasks, functions, and procedures performed by a UDA, RDA, or RDH at the direction of a dentist, dental therapist, or RDH who is in the process of rendering dental services and treatment to a patient. The acts, tasks, functions, and procedures performed by a UDA, RDA, or RDH are ancillary to the procedures performed by the dentist, dental therapist, or RDH and intended to provide help and assistance when the procedures are performed. This definition does not expand the duties of a UDA, RDA, or RDH as provided by the code and rules promulgated by the board.

(nn) “Sedation” means the calming of a nervous, apprehensive individual, without inducing loss of consciousness, through the use of systemic drugs. Agents may be given orally, parenterally, or by inhalation.

(oo) “UDA” means an unregistered dental auxiliary, who is unlicensed and performs basic supportive dental procedures as specific in R 338.11411, Table 1.

(2) Unless otherwise defined in these rules, the terms defined in the code have the same meaning as used in these rules.

#### R 338.11103 Identification, written consent.

Rule 1103. At the inception of care for a patient, both of the following must occur:

(a) Each dentist, dental therapist, UDA, RDA, and RDH shall identify themselves to the patient as a dentist, dental therapist, UDA, RDA, or RDH.

(b) The patient is provided with a written consent for treatment.

#### R 338.11120 Dental treatment records; requirements.

Rule 1120. (1) A dentist or dental therapist shall make and maintain a dental treatment record of each patient.

(2) A dental treatment record must include all of the following information:

(a) Medical and dental history.

(b) The patient’s existing oral healthcare status and the results of any diagnostic aids used.

(c) The patient’s current health status as classified by the American Society of Anesthesiologists physical status classification system.

(d) Diagnosis and treatment plan.

(e) Dental procedures performed upon the patient, including both of the following:

(i) The date the procedure was performed.

(ii) The identity of the dentist, dental therapist, or allied dental personnel performing each procedure.

(f) Progress notes that include a chronology of the patient’s progress throughout the course of all treatment.

(g) The date, dosage, and amount of any drug prescribed, dispensed, or administered to the patient.

(h) Radiographic and photographic images taken in the course of treatment. If radiographic or photographic images are transferred to another dentist, the name and address of that dentist must be entered in the treatment record.

(3) All dental treatment records must be maintained for not less than 10 years after the date of the last treatment.

#### R 338.11121 Scheduled controlled substances; inventory record requirements.

Rule 1121. (1) If a controlled substance, as described in article 7 of the code, MCL 333.7101 to 333.7545, is stocked in a dental office for dispensing or administering to a patient, the dentist shall maintain an accurate inventory record of the drug that includes all of the following information:

- (a) The date and quantity of the drug purchased.
  - (b) The amount of the drug, dosage of the drug, and the date the drug was dispensed or administered.
  - (c) The name of the patient to whom the drug was dispensed or administered.
- (2) The inventory record must be available for inspection for not less than 10 years.
- (3) The dentist shall keep an inventory record in addition to the dental treatment records required by R 338.11120.

## PART 2. LICENSURE

R 338.11201 Licensure by examination to practice dentistry; graduates of programs in compliance with board standards.

Rule 1201. In addition to meeting the requirements of R 338.7001 to R 338.7005; any other rules promulgated under the code; and section 16174 of the code, MCL 333.16174, an applicant for dentist licensure by examination shall submit a completed application, on a form provided by the department, together with the requisite fee and meet all of the following requirements:

- (a) Graduate from a dental educational program that complies with the standards in R 338.11301, in which the applicant has obtained a DDS degree or DMD degree.
- (b) Pass all parts of the NBDE, or the INBDE if the INBDE replaces the NBDE, that is conducted and scored by the JCNDE, to qualify for the licensing examination in subdivision (c) of this rule.
- (c) Pass all parts, written and clinical, of the ADEX examination that is conducted by the CDCA-WREB-CITA, or by another regional testing agency.
- (d) Submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license, beginning 6 months after the effective date of this rule.

R 338.11202 Licensure to practice dentistry; graduates of programs not meeting board standards; requirements.

Rule 1202. An applicant for dentist licensure by examination who graduated from a dental educational program that does not comply with the standards provided in R 338.11301 shall submit a completed application, on a form provided by the department, together with the requisite fee, meet the requirements of the code, R 338.7001 to R 338.7005, and any other rules promulgated under the code, and meet all of the following requirements:

- (a) Comply with section 16174 of the code, MCL 333.16174.
- (b) Submit to the department a final, official transcript establishing graduation from a program in which the applicant has obtained a dental degree. If the transcript is issued in a language other than English, an original, official translation must also be submitted.
- (c) An applicant for dentist licensure by examination shall meet 1 of the following requirements:
  - (i) Graduate from a program in dentistry that complies with the standards in R 338.11301, in which the applicant has obtained a DDS degree or DMD degree. The completion of the program must be confirmed by official transcripts from the school.
  - (ii) Graduate from a minimum 2-year master's degree or certificate program in dentistry that complies with the standards in R 338.11301, in which the applicant has obtained a degree or certificate in a specialty branch of dentistry recognized in R 338.11501, with proof as required in part 5 of these rules.



(iii) Graduate from a minimum 2-year master's degree or certificate program in dentistry that complies with the standards in R 338.11301, in which the applicant has obtained a degree or certificate in a specialty branch of dentistry that has not been recognized in R 338.11501 but is approved by the board by request.

(d) Pass all parts of the NBDE or INBDE if the INBDE replaces the NBDE that is conducted and scored by the JCNDE.

(e) Pass all parts, written and clinical, of the ADEX examination that is conducted by the CDCA-WREB-CITA, a successor organization, or by another regional testing agency.

(f) Beginning 6 months after the effective date of this subdivision, submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

**R 338.11203 Dental examinations; required passing scores.**

Rule 1203. (1) The board approves and adopts the examinations developed and scored by the JCNDE. An applicant shall provide evidence to the department of passing each component of the examination with a converted score of not less than 75.

(2) The board approves and adopts all parts of the ADEX examination. A passing score on the examination is the score recommended by the CDCA-WREB-CITA or its successor organization. An applicant shall provide evidence to the department of a converted score of 75 or higher on each part of the examination.

(3) The required parts of the ADEX examination include all of the following:

- (a) Computer-based diagnostic skills examination objective structured clinical examination.
- (b) Endodontic clinical examination.
- (c) Fixed prosthodontic clinical examination.
- (d) Periodontal/scaling patient or manikin clinical examination
- (e) Restorative clinical patient or manikin examination.

**R 338.11209 Licensure by examination to practice dental therapy.**

Rule 1209. In addition to meeting the requirements of R 338.7001 to R 338.7005, any other rules promulgated under the code, and section 16174 of the code, MCL 333.16174, an applicant for dental therapist licensure by examination shall submit a completed application, on a form provided by the department, together with the requisite fee and meet all of the following requirements:

(a) Graduate from a dental therapy educational program that meets the standards in R 338.11302.

(b) Pass all parts, written and clinical, of the ADEX examination that is conducted by the CDCA-WREB-CITA, a successor organization, or by another regional testing agency, or an examination that is substantially equivalent to the ADEX examination as determined by the board pursuant to R 338.11257(5) and (6), with a passing converted score of not less than 75 on each component of the examination.

(c) Complete not less than 500 hours of clinical practice as required under R 338.11218.

(d) Beginning 6 months after the effective date of this subdivision, submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

**R 338.11213 Dental therapy examinations; required passing scores.**

Rule 1213. (1) The board approves and adopts all parts of the ADEX examination, conducted by the CDCA-WREB-CITA, a successor organization, or by another regional testing agency. An applicant

shall provide evidence to the department of passing each component of the examination with a converted score of not less than 75.

(2) The required parts of the examination include both of the following:

- (a) Computer-based dental therapy objective structured clinical examination.
- (b) Clinical examinations on a manikin or patient.

R 338.11218 Dental therapy clinical practice in board approved program; requirements.

Rule 1218. (1) The dental therapy clinical practice required for licensure must comply with all of the following:

(a) The clinical practice must be included in a dental therapy education program that meets the standards in R 338.11302.

(b) A dental therapy student shall complete not less than 500 clinical practice hours within the educational program, including practice hours in extractions and restorations as determined by the educational program.

(c) A dental therapy student shall be under the direct supervision of a dentist.

(2) A dentist under disciplinary action or who has been under disciplinary action in the past 5 years shall not provide direct supervision of a dental therapy student in a clinical practice. If a dentist is notified by the department that the dentist is under disciplinary review or action by any state, within 7 days after notification, the dentist shall notify the dental therapist program and discontinue directly supervising the dental therapy student in the student's clinical practice.

(3) As used in this rule:

(a) "Dentist" means a dentist licensed in this state or an individual authorized under the laws of another state to engage in the practice of dentistry.

(b) "Direct supervision" means that the supervising dentist complies with all of the following:

(i) Designates a patient of record upon whom the procedures are to be performed by the dental therapy student.

(ii) Describes the procedures to be performed to the dental therapy student.

(iii) Examines the patient before prescribing the procedures to be performed by the dental therapy student.

(iv) Examines the patient upon completion of the procedures that were performed by the dental therapy student.

(v) Is physically present in the office when the procedures are being performed by the dental therapy student.

R 338.11221 Licensure by examination to practice dental hygiene.

Rule 1221. In addition to meeting the requirements of R 338.7001 to R 338.7005, any other rules promulgated under the code, and section 16174 of the code, MCL 333.16174, an applicant for dental hygienist licensure by examination shall submit a completed application, on a form provided by the department, together with the requisite fee, and meet all of the following requirements:

(a) Graduate from a dental hygiene educational program in compliance with the standards in R 338.11303.

(b) Pass all parts of the NBDHE that is conducted and scored by the JCNDE to qualify for the licensing examination provided for in subdivision (c) of this rule. The requirement does not apply to an applicant who graduated from a dental hygiene program before 1962.

(c) Pass all parts written and clinical, of the ADEX examination that is conducted by the CDCA-WREB-CITA, a successor organization, or by another regional testing agency.

(d) Beginning 6 months after the effective date of this subdivision, submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization

that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

R 338.11223 RDH examinations; passing scores.

Rule 1223. (1) The board approves and adopts the dental hygiene examination developed and scored by the JCNDE. An applicant shall provide evidence to the department of passing each component of the examination with a converted score of not less than 75.

(2) The board approves and adopts all parts of the ADEX examination. A passing score on the clinical examination is the score recommended by the CDCA-WREB-CITA or its successor organization. An applicant shall provide evidence to the department of a converted score of 75 or greater on each component of the examination.

(3) The required parts of the ADEX examination include the following:

- (a) Computer simulated clinical examination.
- (b) Patient or manikin treatment clinical examination.

R 338.11233 Registered dental hygienist; use of letters "R.D.H."; registered dental assistant; use of letters "R.D.A."

Rule 1233. (1) Under section 16264 of the code, MCL 333.16264, a RDH who has received a bona fide degree or certificate of dental hygiene from a CODA-approved program of dental hygiene and who has completed all requirements for licensure may use the letters "R.D.H." after their name in connection with the practice of dental hygiene.

(2) Under section 16264 of the code, MCL 333.16264, a RDA who has received a bona fide degree or certificate of dental assisting from a CODA-approved program of dental assisting and who has completed all requirements for licensure may use the letters "R.D.A." after their name in connection with the practice of dental assisting.

R 338.11235 Licensure to practice as a RDA; requirements.

Rule 1235. In addition to meeting the requirements of R 338.7001 to R 338.7005, any other rules promulgated under the code, and section 16174 of the code, MCL 333.16174, an applicant for RDA licensure by examination shall submit a completed application, on a form provided by the department, together with the requisite fee and meet all of the following requirements:

(a) Graduate or receive a certificate from an educational program that meets the standards in R 338.11307.

(b) Provide evidence to the department of passing both a board-approved written examination and board-approved clinical examination that meets the requirements in R 338.11239, with a score of not less than 75, on all sections of both examinations.

(c) Beginning 6 months after the effective date of this subdivision, submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

R 338.11239 RDA examination; content; time; place; passing score.

Rule 1239. (1) Upon a written request, the board shall review a written and clinical examination for compliance with the criteria in subrule (2) of this rule.

(2) An examination for licensure as a RDA must be both written and clinical and include all of the following:

- (a) Oral anatomy.

- (b) Law and rules governing allied dental personnel.
  - (c) Instrumentation and use of dental materials.
  - (d) Mouth mirror inspection.
  - (e) Dental dam application.
  - (f) Application of anticariogenics, which includes sealants, fluoride varnish, and fluoride applications.
  - (g) Placement and removal of temporary crowns and bands.
  - (h) Radiography.
  - (i) Application and removal of post extraction and periodontal dressings.
  - (j) Removal of sutures.
  - (k) Fabrication of temporary crowns.
  - (l) Placing, condensing, and carving amalgam restorations.
  - (m) Taking final impressions for indirect restorations.
  - (n) Assisting and monitoring the administration of nitrous oxide analgesia.
  - (o) Placing, condensing, and carving intracoronal temporaries.
  - (p) Infection control, safety, and occupational safety and health administration.
  - (q) Orthodontic procedures.
  - (r) Placing resin bonded restorations, occlusal adjustment, and finishing and polishing with a non-tissue cutting slow-speed handpiece.
  - (s) Selective coronal polishing before orthodontic or restorative procedures only.
  - (t) Charting the oral cavity.
  - (u) Classifying occlusion.
  - (v) Nutritional counseling.
  - (w) Medical emergency procedures.
  - (x) Pulp vitality testing.
  - (y) Placement and removal of gingival retraction materials or agents.
  - (z) Drying endodontic canals.
  - (aa) Taking impressions for study and opposing models.
  - (bb) Instructing in the use and care of dental appliances.
  - (cc) Applying topical anesthetic solution.
  - (dd) Etching, placing, contouring, and polishing of sealants with a slow-speed rotary handpiece for occlusal adjustment.
  - (ee) Placing and removing matrices and wedges.
  - (ff) Applying cavity liners and bases.
  - (gg) Applying and dispensing in-office bleaching products.
  - (hh) Adjusting and polishing contacts and occlusion of indirect restorations.
  - (ii) Digital scans.
  - (jj) Impressions for bite registration.
  - (kk) Applying desensitizing agents.
  - (ll) Cement removal.
- (3) The passing score for an examination is a converted score of 75 on each section.

R 338.11240 Registered dental assisting licensure applicant who fails the Michigan examination.

Rule 1240. (1) The applicant shall pass both the clinical and written portions of this state's examination within 18 months after the date the applicant takes either examination.

(2) If the applicant fails either the clinical or written portion of the examination 3 successive times, the applicant shall retake both the written and clinical portions of the examination.

R 338.11247 Limited licenses; issuance; requirements.

Rule 1247. (1) The board may issue an educational limited license for postgraduate education, under section 16182(2)(a) of the code, MCL 333.16182, to an applicant who is a graduate of a dental, dental therapy, dental hygiene, or dental assistant program, and who is engaged in a CODA-accredited postgraduate dental education program. An educational limited license must be renewed annually at the discretion of the department, and except for a 1-time extension that may be granted by the board, it is renewable only 7 times. An applicant for an educational limited license shall comply with all of the following:

- (a) Submit the required fee and a completed application on a form provided by the department.
- (b) Meet the requirements of R 338.7001 to R 338.7005, any other rules promulgated under the code, and the requirements of section 16174 of the code, MCL 333.16174.
- (c) Submit proof of graduation from a dental, dental therapy, dental hygiene, or dental assistant program in the form of a certified copy of a diploma and transcript. If the transcript is issued in a language other than English, an applicant shall submit an original, official translation.
- (d) Submit documentation verifying that the applicant has been accepted into a CODA-accredited postgraduate dental education program.
- (e) Beginning 6 months after the effective date of this subdivision, submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.
- (f) Beginning 6 months after the effective date of this subdivision, submit proof of having attended training of at least 1 hour in infection control that includes sterilization of hand pieces, personal protective equipment, and the CDC infection control guidelines.
- (g) An educational limited license holder shall not hold themselves out to the public as being engaged in the practice of dentistry, dental therapy, dental hygiene, or as a dental assistant, or provide dental services outside the licensee's postgraduate dental education program.
- (h) An educational limited licensed dentist, dental therapist, or dental hygienist may perform dental procedures on patients as directed by the licensee's postgraduate dental education program if the procedures are performed under the general supervision, as that term is defined in R 338.11401(d), of a fully licensed dentist.
- (i) An educational limited licensed dental assistant may perform dental procedures on patients as directed by the licensee's postgraduate dental education program if the applicant complies with all of the following:
  - (i) The procedures are performed under the direct supervision, as that term is defined in R 338.11401(c), of a fully licensed dentist.
  - (ii) The limited licensed dental assistant has satisfied the 35 hours of additional education in an approved course as required under sections 16611(7) and (11) to (13) of the code, MCL 333.16611.
  - (iii) The limited licensed dental assistant has successfully completed a course in dental radiography that is substantially equivalent to a course taught in a program approved by the board under R 338.11302, R 338.11303, or R 338.11307.

(2) The board may issue a limited license, under section 16182(2)(b) of the code, MCL 333.16182, for nonclinical services, to an applicant of a dental, dental therapy, dental hygiene, or dental assistant program who functions only in a nonclinical academic research or administrative setting. An applicant for a nonclinical limited license shall comply with all of the following:

- (a) Submit the required fee and a completed application on a form provided by the department.
- (b) Meet the requirements of R 338.7001 to R 338.7005, any other administrative rules promulgated under the code, and the requirements of section 16174 of the code, MCL 333.16174.

(c) Submit proof of graduation from a dental, dental therapy, dental hygiene, or dental assistant program in the form of a certified copy of a diploma and transcript. If the transcript is issued in a language other than English, the applicant shall submit an original, official translation.

(d) Submit documentation verifying that the applicant has been placed in a nonclinical academic, research, or administrative setting.

(e) Beginning 6 months after the effective date of this subdivision, submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

(f) Beginning 6 months after the effective date of this subdivision submit proof of having attended training of at least 1 hour in infection control, which must include sterilization of hand pieces, personal protective equipment, and the CDC's infection control guidelines.

(g) A nonclinical license holder shall not hold themselves out to the public as being engaged in the practice of dentistry, dental therapy, dental hygiene, or as a dental assistant other than in their nonclinical academic, research, or administrative setting, or provide dental services outside of the licensee's nonclinical academic, research, or administrative setting.

(3) The board may issue a limited license, under section 16182(2)(c) of the code, MCL 333.16182, for clinical academic services, to an applicant who is a graduate of a dental, dental therapy, dental hygiene, or dental assistant program, who practices the health profession only in connection with the applicant's employment or other contractual relationship with that academic institution. An applicant for a clinical limited license shall comply with all of the following:

(a) Submit the required fee and a completed application on a form provided by the department.

(b) Meet the requirements of R 338.7001 to R 338.7005, any other rules promulgated under the code, and the requirements of section 16174 of the code, MCL 333.16174.

(c) Submit proof of graduation from a dental, dental therapy, dental hygiene, or dental assistant program in the form of a certified copy of a diploma and transcript. If the transcript is issued in a language other than English, the applicant shall submit an original, official translation.

(d) Submit documentation verifying that the applicant has been offered and accepted employment in an academic institution.

(e) Beginning 6 months after the effective date of this subdivision, submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

(f) Beginning 6 months after the effective date of this subdivision, submit proof of having attended training of at least 1 hour in infection control, which must include sterilization of hand pieces, personal protective equipment, and the CDC's infection control guidelines.

(g) A clinical limited license holder shall not hold themselves out to the public as being engaged in the practice of dentistry, dental therapy, dental hygiene, or as a dental assistant other than in connection with the licensee's employment or other contractual relationship with an academic institution, or provide dental services outside the licensee's employment or other contractual relationship with an academic institution.

(h) A clinical academic limited licensed dentist, dental therapist, or dental hygienist may perform dental procedures on patients in connection with the licensee's employment or contractual relationship with an academic institution if the procedures are performed under the general supervision, as that term is defined in R 338.11401(d), of a fully licensed dentist.

(i) A clinical academic limited licensed dental assistant may perform dental procedures on patients in connection with the licensee's employment or contractual relationship with an academic institution if the applicant complies with all of the following:

(i) The procedures are performed under the direct supervision, as that term is defined in R 338.11401(c), of a fully licensed dentist.

(ii) The limited licensed dental assistant has satisfied the 35 hours of additional education in an approved course as required under section 16611(7), and (11) to (13) of the code, MCL 333.16611.

(iii) The limited licensed dental assistant has successfully completed a course in dental radiography that is substantially equivalent to a course taught in a program approved by the board pursuant to R 338.11303 or R 338.11307.

(4) Limited licenses must be renewed annually and are issued at the discretion of the department.

**R 338.11255 Licensure by endorsement of dentist; requirements.**

Rule 1255. (1) An applicant who has never held a dental license in this state, who is licensed in another state, and who is not applying for licensure by examination may apply for licensure by endorsement by submitting a completed application on a form provided by the department, together with the requisite fee.

(2) An applicant who is licensed in another state as a dentist is presumed to have met the requirements of section 16186 of the code, MCL 333.16186, if the applicant meets the requirements of the code, R 338.7001 to R 338.7005, any other rules promulgated under the code, and all of the following requirements in subdivisions (a) to (g) of this subrule, subject to subdivisions (h) and (i) of this subrule:

(a) An applicant for licensure by endorsement shall meet 1 of the following requirements:

(i) Has graduated from a dental educational program that meets the standards in R 338.11301, in which the applicant has obtained at least a 2-year DDS degree or DMD degree. The completion of the program must be confirmed by official transcripts from the school, with documentation of graduation.

(ii) If the applicant graduated from a dental educational program that does not comply with the standards provided in R 338.11301, the applicant shall meet 1 of the following requirements for licensure by endorsement in this state:

(A) Has graduated from a minimum 2-year master's degree or certificate program in dentistry that complies with the standards in R 338.11301, in which the applicant has obtained a degree or certificate in a specialty branch of dentistry recognized in R 338.11501, with proof as required in part 5 of these rules.

(B) Has graduated from a minimum 2-year master's degree or certificate program in dentistry that complies with the standards in R 338.11301, in which the applicant has obtained a degree or certificate in a specialty branch of dentistry that has not been recognized in R 338.11501 but is approved by the board.

(b) Has passed all phases of the NBDE or INBDE if the INBDE replaces the NBDE for dentists.

(c) Subject to (h) and (i) of this rule, the applicant submits proof of successful completion of all parts, written and clinical, of the ADEX examination required in R 338.11223(2) and (3) that is conducted by the CDCA-WREB-CITA, a successor organization, or by another regional testing agency. If the applicant has passed a regional or state board examination the applicant may petition the board for review of the regional examination or a state board examination for a determination that it is substantially equivalent under R 338.11257(5) and (6), to all parts, written and clinical, of the ADEX examination that is conducted by the CDCA-WREB-CITA. A passing score on a substantially equivalent examination is the score recommended by the sponsoring organization. However, an applicant shall present evidence to the department of a converted score of 75 or higher on each component of the examination.

(d) Has held a license as a dentist in good standing in another state for 1 year before filing an application in this state.

(e) Discloses each license, registration, or certification in a health profession or specialty issued by any another state, the United States military, the federal government, or another country on the application form.

(f) Satisfies the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.

(g) Submits proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

(h) An applicant who is licensed and practicing as a dentist in another state that required the successful completion of a regional examination or state board, who has been practicing for a minimum of 5 years immediately preceding the application for licensure in this state, meets the requirements of subdivisions (a), (b), and (c) of this subrule.

(i) An applicant who is licensed and practicing as a dentist in another state that does not require the successful completion of a regional examination, and who has been practicing for a minimum of 5 years immediately preceding the application for licensure in this state, meets the requirements of subdivisions (a) and (b) of this subrule. The applicant may petition the board for a determination that the applicant's credentials are substantially equivalent to the requirements for licensure by endorsement instead of taking an examination.

(3) The board may deny an application for licensure by endorsement upon finding the existence of a board action in another state for a violation related to applicable provisions of section 16221 of the code, MCL 333.16221, or upon determining that the applicant does not fulfill the requirements of section 16186 of the code, MCL 333.16186.

R 338.11256 Licensure by endorsement of dentist licensed in Canada;  
requirements.

Rule 1256. An applicant who currently holds a license as a dentist in Canada but has never been licensed as a dentist in this state may apply for a license by endorsement and is presumed to meet the requirements of section 16186 of the code, MCL 333.16186, if the applicant meets the requirements of the code, R 338.7001 to R 338.7005, any other rules promulgated under the code, section 16174 of the code, MCL 333.16174, submits a completed application on a form provided by the department together with the requisite fee, and provides proof of all of the following:

(a) The applicant's Canadian license is active and in good standing for 1 year before filing an application in this state.

(b) The applicant has been certified by the NDEB.

(c) The applicant has passed 1 of the following:

(i) The NDEB dental written examination and the ADEX clinical examination.

(ii) All parts, written and clinical, of the ADEX examination that is conducted by the CDCA-WREB-CITA, a successor organization, or by another regional testing agency.

(d) The applicant has graduated with 1 of the following:

(i) A BDS, DDS, or DMD degree from a program accredited by the CDAC with all training completed in Canada.

(ii) A DDS degree or DMD degree from a dental educational program that complies with the standards in R 338.11301.

(e) The applicant discloses each license, registration, or certification in a health profession or specialty issued by another state, the United States military, the federal government, or another country on the application form.



(f) The applicant satisfies the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.

(g) The applicant submits proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

**R 338.11257 Licensure by endorsement of dental therapist; requirements.**

Rule 1257. (1) An applicant who has never held a dental therapy license in this state and who is not applying by examination may apply for licensure by endorsement by submitting a completed application on a form provided by the department, together with the requisite fee.

(2) An applicant who is licensed as a dental therapist in another state is presumed to have met the requirements of section 16186 of the code, MCL 333.16186, if the applicant meets the requirements of the code, R 338.7001 to R 338.7005, any other rules promulgated under the code, and all of the following requirements:

(a) Graduated from a dental therapy educational program that meets the standards in R 338.11302 and provides the department with the original, official transcripts of professional education and documentation of graduation for board evaluation.

(b) Passed all parts, written and clinical, of the ADEX examination that is conducted by the CDCA-WREB-CITA, a successor organization, or by another regional testing agency, with a converted passing score of not less than 75 on each component of the examination.

(c) Verifies completion of not less than 500 hours of clinical practice in dental therapy that substantially meets the requirements of R 338.11218, in a dental therapy educational program that meets the standards in R 338.11302.

(d) Discloses each license, registration, or certification in a health profession or specialty issued by another state, the United States military, the federal government, or another country on the application form.

(e) Satisfies the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.

(f) Has held a license as a dental therapist that is active and in good standing in another state for 1 year before filing an application in this state.

(g) Submits proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

(3) The board may deny an application for licensure by endorsement upon finding the existence of a board action in another state for a violation related to applicable provisions of section 16221 of the code, MCL 333.16221, or upon determining that the applicant does not fulfill the requirements of section 16186 of the code, MCL 333.16186.

(4) For purposes of this rule, subject to subrules (5) and (6) of this rule, the board may approve a dental therapist clinical regional or state board examination if the examination is substantially equivalent to all parts of the ADEX examination, a comprehensive, competency-based clinical examination developed by the CDCA-WREB-CITA, or a successor organization. A passing score on a substantially equivalent examination is the score recommended by the sponsoring organization. However, an applicant shall present evidence to the department of a converted score of 75 or higher on each component of the examination.

(5) To determine substantial equivalency as specified in subrule (4) of this rule, the board shall consider at least the following factors:

- (a) Subject areas included.
- (b) Detail of material.
- (c) Comprehensiveness.
- (d) Length of an examination.
- (e) Degree of difficulty.
- (6) To demonstrate substantial equivalency as specified in subrules (4) and (5) of this rule, an applicant may be required to submit materials, including any of the following:
  - (a) A copy of the examination booklet or description of the examination content and examination scores issued by the testing agency.
  - (b) An affidavit from the appropriate state licensing agency that describes the examination and sets forth the legal standards that were in effect at the time of the examination.
  - (c) An affidavit from a state licensing board or examination agency that describes the examination.

R 338.11259 Licensure by endorsement of dental hygienists; requirements.

Rule 1259. (1) An applicant who has never held a RDH license in this state and who is not applying by examination may apply for licensure by endorsement by submitting a completed application, on a form provided by the department, together with the requisite fee.

(2) An applicant who is licensed in another state as a dental hygienist is presumed to have met the requirements of section 16186 of the code, MCL 333.16186, if the applicant meets the requirements of the code, R 338.7001 to R 338.7005, any other rules promulgated under the code, and all of the following requirements in subdivisions (a) to (g) of this subrule, subject to subrules (3) and (4) of this rule:

- (a) Has graduated from a dental hygiene educational program that meets the standards provided in R 338.11303 and provides the department with the original, official transcripts of professional education and documentation of graduation for board evaluation.
- (b) Has passed all phases of the NBDHE. This requirement is waived for persons who graduated from an accredited school before 1962.
- (c) The applicant submits proof of successful completion of all parts, written and clinical, of the ADEX examination required in R 338.11223(2) and (3) that is conducted by the CDCA-WREB-CITA, a successor organization, or by another regional testing agency. If the applicant has passed a regional examination or state board examination the applicant may petition the board for review of the regional examination or a state board examination for a determination that it is substantially equivalent under R 338.11257(5) and (6), to all parts, written and clinical, of the ADEX examination that is conducted by the CDCA-WREB-CITA. A passing score on a substantially equivalent examination is the score recommended by the sponsoring organization. However, an applicant shall present evidence to the department of a converted score of 75 or higher on each component of the examination.
- (d) Holds a license as a dental hygienist that is active and in good standing in another state for at least 1 year before filing an application in this state.
- (e) Discloses each license, registration, or certification in a health profession or specialty issued by another state, the United States military, the federal government, or another country on the application form.
- (f) Satisfies the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.
- (g) Submits proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

(3) An applicant who is licensed and is practicing as a dental hygienist in another state that required the successful completion of a regional examination or state board, for a minimum of 3 years immediately preceding the application for licensure in this state, meets the requirements of subrule (2)(a), (b), and (c) of this rule.

(4) An applicant who is licensed and is practicing as a dental hygienist in another state that does not require the successful completion of a regional examination for a minimum of 3 years immediately preceding the application for licensure in this state, meets the requirement of subrule (2)(a) and (b) of this rule. The applicant may petition the board for a determination that the applicant's credentials are substantially equivalent to the requirements for licensure by endorsement instead of taking an examination.

(5) An applicant who currently holds a license as a dental hygienist in Canada but who has never been licensed as a dental hygienist in this state may apply for a license by endorsement and is presumed to meet the requirements of section 16186 of the code, MCL 333.16186, if the applicant meets the requirements of the code, R 338.7001 to R 338.7005, any other rules promulgated under the code, requirements of section 16174 of the code, MCL 333.16174, submits a completed application on a form provided by the department together with the requisite fee, and provides proof of all of the following:

(a) The applicant's Canadian license is active and in good standing for at least 1 year before filing an application in this state.

(b) The applicant has passed 1 of the following:

(i) The National Dental Hygiene Canadian Exam written examination and the ADEX clinical examination.

(ii) All parts, written and clinical, of the ADEX examination that is conducted by the CDCA-WREB-CITA, a successor organization, or by another regional testing agency.

(c) The applicant has graduated from 1 of the following:

(i) A dental hygiene program accredited by CDAC with all training completed in Canada.

(ii) A dental hygiene educational program in compliance with the standards in R 338.11303.

(f) The applicant discloses each license, registration, or certification in a health profession or specialty issued by another state, the United States military, the federal government, or another country on the application form.

(g) The applicant satisfies the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.

(h) Submits proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

(6) The board may deny an application for licensure by endorsement upon finding the existence of a board action in another state for a violation related to applicable provisions of section 16221 of the code, MCL 333.16221, or upon determining that the applicant does not fulfill the requirements of section 16186 of the code, MCL 333.16186.

#### R 338.11261 Licensure by endorsement of RDAs; requirements.

Rule 1261. (1) An applicant who has never held a RDA license in this state and who is not applying for licensure by examination may apply for licensure by endorsement by submitting a completed application, on a form provided by the department, together with the requisite fee.

(2) An applicant who is licensed or registered in another state is presumed to have met the requirements of section 16186 of the code, MCL 333.16186, if the applicant meets the requirements of the code, R 338.7001 to R 338.7005, any other rules promulgated under the code, and all of the following requirements:

(a) Graduated from a dental assistant educational program that meets the standards in R 338.11307 and provides the department with the original, official transcripts of professional education and documentation of graduation for board evaluation.

(b) Submits proof of successful completion of both a written and clinical examination, approved by the board under R 338.11239, with a score of not less than 75, on each section of both the written and clinical examinations.

(c) Submits proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

(d) Holds a license as a dental assistant that is active and in good standing in another state for at least 1 year before filing an application in this state.

(e) Discloses each license, registration, or certification in a health profession or specialty issued by another state, the United States military, the federal government, or another country on the application form.

(f) Satisfies the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.

(3) An applicant who currently holds a license as a dental assistant in Canada but who has never been licensed as a dental assistant in this state may apply for a license by endorsement and is presumed to meet the requirements of section 16186 of the code, MCL 333.16186, if the applicant meets the requirements of the code, R 338.7001 to R 338.7005, any other rules promulgated under the code, the requirements of section 16174 of the code, MCL 333.16174, submits a completed application on a form provided by the department together with the requisite fee, and provides proof of all of the following:

(a) The applicant's Canadian license is active and in good standing for 1 year before filing an application in this state.

(b) The applicant has met all the requirements of 1 of the following licensure paths:

(i) The applicant has graduated from a dental assistant educational program in Canada with all training completed in Canada and meets all of the following requirements:

(A) The applicant has passed the National Dental Assistant Examining Board examination in Canada.

(B) The applicant has 2 or more years of dental assisting experience.

(C) The applicant has completed the Washtenaw Community College Alternative Dental Assistant Education Project pathway or a substantially similar pathway approved by the board.

(D) The applicant has completed the board written examination, approved by the board under R 338.11239, with a score of not less than 75.

(ii) The applicant graduated from a dental assistant educational program that complies with the standards in R 338.11307, and completed both a written and clinical examination, approved by the board under R 338.11239, with a score of not less than 75, on each section of both the written and clinical examination.

(c) The applicant discloses each license, registration, or certification in a health profession or specialty issued by another state, the United States military, the federal government, or another country on the application form.

(d) The applicant satisfies the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.

(e) The applicant submits proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.

(4) The board may deny an application for licensure by endorsement upon finding the existence of a board action in another state for a violation related to applicable provisions of section 16221 of the code, MCL 333.16221, or upon determining that the applicant does not fulfill the requirements of section 16186 of the code, MCL 333.16186.

R 338.11263 Relicensure requirements; dentists.

Rule 1263. (1) An applicant whose dentist license in this state has lapsed, under section 16201(3) or (4) of the code, MCL 333.16201, as applicable, may be relicensed by complying with the following requirements:

For a dentist who has let a license in this state lapse:	Lapsed 0-3 years	Lapsed more than 3 years, but less than 5 years	Lapsed 5 or more years
(a) Submit a completed application, on a form provided by the department, together with the requisite fee.	√	√	√
(b) Establish that the applicant is of good moral character as that term is defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.	√	√	√
(c) Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174.		√	√
(d) Submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.	√	√	√
(e) Submit proof of having completed 60 hours of continuing education in courses and programs approved by the board as required under R 338.11701, all of which were earned within the 3-year period immediately preceding the application for licensure. If the continuing education hours submitted with the application are deficient, the applicant has 2 years after the date of the application to complete the deficient hours. The department shall hold the application and not issue the license until the applicant has completed the continuing education requirements. The 60 hours of continuing education must include all of the following: (i) Not less than 3 hours in pain and symptom management. (ii) One hour in dental ethics and jurisprudence with inclusion of delegation of duties to allied dental personnel, which may be completed in 1 or more courses. (iii) One hour in infection control, which must	√	√	√

include sterilization of hand pieces, personal protective equipment, and the CDC's infection control guidelines.			
(f) Complete a 1-time training in identifying victims of human trafficking that meets the standards in R 338.11271.	√	√	√
(g) Complete a 1-time training in opioids and other controlled substances awareness as required in R 338.3135.	√	√	√
(h) Meet the English language requirement under R 338.7002b and the implicit bias training required in R 338.7004.	√	√	√
(i) Verify with the application for relicensure, that the applicant complies with R 338.11801 to R 338.11821, and specify the make of each amalgam separator in the dentist's office and the year that each separator was installed, if the applicant is subject to R 338.11801 to R 338.11821.	√	√	√
(j) An applicant who is or has ever been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country, shall do both of the following: (i) Disclose each license, registration, or certification on the application form. (ii) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.	√	√	√
(k) If an applicant's license has lapsed for more than 3 years but less than 5 years, the applicant shall meet either of the following: (i) Retake and pass the ADEX clinical and written examination for dentists developed and scored by the CDCA-WREB-CITA or another testing agency with a passing score of not less than 75, within the 2-year period immediately preceding the application for relicensure. (ii) Provide the department documentation that the applicant holds or held a valid and unrestricted dentist's license in another state or in Canada within 3 years immediately preceding the application for relicensure.		√	
(l) If an applicant's license has lapsed 5 or more years, the applicant shall provide the department with			√

documentation that proves the applicant holds or held a valid and unrestricted dentist license in another state or Canada within the 3 years immediately preceding the application for relicensure and meets all of the requirements in subdivisions (a) to (j) of this subrule or complies with all of the following: (i) Meets the requirements of section 16174 of the code, MCL 333.16174, and the rules. (ii) Provides proof of graduation from a dental educational program that meets the standards in R 338.11301 in which the applicant obtained a DDS or DMD degree. (iii) Provides proof of having ever passed all parts of the NBDE, or INBDE if the INBDE replaces the NBDE, conducted and scored by the JCNDE to qualify for the dental clinical and written examination. (iv) Provides proof of having passed the ADEX dental clinical and written examination conducted and scored by the CDCA-WREB-CITA or another regional agency within the 2-year period immediately preceding the application for relicensure.			
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(2) If relicensure is granted and it is determined that a sanction has been imposed by another state, the United States military, the federal government, or another country, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

#### R 338.11265 Relicensure requirements; dental therapists.

Rule 1265. (1) An applicant whose dental therapist license in this state has lapsed under section 16201(3) or (4) of the code, MCL 333.16201, as applicable, may be relicensed by complying with the following requirements:

For a dental therapist who has let a license in this state lapse:	Lapsed 0-3 years	Lapsed more than 3 years, but less than 5 years	Lapsed 5 or more years
(a) Submit a completed application, on a form provided by the department, together with the requisite fee.	√	√	√
(b) Establish that the applicant is of good moral character as that term is defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.	√	√	√
(c) Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174.		√	√
(d) Submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on			

component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.	√	√	√
(e) Submit proof of having completed 35 hours of continuing education in courses and programs approved by the board as required under R 338.11703, all of which were earned within the 2-year period immediately preceding the application for licensure. If the continuing education hours submitted with the application are deficient, an applicant has 2 years after the date of the application to complete the deficient hours. The department shall hold the application and not issue the license until the applicant has completed the continuing education requirements. The 35 hours of continuing education must include all of the following: (i) Not less than 2 hours in pain and symptom management. (ii) One hour in dental ethics and jurisprudence with inclusion of delegation of duties to allied dental personnel, which may be completed in 1 or more courses. (iii) One hour in infection control, which must include sterilization of hand pieces, personal protective equipment, and the CDC's infection control guidelines.	√	√	√
(f) Submit proof of having completed a 1-time training in identifying victims of human trafficking that meets the standards in R 338.11271.	√	√	√
(g) Submit proof of having completed a 1-time training in opioids and other controlled substances awareness as required in R 338.3135.	√	√	√
(h) Meet the English language requirement under R 338.7002b and the implicit bias training required in R 338.7004.	√	√	√
(i) An applicant who is or has ever been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country, shall do both of the following: (i) Disclose each license, registration, or certification on the application form. (ii) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and	√	√	√



sanctions are not in force at the time of application.			
(j) If an applicant's license has lapsed for more than 3 years but less than 5 years, the applicant shall meet either of the following: (i) Retake and pass a comprehensive, competency-based clinical examination approved by the department with a converted passing score of not less than 75, within the 2-year period immediately preceding the application for relicensure. (ii) Provide the department documentation that the applicant holds or held a valid and unrestricted dental therapist's license in another state within 3 years immediately preceding the application for relicensure.		√	
(k) If an applicant's license has lapsed for 5 years or more, the applicant shall provide the department with documentation that proves the applicant holds or held a valid and unrestricted dental therapist license in another state within the 3 years immediately preceding the application for relicensure and meets all of the requirements in subdivisions (a) to (i) of this subrule or complies with all of the following: (i) Meets the requirements of section 16174 of the code, MCL 333.16174, and the rules. (ii) Provides proof of graduation from a dental therapy program that meets the standards in R 338.11302. (iii) Provide proof of having passed a comprehensive, competency-based dental therapy clinical examination as required in R 338.11213, within the 2-year period immediately preceding the application for relicensure.			√

(2) If relicensure is granted and it is determined that a sanction has been imposed by another state, the United States military, the federal government, or another country, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

R 338.11267 Relicensure requirements; RDHs.

Rule 1267. (1) An applicant whose RDH license in this state has lapsed under section 16201(3) or (4) of the code, MCL 333.16201, as applicable, may be relicensed by complying with the following requirements:

For a RDH who has let a license in this state lapse:	Lapsed 0-3 years	Lapsed more than 3 years, but less than 5 years	Lapsed 5 or more years
(a) Submit a completed application, on a form			

provided by the department, together with the requisite fee.	√	√	√
(b) Establish that the applicant is of good moral character as that term is defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.	√	√	√
(c) Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174.		√	√
(d) Submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.	√	√	√
(e) Submit proof of having completed 36 hours of continuing education in courses and programs approved by the board as required under R 338.11704, all of which were earned within the 3-year period preceding the date of application for relicensure. If the continuing education hours submitted with the application are deficient, the applicant has 2 years after the date of the application to complete the deficient hours. The department shall hold the application and not issue the license until the applicant has completed the continuing education requirements. The 36 hours of continuing education must include all of the following: (i) Not less than 2 hours in pain and symptom management. (ii) One hour in dental ethics and jurisprudence with inclusion of delegation of duties to allied dental personnel, which may be completed in 1 or more courses. (iii) One hour in infection control, which must include sterilization of hand pieces, personal protective equipment, and the CDC's infection control guidelines.	√	√	√
(f) Submit proof of having completed a 1-time training in identifying victims of human trafficking that meets the standards in R 338.11271.	√	√	√
(g) Meet the English language requirement under R 338.7002b and the implicit bias training required in R 338.7004.	√	√	√
(h) An applicant who is or has ever been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country, shall do both of the following:	√	√	√

<p>(i) Disclose each license, registration, or certification on the application form.</p> <p>(ii) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.</p>			
<p>(i) If an applicant's license is lapsed for more than 3 years but less than 5 years, the applicant shall meet 1 of the following:</p> <p>(i) Provide proof of having passed the ADEX hygiene clinical and written examination conducted and scored by the CDCA-WREB-CITA or another regional agency, within the 2-year period immediately preceding the application for relicensure.</p> <p>(ii) Provide the department documentation that the applicant holds or has held a valid and unrestricted license in another state or in Canada within 3 years immediately preceding the application for licensure.</p>		√	
<p>(j) If an applicant's license has lapsed for 5 years or more, the applicant shall provide the department with documentation that proves the applicant holds or held a valid and unrestricted license in another state or in Canada within the 3 years immediately preceding the application for relicensure and meets all of the requirements in subrules subdivisions (a) to (h) of this subrule or complies with all of the following:</p> <p>(i) Meets the requirements of section 16174 of the code, MCL 333.16174, and the rules.</p> <p>(ii) Provides proof of graduation from a dental hygiene educational program that meets the standards in R 338.11303.</p> <p>(iii) Provides proof of having ever passed all parts of the NBDHE conducted and scored by the JCNDE to qualify for the dental hygiene clinical and written examination. This paragraph does not apply to an applicant who graduated from a dental hygiene program before 1962.</p> <p>(iv) Provides proof of having passed the ADEX hygiene clinical and written examination conducted and scored by the CDCA-WREB-CITA or another regional testing agency, within the 2-year period immediately preceding the application for relicensure.</p>			√

(2) If relicensure is granted and it is determined that a sanction has been imposed by another state, the United States military, the federal government, or another country, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

R 338.11269 RDA relicensure requirements.

Rule 1269. (1) An applicant whose RDA license in this state has lapsed under section 16201(3) or (4) of the code, MCL 333.16201, as applicable, may be relicensed by complying with the following requirements:

For a RDA who has let a license in this state lapse:	Lapsed 0-3 years	Lapsed more than 3 years, but less than 5 years	Lapsed 5 or more years
(a) Submit a completed application, on a form provided by the department, together with the requisite fee.	√	√	√
(b) Establish that the applicant is of good moral character as that term is defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.	√	√	√
(c) Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174.		√	√
(d) Submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the license.	√	√	√
(e) Submit proof of having completed 36 hours of continuing education in courses and programs approved by the board as required under R 338.11704, all of which were earned within the 3-year period immediately preceding the date of the application for relicensure. If the continuing education hours submitted with the application are deficient, the applicant has 2 years after the date of the application to complete the deficient hours. The department shall hold the application and not issue the license until the applicant has completed the continuing education requirements. The 36 hours of continuing education must include all of the following: (i) Not less than 2 hours in pain and symptom management. (ii) One hour in dental ethics and jurisprudence with inclusion of delegation of duties to allied dental personnel, which may be completed in 1 or more courses. (iii) One hour in infection control, which must	√	√	√

include sterilization of hand pieces, personal protective equipment, and the CDC's infection control guidelines.			
(f) Completed a 1-time training in identifying victims of human trafficking that meets the standards in R 338.11271.	√	√	√
(g) Meet the English language requirement under R 338.7002b and the implicit bias training required in R 338.7004.	√	√	√
(h) An applicant who is or has ever been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country, shall do both of the following: (i) Disclose each license, registration, or certification on the application form. (ii) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.	√	√	√
(i) If an applicant's license has lapsed for more than 3 years but less than 5 years, the applicant shall meet either of the following: (i) Pass a board-approved written and clinical examination that meets the requirements of R 338.11239, within the 2-year period immediately preceding the application for relicensure. (ii) Provide the department documentation that the applicant holds or held a valid and unrestricted license in another state or in Canada within the 3 years immediately preceding the application for relicensure.		√	
(j) If an applicant's license has lapsed for 5 years or more, the applicant shall provide the department with documentation that proves the applicant holds or held a valid and unrestricted license in another state or in Canada within the 3 years immediately preceding the application for relicensure and meets all of the requirements in subdivisions (a) to (h) of this subrule or complies with all of the following: (i) Meets the requirements of section 16174 of the code, MCL 333.16174, and the rules. (ii) Provides proof of graduation or certification from an educational program that meets the standards in R 338.11307. (iii) Provides proof of having passed a board-			√

approved clinical examination that meets the requirements of R 338.11239. (iv) Provides proof of having passed a board-approved written examination that meets the requirements of R 338.11239, within the 2-year period immediately preceding the application for relicensure.			
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(2) If relicensure is granted and it is determined that a sanction has been imposed by another state, the United States military, the federal government, or another country, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

### PART 3. EDUCATION

R 338.11301 Approval of dental educational programs; accreditation standards; adoption by reference.

Rule 1301. (1) The board adopts by reference the standards of CODA of the ADA, as set forth in the following publications:

- (a) "Accreditation Standards for Dental Education Programs," copyright 2021.
  - (b) "Accreditation Standards for Advanced Dental Education Programs in Oral and Maxillofacial Surgery," copyright 2021.
  - (c) "Accreditation Standards for Advanced Dental Education Programs in Endodontics," copyright 2019.
  - (d) "Accreditation Standards for Advanced Dental Education Programs in Orthodontics and Dentofacial Orthopedics," copyright 2019.
  - (e) "Accreditation Standards for Advanced Dental Education Programs in Prosthodontics," copyright 2020.
  - (f) "Accreditation Standards for Advanced Dental Education Programs in Periodontics," copyright 2020.
  - (g) "Accreditation Standards for Advanced Dental Education Programs in Pediatric Dentistry," copyright 2021.
  - (h) "Accreditation Standards for Advanced Dental Education Programs in Oral and Maxillofacial Pathology," copyright 2021.
  - (i) "Accreditation Standards for Advanced Dental Education Programs in Oral Medicine," copyright 2020.
  - (j) "Accreditation Standards for Advanced Dental Education Programs in Orofacial Pain," copyright 2020.
  - (k) "Accreditation Standards for Advanced Dental Education Programs in Dental Public Health," copyright 2020.
  - (l) "Accreditation Standards for Advanced Dental Education Programs in Oral and Maxillofacial Radiology," copyright 2020.
  - (m) "Accreditation Standards for Advanced Dental Education Programs in Dental Anesthesiology," copyright 2020.
- (2) A dental educational program accredited by CODA, or a successor organization, is considered board approved.
- (3) These standards may be obtained at no cost from CODA of the ADA, 211 East Chicago Avenue, Chicago, Illinois, 60611-2678 or at no cost from the association's website at <http://www.ada.org>. Copies of these standards are available at 10 cents per page for inspection and distribution, from the Michigan

Board of Dentistry, Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan, 48909.

R 338.11302 Approval of dental therapy educational programs; accreditation standards; adoption by reference.

Rule 1302. (1) The board adopts by reference the standards of CODA of the ADA, as set forth in the publication titled “Accreditation Standards for Dental Therapy Education Programs,” effective February 6, 2015, copyright 2021.

(2) A dental therapy educational program that is accredited by CODA or a successor organization is considered board approved.

(3) For an applicant applying for a dental therapy license, upon application for licensure on a department form, the board shall review and may approve an applicant’s dental therapy education program if the program substantially conforms to the dental therapy education program CODA standards at the time of graduation of the dental therapy applicant.

(4) A dental therapy educational program must be taught at a postsecondary education institution that meets the standards in R 338.11302a.

(5) CODA standards may be obtained at no cost from CODA of the ADA, 211 East Chicago Avenue, Chicago, Illinois, 60611-2678 or at no cost from the association's website at <http://www.ada.org>. Copies of these standards are available for inspection and distribution at 10 cents per page from the Michigan Board of Dentistry, Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan, 48909.

R 338.11302a Higher education institutions; accreditation standards; adoption by reference.

Rule 1302a. (1) A higher education institution meets the requirements of R 338.11302(4) if it is accredited by the accrediting body of the region in which the institution is located, and the accrediting body meets either the recognition policy and procedures of the Council for Higher Education Accreditation (CHEA) or the recognition procedures and criteria of the United States Department of Education.

(2) The board adopts by reference the procedures and criteria for recognizing accrediting agencies of the United States Department of Education, 34 CFR part 602, and the CHEA Recognition of Accrediting Organizations Policy and Procedures, copyright 2021. Copies of the procedures and criteria of the United States Department of Education and the policy and procedures of CHEA are available for inspection and distribution at no cost from the website for the United States Department of Education at the Office of Postsecondary Education, <http://www.ed.gov/about/offices/list/OPE/index.html> and the CHEA website at <http://www.chea.org>. Copies are also available for inspection and distribution at 10 cents per page from the Michigan Board of Dentistry, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan, 48909.

R 338.11303 Approval of dental hygiene educational programs; accreditation standards; adoption by reference.

Rule 1303. (1) The board adopts by reference the standards of CODA of the ADA, as set forth in the publication titled "Accreditation Standards for Dental Hygiene Education Programs," effective January 1, 2013, copyright 2019. A dental hygiene educational program accredited by CODA is considered board approved. CODA is the only accreditation accepted by the board.

(2) These standards may be obtained at no cost from CODA of the ADA, 211 East Chicago Avenue, Chicago, Illinois, 60611-2678 or at no cost from the association's website at <http://www.ada.org>. Copies of these standards are available for inspection and distribution at 10 cents per page from the Michigan

Board of Dentistry, Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan, 48909.

R 338.11307 Approval of dental assisting schools educational programs; standards; adoption by reference.

Rule 1307. (1) The board adopts by reference the standards of CODA of the ADA, as set forth in the publication titled "Accreditation Standards for Dental Assisting Education Programs," copyright 2021. A dental education program accredited by CODA is approved by the board. CODA is the only accreditation accepted by the board.

(2) These standards may be obtained at no cost from CODA of the ADA, 211 East Chicago Avenue, Chicago, Illinois, 60611-2678 or at no cost from the association's website at <http://www.ada.org>. Copies of these standards are available for inspection and distribution at 10 cents per page from the Board of Dentistry, Bureau of Professional Licensing, Michigan Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan, 48909.

#### PART 4A. DELEGATION, SUPERVISION, ASSIGNMENT OF UDAs, RDAs, AND RDHs

R 338.11401 Definitions.

Rule 1401. As used in this part:

(a) "Assignment" means a dentist designates a patient of record upon whom services are to be performed and describes the procedures to be performed. Unless assignment is designated in these rules under general or direct supervision, the dentist need not be physically present in the office when the procedures are being performed.

(b) "Delegation" means an authorization granted by a licensee to a licensed or unlicensed individual to perform selected acts, tasks, or functions that fall within the scope of practice of the delegator and that are not within the scope of practice of the delegatee and that, in the absence of the authorization, would constitute illegal practice of a licensed profession.

(c) "Direct supervision" means that a dentist complies with all of the following:

(i) Designates a patient of record upon whom the procedures are to be performed and describes the procedures to be performed.

(ii) Examines the patient before prescribing the procedures to be performed and upon completion of the procedures.

(iii) Is physically present in the office when the procedures are being performed.

(d) "General supervision" means that a dentist complies with both of the following:

(i) Designates a patient of record upon whom services are to be performed.

(ii) Is physically present in the office when the procedures are being performed.

(e) "Patient of record" means a patient who has been examined, evaluated, and diagnosed with a resulting treatment plan by a dentist, or dental therapist to the extent authorized by the supervising dentist, in-person at least once every 24 months. A patient of record includes a patient getting radiographic images by allied dental personnel with training pursuant to R 338.11411(4)(a) after receiving approval from the assigning dentist or dental therapist.

R 338.11411 Delegated and assigned dental procedures for allied dental personnel.

Rule. 1411. (1) Before a dentist may delegate a function to a UDA the UDA shall meet both of the following:



- (a) Submit proof of current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards equivalent to those established by the AHA, earned within the 2-year period before receiving the delegated or assigned function.
- (b) Submit proof of attending training of at least 1 hour in infection control, which must include sterilization of hand pieces, personal protective equipment, and the CDC's infection control guidelines.
- (2) Before a dentist delegates functions to a UDA the dentist shall provide to the UDA a copy of the delegation and assigned duties in Table 1 and explain the levels of supervision.
- (3) Except for the functions a dentist may delegate to a dental therapist, a dentist or dental therapist may only assign or delegate procedures to an unlicensed or licensed individual, including a UDA, RDA, or RDH under section 16611 of the code, MCL 333.16611, as provided in Table 1.

(4) Table 1 - Delegated and Assigned Dental Procedures for Allied Dental Personnel

	UDA	RDA	RDH	Procedure
(a)	A	A	A	Operating of dental radiographic equipment. A UDA shall successfully complete a course in dental radiography that is substantially equivalent to a course taught in a program approved by the board pursuant to R 338.11302, R 338.11303, or R 338.11307. A dentist may delegate necessary radiographs for a new patient to a UDA, RDA or RDH.
(b)	G	A	A	Instructing in the use and care of dental appliances.
(c)	G	A	A	Taking impressions or digital scans for study and opposing models and matrices for temporary crowns and bridges.
(d)	G	A	A	Applying nonprescription topical anesthetic solution.
(e)	G	A	A	Trial sizing of orthodontic bands.
(f)	D	A	A	Placing, removing, and replacing orthodontic elastic or wire separators, arch wires, elastics, and ligatures.
(g)	D	A	A	Dispensing orthodontic aligners.
(h)	D	D	A	Removing orthodontic bands, brackets, and adhesives with hand instruments only. Use of high-speed rotary instruments is not in the scope of practice of a UDA, RDA, or RDH.
(i)	D**	A	A	Polishing assigned teeth with a slow-speed rotary hand piece immediately before an acid etch procedure.
(j)	D**	G*	G*	Etching and placing adhesives before placement of orthodontic brackets and attachment for aligners.
(k)	D**	D	D	Cementing orthodontic bands or initial placement of orthodontic brackets and attachments for aligners.
(l)		A		Removing excess temporary cement from supragingival surfaces of a tooth with hand instruments only.
(m)			A	Removing orthodontic or other cements from supragingival or subgingival surfaces with hand instruments or powered scaling instruments.
(n)	D**	A	A	Providing nutritional counseling for oral health and maintenance.
(o)	A	A	A	Providing commonly accepted medical emergency procedures.
(p)	D**	A	A	Inspecting and charting the oral cavity using a mouth mirror and radiographs including the classifying of occlusion.
(q)		A	A	Placing and removing dental dam.
(r)	D**	A	A	Applying anticariogenic agents including, but not limited to, sealants, fluoride varnish, and fluoride applications. UDAs may not place sealants.
(s)		A	A	Polishing and contouring of sealants with a slow-speed rotary hand piece immediately following a procedure for occlusal adjustment.
(t)		A		Fabricating temporary restorations, temporary crowns, and temporary bridges.

(u)		A	A	Placing a nonmetallic temporary or sedative restoration with non-tissue cutting instruments.
(v)	D**	A	A	Temporarily cementing and removing temporary crowns and bands.
(w)		G*	A	Preliminary examination including performing pulp vitality testing.
(x)		G*	A	Applying desensitizing agents.
(y)	D**	G*	A	Taking impressions for intraoral appliances including bite registrations.
(z)		G*		Placing and removing matrices and wedges.
(aa)		G*		Applying cavity liners and bases.
(bb)		G*		Drying endodontic canals with absorbent points.
(cc)		G*		Placing and removing nonepinephrine retraction cords or materials.
(dd)		D	A	Removing sutures.
(ee)		D	A	Applying and dispensing in-office bleaching products.
(ff)		G	G	Before cementation by the dentist, adjusting and polishing contacts and occlusion of indirect restorations.
(gg)		D***		Placing, condensing, and carving amalgam restorations.
(hh)		D***		Placing Class I resin bonded restorations, occlusal adjustment, finishing and polishing with non-tissue cutting slow-speed rotary hand pieces.
(ii)		D***		Taking final impressions for indirect restorations and prosthesis including bite registration, intra-oral imaging, and in-office fabrication of restorations.
(jj)		D	D	Assisting and monitoring the administration of nitrous oxide analgesia by a dentist or the RDH. A dentist shall assign these procedures only if the RDA or RDH has successfully completed an approved course that meets the requirements of section 16611(7) of the code, MCL 333.16611, with a minimum of 5 hours of didactic instruction. The levels must be preset by the dentist or RDH and must not be adjusted by the RDA except in case of an emergency, in which case the RDA may turn off the nitrous oxide and administer 100% oxygen. As used in this subdivision, “assisting” means setting up equipment and placing the face mask. Assisting does not include titrating and turning the equipment on or off, except in the case of an emergency in which circumstances the RDA may turn off the nitrous oxide and administer 100% oxygen.
(kk)			A	Removing accretions and stains from the surfaces of the teeth and applying topical agents essential to complete prophylaxis.
(ll)			A	Root planing, debridement, deep scaling, and removal of calcareous deposits.
(mm)			A	Polishing and contouring restorations.
(nn)			A	Charting of the oral cavity, including all the following: periodontal charting, intra oral and extra oral examining of the soft tissue, charting of radiolucencies or radiopacities, existing restorations, and missing teeth.
(oo)			A	Applying topical anesthetic agents by prescription of the dentist.

(pp)			A	Removing excess cement from tooth surfaces.
(qq)			A	Placing subgingival medicaments.
(rr)			A	Micro abrasion of tooth surfaces to remove defects, pitting, or deep staining.
(ss)			D	Performing soft tissue curettage with or without a dental laser.
(tt)	D	G	G	Taking digital scans for final restorations or intra-oral appliances.
(uu)			D****	<p>Administering intra oral block and infiltration anesthesia, or no more than 50% nitrous oxide analgesia, or both, to a patient who is 18 years of age or older if the RDH has met all of the following requirements:</p> <p>(i) Successfully completed an approved course that meets the requirements in section 16611(4) of the code, MCL 333.16611, in the administration of local anesthesia, with a minimum of 15 hours didactic instruction and 14 hours clinical experience.</p> <p>(ii) Successfully completed a state or regional board administered written examination in local anesthesia within 18 months after completion of the approved course in paragraph (i) of this subdivision.</p> <p>(iii) Successfully completed an approved course that meets the requirements in section 16611(4) of the code, MCL 333.16611, in the administration of nitrous oxide analgesia, with a minimum of 4 hours didactic instruction and 4 hours clinical experience.</p> <p>(iv) Successfully completed a state or regional board administered written examination in nitrous oxide analgesia, within 18 months after completion of the approved course in paragraph (iii) of this subdivision.</p> <p>(v) Maintains and provides evidence of current certification in BLS or ACLS that meets the standards contained in R 338.11705.</p>

(5) As used in subrule (4) of this rule:

(a) “A” means assignment, as that term is defined in R 338.11401.

(b) “D” means direct supervision, as that term is defined in R 338.11401.

(c) “G” means general supervision, as that term is defined in R 338.11401.

\* A dentist shall assign these procedures to an RDA and RDH only if the allied dental personnel has successfully completed an approved course that meets the requirements in section 16611(12) and (13) of the code, MCL 333.16611, and contains a minimum of 10 hours of didactic and clinical instruction.

\*\* A dentist shall delegate these procedures to a UDA only if the UDA has successfully completed an in-person or virtual training with performance evaluations on the following functions:

- Polishing assigned teeth with a slow-speed rotary hand piece immediately before an acid etch procedure.
- Etching and placing adhesives before placement of orthodontic brackets and attachment for aligners.
- Cementing orthodontic bands or initial placement of orthodontic brackets and attachments for aligners.
- Providing nutritional counseling for oral health and maintenance.
- Inspecting and charting the oral cavity using a mouth mirror and radiographs including the classifying of occlusion.
- Applying anticariogenic agents including, but not limited to, sealants, fluoride varnish, and fluoride applications.

- Temporarily cementing and removing temporary crowns and bands.
- Taking impressions for intraoral appliances including bite registrations.

\*\*\* A dentist shall assign these procedures to a RDA only if the RDA has successfully completed an approved course that meets the requirements in section 16611(11) of the code, MCL 333.16611, and contains a minimum of 20 hours of didactic instruction followed by a comprehensive clinical experience of sufficient duration that validates clinical competence through a criterion-based assessment instrument.

\*\*\*\* The department fee for certification of completion of the requirements is \$10.

## PART 4B. SUPERVISION OF DENTAL THERAPISTS

R 338.11417 Practice agreement; care or services.

Rule 1417. (1) A dental therapist may practice only under the supervision of a dentist licensed and practicing in this state through a written practice agreement that is signed by the dental therapist and dentist licensed and practicing in this state and that meets all the requirements in section 16655 of the code, MCL 333.16655.

(2) A dentist may supervise no more than 4 dental therapists under section 16655(5) of the code, MCL 333.16655.

(3) A dental therapist may supervise no more than 3 UDAs or RDAs and 2 RDHs in any 1 health setting as allowed in a written practice agreement. The practice agreement must define the type of supervision required by the dental therapist.

(4) A dentist may not authorize a dental therapist to do either of the following:

(a) Prescribe controlled substances.

(b) Administer phentolamine mesylate.

(5) A dentist may authorize a dental therapist to provide care or services described in section 16656(1)(a) to (w) of the code, MCL 333.16656.

(6) A dental therapist may perform other services and functions agreed to by the supervising dentist for which the dental therapist is trained that are ancillary to those care and services described in section 16656(1)(a) to (w) of the code, MCL 333.16656.

(7) Subject to section 16657 of the code, MCL 333.16657, and the dental therapist's written practice agreement, if the patient requires treatment that exceeds the dental therapist's capabilities or the scope of practice as a dental therapist, the dentist or dental therapist shall refer the patient to an appropriate provider within a reasonable distance.

(8) Subject to sections 16655 and 16656(2) of the code, MCL 333.16655 and 333.16656, and the dental therapist's written practice agreement, a dental therapist's authority to delegate to allied dental personnel may not exceed a dentist's authority to delegate to allied dental personnel under R 338.11411.

## PART 5. SPECIALTIES

R 338.11501 Specialties; recognition by the board.

Rule 1501. (1) The department on behalf of the board may issue a health profession specialty license in all of the following branches of dentistry as specialties:

(a) Endodontics.

(b) Oral and maxillofacial surgery.

(c) Oral and maxillofacial pathology.

(d) Orthodontics and dentofacial orthopedics.

(e) Pediatric dentistry.

(f) Periodontics.

(g) Prosthodontics.

(2) In addition to the specialties listed in subrule (1) of this rule, the department may issue a health profession specialty license in the following branches of dentistry:

(a) Dental anesthesiology.

(b) Dental public health.

(c) Oral and maxillofacial radiology.

(d) Oral Medicine

(e) Orofacial pain.

(3) Each branch of a dental specialty that is licensed by the board is defined in these rules and by the standards set forth by CODA under R 338.11301.

(4) An applicant who currently holds a license as a dental specialist in endodontics, oral and maxillofacial surgery, oral and maxillofacial pathology, orthodontics and dentofacial orthopedics, periodontics, prosthodontics, dental public health, or oral and maxillofacial radiology from a province in Canada may apply for a license if the applicant submits a completed application, on a form provided by the department, together with the requisite fee, and provides proof of all of the following:

(a) Meet the requirements of the code, R 338.7001 to R 338.7005, any other rules promulgated under the code, and the requirements of section 16174, of the code, MCL 333.16174.

(b) Hold a current license to practice dentistry in this state.

(c) Hold at least a master's degree in a specialty listed in subrule (4) of this rule, in Canada, from a dental institution that is accredited by the NDEB.

(d) Have graduated from a specialty program recognized by the CDAC with all training completed in Canada.

(e) Have passed the National Dental Specialty Examination (NDSE) and have NDSE certification.

R 338.11502 Dental anesthesiology explained; licensure requirements; examination content.

Rule 1502. (1) The practice of dental anesthesiology includes managing pain, anxiety, and overall patient health during dental, oral, maxillofacial, and adjunctive surgical or diagnostic procedures throughout the entire perioperative period. The specialty is dedicated to promoting patient safety as well as access to care for all dental patients, including the very young and patients with special healthcare needs.

(2) An applicant for licensure shall hold a current license to practice dentistry in this state and satisfy all the requirements of either subdivision (a) or (b) of this subrule:

(a) Meet both of the following:

(i) Have graduated from a CODA-approved program of dental anesthesiology approved by the board under R 338.11301 and submit a certification form from the program or hospital of completion of all requirements.

(ii) Provide the department with evidence of the successful passing of the American Board of Dental Anesthesiology (ADBA) written exam. The passing score accepted for licensure is the passing score established by the ADBA.

(b) Meet both of the following:

(i) Have completed a hospital-based anesthesia residence program in the United States before 1985 that was accredited by the Accreditation Council for Graduate Medical Education.

(ii) Petition the board for a review of credentials, which must be substantially equivalent to the current CODA standards.

R 338.11504 Dental public health explained; licensure requirements; examination content.

Rule 1504. (1) The practice of dental public health includes preventing and controlling dental diseases and promoting dental health through organized community efforts. It is the form of dental practice that serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the

administration of group dental care programs as well as the prevention and control of dental diseases on a community basis. Implicit in this definition is the requirement that the specialist have broad knowledge and skills in public health administration, research methodology, the prevention and control of oral diseases, and the delivery and financing of oral healthcare.

(2) An applicant for licensure shall comply with all of the following requirements:

(a) Hold a current license to practice dentistry in this state.

(b) Have graduated from a CODA-approved program of dental public health approved by the board under R 338.11301 and submit a certification form from the program or hospital of completion of all requirements.

(c) Provide the department with evidence of the successful passing of the American Board of Dental Public Health (ABDPH) written exam. The passing score accepted for licensure is the passing score established by the ABDPH.

R 338.11506 Oral and maxillofacial radiology explained; licensure requirements; examination content.

Rule 1506. (1) The practice of oral and maxillofacial radiology includes the production and interpretation of images and data produced by all modalities of radiant energy that are used for the diagnosis and management of diseases, disorders, and conditions of the oral and maxillofacial region.

(2) An applicant for licensure shall comply with all of the following requirements:

(a) Hold a current license to practice dentistry in this state.

(b) Have graduated from a CODA-approved program of oral and maxillofacial radiology approved by the board under R 338.11301 and submit a certification form from the program or hospital of completion of all requirements.

(c) Meet 1 of the following:

(i) Provide the department with evidence of the successful passing of the American Board of Oral and Maxillofacial Radiology (ABOMR) written exam. The passing score accepted for licensure is the passing score established by the ABOMR.

(ii) Petition the board for a review of credentials.

R 338.11508 Oral Medicine explained; licensure requirements; examination content.

Rule 1508. (1) The practice of oral medicine includes the oral healthcare of medically complex patients and for the diagnosis and management of medically related diseases, disorders, and conditions affecting the oral and maxillofacial region.

(2) An applicant for licensure shall comply with all of the following requirements:

(a) Hold a current license to practice dentistry in this state.

(b) Have graduated from a CODA-approved program of oral medicine approved by the board under R 338.11301 and submit a certification form from the program or hospital of completion of all requirements.

(c) Meet 1 of the following:

(i) Provide the department with evidence of the successful passing of the American Board of Oral Medicine (AAOM) written exam. The passing score accepted for licensure is the passing score established by the AAOM.

(ii) Petition the board for a review of credentials.

R 338.11510 Orofacial pain explained; licensure requirements; examination content.



Rule 1510. (1) The practice of orofacial pain includes the diagnosis, management, and treatment of pain disorders of the jaw, mouth, face, head, and neck. The specialty of orofacial pain is dedicated to the evidenced-based understanding of the underlying pathophysiology, etiology, prevention, and treatment of these disorders and improving access to interdisciplinary patient care.

(2) An applicant for licensure shall comply with all of the following requirements:

(a) Hold a current license to practice dentistry in this state.

(b) Have graduated from a CODA-approved program of orofacial pain approved by the board under R 338.11301 and submit a certification form from the program or hospital of completion of all requirements.

(c) Meet 1 of the following:

(i) Provide the department with evidence of the successful passing of the American Board of Orofacial Pain (AAOP) written exam. The passing score accepted for licensure is the passing score established by the AAOP.

(ii) Petition the board for a review of credentials.

R 338.11512 Oral and maxillofacial pathology explained; licensure requirements.

Rule 1512. (1) The practice of oral and maxillofacial pathology deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases.

(2) The specialty of oral and maxillofacial pathology includes, but is not limited to, the research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations.

(3) An applicant for licensure as an oral and maxillofacial pathologist shall meet all of the following requirements:

(a) Hold a current license to practice dentistry in this state.

(b) Have graduated from a CODA-approved program of oral and maxillofacial pathology approved by the board under R 338.11301 and submit a certification form from the program or hospital of completion of all requirements.

(c) Provide verification of a passing score on the specialty certification examination by the American Board of Oral and Maxillofacial Pathology.

R 338.11513 Oral and maxillofacial surgery explained; licensure requirements; examination content.

Rule 1513. (1) The practice of oral and maxillofacial surgery includes the diagnosis, surgical, and adjunctive treatment of diseases, injuries, and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

(2) The specialty of oral and maxillofacial surgery includes, but is not limited to, the care, treatment, and procedures associated with an office and hospital-based practice under R 338.11301.

(3) A dentist who applies for licensure as an oral and maxillofacial surgeon shall comply with both of the following requirements:

(a) Hold a current license to practice dentistry in this state.

(b) Have graduated from a CODA-approved program of oral and maxillofacial surgery approved by the board under R 338.11301 and submit a certification form from the program or hospital of completion of all requirements. The board accepts the examinations and evaluative processes required to successfully complete a CODA-accredited oral and maxillofacial residency program as meeting the requirements of section 16608 of the code, MCL 333.16608.

R 338.11515 Orthodontics and dentofacial orthopedics explained; licensure requirements; examination content.

Rule 1515. (1) The practice of orthodontics includes the diagnosis, prevention, interception, and correction of malocclusion, as well as the neuromuscular and skeletal abnormalities of the developing or mature orofacial structures. The term "orthodontics and dentofacial orthopedics" means the same as the term "orthodontics."

(2) The specialty of orthodontics includes, but is not limited to, all of the following:

- (a) The diagnosis, prevention, interception, and comprehensive treatment of all forms of malocclusion of the teeth and associated alterations in their surrounding structures.
- (b) The design, application, and control of functional and corrective appliances.
- (c) The growth guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiologic and esthetic harmony among facial and cranial structures.

(3) A dentist who desires licensure as an orthodontist shall comply with all of the following requirements:

- (a) Hold a current license to practice dentistry in this state.
- (b) Have graduated from a CODA-approved program of orthodontics approved by the board under R 338.11301 and submit a certification form from the program or hospital of completion of all requirements.
- (c) Provide the department with evidence of the successful passing of the American Board of Orthodontics (ABO) written exam. The passing score accepted for licensure is the passing score established by the ABO.

R 338.11517 Prosthodontics explained; licensure requirements; examination content.

Rule 1517. (1) The practice of prosthodontics includes the diagnosis, treatment planning, rehabilitation, and maintenance of the oral function, comfort, appearance, and health of patients with clinical conditions associated with missing or deficient teeth or oral and maxillofacial tissues, or both, using biocompatible substitutes.

(2) The specialty of prosthodontics includes, but is not limited to, the restoration and maintenance of oral function, comfort, appearance, and health of the patient by the restoration of natural teeth and the replacement of missing teeth and contiguous oral and maxillofacial tissues with artificial substitutes.

(3) A dentist who applies for licensure as a prosthodontist shall comply with all of the following requirements:

- (a) Hold a current license to practice dentistry in this state.
- (b) Have graduated from a CODA-approved program of prosthodontics approved by the board under R 338.11301 and submit a certification form from the program or hospital of completion of all requirements.
- (c) Provide verification of a passing score on the written portion of the American College of Prosthodontics (ACP).

R 338.11519 Periodontics explained; licensure requirements; examination content.

Rule 1519. (1) The practice of periodontics includes the prevention, diagnosis, and treatment of disease of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function, and esthetics of these structures and tissues.

(2) A dentist who desires licensure as a periodontist shall comply with both of the following requirements:

(a) Hold a current license to practice dentistry in this state.

(b) Have graduated from a CODA-approved program of periodontics approved by the board under R 338.1130 and submit a certification form from the program or hospital of completion of all requirements. The board accepts the examinations and evaluative processes required to successfully complete a CODA-accredited oral and maxillofacial residency program as meeting the requirements of section 16608 of the code, MCL 333.16608.

R 338.11521 Pediatric dentistry explained; licensure requirements; examination content.

Rule 1521. (1) The practice of pediatric dentistry is an age-defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and children through adolescence, including those with special health care needs.

(2) A dentist who desires licensure as a pediatric dentist shall comply with all of the following requirements:

(a) Hold a current license to practice dentistry in this state.

(b) Have graduated from a CODA-approved program of pediatric dentistry approved by the board under R 338.11301 and submit a certification form from the program or hospital of completion of all requirements.

(c) Provide verification of a passing score on the American Board of Pediatric Dentistry (ABPD) qualifying examination that is conducted and scored by the ABPD.

R 338.11523 Endodontics explained; licensure requirements; examination content.

Rule 1523. (1) The practice of endodontics includes the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. Its study encompasses related basic and clinical sciences, including the biology of the normal pulp and the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp and associated periradicular conditions.

(2) A dentist who applies for licensure as an endodontist shall comply with all of the following requirements:

(a) Hold a current license to practice dentistry in this state.

(b) Have graduated from a CODA-approved program of endodontics approved by the board under R 338.11301 and submit a certification form from the program or hospital of completion of all requirements.

(c) Provide documentation to the department evidencing the successful passing of the American Board of Endodontists (ABE) written examination. The passing score accepted for licensure is the passing score established by the ABE.

R 338.11527 Dental license suspension or revocation; automatic suspension or revocation of specialty licensure; American board discipline.

Rule 1527. (1) The suspension or revocation of the dental license of a dentist automatically causes the suspension or revocation of a specialty license issued to that dentist under the code and these rules.

(2) A licensee who holds a dental specialty license shall notify the department of any action that results in a suspension or revocation of a certification by an American board of dentistry within 30 days after the date of the suspension or revocation.

## PART 6A. GENERAL ANESTHESIA AND SEDATION

R 338.11601 General anesthesia, deep sedation; requirements.

Rule 1601. (1) A general dentist who does not hold a specialty license in dental anesthesiology or oral and maxillofacial surgery, shall not administer general anesthesia or deep sedation to a dental patient in a dental office unless the dentist complies with the following requirements:

(a) The dentist has demonstrated competency by meeting all the following requirements:

(i) Completing a minimum of 1 year of advanced training in general anesthesia and pain control in a program that meets the standards adopted in R 338.11603(1). A program that is accredited by CODA as meeting the accreditation standards for advanced dental education programs in anesthesiology or oral and maxillofacial surgery meets the requirements of this subdivision.

(ii) Completing a course in managing medical emergencies that includes all of the following:

(A) Current monitoring guidelines for adults from the ADA or the American ASA, or the AAOMS for oral and maxillofacial surgeons, and for children from the ASA, or AAOMS for oral and maxillofacial surgeons, the AAP, and the AAPD.

(B) Equipment and material used in an anesthesia or sedation emergency.

(C) The personnel needed for anesthesia or sedation.

(D) The drugs needed for resuscitation in an emergency.

(iii) Maintaining certification in BLS and ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards substantially equivalent to the standards adopted in R 338.11603(2). A certification in BLS and ACLS for healthcare providers with a hands-on component from AHA or BLS for the healthcare provider and PALS with a hands-on component from AHA meets the requirements of this subdivision.

(b) If general anesthesia or deep sedation is performed in a dental office, any allied dental personnel and dental therapists who are directly involved in the procedure shall complete a course in managing medical emergencies that includes all of the following:

(i) Current monitoring guidelines for adults from the ADA or the ASA, or AAOMS for oral and maxillofacial surgeons, and for children from the ASA, the AAP, and the AAPD or AAOMS for oral and maxillofacial surgeons.

(ii) Equipment and materials used in an anesthesia or sedation emergency.

(iii) The personnel needed for anesthesia or sedation.

(iv) The drugs needed for resuscitation in an emergency.

(2) A general dentist who does not hold a specialty license in dental anesthesiology or oral and maxillofacial surgery, shall not collaboratively provide general anesthesia or deep sedation with a physician anesthesiologist, oral surgeon, or nurse anesthetist, under section 17210 of the code, MCL 333.17210, in a dental office, unless the dentist, and allied dental personnel and dental therapists who are directly involved in the procedure, maintain certification in BLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards substantially equivalent to the standards adopted in R 338.11603(2). A certification in BLS for healthcare providers with a hands-on component from AHA or BLS for the healthcare provider and PALS with a hands-on component from AHA meets the requirements of this subdivision.

(3) At no time is a RDA or RDH allowed to adjust medication levels during a procedure, other than nitrous oxide and oxygen, as allowed in R 338.11411(4).

R 338.11602 Moderate or minimal sedation; requirements.

Rule 1602. (1) A general dentist who does not hold a specialty license in dental anesthesiology or oral and maxillofacial surgery, shall not administer moderate or minimal sedation to a dental patient in a dental office unless all of the following requirements are satisfied:

(a) The dentist has demonstrated competency by meeting all of the following requirements:

(i) Completing either of the following:

(A) A comprehensive training program in moderate sedation that satisfies the requirements described in the moderate sedation section of the ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students when the training was commenced, which must include 60 hours of classroom training and hands-on interaction in moderate sedation with 20 patients.

(B) An advanced education program accredited by CODA that provides comprehensive training to administer moderate sedation.

(ii) Maintaining certification in BLS and ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification under standards substantially equivalent to the standards adopted in R 338.11603(2). A certification in BLS and ACLS for healthcare providers with a hands-on component from AHA or basic life support for the healthcare provider and PALS with a hands-on component from AHA meets the requirements of this paragraph.

(iii) Completing a course in managing medical emergencies that includes all of the following:

(A) Current monitoring guidelines for adults from the ADA or the ASA, or AAOMS for oral and maxillofacial surgeons, and for children from the ASA, the AAP, and the AAPD, or AAOMS for oral and maxillofacial surgeons.

(B) Equipment used in an anesthesia or sedation emergency.

(C) The personnel needed for anesthesia or sedation.

(D) The drugs needed for resuscitation in an emergency.

(b) If moderate sedation is performed in a dental office, any allied dental personnel and dental therapists that are directly involved in the procedure shall complete a course in managing medical emergencies that includes all of the following:

(i) Current monitoring guidelines for adults from the ADA or the ASA, or AAOMS for oral and maxillofacial surgeons, and for children from the ASA, the AAP, and the AAPD, or AAOMS for oral and maxillofacial surgeons.

(ii) Equipment and materials used in an anesthesia or sedation emergency.

(iii) The personnel needed for anesthesia or sedation.

(iv) The drugs needed for resuscitation in an emergency.

(2) A general dentist who does not hold a specialty license in dental anesthesiology or oral and maxillofacial surgery, shall not collaboratively provide moderate or minimal sedation with a physician anesthesiologist, oral surgeon, or nurse anesthetist, under section 17210 of the code, MCL 333.17210, in a dental office, unless the dentist, and allied dental personnel and dental therapists who are directly involved in the procedure, maintain certification in BLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards substantially equivalent to the standards adopted in R 338.11603(2). A certification in BLS for healthcare providers with a hands-on component from AHA or BLS for the healthcare provider and PALS with a hands-on component from AHA meets the requirements of this subdivision.

(3) At no time is a RDA or RDH allowed to adjust medication levels during a procedure, other than nitrous oxide and oxygen, as allowed in R 338.11411(2).

R 338.11603 Adoption of standards; effect of certification of programs.

Rule 1603. (1) The board adopts by reference the CODA standards for anesthesiology educational programs in the publication titled “Accreditation Standards for Advanced Dental Education Programs in Anesthesiology,” copyright 2020, and the standards for advanced training in anesthesia and pain control and training in intravenous conscious sedation and related subjects set forth by the ADA’s publication titled “Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students,” October 2016 edition. The guidelines may be obtained at no cost from the American Dental Association, 211 E. Chicago Avenue, Chicago, Illinois, 60611, or at no cost on the association's website at <http://www.ada.org>. A copy of the standards is available for inspection and distribution, at 10 cents per page from the Michigan Board of Dentistry, Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan, 48909.

(2) The board adopts by reference the standards for credentialing in BLS and ACLS for healthcare providers with a hands-on component set forth by the AHA in the standards and guidelines for cardiopulmonary resuscitation and emergency cardiac care for professional providers, published in “2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care.” A copy of the Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care may be obtained at an approximate cost of \$25.00 from the American Heart Association, 7272 Greenville Avenue, Dallas, Texas, 75231 or at no cost from the AHA’s website at <https://cpr.heart.org/>. A copy of this document is available for inspection and distribution, at the same cost as purchasing a copy from AHA, from the Michigan Board of Dentistry, Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan, 48909.

R 338.11605 Rescinded.

## PART 6B. TELEHEALTH

R 338.11611 Definitions.

Rule 1611. As used in this part:

(a) “Telehealth” means the use of electronic information and telecommunication technologies to support or promote long-distance clinical healthcare, patient and professional health-related education, public health, or health administration. Telehealth may include, but is not limited to, telemedicine.

(b) “Telehealth service” means a healthcare service that is provided through telehealth. The requirement in R 338.11401 to have an “in-person” contact with the dentist or dental therapist once every 24 months does not apply to telehealth services unless the dentist or dental therapist delegates or assigns duties, other than radiographic images, to allied dental personnel.

(c) “Telemedicine” means the use of electronic media to link patients with healthcare professionals in different locations. To be considered telemedicine, the telemedicine services must be provided by a healthcare professional who is licensed, registered, or otherwise authorized to engage in the healthcare professional’s healthcare profession in the state where the patient is located.

R 338.11613 Consent; scope of practice; standard of care.

Rule 1613. (1) The licensee shall obtain informed consent for treatment before providing a telehealth service under section 16284 of the code, MCL 333.16284. Informed consent requires all of the following:

(a) The licensee shall ensure that the patient understands the patient will be treated remotely using telehealth.

(b) At the inception of care, any licensee who has contact with the patient shall identify themselves to the patient as a dentist, dental therapist, UDA, RDA, or RDH consistent with R 338.11103(a).

(c) The licensee shall ensure that the patient is mentally capable of giving informed consent for diagnosis, care, or treatment.

(d) The licensee shall explain the alternatives, capabilities, and limitations of telemedicine and that the patient may decline to receive telehealth services.

(2) If the patient is less than 18 years of age, a parent or legal guardian must provide informed consent for the patient.

(3) The licensee shall keep proof of consent for a telehealth service in the patient's up-to-date medical record and satisfy section 16213 of the code, MCL 333.16213.

(4) A licensee who provides telehealth services shall comply with all of the following:

(a) Act within the scope of the licensee's practice.

(b) Exercise the same standard of care applicable to a traditional, in-person healthcare service.

(c) Verify that telemedicine is appropriate to evaluate, diagnose, and treat the patient based on the patient's unique presentation.

(5) The licensee shall be able to examine the patient via a health insurance portability and accountability act (HIPAA) of 1996, Public Law 104-191 compliant, secure interactive audio or video, or both, telecommunications system, or through the use of store and forward online messaging.

(6) Telehealth must be secure and compliant with federal and state security and privacy regulations.

#### R 338.11615 Prescribing medications.

R 1615. A licensee who is authorized to prescribe may prescribe a drug during a telehealth service if the licensee complies with all of the following:

(a) Is licensed in this state and is a prescriber in this state.

(b) Is acting within the licensee's scope of practice in prescribing the drug.

(c) Is acting in compliance with section 16285 of the code, MCL 333.16285.

(d) If the licensee determines that it is medically necessary, the licensee shall refer the patient for other healthcare services or to another health professional that is geographically accessible to the patient.

(e) After providing the telehealth service, the licensee or delegatee shall provide follow-up care services to the patient or refer the patient to another health professional for follow-up care.

### PART 7. CONTINUING EDUCATION

#### R 338.11701 License renewal for a dentist, dental specialist, and special-retired volunteer dentist; requirements; applicability.

Rule 1701. (1) This rule applies to an application for the renewal of a dentist license, dental specialist license, and special retired volunteer dentist license under sections 16201 and 16184 of the code, MCL 333.16201 and 333.16184. A dental specialist license must be renewed at the same time as the dentistry license.

(2) An applicant for a dentist license renewal who has been licensed for the 3-year period immediately preceding the expiration date of the license shall complete not less than 60 hours of

continuing education approved by the board under R 338.11704a during the 3-year period before the end of the license cycle.

(3) An applicant for a dental specialist license renewal who has been licensed for the 3-year period immediately preceding the expiration date of the license shall complete 60 hours of continuing education approved by the board under R 338.11704a, with not less than 20 of the required 60 hours in board-approved continuing education in the dental specialty field in which the applicant is licensed, within the 3-year period before the end of the license cycle.

(4) In addition to meeting the requirements of section 16184 of the code, MCL 333.16184, an applicant for a special retired volunteer dentist license renewal who has been licensed for the 3-year period immediately preceding the expiration date of the license shall complete not less than 60 hours of continuing education approved by the board under R 338.11704a during the 3-year period before the end of the license cycle.

(5) An applicant shall possess current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards substantially equivalent to the standards adopted in R 338.11705(4).

(6) In complying with the requirements of subrules (2) to (4) of this rule, an applicant for a dentist license, dental specialist license, and special retired volunteer dentist license renewal who has been licensed for the 3-year period immediately preceding the expiration date of the license shall comply with all of the following before the end of the license cycle:

(a) Complete not less than 3 hours of the required continuing education hours in pain and symptom management. Continuing education hours in pain and symptom management may include, but are not limited to, courses in behavior management, psychology of pain, pharmacology, behavior modification, stress management, clinical applications, and drug interactions. Hours earned through volunteer patient or supportive dental services provided for in R 338.11704a(1)(m) do not count toward the required hours for pain and symptom management.

(b) Complete at least 1 hour of the required continuing education hours in dental ethics and jurisprudence with inclusion of delegation of duties to allied dental personnel, which may be completed in 1 or more courses. Hours earned through volunteer patient or supportive dental services provided for in R 338.11704a(1)(m) do not count toward the required hours for dental ethics and jurisprudence with inclusion of delegation of duties to allied dental personnel.

(c) Complete a minimum of 20 hours of the required continuing education hours in programs directly related to clinical issues including delivery of care, materials used in delivery of care, and pharmacology. Hours earned through volunteer patient or supportive dental services provided for in R 338.11704a(1)(m) do not count toward the required hours for clinical issues.

(d) Complete at least 1 hour of the required continuing education hours in infection control, which must include sterilization of hand pieces, personal protective equipment, and the CDC's infection control guidelines. Hours earned through volunteer patient or supportive dental services provided for in R 338.11704a(1)(m) do not count toward the required hours for infection control.

(e) Complete a minimum of 20 hours of the required continuing education hours by attending synchronous, live courses or programs, in-person or virtual, that provide for the opportunity of direct interaction between faculty and participants including, but not limited to, lectures, symposia, live teleconferences, workshops, and participation in volunteer patient or supportive dental services provided for in R 338.11704a(1)(m). These courses, with the exception of the volunteer services in R 338.11704a(1)(m), may be counted toward the required courses in clinical issues, including delivery of care, materials used in delivery of care, and pharmacology.

(f) Complete no more than 30 hours of the required continuing education hours asynchronously, noninteractive.



(7) Except for the 1-time training in human trafficking, which may be used to comply with the requirement for the 1-time training and a continuing education requirement, an applicant may not earn continuing education credit for implicit bias training required by R 338.7004, and may not earn credit for a continuing education program or activity that is identical to a program or activity an applicant has already earned credit for during that renewal period.

(8) The submission of the application for renewal constitutes the applicant's certification of compliance with the requirements of this rule. The board may require an applicant or a licensee to submit evidence to demonstrate compliance with this rule. An applicant or licensee shall maintain evidence of complying with the requirements of this rule for a period of 5 years after the date of the submission for renewal. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221.

(9) A request for a waiver under section 16205 of the code, MCL 333.16205, must be received by the department for the board's consideration not less than 30 days before the last regularly scheduled board meeting before the expiration date of the license. The public notice for the board meetings can be found at: <https://www.michigan.gov/lara/bureau-list/bpl/.health/hp-lic-health-prof/dental>.

R 338.11703 License renewal for a dental therapist and special-retired volunteer dental therapist; requirements; applicability.

Rule 1703. (1) This rule applies to an application for the renewal of a dental therapist license and special-retired volunteer dental therapist license under sections 16184, 16201, and 16653 of the code, MCL 333.16184, 333.16201, and 333.16653.

(2) An applicant for a dental therapist license renewal who has been licensed for the 2-year period immediately preceding the expiration date of the license shall complete not less than 35 hours of continuing education approved by the board under R 338.11704a during the 2-year period before renewal.

(3) In addition to meeting the requirements of section 16184 of the code, MCL 333.16184, an applicant for a special-retired volunteer dental therapist license renewal who has been licensed for the 2-year period immediately preceding the expiration date of the license shall complete not less than 35 hours of continuing education approved by the board under R 338.11704a during the 2-year period before renewal.

(4) An applicant shall possess current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards substantially equivalent to the standards adopted in R 338.11705(4).

(5) In complying with the requirements of subrules (2) and (3) of this rule, an applicant for a dental therapist license or special-retired volunteer dental therapist license renewal who has been licensed for the 2-year period immediately preceding the expiration date of the license shall comply with all of the following before the end of the license cycle:

(a) Complete not less than 2 hours of the required continuing education hours in pain and symptom management. Continuing education hours in pain and symptom management may include, but are not limited to, courses in behavior management, psychology of pain, pharmacology, behavior modification, stress management, clinical applications, and drug interactions. Hours earned through volunteer patient or supportive dental services provided for in R 338.11704a(1)(m) do not count toward the required hours for pain and symptom management.

(b) Complete at least 1 hour of the required continuing education hours in dental ethics and jurisprudence that includes the delegation of duties to allied dental personnel, which may be completed in 1 or more courses. Hours earned through volunteer patient or supportive dental

services provided for in R 338.11704a(1)(m) do not count toward the required hours for dental ethics and jurisprudence.

(c) Complete at least 1 hour of the required continuing education hours in infection control, which must include sterilization of hand pieces, personal protective equipment, and the CDC's infection control guidelines. Hours earned through volunteer patient or supportive dental services provided for in R 338.11704a(1)(m) do not count toward the required hours for infection control.

(d) Complete a minimum of 12 hours of the required continuing education hours in programs directly related to clinical issues including delivery of care, materials used in delivery of care, and pharmacology. Hours earned through volunteer patient or supportive dental services provided for in R 338.11704a(1)(m) do not count toward the required hours for clinical issues.

(e) Complete a minimum of 12 hours of the required continuing education hours by attending synchronous live courses or programs, in-person or virtual, that provide for the opportunity of direct interaction between faculty and participants including, but not limited to, lectures, symposia, live teleconferences, workshops, and participation in volunteer patient or supportive dental services provided for in R 338.11704a(1)(m). These courses, with the exception of the volunteer services in R 338.11704a(1)(m), may be counted toward the required courses in clinical issues including delivery of care, materials used in delivery of care, and pharmacology.

(f) Complete no more than 18 hours of the required continuing education hours asynchronously, noninteractive.

(6) Except for the 1-time training in human trafficking and 1-time training in opioid and controlled substances awareness, which may be used to comply with the requirement for the 1-time training and a continuing education requirement, an applicant may not earn continuing education credit for implicit bias training required by R 338.7004, and may not earn credit for a continuing education program or activity that is identical to a program or activity the applicant has already earned credit for during that renewal period.

(7) The submission of the application for renewal constitutes the applicant's certification of compliance with the requirements of this rule. The board may require an applicant or a licensee to submit evidence to demonstrate compliance with this rule. An applicant or licensee shall maintain evidence of complying with the requirements of this rule for a period of 5 years after the date of the submission for renewal. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221.

(8) A request for a waiver under section 16205 of the code, MCL 333.16205, must be received by the department for the board's consideration not less than 30 days before the last regularly scheduled board meeting before the expiration date of the license. The public notice for the board meetings can be found at: <https://www.michigan.gov/lara/bureau-list/bpl/.health/hp-lic-health-prof/dental>.

R 338.11704 License renewal for a RDH, RDH special volunteer, RDA, and RDA special volunteer; requirements; applicability.

Rule 1704. (1) This rule applies to an application for the renewal of a RDH license and a RDA license under section 16201 of the code, MCL 333.16201, and a RDH special-retired volunteer license and a RDA special-retired volunteer license under section 16184 of the code, MCL 333.16184.

(2) An applicant for a RDH license renewal or a RDA license renewal who has been licensed for the 3-year period immediately preceding the expiration date of the license, shall complete not less than 36 hours of continuing education approved by the board under R 338.11704a during the 3 years before the end of the license cycle.

(3) An applicant holding both a RDH license and a RDA license shall complete not less than 36 hours of continuing education acceptable to the board under R 338.11704a during the 3 years before the end of the license cycle. The 36 hours must include not less than 12 hours devoted to RDH functions and not less than 12 hours devoted to RDA functions.

(4) In addition to meeting the requirements of section 16184 of the code, MCL 333.16184, an applicant for a special-retired volunteer RDA license renewal or a special-retired volunteer RDH license renewal who has been licensed for the 3-year period immediately preceding the expiration date of the license shall complete not less than 36 hours of continuing education approved by the board under R 338.11704a during the 3-year period before the end of the license cycle.

(5) An applicant shall possess current certification in BLS or ACLS for healthcare providers with a hands-on component from an agency or organization that grants certification pursuant to standards substantially equivalent to the standards adopted in R 338.11705(4).

(6) A request for a waiver under section 16205 of the code, MCL 333.16205, must be received by the department for the board's consideration not less than 30 days before the last regularly scheduled board meeting before the expiration date of the license. The public notice for the board meetings can be found at: <https://www.michigan.gov/lara/bureau-list/bpl/.health/hp-lic-health-prof/dental>.

(7) In complying with the requirements of subrules (2) to (4) of this rule, an applicant for a RDA license, RDH license, special-retired volunteer RDA license, or special-retired volunteer RDH license renewal who has been licensed for the 3-year period immediately preceding the expiration date of the license shall also comply with all of the following before the end of the license cycle:

(a) Complete a minimum of 12 hours of the required continuing education hours in programs directly related to clinical issues including delivery of care, materials used in the delivery of care, and pharmacology. Hours earned through volunteer patient or supportive dental services provided for in R 338.11704a(1)(m) do not count toward the required hours for clinical issues.

(b) Complete a minimum of 12 hours of the required continuing education hours by attending synchronous, live courses or programs, in-person or virtual, that provide the opportunity for direct interaction between faculty and participants including, but not limited to, lectures, symposia, live teleconferences, workshops, and providing volunteer patient or supportive dental services in R 338.11704a(1)(m). These courses, with the exception of the volunteer services in R 338.11704a(1)(m), may be counted toward the required courses in clinical issues including delivery of care, materials used in delivery of care, and pharmacology.

(c) Complete not less than 2 hours of the required continuing education hours in pain and symptom management. Continuing education credits in pain and symptom management may include, but are not limited to, courses in behavior management, psychology of pain, pharmacology, behavior modification, stress management, clinical applications, and drug interactions. Hours earned through volunteer patient or supportive dental services provided for in R 338.11704a(1)(m) do not count toward the required hours for pain and symptom management.

(d) Earn no more than 18 of the 36 hours of the required continuing education hours asynchronously, noninteractive.

(e) Complete at least 1 hour of the required continuing education hours in dental ethics and jurisprudence with inclusion of delegation of duties to allied dental personnel, which may be completed in 1 or more courses. Hours earned through volunteer patient or supportive dental services provided for in R 338.11704a(1)(m) do not count toward the required hours for ethics and jurisprudence with inclusion of delegation of duties to allied dental personnel.

(f) Complete at least 1 hour of the required continuing education hours in infection control, which must include sterilization of hand pieces, personal protective equipment, and the CDC's infection control guidelines. Hours earned through volunteer patient or supportive dental services provided for in R 338.11704a(1)(m) do not count toward the required hours for infection control.

(8) Except for the 1-time training in human trafficking which may be used to comply with the requirement for the 1-time training and a continuing education requirement, an applicant may not earn continuing education credit for implicit bias training required by R 338.7004 and may not earn credit for a continuing education program or activity that is identical to a program or activity the applicant has already earned credit for during that renewal period.

(9) The submission of the application for renewal constitutes the applicant's certification of compliance required by this rule. The board may require an applicant or licensee to submit evidence to demonstrate compliance with this rule. The applicant or licensee shall maintain evidence of complying with the requirements of this rule for a period of 5 years after the date of the submission for renewal. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221.

R 338.11704a Acceptable continuing education for licensees, limitations.

Rule 1704a. (1) The board shall consider any of the following as acceptable continuing education for dentists, dental therapists, dental specialists, special-retired volunteer dentists, special-retired volunteer dental therapists, RDH, special-retired volunteer RDHs, RDAs, and special-retired volunteer RDAs, unless otherwise noted:

Acceptable Continuing Education activities		
(a)	<p>Completion of an approved continuing education program or activity related to the practice of dentistry. A course or program must substantially meet the standards and criteria for an acceptable category of continuing education under this rule and must be relevant to healthcare and advancement of the licensee's dental education.</p> <p>A continuing education program or activity is approved, regardless of the format in which it is offered, if it is approved or offered for continuing education credit by any of the following:</p> <ul style="list-style-type: none"> <li>• A dental, dental therapy, dental hygiene, dental assistant, or a hospital-based dental specialty educational program approved by CODA.</li> <li>• A continuing education sponsoring organization, institution, or individual approved by AGD.</li> <li>• The Commission on Continuing Education Provider Recognition ADA</li> </ul>	<p>The number of hours earned are the number of hours approved by the sponsor or the approving organization.</p> <p>If the activity was not approved for a set number of hours, then 1 credit hour for each 50 minutes of participation may be earned.</p> <p>No limitation on the number of hours earned.</p>

	<p><b>CERP.</b></p> <p>A continuing education program or activity is approved, regardless of the format in which it is offered, if it is offered for continuing education credit by any of the following:</p> <ul style="list-style-type: none"> <li>• American Academy of Dental Hygiene (AADH).</li> <li>• American Dental Hygienists' Association (ADHA).</li> <li>• American Dental Assistants Association (ADAA).</li> <li>• Michigan Dental Association (MDA).</li> <li>• Michigan Dental Hygienists Association (MDHA).</li> <li>• Michigan Dental Assistants Association (MDAA).</li> <li>• Another state board of dentistry.</li> </ul> <p>If audited, an applicant shall submit a copy of a letter or certificate of completion showing the applicant's name, number of hours earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date the program was held or activity completed.</p>	
(b)	<p>Completion of courses offered for credit in a dental, dental therapy, dental hygiene, dental assistant, or a hospital-based dental specialty educational program approved by CODA.</p> <p>If audited, an applicant shall submit an official transcript that reflects completion of the course and number of semester or quarter credit hours earned.</p>	<p>Ten hours may be earned for each quarter credit earned and 15 hours may be earned for each semester credit earned.</p> <p>No limitation on the number of hours earned.</p>
(c)	<p>Attendance at a program or activity related to topics approved in R 338.2443(2) and R 338.143(2) for category 1 continuing education by the board of medicine or board of osteopathic medicine.</p> <p>If audited, an applicant shall submit a copy of a letter or certificate of completion showing the applicant's name, number of hours earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date the</p>	<p>One hour may be earned for each 50 minutes of program attendance.</p> <p>A maximum of 30 hours for a dentist, and 18 hours for a dental therapist, RDH, and RDA may be earned in each renewal period.</p>

	program was held or activity completed.	
(d)	<p>For dentists, satisfactory participation for a minimum of 7 months in a hospital or institution through a postgraduate dental clinical training program approved by CODA.</p> <p>If audited, an applicant shall submit a copy of a letter or certificate of completion showing the applicant's name, number of hours attended, the name of the hospital or institution, the name of the clinical training program, the date of participation, and the activities completed.</p>	<p>Twenty hours may be earned in each calendar year for 7 months of participation in the calendar year.</p> <p>A maximum of 20 hours per calendar year may be earned.</p>
(e)	<p>For dentists, successful completion of an American-board specialty examination.</p> <p>If audited, an applicant shall submit proof of a passing score on the examination.</p>	<p>Ten hours may be earned in the year in which the applicant achieves a passing score on a specialty examination.</p> <p>A maximum of 20 hours may be earned in each renewal period. Credit is not given for repeating the same examination in a renewal period.</p>
(f)	<p>Renewal of a dentist, dental therapist, RDH, or RDA license held in another state that requires continuing education for license renewal that is substantially equivalent in subject matter and total amount of required hours required in these rules if the applicant resides and practices in another state.</p> <p>If audited, an applicant shall submit proof of current licensure in another state and a copy of a letter or certificate of completion showing the applicant's name, number of hours earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, type of program or activity, and the date the program was held or activity completed.</p>	<p>For a dentist, 60 hours may be earned. For a dental therapist, 35 hours may be earned. For a RDH or RDA, 36 hours may be earned.</p> <p>A maximum of 60 hours for a dentist, 35 hours for a dental therapist, and 36 hours for a RDH or RDA may be earned in each renewal period.</p>
(g)	<p>For a RDA, meeting the requirements for recertification in R 338.11705(3).</p> <p>If audited, an applicant shall submit proof of current certification, other than emeritus certification, by the Dental Assisting National</p>	<p>Thirty-six hours may be earned.</p> <p>A maximum of 36 hours may be earned in each renewal period.</p>

	Board (DANB).	
(h)	<p>Initial publication of an article or text related to the practice of dentistry, dental therapy, dental hygiene, or dental assisting in either of the following:</p> <ul style="list-style-type: none"> <li>• A textbook.</li> <li>• A journal of a national association of dentists, dental therapists, dental specialists, dental hygienists, or dental assistants.</li> </ul> <p>If audited, an applicant shall submit a copy of the publication that identifies the applicant as the author or a publication acceptance letter.</p>	<p>Twenty-five hours may be earned per publication.</p> <p>A maximum of 25 hours may be earned in each renewal period.</p>
(i)	<p>Initial publication of an article related to the practice of dentistry, dental therapy, dental hygiene, or dental assisting in either of the following:</p> <ul style="list-style-type: none"> <li>• A journal of an accredited dentistry, dental therapy, dental hygiene, or dental assisting school.</li> <li>• A state or state-component association of dentists, dental therapists, dental specialists, dental hygienists, or dental assistants.</li> </ul> <p>If audited, an applicant shall submit a copy of the publication that identifies the applicant as the author or a publication acceptance letter.</p>	<p>Twelve hours may be earned per publication.</p> <p>A maximum of 12 hours may be earned in each renewal period.</p>
(j)	<p>Independent reading of articles or viewing or listening to media, other than online programs, related to dental, dental therapy, dental hygiene, or dental assisting education.</p> <p>If audited, an applicant shall submit an affidavit attesting to the number of hours the applicant spent participating in these activities that includes a description of the activity.</p>	<p>One hour for each 50 minutes of participation may be earned per activity.</p> <p>A maximum of 10 hours may be earned in each renewal period.</p>
(k)	<p>Development and presentation of a table clinical demonstration or a continuing education lecture offered in conjunction with the presentation of continuing education programs approved by the board pursuant to subrule (3) of this rule that is not a part of the licensee's regular job description.</p> <p>If audited, an applicant shall submit a copy of</p>	<p>One hour for each 50 minutes devoted to the development and initial presentation.</p> <p>A maximum of 10 hours may be earned in each renewal period.</p>

	the curriculum and a letter from the program sponsor verifying the length and date of the presentation.	
(l)	<p>Attendance at a dental-related program that is approved by the board pursuant to subrule (3) of this rule and that is relevant to healthcare and advancement of the licensee's dental education.</p> <p>If audited, an applicant shall submit a copy of a letter or certificate of completion showing the applicant's name, number of hours earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date the program was held or activity completed.</p>	<p>Ten hours may be credited per year.</p> <p>A maximum of 10 hours may be earned in each renewal period.</p>
(m)	<p>Providing volunteer patient or supportive dental services in this state at a board-approved program pursuant to subrule (4) of this rule that is not a part of the licensee's regular job description or required under a board order or agreement and that complies with the following:</p> <ul style="list-style-type: none"> <li>• The program is a public or nonprofit entity, program, or event, or a school or nursing home.</li> <li>• The program provides patient or supportive dental services to the indigent or dentally underserved populations.</li> <li>• The licensee does not receive direct or indirect remuneration of any kind including, but not limited to, remuneration for materials purchased or used.</li> <li>• The licensee shall sign in and sign out daily upon commencement and termination of the provision of services.</li> <li>• A dentist with a specialty license issued from this state shall limit volunteer clinical dental services to the specialty area in which the dentist is licensed.</li> </ul> <p>If audited, an applicant shall submit proof from the sponsor of the assignments and the hours of service provided.</p>	<p>One hour for each 120 minutes of providing patient or supportive dental services.</p> <p>A dentist or special-retired volunteer dentist may earn a maximum of 20 hours per renewal period.</p> <p>A dental therapist, RDH, RDA, special-retired volunteer dental therapist, special-retired volunteer RDH, and special-retired volunteer RDA may earn a maximum of 12 hours per renewal period.</p>
(n)	Providing patient or supportive dental services in this state to indigent or dentally underserved populations that is part of the licensee's regular	One hour for each 120 minutes of providing patient or supportive dental services.



	<p>job description but is not required under a board order or agreement.</p> <p>If audited, an applicant shall submit proof from an employer of the assignments and the hours worked.</p>	<p>A dentist or special-retired volunteer dentist may earn a maximum of 20 hours per renewal period.</p> <p>A dental therapist, RDH, RDA, special-retired volunteer dental therapist, special-retired volunteer RDH, and special-retired volunteer RDA may earn a maximum of 12 hours per renewal period.</p>
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(2) If an organized continuing education course or program is offered in segments of 50 to 60 minutes each, 1 hour of credit is given for each segment.

(3) The following requirements are established for continuing education, which includes, but is not limited to, any continuing education not otherwise approved by subrule (1) of this rule:

(a) The continuing education applicant shall submit a completed application, on forms provided by the department, which includes submission of a curriculum vitae or biography for all instructors and speakers.

(b) A completed application form must be submitted to the department not less than 70 days before the date the course or program is conducted and not less than 70 days before the next regularly scheduled board meeting for the proposed continuing education to be considered for approval by the board. Continuing education conducted before board consideration and approval will be denied approval.

(c) A course or program must substantially meet the standards and criteria for an acceptable category of continuing education under this rule and must be relevant to healthcare and advancement of the licensee's dental education.

(d) Board approval is for a term of 3 years from the date of approval.

(e) Approved continuing education must be reevaluated by the board before any changes during the 3-year approval term including, but not limited to, changes in the following:

(i) Instructors and speakers.

(ii) Content, title, or number of continuing education hours to be awarded to participants.

(f) Subject to subdivision (g) of this subrule, all changes to previously approved continuing education courses or programs must be submitted on required department forms not less than 70 days before the date the continuing education course or program is offered to participants and not less than 70 days before the next regularly scheduled board meeting to be considered for approval by the board. Any changes to the submitted and previously approved courses or programs conducted before board reconsideration and approval will be denied approval.

(g) Emergency changes to instructors and speakers that are unable to be submitted to the board not less than 70 days before the date of the continuing education may be reviewed by the department in consultation with the board chair when proof acceptable to the department is submitted with the change supporting the nature of the emergency.

(h) Other than the beginning term of approval, specific dates of the continuing education course or program and the number of times the course or program are offered do not require further board approval and may be changed without review by the board if the presentation dates are within the board's original 3-year term of approval.

(i) All of the following information must be recorded on a continuing education course or program certificate of completion or other proof prepared by the sponsor conducting the continuing education:

- (i) The name of the applicant, sponsor, or both.
- (ii) Continuing education approval number issued by the board.
- (iii) Course title.
- (iv) Date the approved continuing education course was conducted.
- (v) Number of continuing education hours awarded.
- (vi) Signature of the individual responsible for attendance.
- (vii) Dates of the current approval term.
- (viii) Name of participant.

(j) The board may revoke the approval status of any approved continuing education course or program any time the course or program fails to comply with these rules.

(k) The continuing education applicant shall submit a “Patient Protection” form provided by the department to the department for each continuing education course or program involving treatment of live patients.

(4) The following requirements are established for board approval of a sponsor offering volunteer continuing education opportunities under subrule (1)(m) of this rule:

(a) A sponsor shall apply to the department to obtain approval as a sponsoring entity on the volunteer dental application form.

(b) A sponsor shall retain patient records.

(c) A sponsor shall retain documentation of all volunteer assignments and the hours of service provided.

(d) Upon request, a sponsor shall provide the board with the records, copy of the assignments, hours of service, and evidence of compliance with the requirements of subrule (1)(m) of this rule.

(e) A sponsor shall provide each licensee with verification of all volunteer hours of dental care provided by the licensee upon completion of the licensee’s service.

(f) Upon request, a sponsor shall submit documentation to the department, evidencing compliance with the requirements of subrules (1)(m) and (5) of this rule.

(g) Board approval is for a term of 4 years from the date of approval.

(h) The board may revoke the approval status of any volunteer continuing education opportunity any time an approved continuing education program fails to comply with these rules.

(i) All of the following information must be recorded on a continuing education certificate of completion or other proof prepared by the sponsor conducting the volunteer continuing education course or program:

- (i) The name of the sponsoring organization.
- (ii) Continuing education approval number issued by the board.
- (iii) Dates and times of volunteer services.
- (iv) Number of continuing education hours earned.
- (v) Signature of individual responsible for attendance.
- (vi) Dates of the current approval term.
- (vii) Name of participant.

(5) A continuing education sponsor shall maintain evidence of participation in continuing education, including signed continuing education certificates of completion issued to participants, for a period of 5 years from the date of the continuing education program or course.

R 338.11705 Standards and requirements; adoption by reference.

Rule 1705. (1) The board adopts by reference the standards and criteria of the AGD's Program Approval for Continuing Education (PACE) which are set forth in the publication titled "PACE Academy of General Dentistry Program Approval for Continuing Education Program Guidelines, revised August 2021." Information on the PACE standards and criteria is available at no cost from the Academy of General Dentistry, 560 W. Lake St., Sixth Floor, Chicago, Illinois, 60661-6600 or at no cost from the academy's internet website at [www.agd.org](http://www.agd.org). A copy of the guidebook is available for inspection and distribution at 10 cents per page from the Michigan Board of Dentistry, Michigan Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan, 48909.

(2) The board adopts by reference the standards and criteria of the ADA CERP for approval of continuing education sponsoring organizations, which are set forth in the publication titled "ADA CERP Recognition Standards and Procedures January 2022." A copy of this publication may be obtained at no cost from the association at ADA CERP, 211 East Chicago Avenue, Chicago, Illinois, 60611-2678 or at no cost from the association's internet website at [www.ada.org](http://www.ada.org). A copy of the publication is available for inspection and distribution at 10 cents per page from the Michigan Board of Dentistry, Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan, 48909.

(3) The board adopts by reference the requirements for recertification established by DANB as set forth in the publication titled "Dental Assisting National Board, Inc. Recertification Requirements 2022." A copy of the publication may be obtained at no cost from the Dental Assisting National Board, Inc., 444 North Michigan Avenue, Suite 900, Chicago, Illinois, 60611 or at no cost from the national board's internet website at [www.danb.org](http://www.danb.org). A copy of the guidelines and requirements are available for inspection and distribution at 10 cents per page from the Michigan Board of Dentistry, Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan, 48909.

(4) The board adopts by reference the standards for certification in BLS and ACLS for healthcare providers with a hands-on component set forth by the AHA in the standards and guidelines for cardiopulmonary resuscitation and emergency cardiac care for professional providers, published in "2020 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care." A copy of the guidelines for cardiopulmonary resuscitation and emergency cardiovascular care may be obtained at a cost of approximately \$25.00 from the AHA's website at [www.cpr.heart.org](http://www.cpr.heart.org). A copy of this document is available for inspection and distribution, at the same cost as purchasing a copy from the AHA, from the Michigan Board of Dentistry, Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan, 48909.

## PART 8. DENTAL AMALGAM

R 338.11811 Amalgam separator; installation and operation; requirements.

Rule 1811. (1) A dentist shall have installed an amalgam separator on each wastewater drain in the dentist's dental office that is used to discharge dental amalgam waste. In addition to meeting the requirements of the code and these rules, a dentist who is required to install an amalgam separator, under section 16631 of the code, MCL 333.16631, shall comply with all of the following:

(a) Install an amalgam separator that meets the requirements of R 338.11813.

(b) Install, operate, and maintain the amalgam separator according to the manufacturer's instructions.

(c) Ensure the installed amalgam separator is properly sized to accommodate maximum dental amalgam wastewater flow rates at the dental office. The maximum allowable flow rate through an amalgam separator at a dental office must not exceed the maximum flow rate capacity at which the amalgam separator was tested under R 338.11813(1)(a).

(d) Ensure that all wastewater from the dental office containing dental amalgam waste passes through an installed and properly functioning and maintained amalgam separator before being discharged.

(2) Subrule (1) of this rule does not apply to any of the following:

(a) Oral and maxillofacial surgeons.

(b) Oral and maxillofacial radiologists.

(c) Oral and maxillofacial pathologists.

(d) Orthodontists.

(e) Periodontists.

(f) Dentists while providing services in a dental educational program, in a hospital, or through a local health department.

(g) Dentists who install and use a holding tank and do not discharge amalgam waste.

#### R 338.11813 Amalgam separator; requirements.

Rule 1813. (1) An amalgam separator that is installed in a dental office under R 338.11811 must meet all of the following requirements:

(a) Be certified as passing the International Organization for Standardization (ISO) 11143 standard, 2008, for evaluating amalgam separators.

(b) Have a removal efficiency of not less than 95% as determined by the testing required under subdivision (a) of this subrule, based on the overall average of the 3 empty and the 3 simulated full test results.

(c) Be tested and certified by 1 of the following:

(i) SP Technical Research Institute of Sweden.

(ii) TUV Nord, Germany.

(iii) NSF international.

(iv) Both of the following:

(A) A testing laboratory accredited by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation's mutual recognition arrangement and has a scope of accreditation that includes ISO 11143 standard, 2008.

(B) A certification body accredited by an accreditation body that is a signatory to the International Accreditation Forum's multilateral recognition arrangement and has a scope of accreditation that includes ISO 11143 standard, 2008.

(2) Any amalgam separator that meets the requirements of subrule (1) of this rule qualifies as an amalgam separator approved by the board.

#### R 338.11821 Compliance and enforcement.

Rule 1821. Failure to comply with the requirements of these rules, or the Department of Environment, Great Lakes, and Energy's amalgam reporting requirements is a violation of section 16221(h) of the code, MCL 333.16221, and may result in sanctions as provided for in the code, or under state or federal law. The amalgam reporting requirements can be found at: <https://www.michigan.gov/egle/about/organization/Water-Resources/industrial-pretreatment/epa-dental-rule>.

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**ADMINISTRATIVE RULES**

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DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARING RULES

Filed with the secretary of state on September 29, 2023

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) 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 executive director of the Michigan office of administrative hearings and rules by Executive Reorganization Order Nos. 2005-1, 2011-4, 2011-6, 2019-1, and 2019-3, MCL 445.2021, 445.2030, 445.2032, 324.99923, and 125.1998, and section 33 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, as well as the following provisions applicable to specific practice areas:

Part 2: sections 32 and 49 of the tax tribunal act, 1973 PA 186, MCL 205.732 and 205.749.

Part 3: sections 2233 and 13322 of the public health code, 1978 PA 368, MCL 333.2233 and 333.13322; Executive Reorganization Order Nos. 1995-6, 1997-2, and 1998-2, MCL 324.99903, 29.451, and 29.461; and parts 31, 33, 41, 55, 63, 111, 115, and 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3101 to 324.3134, 324.3301 to 324.3315, 324.4101 to 324.4113, 324.5501 to 324.5542, 324.6301 to 324.6321, 324.11101 to 324.11153, 324.11501 to 324.11554, and 324.20101 to 324.20142.

Part 4: section 7 of 1909 PA 106, MCL 460.557; section 2 of 1909 PA 300, MCL 462.2; section 5 of 1919 PA 419, MCL 460.55; sections 6 and 6a of 1939 PA 3, MCL 460.6 and 460.6a, section 6 of the motor carrier act, 1933 PA 254, MCL 479.6; and Executive Reorganization Order No. 2015-3, MCL 460.21.

Part 5: section 675 of the Michigan vehicle code, 1949 PA 300, MCL 257.675; section 5 of 1969 PA 200, MCL 247.325, and section 23 of the highway advertising act of 1972, 1972 PA 106, MCL 252.323.

Part 6: section 210 of the insurance code of 1956, 1956 PA 218, MCL 500.210.

Part 7: section 16141 of the public health code, 1978 PA 368, MCL 333.16141.

Part 8: section 308 of the occupational code, 1980 PA 299, MCL 339.308, and Executive Reorganization Order Nos. 1996-1 and 2003-1, MCL 330.3101 and 445.2011.

Part 9: sections 6 and 9 of the social welfare act, 1939 PA 280, MCL 400.6 and 400.9; and sections 2226 and 2233 of the public health code, 1978 PA 368, MCL 333.2226 and 333.2233.

Part 10: section 6 of the social welfare act, 1939 PA 280, MCL 400.6; and Executive Reorganization Order Nos. 2015-4 and 2018-6, MCL 38.1174, and 722.110.

Part 11: section 46 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1046.

Part 12: section 12 of 1978 PA 390, MCL 408.482, and section 7 of the paid medical leave act, 2018 PA 338, MCL 408.967.

Part 13: section 213 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.213, and Executive Reorganization Order Nos. 1996-2, 2002-1, and 2003-1, MCL 445.2001, 445.2004, and 445.2011.

Part 14: section 34 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.34, and Executive Reorganization Order Nos. 1996-2 and 2003-1, MCL 445.2001 and 445.2011.

Part 15: sections 7, 9a, and 27 of 1939 PA 176, MCL 423.7, 423.9a, 423.27, sections 12 and 14 of 1947 PA 336, MCL 423.212 and 432.214; and Executive Reorganization Order Nos. 1996-2 and 2011-5, MCL 445.2001 and 445.2031.

Part 16: section 2 of the state employees' retirement act, 1943 PA 240, MCL 38.2.

Part 17: section 15 of 1964 PA 287, MCL 388.1015; sections 1531, 1531i, 1535a, and 1539b of the revised school code, 1976 PA 451, MCL 380.1531, 380.1531i, 380.1535a, and 380.1539b; and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and 388.994.

Part 18: sections 1701 and 1703 of the revised school code, 1976 PA 451, MCL 380.1701 and 380.1703.

Part 19: section 6 of the corrections code of 1953, 1953 PA 232, MCL 791.206)

R 792.10101, R 792.10103, R 792.10104, R 792.10106, R 792.10107, R 792.10109, R 792.10110, R 792.10111, R 792.10114, R 792.10115, R 792.10119, R 792.10124, R 792.10126, R 792.10129, R 792.10131, R 792.10134, R 792.10201, R 792.10203, R 792.10205, R 792.10207, R 792.10209, R 792.10211, R 792.10213, R 792.10215, R 792.10217, R 792.10219, R 792.10221, R 792.10223, R 792.10225, R 792.10227, R 792.10229, R 792.10231, R 792.10233, R 792.10237, R 792.10239, R 792.10243, R 792.10245, R 792.10247, R 792.10249, R 792.10251, R 792.10253, R 792.10255, R 792.10257, R 792.10259, R 792.10261, R 792.10263, R 792.10265, R 792.10267, R 792.10271, R 792.10273, R 792.10275, R 792.10277, R 792.10279, R 792.10281, R 792.10283, R 792.10285, R 792.10287, R 792.10289, R 792.10402, R 792.10403, R 792.10404, R 792.10405, R 792.10406, R 792.10407, R 792.10408, R 792.10410, R 792.10413, R 792.10415, R 792.10417, R 792.10418, R 792.10421, R 792.10429, R 792.10430, R 792.10432, R 792.10433, R 792.10434, R 792.10435, R 792.10436, R 792.10439, R 792.10440, R 792.10441, R 792.10442, R 792.10443, R 792.10447, R 792.10448, R 792.11201, R 792.11202, R 792.11204, R 792.11205, and R 792.11903 of the Michigan Administrative Code are amended, R 792.10291, R 792.10293, R 792.10295, R 792.10297, and R 792.11209 are added, and R 792.10414 is rescinded, as follows:

## PART 1: GENERAL

R 792.10101 Scope.

Rule 101. (1) These rules govern practice and procedure in administrative hearings conducted by the Michigan office of administrative hearings and rules under Executive Reorganization Order Nos. 2005-1, 2011-4, 2011-6, 2019-1, and 2019-3, MCL 445.2021, 445.2032, 324.99923, and 125.1998.

(2) Subject to prevailing practices and procedures established by state and federal statutes and the rules for specific types of hearings contained in parts 2, 3, and 5 to 19 of these rules, the rules in this part apply to all administrative hearings conducted by the hearing system, except hearings specifically exempted under Executive Reorganization Order Nos. 2005-1, 2011-4, and 2011-6, MCL 445.2021, 445.2030, and 445.2032.

(3) The rules in this part do not govern part 4 proceedings before the Michigan public service commission, except R 792.10106(2), (3), (4), (5), (6), and (7), provisions for disqualification and recusal of administrative law judges, and R 792.10121, provisions for telephone and electronic hearings.

(4) The rules in this part do not govern proceedings before the employment relations commission, except R 792.10106(2), (3), (4), (5), (6), and (7), provisions for disqualification and recusal of administrative law judges, and R 792.10121, provisions for telephone and electronic hearings.

R 792.10103 Definitions.

Rule 103. As used in these rules:

(a) “Act” means the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(b) “Adjournment” means a postponement of a hearing to a later date.

(c) “Administrative law judge” means any person assigned by the hearing system to preside over a contested case or other matter, including, but not limited to, a tribunal member, hearing officer, presiding officer, referee, or magistrate.

(d) “Administrator” means the person, commission, or board with final decision-making authority in a contested case, other than an administrative law judge or a tribunal member.

(e) “Agency” means a bureau, division, section, unit, board, commission, trustee, authority, office, or organization within a state department, created by the constitution, statute, or department action. Agency does not include an administrative unit within the legislative or judicial branches of state government, the governor’s office, a unit having direct governing control over an institution of higher education, the state civil service commission, or an association of insurers or nonprofit organization of insurer members created under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(f) “Authorized representative” means an individual, other than an attorney, who has been given legal authority to represent a party in a proceeding.

(g) “Contested case” means a proceeding or evidentiary hearing in which a determination of the legal rights, duties, or privileges of a named party is made after an opportunity for a hearing.

(h) “Continuance” means a resumption of a hearing at a later date under these rules.

(i) “Date of receipt” means the date on which the hearing system receives a filing.

(j) “Department” means the department of licensing and regulatory affairs, unless otherwise specified as a separate constitutionally created state department.

(k) “Electronic signature” means an electronic symbol attached to or logically associated with a document or pleading and executed or adopted by a person with the intent to sign the document or pleading. This may be a graphic image of the signature or text designated as a signature, such as “/s/ John Smith,” “/s/ John Smith, Attorney,” or “/s/ John Smith, Authorized Representative”.

(l) “Hearing system” means the Michigan office of administrative hearings and rules created under the authority of Executive Reorganization Order Nos. 2005-1 and 2019-1, MCL 445.2021 and 324.99923.

(m) “Person” means an individual, partnership, corporation, association, municipality, agency, or any other entity.

(n) “Petitioner” means a person who files a request for a hearing.

(o) “Referring authority” means a court, state, or local political subdivision including, but not limited to, a department, agency, bureau, tribunal, mayor, city council, township supervisor, township board, village manager, or village board.

(p) “Respondent” means a person against whom a proceeding is commenced.

R 792.10104 Computation of time.

Rule 104. (1) In computing any period of time contemplated by these rules, the time in which an act is to be done is computed by excluding the first day, and including the last day, unless the

last day is a Saturday, Sunday, or state legal holiday, in which case the period will run until the end of the next day following the Saturday, Sunday, or state legal holiday.

(2) Unless otherwise specified by the administrative law judge, rule, or statute, the date of receipt of a filing by the hearing system is the date used to determine whether a pleading or other paper has been timely filed with the hearing system.

(3) Except where otherwise specified, a period of time in these rules means calendar days, not business days.

(4) Unless otherwise specified by the administrative law judge, rule, or statute, the date on which a document is considered filed is governed by R 792.10109(3).

R 792.10106 Administrative law judge; authority; disqualification and recusal; substitution; communications; conduct.

Rule 106. (1) The administrative law judge shall exercise the following authority when appropriate:

- (a) Conduct a full, fair, and impartial hearing.
  - (b) Take action to avoid unnecessary delay in the disposition of proceedings.
  - (c) Regulate the course of the hearing and maintain proper decorum. An administrative law judge may exercise discretion with regard to the exclusion of parties, their attorneys, or authorized representatives or other persons, and may adjourn hearings when necessary to avoid undue disruption of the proceedings.
  - (d) Administer oaths and affirmations.
  - (e) Provide for the taking of testimony by deposition.
  - (f) Rule upon offers of proof.
  - (g) Rule upon motions and examine witnesses.
  - (h) Limit repetitious testimony and time for presentations.
  - (i) Set the time and place for continued hearings.
  - (j) Fix the time for the filing and service of briefs and other documents to the hearing system and the other parties.
  - (k) Direct the parties to appear or confer, or both, to consider clarification of issues, stipulations of facts, stipulations of law, settlement, and other related matters.
  - (l) Require the parties to submit filings, including, but not limited to, proposed prehearing orders and legal memoranda.
  - (m) Examine witnesses as deemed necessary by the administrative law judge to complete a record or address a statutory element.
  - (n) Grant applications for subpoenas and subpoena witnesses and documents to the extent authorized by statute.
  - (o) Issue proposed orders, proposals for decision, and final orders and take any other appropriate action authorized by law.
  - (p) On motion, or on an administrative law judge's own initiative, adjourn hearings, except where statutory provisions limit adjournment authority.
- (2) An administrative law judge may be recused, or disqualified, from a case based on bias, prejudice, interest, or any other cause provided for in this rule.
- (3) An administrative law judge shall disclose to the parties any known conditions listed in subdivisions (a) to (e) of this subrule and may be recused or disqualified from any proceeding in which the impartiality of the administrative law judge might reasonably be questioned, including, but not limited to, instances in which any of the following exist:
- (a) The administrative law judge has a personal bias or prejudice concerning a party, a party's authorized representative, or a party's attorney.



(b) The administrative law judge has personal knowledge of disputed evidentiary facts concerning the proceeding.

(c) The administrative law judge served as an attorney in the matter in controversy.

(d) An attorney with whom the administrative law judge previously practiced law serves as the attorney in the matter in controversy.

(e) The administrative law judge has been a material witness concerning the matter in controversy.

(4) An administrative law judge who would otherwise be recused by the terms of this rule may disclose on the record the basis of disqualification and may ask the parties and their attorneys to consider, out of the administrative law judge's presence, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties agree that the administrative law judge should not be disqualified, the administrative law judge may preside over the proceeding. The agreement must be incorporated into the hearing record.

(5) Any party seeking to disqualify an administrative law judge shall promptly move for the disqualification after receiving notice indicating that the administrative law judge will preside or upon discovering facts establishing grounds for disqualification, whichever is later. A motion under this section must be made in writing and accompanied by an affidavit setting forth specific allegations that demonstrate the facts upon which the motion is based.

(6) If the challenged administrative law judge denies the motion for disqualification, a party may move for the motion to be decided by a supervising administrative law judge.

(7) If an administrative law judge is disqualified, incapacitated, deceased, otherwise removed from, or unable to continue a hearing or to issue a proposal for decision or final order as assigned, another administrative law judge must be assigned to continue the case by the hearing system director or the hearing system director's designee. To avoid substantial prejudice or to enable the administrative law judge to render a decision, the newly assigned administrative law judge may order a rehearing on any part of the contested case. This subrule applies whether the substitution occurs before or after the administrative record is closed.

(8) Once a case has been referred to the hearing system, no person may communicate with the assigned administrative law judge relating to the merits of the case without the knowledge and consent of all other parties to the matter, except as follows:

(a) The administrative law judge may communicate with another administrative law judge relating to the merits of cases at any time or the hearing system staff as provided by sections 71 to 87 of the act, MCL 24.271 to 24.287.

(b) The administrative law judge may, when circumstances require, communicate with parties, attorneys, or authorized representatives for scheduling, or other administrative purposes that do not deal with substantive matters or issues on the merits, provided that the administrative law judge reasonably believes that no party will gain procedural or tactical advantage as a result of the communication. The administrative law judge shall make provision to promptly notify all other parties of the substance of the communication and allow an opportunity to respond.

(9) If an administrative law judge receives a communication prohibited by this rule, the administrative law judge shall promptly notify all parties, attorneys, or authorized representatives of the receipt of such communication and its content.

(10) The most current publication entitled "American Bar Association, A Model Code of Judicial Conduct for State Administrative Law Judges" may be referenced, as applicable, in proceedings conducted under these rules.

R 792.10107 Attorneys and authorized representation; service; withdrawal and

substitution.

Rule 107. (1) A party may appear in person, by an attorney, or by an authorized representative where permitted by law. To appear on behalf of a party, an attorney or authorized representative must file a notice of appearance, unless the first appearance is made on the record in a proceeding. A pleading, motion, or other document signed and filed by an attorney or authorized representative on behalf of a party is a notice of appearance by the attorney or authorized representative. After a notice of appearance has been filed or made on the record, all papers in a proceeding must be served on the person who appeared or on the person whose name appears on the notice of appearance or filing, at the address identified by the person or on the appearance or filing, and is service on the represented party. Parties must notify the hearing system of any changes in address and phone number within 7 days of the change.

(2) Upon notice, an attorney or authorized representative who has entered an appearance may withdraw from the case. Timely notice of withdrawal or substitution must be provided to all parties, their attorneys or authorized representatives, and the administrative law judge.

R 792.10109 Filings with the hearing system.

Rule 109. (1) Documents and pleadings may be filed in a hearing system proceeding by mail, personal delivery, facsimile, or electronically using a hearing system-approved electronic filing system, if available.

(2) Except as otherwise approved by the administrative law judge, all filings must be legible with a minimum 12-point font for body text and no less than 10-point font for footnote text and, unless filed electronically using a hearing system-approved electronic system, on 8-½ by 11-inch paper.

(3) Documents and pleadings filed by mail, personal delivery, or facsimile and received by the hearing system after 5 p.m. eastern standard time are considered filed on the next business day. Documents and pleadings submitted using a hearing system-approved electronic filing system, or by email when specifically authorized under subrule (6) of this rule, are considered filed on the same business day if filed at or before 11:59 p.m. eastern standard time.

(4) Submission by facsimile is allowed only if the following conditions are met:

(a) A cover sheet is included that contains the following:

(i) Case name.

(ii) Case number.

(iii) Document title.

(iv) The sender's name, telephone number, and facsimile number.

(v) The total number of pages contained in the submission, including the cover sheet.

(b) The facsimile consists of 20 pages or less.

(c) The party immediately sends a facsimile copy of the filing to all other parties when a facsimile number is available. If a facsimile number is not available, the party must serve the submission to all other known parties pursuant to the requirements of these rules.

(5) If a document or pleading must be signed, it must contain a handwritten signature or an electronic signature.

(6) Documents and pleadings will not be accepted by email unless specifically authorized by the administrative law judge, administrative law manager, or pursuant to an order issued by the executive director of the hearing system.

(7) The responsibility for excluding or redacting personal identifying information from all documents or physical evidence used at hearing, filed with or offered to the hearing system, rests solely with the parties and their attorneys. The hearing system is not responsible for or required to review, redact, or screen documents at the time of filing for personal identifying information,

protected or otherwise, whether filed electronically or on paper. A party may request that the hearing system redact its personal identifying information contained in a previously filed document or physical evidence by submitting a written request stating with specificity the information in question.

R 792.10110 Service of documents and other pleadings; manner of service; date of service; statement or proof of service.

Rule 110. (1) A party must serve all documents and pleadings filed in a hearing system proceeding on all other parties. Unless otherwise directed by the administrative law judge, the parties are the persons named in the case caption. If an appearance has been filed by an attorney or authorized representative of a party, documents and pleadings must be served on the attorney or authorized representative.

(2) Service between the parties may be completed electronically if the parties agree to service by email, subject to all of the following:

(a) The agreement for service by email must set forth the email addresses of the parties or attorneys that agree to email service.

(b) Parties and attorneys that have agreed to service by email must immediately notify all other parties if the party's or attorney's email address changes.

(c) Documents served by email must be in a file format that prevents alteration of the document contents.

(d) A document served by email sent on a business day is deemed served on a party on the same business day that the email is sent if sent at or before 11:59 p.m. eastern standard time. A document served by email sent on a non-business day is deemed served on the next business day.

(e) The parties need not file a copy of the email service agreement, as provided by rule 2.107 of the Michigan court rules, unless a dispute arises as to service by email.

(f) The party serving a document by email must maintain an archived record of all emails through which service was made.

(3) The hearing system may serve documents on the parties, the parties' attorney, or the parties' authorized representative by mailing a copy, as that term is defined in subrule (9) of this rule.

(4) When service of any document or pleading is completed by United States mail, commercial delivery service, or inter-departmental mail, the date of service is the date of deposit with the United States post office, other carrier, or inter-departmental mail delivery system.

(5) When service of any document or pleading is completed by hand, facsimile, or a hearing system-approved electronic filing system, the date of service is the date of receipt as indicated by a date stamp or other verifiable date on the document or pleading.

(6) The person or party serving documents on other parties pursuant to this rule must file with the hearing system a written statement of service stating the method or manner of service, the identity of the server, the names of the parties served, and the date and place of service. When service is completed electronically, the statement of service must also state the email addresses of the sender and the recipient. Failure to file the statement of service does not affect the validity of service.

(7) If a question concerning proper service is raised, the person or party claiming to have effectuated proper service bears the burden of proof. When service is made by mail, a return post office receipt may be proof of service. When service is made by private delivery service, the receipt showing delivery is sufficient proof of service. When service is made in any other manner authorized by these rules, verified proof of service must be made by filing an affidavit of the person or party serving the documents. The administrative law judge assigned to the matter shall resolve disputes with respect to proper service.

(8) The administrative law judge assigned by the hearing system may decline to consider any document or pleading not served pursuant to these rules.

(9) As used in this rule, "mailing a copy" means 1 or more of the following:

(a) Enclosing documents in a sealed envelope addressed to the person to be served and placing the envelope into an intra-departmental mail delivery system or depositing it with first-class postage fully prepaid in the United States mail or other commercial delivery service.

(b) Emailing the documents to the parties, parties' attorney, or the parties' authorized representative at the email address on file with the hearing system.

(c) Sending the documents by facsimile to a facsimile number on file with the hearing system.

(d) Leaving a copy of the document at the residence, principal office, or place of business of the person or agency.

#### R 792.10111 Notice of hearing.

Rule 111. If the notice of hearing is issued by the hearing system, the notice must contain, at a minimum, all of the following:

(a) The address and phone number, if available, of the hearing location, or other information, such as remote access codes, necessary to participate in the hearing.

(b) A statement of the date, hour, place, and nature of the hearing.

(c) A statement that all hearings will be conducted in a barrier-free location and in compliance with the Americans with disabilities act, 42 USC 12101 to 12213, provisions. The notice must inform the parties that if accessibility is requested, such as braille, large print, electronic or audio reader, information that is to be made accessible must be submitted to the hearing system at least 14 business days before the hearing. If the hearing system is unable to accomplish the conversion before the date of the hearing, an adjournment must be granted. If a party fails to provide information for conversion pursuant to this rule, the administrative law judge may deny adjournment.

(d) A statement of the legal authority and jurisdiction under which the hearing is being held.

(e) The action intended by the agency, if any.

(f) A statement of the issues or subject of the hearing. On request, the administrative law judge may require the agency or a party to furnish a more definite and detailed statement of the issues.

(g) A citation to these rules.

#### R 792.10114 Prehearing conferences.

Rule 114. (1) The administrative law judge may hold a prehearing conference to resolve matters before the hearing.

(2) A prehearing conference may address matters including, but not limited to, any of the following:

(a) Issuance of subpoenas.

(b) Factual and legal issues.

(c) Stipulations.

(d) Requests for official notice.

(e) Identification and exchange of documentary evidence.

(f) Admission of evidence.

(g) Identification and qualification of witnesses.

(h) Motions.

(i) Order of presentation.

(j) Scheduling.

(k) Alternative dispute resolution.

(l) Position statements.

(m) Settlement.

(n) Any other matter that will promote the orderly and prompt conduct of the hearing.

(3) At the discretion of the administrative law judge, all or part of a prehearing conference may be recorded.

(4) Prehearing conferences may be conducted in person, by telephone, by videoconference, or other electronic means at the discretion of the administrative law judge.

(5) When a prehearing conference has been held, the administrative law judge may issue a prehearing order that states the actions taken or to be taken with regard to any matter addressed at the prehearing conference.

(6) If a prehearing conference is not held, the administrative law judge may issue a prehearing order to regulate the conduct of proceedings.

(7) If a party fails to appear for a prehearing conference after proper notice, the administrative law judge may proceed with the conference in the absence of that party.

(8) A party who fails to attend a prehearing conference is subject to any procedural agreement reached, and any order issued, with respect to matters addressed at the conference.

#### R 792.10115 Motion practice.

Rule 115. (1) All requests for action addressed to the administrative law judge, other than during a hearing, must be made in writing. Written requests for action must state specific grounds and describe the action or order sought. A copy of all written motions or requests for action must be served pursuant to these rules.

(2) Except as otherwise approved by the administrative law judge, all motions must be filed at least 14 days before the date set for hearing unless other scheduling provisions prevent compliance with this timeline or the need for the motion was not reasonably foreseeable 14 days before the hearing.

(3) A response to a motion may be filed within 7 days after service of the written motion unless otherwise ordered by the administrative law judge or unless other scheduling provisions prevent compliance with this timeline. Either party may request an expedited ruling.

(4) All motions and responses must include citations to supporting authority and, if germane, supporting affidavits or citations to evidentiary materials of record.

(5) The administrative law judge may require oral argument on a motion or allow or deny oral argument based on a request from a party.

(6) A request for oral argument on a motion must be made in writing.

(7) Notice of oral argument on a motion must be given before the date set for hearing. At the discretion of the administrative law judge, a hearing on a motion may be conducted in whole or in part by telephone or other electronic means. The administrative law judge must rule upon motions within a reasonable time or hold the motion in abeyance.

(8) Multiple motions may be consolidated for oral argument.

(9) A party may withdraw a motion for oral argument at any time.

(10) Any relief granted by the administrative law judge in response to a motion must be incorporated in a written order, the proposal for decision, or the final order.

#### R 792.10119 Location.

Rule 119. (1) The hearing system may schedule a hearing at any location or by remote means, including telephone, teleconference, or other platform, unless location is dictated by statute or controlling rules.

(2) A party may request a change of venue or means of access, including, but not limited to, in person, telephonic, or video. For good cause shown, the request may be granted at the discretion of the administrative law judge.

R 792.10124 Presentation.

Rule 124. (1) A party may make or waive a closing statement. If a party elects to make a closing statement, the administrative law judge may order closing arguments to be submitted in writing and may require written proposed findings of fact and conclusions of law.

(2) Unless otherwise directed by the administrative law judge, the party having the burden of proof shall go forward first with presentation of evidence. A party may submit rebuttal evidence.

(3) Except as otherwise provided for by statute or rule, the complaining party has the burden of proving, by a preponderance of the evidence, the basis for the requested relief or action.

R 792.10126 Evidence to be entered on record; documentary evidence.

Rule 126. (1) Evidence in a proceeding must be offered and made a part of the record if admitted by the administrative law judge. Other factual information must not be used as the basis of the decision of the administrative law judge, unless parties are provided notice. Documentary evidence may be received in the form of a copy or excerpt, if the original is not readily available. Unless otherwise allowed by the administrative law judge, a party offering documentary evidence must ensure that it is received by the administrative law judge, with a copy sent to each opposing party, not less than 7 days before the hearing except where the notice of hearing is issued less than 30 days before the hearing. If the notice of hearing is issued less than 30 days before the hearing, documentary evidence must be received by the administrative law judge and a copy provided to each opposing party no later than 1 business day before the scheduled hearing, unless the administrative law judge allows otherwise for good cause shown. Upon timely request, a party must be given an opportunity to compare a copy with the original, when available. Documentary evidence may be incorporated by reference if the materials are available for examination by the parties.

(2) If materials and exhibits offered, but not admitted, are made part of the record for purposes of appeal, they must be clearly marked by the administrative law judge as “rejected”.

(3) Exhibits that are rejected as duplicates of material already contained in the file or record, must be returned to the party offering the exhibits, and must not be included in the record on appeal.

(4) Exhibits introduced into evidence, but later withdrawn, are not part of the record on appeal.

R 792.10129 Summary disposition.

Rule 129. (1) A party may move for dismissal of or judgment. The motion may be based on 1 or more of the following grounds:

(a) No genuine issue of material fact.

(b) A failure to state a claim for which relief may be granted.

(c) A lack of jurisdiction or standing.

(2) If the administrative law judge has final decision authority, the motion may be determined without first issuing a proposal for decision.

(3) If an administrative law judge does not have final decision authority, the judge may issue an order denying the motion without first issuing a proposal for decision or may issue a proposal for decision granting the motion.

(4) If the motion for summary disposition is denied, or if the decision on the motion does not dispose of the entire action, then the action must proceed to hearing.

(5) In hearings held under the occupational code, 1980 PA 299, MCL 339.101 to 339.2677, the administrative law judge may not issue an order of summary disposition.

R 792.10131 Proposals for decision.

Rule 131. (1) In the absence of authority conferred by statute, administrative rule, or delegation to issue a final decision, the administrative law judge who conducted the hearing or who has read the complete record shall issue a proposal for decision.

(2) When the final decision is made by a person who did not conduct the hearing or review the record, the decision, if adverse to a party other than the agency itself, shall not be made until a proposal for decision is served on the parties and an opportunity is given to each party adversely affected to file exceptions and present written arguments to the person who will make the final decision. On review of a proposal for decision, the final decision authority shall have all of the powers that it would have if it had presided at the hearing.

(3) The proposal for decision shall be issued by the administrative law judge who conducted the hearing or who has read the complete record and shall contain findings of fact and conclusions of law, including rationale for conclusions reached.

(4) A proposal for decision becomes a final decision in the absence of the timely filing of exceptions or review by an agency with final decision authority.

R 792.10134 Default judgments.

Rule 134. (1) If a party fails to participate in a scheduled proceeding after a properly served notice, the administrative law judge may conduct the proceeding without participation of the absent party. If a party fails to participate in a proceeding, the administrative law judge may issue a default order or other dispositive order.

(2) Within 7 days after service of a default order, the party against whom it was entered may file a written motion requesting the order be vacated. If the party demonstrates good cause for failing to participate in a scheduled proceeding after a properly served notice or failing to comply with an order, the administrative law judge may reschedule, rehear, or otherwise reconsider the matter as required to serve the interests of justice and the orderly and prompt conduct of proceedings.

PART 2. TAX TRIBUNAL  
SUBPART A. GENERAL PROVISIONS.

R 792.10201 Scope.

Rule 201. (1) Parts 1 and 2 of these rules govern practice and procedure in all contested cases before the tribunal. To the extent there is a conflict between the rules in parts 1 and 2, the rules in part 2 govern.

(2) The rules in part 2 are known and referred to as the “tax tribunal rules” and may be cited as “TTR.”

R 792.10203 Definitions.

Rule 203. As used in this part:

(a) “Costs” means costs incurred in litigating a contested case before the tribunal including attorney fees.

(b) “Default hearing” means a hearing at which the defaulted party is precluded from presenting any testimony, offering any evidence, and examining the other party’s witnesses.

(c) “Entire tribunal” means the hearing division of the tribunal other than the small claims division.

(d) “MCL” means the Michigan Compiled Laws.

(e) “MCR” means the Michigan Court Rules of 1985.

(f) “Mediation” means a process in which a mediator facilitates communication between parties, assists in identifying issues, and helps explore solutions to promote a mutually acceptable settlement.

(g) “MRE” means the Michigan Rules of Evidence.

(h) “Personal identifying information” means date of birth, social security number or national identification number, driver’s license number or state-issued personal identification card number, passport number, and financial account numbers.

(i) “Pleading” means the petition and the answer.

(j) “Property tax appeal” means any contested case relating to real and personal property assessments, valuations, rates, refunds, allocation, equalization, or any other contested case brought before the tribunal under the state’s property tax laws and special assessments.

(k) “Rebuttal evidence” means evidence limited to refuting, contradicting, or explaining evidence submitted by an opposing party.

(l) “Referee” means a contractual small claims hearing referee whose powers are limited to those provided by the tribunal.

(m) “Signed” means that a document contains a written signature or electronic signature placed on or applied to the document. For purposes of this subrule, an electronic signature includes a typewritten signature or a graphic representation of a written signature.

(n) “Small claims division” means the residential property and small claims division created by section 61 of the tax tribunal act, MCL 205.761.

(o) “Tax tribunal act” means the tax tribunal act, 1973 PA 186, MCL 205.701 to 205.779.

(p) “Tribunal” means the Michigan tax tribunal.

(q) “Valuation disclosure” means documentary or other tangible evidence in a property tax contested case that a party relies upon in support of the party’s contention as to the true cash value of the subject property or any portion thereof and contains the party’s value conclusions and data, valuation methodology, analysis, or reasoning.

(r) The terms defined in and determined under the tax tribunal act and in the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, have the same meanings when used in these rules.

R 792.10205 Payment of fees; waiver of fees; refund of fees.

Rule 205. (1) Tribunal fees must be paid separately for each contested case in cash or by check, money order, or other draft payable to the order of “State of Michigan.” Payments must be mailed or delivered to the tribunal. Tribunal fees may be paid by credit card through the tribunal’s e-filing system when a petition or motion is e-filed.

(2) If a party shows by written request that they are receiving any form of means-tested public assistance, the payment of fees by that party is waived. As used in this subrule, “means-tested public assistance” includes any of the following:

(a) The food assistance program offered through this state.

(b) Medicaid.

(c) The financial independence program offered through this state.

(d) Women, infants, and children benefits.

(e) Supplemental Security Income through the federal government.

(f) Any other federal, state, or locally administered means-tested income or benefit.



(3) If a party shows by written request that they are represented by a legal services program that is a grantee of the federal Legal Services Corporation or the Michigan State Bar Foundation, or by a law school clinic that provides services based on indigence, the payment of fees by that party is waived.

(4) If a party shows by written request that they are unable because of indigence to pay fees, the payment of fees by that party is waived. As used in this subrule, “indigence” means living in a household whose gross household income is under 125% of the federal poverty level.

(5) The tribunal shall promptly enter an order either granting or denying a request to waive fees indicating the reason for the granting or denying of the request. If the request is denied, the order must include a statement that the party shall, if they wish to preserve the filing date of a petition, pay the fees required for the filing of the petition within 21 days after the entry of the order or as otherwise ordered by the tribunal.

(6) The tribunal may, upon written request, refund fees paid to the tribunal that were not required to be paid when the petition or motion that is the subject of the request was filed.

(7) Requests to waive fees or refund fees must be submitted on a form made available by the tribunal or in a written form that is in substantial compliance with the tribunal’s form. There is no fee for the filing of either request.

#### R 792.10207 Signatures.

Rule 207. (1) If a document is required to be signed by these rules, the document must be signed by the filing party or, if the party is represented by an attorney or authorized representative, by the party or the party’s attorney or authorized representative.

(2) The signature of a party, attorney, or authorized representative constitutes certification by the signer that all of the following apply:

(a) The signer has read the document.

(b) That to the best of the signer’s knowledge, information, and belief formed after reasonable inquiry, the document is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

(c) The document is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

#### R 792.10209 Costs.

Rule 209. (1) The tribunal may, upon motion or its own initiative, award costs in a contested case, as provided by section 52 of the tax tribunal act, MCL 205.752.

(2) If costs are awarded, a bill of costs must be filed with the tribunal and served on the opposing parties as ordered by the tribunal. A party may file a response objecting to the bill of costs or any item in the bill within the time period ordered by the tribunal. Failure to file an objection to the bill of costs within the applicable time period waives any right to object to the bill.

(3) The bill of costs must state separately each item claimed and the amount claimed, and be verified by affidavit of the party or the party’s attorney or authorized representative. The affidavit must state that each item is correct and was necessarily incurred.

#### R 792.10211 Service of decisions, orders, and notices.

Rule 211. Service of decisions, orders, and notices entered in a contested case must be made on each party at that party’s last known mailing or email address, unless an attorney or authorized representative is appearing on behalf of that party. If an attorney or authorized representative is appearing on behalf of that party, then service must be made on the attorney or authorized

representative at their last known mailing or email address, as provided in section 52 of the tax tribunal act, MCL 205.752. Service by mail or email on an attorney or authorized representative constitutes service on their office.

R 792.10213 Appeals.

Rule 213. An appeal from a decision of the tribunal must be taken in accordance with section 53 of the tax tribunal act, MCL 205.753. If an appeal is taken to the court of appeals, then the appellant shall file a copy of the claim of appeal or application for leave to appeal with the tribunal together with the appropriate filing fee, as provided in R 792.10217 and R 792.10267.

SUBPART B. MATTERS BEFORE ENTIRE TRIBUNAL

R 792.10215 Scope.

Rule 215. The rules in subparts A and B of this part govern practice and procedure in all contested cases pending in the entire tribunal and are known as the entire tribunal rules. If an applicable entire tribunal rule does not exist, MCR 1.101 et seq, MCL 24.271 to 24.287, and MCL 24.321 to 24.328, govern.

R 792.10217 Fees.

Rule 217. (1) Fees must be paid to tribunal for the filing of all petitions and motions in each contested case. If a petition or motion is filed by mail, delivery, or through the tribunal's e-filing system, the fee must be paid upon filing. If a motion is filed by email, the fee must be paid within 14 days after the date of the emailed filing. For purposes of this rule, a motion includes a stipulation for entry of a consent judgment.

(2) Except as otherwise provided in this rule or as ordered by the tribunal, the filing fees are, as follows:

(a) The fee for filing property tax appeal petitions:

(i) Allocation, apportionment, and equalization contested cases, \$250.00.

(ii) Valuation contested cases, based on the amount in dispute as follows:

(A) \$100,000 or less, \$250.00.

(B) \$100,000.01 to \$500,000, \$400.00.

(C) More than \$500,000, \$600.00.

(b) The filing fee for multiple, contiguous parcels owned by the same person is the filing fee for the parcel that has the largest amount in dispute, plus \$25.00 for each additional parcel, not to exceed a total filing fee of \$2,000.00. For purposes of this subrule, the contiguous parcels must be located in a single assessing unit.

(c) The fee for filing a motion to amend a property tax appeal petition to add a subsequent year assessment is equal to 50% of the fee provided in subdivision (a)(ii) of this rule for the assessment to be added.

(d) The fee for filing a property tax appeal petition contesting a special assessment or a non-property tax appeal petition is \$250.00.

(e) The fee for filing a property tax appeal petition contesting the classification of property is \$150.00.

(f) The fee for filing a motion for immediate consideration or a motion for summary disposition or partial summary disposition is \$100.00.

(g) The fee for filing a motion to withdraw a petition or motions requesting a telephonic, video conference, or in-person prehearing conference or status conference or video conference or in-person hearing for the moving party or parties is \$0.00.

(h) The fee for the filing of a stipulation or motion by an attorney or authorized representative who has entered an appearance in a proceeding to withdraw from or be substituted for in that proceeding is \$0.00.

(i) The fee for the filing of a stipulation agreeing to participate in mediation is \$0.00.

(j) The fee for the filing of all other motions is \$50.00.

(k) The fee for the filing of multiple motions in a single document is the largest fee that would be charged if each motion is filed separately.

(3) As used in this rule, "amount in dispute" means the difference between the assessed value, as established by the board of review, and the state equalized value contended by the petitioner or the difference between the taxable value, as established by the board of review, and the taxable value contended by the petitioner, whichever is greater.

R 792.10219 Commencement of contested cases; motions to amend to add a subsequent tax year; election of small claims division and entire tribunal; other filings; notice of no action.

Rule 219. (1) A contested case is commenced by mailing, delivering, or submitting through the tribunal's e-filing system a petition with the appropriate filing fee within the time period prescribed by statute.

(2) A motion to amend a property tax appeal petition to include an assessment in a subsequent tax year is considered filed within the time period prescribed by statute if it has been mailed, delivered, or submitted through the tribunal's e-filing system with the appropriate filing fee on or before the expiration of the applicable time period.

(3) If a petitioner files a defective petition and the tribunal is unable to determine the division of the tribunal in which the petitioner intended to file the contested case, the petitioner is presumed to have elected to have the matter heard in the small claims division. If a motion to transfer is filed after the scheduling of the hearing and the motion is granted by the tribunal, the moving party shall pay all tribunal filing fees and any reasonable costs that the tribunal determines may be incurred by the opposing party as a direct result of the transfer.

(4) Pleadings, motions, documents, and exhibits are considered filed upon mailing or delivery. Pleadings, motions, documents, and exhibits may also be submitted through the tribunal's e-filing system. Pleadings, motions, documents, and exhibits submitted through the tribunal's e-filing system are considered filed upon successful submission of the pleading, motion, document, or exhibit. Unsuccessful submissions through the tribunal's e-filing system due to a system-wide outage are considered timely if filed on the following business day. Pleadings, motions, other than a motion to amend a property tax appeal petition to include an assessment in a subsequent tax year, documents, and exhibits may be submitted by email to the email address designated by the tribunal. Pleadings, motions, documents, and exhibits submitted by email to the email address designated by the tribunal are considered filed when the email is received by the tribunal.

(5) A submission by mail is considered filed on the date indicated by the United States Postal Service postmark on the envelope containing the submission. A submission without a postmark or with an illegible postmark is considered filed on the date the submission is received by the tribunal. A submission by commercial delivery service is considered filed on the date the submission is given to the commercial service for delivery to the tribunal as indicated by the receipt date on the package containing the submission. A submission by personal service is considered filed on the date the submission is received. A submission through the tribunal's e-filing system by 11:59 p.m. on a business day is considered filed on that business day. A

submission by email to the email address designated by the tribunal by 11:59 p.m. on a business day is considered filed on that business day. A submission on a Saturday, a Sunday, or a holiday is considered filed on the following business day, as provided by section 35a of the tax tribunal act, MCL 205.735a.

(6) If a motion filed by mail, delivery, or through the tribunal's e-filing system is not accompanied by the required filing fee, the tribunal shall issue a notice of no action. If a motion is submitted by email to the email address designated by the tribunal and the required filing fee is not paid within 14 days after the date the motion was emailed, the tribunal may issue a notice of no action or an order holding the party that filed the motion in default. If the required filing fee is paid within 14 days after the issuance of the notice of no action, action shall be taken on the motion based on the date that the motion was originally submitted to the tribunal. If the required filing fee is not paid within 14 days after the issuance of the notice of no action, no action shall be taken on the motion.

(7) If a motion or document, other than a petition, is not accompanied by a required proof of service, the tribunal shall issue a notice of no action. If the required proof of service is filed within 14 days after the issuance of the notice of no action, action shall be taken on the motion or document based on the date the motion or document was originally submitted to the tribunal. If the required proof of service is not filed within 14 days after the issuance of the notice of no action, no action shall be taken on the motion or document.

(8) If a motion and brief or response and brief does not comply with the written motion practice requirements indicated in R 792.10225(5), the tribunal shall issue a notice of no action. If a notice of no action is issued because a motion and brief does not comply with the written motion practice requirements and a motion and brief complying with those requirements is not filed within 14 days after the issuance of the notice of no action, no action shall be taken on the motion. If a notice of no action is issued because a response and brief does not comply with the written motion practice requirements and a response and brief complying with those requirements is not filed within 14 days after the issuance of the notice of no action, action shall be taken on the motion based on the motion and brief only.

R 792.10221 Amended pleadings; content of pleadings, motions, and documents; service of pleadings, motions, and documents.

Rule 221. (1) With the exception of amendments to petitions or answers that correct typographical or transpositional errors, a petition or answer may only be amended by leave of the tribunal. Leave to amend must, with the exception of motions to amend to include a prior or subsequent tax year assessment in a property tax appeal, be freely given when justice so requires. Amendments to include a prior or subsequent tax assessment in a property tax appeal must be filed as required under section 35a of the tax tribunal act, MCL 205.735a, and section 53a of the general property tax act, 1893 PA 206, MCL 211.53a.

(2) An amended petition or answer correcting only typographical or transpositional errors must be filed by the date established by the tribunal for the filing and exchange of prehearing statements with proof demonstrating the service of the amended petition or answer on the opposing parties. If the tribunal determines that an amendment addresses more than typographical or transpositional errors, the tribunal shall issue a notice of no action.

(3) All pleadings and motions filed with the tribunal must contain all of the following information:

- (a) The caption "Michigan Tax Tribunal."
- (b) The title of the appeal.
- (c) The docket number of the appeal after it is assigned by the tribunal.

- (d) A designation showing the nature of the pleading or motion.
- (4) All documents, other than pleadings and motions, must contain both of the following:
  - (a) The docket number of the appeal after it is assigned by the tribunal.
  - (b) A designation showing the nature of the document.
- (5) Unless otherwise ordered by the tribunal, the petition must note the docket number assigned by the tribunal and be served as provided for in this rule within 45 days after the issuance of the notice of docket number. Failure to serve the petition with noted docket number as required by this subrule or a tribunal order may result in the dismissal of the contested case.
- (6) A petitioner filing a property tax appeal petition other than a property tax petition contesting a special assessment, who is not a unit of government, shall serve the petition with noted docket number in the following manner:
  - (a) Mailed by certified mail or delivered by personal service to the following officials at their last known address:
    - (i) The certified assessor or board of assessors of the unit of government that established the assessment being appealed.
    - (ii) The city clerk, in the case of cities.
    - (iii) The township supervisor or clerk, in the case of townships.
  - (b) Mailed by first-class mail or delivered by personal service to the following officials at their last known address:
    - (i) The county equalization director for any county affected.
    - (ii) The county clerk for any county affected.
    - (iii) The secretary of the local school board.
    - (iv) The treasurer of this state.
- (7) A petitioner filing a property tax appeal petition other than a property tax appeal petition contesting a special assessment, who is a unit of government, shall serve the petition with noted docket number by certified mail or by personal service on the party or parties-in-interest with respect to the property or properties at issue. The petitioner shall also serve the petition with noted docket number by first-class mail or by personal service on the following officials at their last known address:
  - (a) The county equalization director for any county affected.
  - (b) The county clerk for any county affected.
  - (c) The secretary of the local school board.
  - (d) The treasurer of this state.
- 8) A petitioner filing a property tax appeal petition contesting a special assessment shall serve the petition with noted docket number by certified mail or personal service on the clerk of the unit of government, authority, or body levying the special assessment being appealed at the clerk's last known address.
- (9) A petitioner filing a non-property tax appeal petition shall serve the petition with noted docket number by certified mail or personal service on either of the following officials at their last known address:
  - (a) The treasurer of this state, if the tax was levied by the department of treasury.
  - (b) The clerk of the local unit of government, if the tax was levied by the local unit of government.
- (10) Proof of service must be submitted within 45 days after the issuance of the notice of docket number. The proof of service must be signed and acknowledge the receipt of the petition with noted docket number that is dated and also signed by the persons authorized under these rules to receive it or state the manner of service. Failure to submit the proof of service may result in the dismissal of the contested case.

(11) Answers, motions, and documents filed with the tribunal must be served concurrently by first-class mail or personal service on all other parties of record unless an attorney or authorized representative has filed an appearance on behalf of those parties and then service must be made on the attorney or authorized representative. Answers, motions, and documents filed with the tribunal may also be served by email utilizing the email addresses identified in the pleadings unless notification of a change in an email address is submitted to the tribunal and all parties in advance of the service.

(12) Proof of service must be signed and submitted with all answers, motions, and documents establishing through a written acknowledgment receipt of the answer, motion, or document that is dated and also signed by the person authorized under these rules to receive it or a written statement indicating the manner of service. Failure to submit the proof of service may result in the holding of a party or parties in default, as provided by R 792.10231.

R 792.10223 Appearance and representation; adding and removing parties; amicus curiae.

Rule 223. (1) An attorney or authorized representative may appear on behalf of a party in a contested case by signing the petition or other document initiating the participation of that party in the contested case or by filing an appearance. The tribunal may require an attorney or authorized representative to provide a written statement of authorization signed by the party on whose behalf the attorney or authorized representative is appearing.

(2) If a petition or other document initiating the participation of a party is signed by an attorney or authorized representative, that petition or document must state the name of the party on whose behalf the attorney or authorized representative is appearing; the attorney or authorized representative's name; the name of their firm, if any; and the firm's mailing and email addresses and telephone number. If there is no firm, the attorney or authorized representative shall state the attorney or authorized representative's mailing and email addresses and telephone number. The attorney or authorized representative shall also promptly inform the tribunal and all parties or their attorneys or authorized representatives in writing of any change in that information.

(3) An appearance filed by an attorney or authorized representative must state the name of the party on whose behalf the attorney or authorized representative is appearing; the attorney or authorized representative's name; the name of their firm, if any; and the firm's mailing and email addresses and telephone number or, if there is no firm, the attorney or authorized representative's mailing and email addresses and telephone number. The attorney or authorized representative shall also promptly inform the tribunal and all parties or their attorneys or authorized representatives in writing of any change in that information.

(4) An attorney or authorized representative may withdraw from a contested case or be substituted for by stipulation or order of the tribunal. The stipulation must be signed by the party, the party's attorney or authorized representative, and the new attorney or authorized representative, if any. If the stipulation is signed by a new attorney or authorized representative, the new attorney or authorized representative shall also submit an appearance, as provided by this rule. If the stipulation is not signed by a new attorney or authorized representative, the stipulation must indicate the mailing and email addresses for the service of notices, orders, and decisions and the telephone number for contacting that party.

(5) In the absence of an appearance by an attorney or authorized representative, a party is considered to appear for themselves. If a party is appearing for themselves, that party shall promptly inform the tribunal and all parties or their attorneys or authorized representatives in writing of any change in that party's mailing and email addresses and telephone number.

(6) Parties may be added or removed by order of the tribunal on its own initiative or on motion of any interested person at any stage of the contested case as justice requires.

(7) The tribunal may, upon motion, order a person or, upon motion or its own initiative, order a state or local governmental unit to appear as *amicus curiae* or in another capacity as the tribunal considers appropriate.

#### R 792.10225 Motions.

Rule 225. (1) All requests to the tribunal requiring an order in a contested case, including stipulated requests, must be made by written motion that is signed and filed with the tribunal and accompanied by the appropriate fee, unless otherwise ordered by the tribunal. Motions may be amended or supplemented by leave of the tribunal only, and leave to amend or supplement shall be freely given as justice requires.

(2) Motions must be served concurrently on all other parties of record unless an attorney or authorized representative has filed an appearance on behalf of those parties and then service must be made on the attorney or authorized representative.

(3) Written responses to motions, other than motions for which a motion for immediate consideration has been filed or motions for reconsideration, must be signed and filed within 21 days after service of the motion, unless otherwise ordered by the tribunal.

(4) Written responses to motions, for which a motion for immediate consideration has been filed must be signed and filed within 7 days after service of the motion for immediate consideration, if the motion for immediate consideration includes a statement verifying that the moving party has notified all other parties regarding the filing of the motion for immediate consideration and indicating whether those parties will be filing a response to the motion or motions for which the motion of immediate consideration is being filed. If the motion for immediate consideration does not include that statement, written opposition to those motions must be filed within 21 days after service of the motion for immediate consideration, unless otherwise ordered by the tribunal.

(5) Written motion practice is limited to the motion and a brief in support of the motion and a single response to the motion and a brief in support of the response. Except as ordered by the tribunal, the combined length of any motion and brief or response and brief may not exceed 20 pages doubled-spaced with 1-inch margins and 12-point type, exclusive of attachments and exhibits. Case quotes and footnotes in a brief may be single-spaced. A brief in support of a motion or response, if any, must be filed concurrently with the motion or response.

#### R 792.10227 Petitions.

Rule 227. (1) A petition must be signed and contain a clear and concise statement of facts, without repetition, upon which the petitioner relies in making its claim for relief. The statement must be made in separately designated paragraphs. The contents of each paragraph must be limited, as far as practicable, to a statement of a single fact. Each claim must be stated separately when separation facilitates the clear presentation of the matters set forth.

(2) A petition may not cover more than 1 assessed parcel of real or personal property, except as follows:

(a) A single petition involving real property may cover more than 1 assessed parcel of real property if the real property is contiguous and within a single assessing unit.

(b) A single petition involving personal property may cover more than 1 assessed parcel of personal property located on the same real property parcel within a single assessing unit.

(c) A single petition involving personal property may cover personal property located on different real property parcels if the personal property is assessed as 1 assessed parcel of personal property and is located within a single assessing unit.

(d) A single petition may include both real and personal property, if the personal property is located on the real property parcels at issue within a single assessing unit.

(3) Each petition must contain all of the following information:

(a) The petitioner's name; legal residence or, in the case of a corporation, its principal office or place of business; mailing address, if different than the address for the legal residence or principal place of business; email address; and telephone number.

(b) The name of the opposing party or parties.

(c) A description of the matter in controversy, including the type of tax, the years involved, and all of the following information, if applicable:

(i) The parcel numbers of the properties being appealed; the properties' addresses; the county in which the properties are located; whether the properties are contiguous; and, for each personal property parcel being appealed, the parcel number of the real property on which that personal property is located and whether the personal property statement was filed and, if so, when the statement was filed.

(ii) The present use of the property, the use for which the property was designed, and the classification of property.

(iii) Whether the matter involves any of the following:

(A) True cash value.

(B) Taxable value.

(C) Uniformity.

(D) Exemption.

(E) Classification.

(F) A combination of the areas specified in subparagraphs (A) to (E) of this paragraph.

(G) Special assessment.

(H) Non-property taxes, interest, and penalties.

(iv) For multifamily residential property, whether the property is subject to governmental regulatory agreements and a subsidy and the type of subsidy involved.

(d) A statement of the amount or amounts in dispute, including the following, as applicable:

(i) A statement indicating whether there is a dispute relative to the value of an addition or a loss in contested cases involving a dispute as to a property's taxable value.

(ii) A statement of the portion of the tax admitted to be correct, if any, in non-property tax contested cases and a copy of the assessment, decision, or order being appealed attached to the petition.

(iii) A statement as to whether the matter in controversy has been protested and, if applicable, the date of the protest in true cash value, taxable value, uniformity, exemption, classification, or special assessment contested cases.

(e) The relief sought.

(4) The petition must be sworn to and comply with applicable statutes in equalization, allocation, and apportionment contested cases.

#### R 792.10229 Answers.

Rule 229. (1) The respondent shall file an answer or responsive motion within 28 days after the date of service of the petition with noted docket number. Failure to file an answer or responsive motion within 28 days may result in the holding of the respondent in default and may, if the respondent fails to timely cure the default, result in the conducting of a default hearing, as provided in R 792.10231.

(2) The answer must be signed and advise the petitioner and the tribunal of the nature of the defenses. The answer must also contain a specific admission or denial of each material allegation



in the petition. If the respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, then the answer must so state and the statement has the effect of a denial. If the respondent intends to qualify or deny only a part of an allegation, then the answer must specify so much of the allegation as is true and qualify or deny only the remainder. In addition, the answer must contain a clear and concise statement of every ground on which the respondent relies and has the burden of proof. Paragraphs of the answer must be designated to correspond to paragraphs of the petition to which they relate.

(3) An answer may assert as many defenses as the respondent may have against the claims raised by the petitioner. A defense is not waived by being joined with 1 or more other defenses. All defenses not asserted in either the answer or by appropriate motion are waived, except for either of the following defenses:

(a) Lack of jurisdiction.

(b) Failure to state a claim upon which relief may be granted.

(4) For special assessment contested cases, the answer must specify the statutory authority under which the special assessment district was created and a copy of the resolution confirming the special assessment roll must be submitted concurrently with the answer.

(5) For non-property tax contested cases, a copy of the final assessment, decision, or order being appealed must be submitted concurrently with the answer.

(6) For contested tax bill contested cases, the answer must specify the date the contested tax bill was mailed.

R 792.10231 Defaults; failure to appear; withdrawals; transfers.

Rule 231. (1) If a party has failed to plead, or otherwise proceed as provided by these rules or a tribunal order, the tribunal may, upon motion or its own initiative, hold that party in default. A party held in default shall cure the default as provided by the order holding the party in default. Failure to cure the default may result in the dismissal of the contested case or the conducting of a default hearing.

(2) If a petitioner fails to appear for a scheduled proceeding other than a prehearing conference or a non-property tax scheduling conference, after a properly served notice of the proceeding, the tribunal shall issue an order holding the petitioner in default and, if the default is not timely cured, may dismiss the contested case. If a petitioner fails to appear for a scheduled prehearing conference or scheduled non-property tax scheduling conference, after a properly served notice of the conference, the tribunal may conduct the conference without the participation of the petitioner or issue an order holding the petitioner in default and, if the default is not timely cured, may dismiss the contested case.

(3) If the respondent fails to appear for a scheduled proceeding other than a prehearing conference or non-property tax scheduling conference, after a properly served notice of the proceeding, the tribunal shall issue an order holding the respondent in default and, if the default is not timely cured, may conduct a default hearing. If the respondent fails to appear for a scheduled prehearing conference or scheduled non-property tax scheduling conference, after a properly served notice of the conference, the tribunal may conduct the conference without the participation of the respondent or issue an order holding the respondent in default and, if the default is not timely cured, may conduct a default hearing.

(4) A petition may be withdrawn upon a motion filed by the petitioner before the answer or first responsive motion has been filed with the tribunal. Once the answer or first responsive motion has been filed, a petition may be withdrawn upon motion filed by petitioner only if the other parties do not object to the withdrawal for substantive reasons. For purposes of this subrule, a request for costs is not a substantive reason.

(5) The tribunal may, upon motion, transfer a contested case pending in the entire tribunal to the small claims division.

R 792.10233 Applicability of prehearing and discovery procedures to equalization, allocation, and apportionment contested cases.

Rule 233. The prehearing and discovery procedures fixed by R 792.10237 to R 792.10247 do not apply to equalization, allocation, and apportionment contested cases, unless otherwise ordered by the tribunal.

R 792.10237 Valuation disclosure; witness list.

Rule 237. (1) A party's valuation disclosure in a property tax contested case must be submitted to the tribunal and the opposing parties as ordered by the tribunal. However, a party may, if the party has reason to believe that the opposing parties may not exchange a valuation disclosure as ordered by the tribunal, submit a valuation disclosure to the tribunal together with a motion and appropriate filing fee requesting the tribunal's leave to withhold the valuation disclosure until all opposing parties submit their valuation disclosures to that party.

(2) A party shall submit to the tribunal and the opposing parties a prehearing statement, as required by R 792.10247. The prehearing statement must provide the opposing parties and the tribunal with the name and address of any person who may testify at hearing and a general summary of the subject area of their testimony. A person who is not disclosed as a witness is not permitted to testify, unless the tribunal permits the testimony to be taken for good cause shown.

R 792.10239 Interrogatories to parties.

Rule 239. (1) A party to a contested case may serve upon all adverse parties written interrogatories to be answered by the party to whom the interrogatories are directed.

(2) Interrogatories must be answered separately and fully in writing under oath. If an interrogatory is objected to, the reasons for objection must be stated in place of an answer. The answers must be signed by the person making them and contain information that is available to the party served or that could be obtained by the party from its employees, agents, representatives, or persons who may testify on the party's behalf. The party to whom the interrogatories are directed shall serve a copy of the answers on the party or the party's attorney or authorized representative submitting the interrogatories and on all other parties or their attorneys or authorized representatives within 28 days after service of the interrogatories.

(3) If any of the interrogatories have not been answered within the time specified under subrule (2) of this rule, then the tribunal, on motion and for good cause shown, may issue an order compelling a response.

(4) To the extent that answers are admissible as evidence before the tribunal, answers to interrogatories may be used against the party making them, and an adverse party may introduce an answer that has not been previously offered in evidence by a party.

(5) A person who answers interrogatories is not the witness of the party who submits the interrogatories.

(6) By tribunal order, interrogatories may be limited, as justice requires, to protect the answering party from annoyance, expense, embarrassment, oppression, or violation of a privilege.

(7) A party who has given a response that was complete when made is not under a duty to supplement the response to include information thereafter acquired, unless ordered by the tribunal, except as follows:

(a) To supplement the response with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, or the identity of each person expected to be called as a witness at the hearing, the subject matter on which the witness is expected to testify, and the substance of the witness's testimony.

(b) To amend a prior response that the party knows was incorrect when made based on information obtained by the party, or to amend a prior response that was correct when made, but that is no longer true and failing to amend the response is, in substance, a knowing concealment.

R 792.10243 Requests for production of documents and tangible things for inspection, copying, or photographing; inspection of property.

Rule 243. (1) A party to a contested case may serve upon another party a request to produce or permit the inspection and copying or photographing, by or on behalf of the requesting party, of any designated documents, papers, books, records, accounts, letters, photographs, objects, or tangible things, which are not privileged, which come within the scope of discovery permitted by MCR 2.302(B), and which are in the party's possession, custody, or control.

(2) A party to a contested case may serve upon another party a request to permit entry and inspection of the property under appeal by or on behalf of the requesting party.

(3) A party upon whom a request is served under subrule (1) or (2) of this rule shall serve a copy of the response to the request on the party or party's attorney or authorized representative submitting the request and on all other parties within 28 days after service of the request.

(4) If a party upon whom a request is served under subrule (1) or (2) of this rule does not comply with the request, then the tribunal may, upon motion or its own initiative, order the party to do either of the following:

(a) Produce or permit the inspection and copying or photographing, by or on behalf of the requesting party, of any designated documents, papers, books, records, accounts, letters, photographs, objects, or tangible things, which are not privileged and come within the scope of discovery permitted by MCR 2.302(B), and which are in the party's possession, custody, or control.

(b) Permit entry and inspection of the property under appeal.

(5) The order may specify the time, place, and manner of making the production or permitting the inspection and copying or photographing of any designated documents, papers, books, records, accounts, letters, photographs, objects, or tangible things or entry and inspection of the property under appeal. The order may prescribe other terms and conditions as are just.

(6) If the party or person claims that the item is not in their possession or control or that they do not have information calculated to lead to discovery of the item's whereabouts, then they may be ordered to submit to examination before the tribunal or to other means of discovery regarding the claim.

R 792.10245 Consequences of refusal to make discovery.

Rule 245. If a party refuses to comply with an order issued under R 792.10239(3) or R 792.10243(4), then the tribunal may, upon a motion, hold that party in default or issue other orders in regard to the refusal as justice requires.

R 792.10247 Prehearing conference.

Rule 247. (1) Except as provided by R 792.10233 or as otherwise ordered by the tribunal, a prehearing conference must be held in all contested cases pending in the entire tribunal.

(2) Each party shall submit a prehearing statement as ordered by the tribunal. The prehearing statement must be signed, and on a form made available by the tribunal or in a written form that is in substantial compliance with the tribunal's form.

(3) The purposes of the prehearing conference are as follows:

(a) To specify, in a property tax appeal, the present use of the property, the use for which the property was designed, and the classification of the property.

(b) To specify all sums in controversy and the particular issues to which they relate.

(c) To specify the factual and legal issues to be litigated.

(d) To consider the formal amendment of all petitions and answers or their amendment by prehearing order, and, if desirable or necessary, to order that the amendments be made.

(e) To consider the consolidation of petitions for hearing, the separation of issues, and the order in which issues are to be heard.

(f) To consider all other matters that may aid in the disposition of the contested case.

(4) The administrative law judge who conducts the prehearing conference shall prepare, and cause to be served upon the parties or their attorneys or authorized representatives, not less than 14 days in advance of hearing, an order summarizing the results of the conference specifically covering each of the items stated in this rule and R 792.10114. The order controls the subsequent course of the contested case unless modified at or before the hearing by the tribunal to prevent manifest injustice.

(5) When a contested case is ready for a prehearing conference, the tribunal shall schedule the contested case for a prehearing conference at a date and time to be designated by the tribunal or place the contested case on a prehearing general call.

(6) If a prehearing conference is scheduled, notice of the date and time of the prehearing conference and the manner for the conducting of the prehearing conference, including, but not limited to, by telephone, by video conference, or in-person, must be provided to the parties not less than 28 days before the date of the prehearing conference, unless otherwise ordered by the tribunal.

(7) If a contested case is placed on a prehearing general call, notice of the prehearing general call must be provided to the parties not less than 28 days before the commencement of the prehearing general call, unless otherwise ordered by the tribunal. The notice must set forth the time period in which the prehearing conference will be held and the dates for the submission of valuation disclosures, prehearing statements, and the closure of discovery.

(8) If a party fails to comply with the order scheduling the prehearing conference or a prehearing general call order, the prehearing conference must commence as a show cause hearing to provide the party with an opportunity to justify their failure to comply with the order.

#### R 792.10249 Stipulations.

Rule 249. (1) A consent judgment may be entered upon submission of a stipulation with appropriate fee, if the stipulation meets all of the following:

(a) It was filed after the filing of a petition and answer.

(b) It is signed by all parties or their attorneys or authorized representatives.

(c) It addresses issues over which the tribunal's authority is properly invoked.

(d) It is found to be acceptable to the tribunal. The stipulation must be on a form made available by the tribunal or in a written form that is in substantial compliance with the tribunal's form.

(2) If a party submits a stipulation by email, the party shall pay the fee required for the filing of the stipulation within 14 days after the date the stipulation was emailed. If a party submits the stipulation at the hearing and the hearing is conducted at a site other than the tribunal's office,

the party shall pay the fee required for the filing of the stipulation within 14 days after the hearing date. If the hearing is conducted at the tribunal's office, the party shall pay the required filing fee upon submission of the stipulation. Failure to pay the required filing fee may result in the issuance of a notice of no action, an order holding the party in default, or the denial of the stipulation.

R 792.10251 Hearings.

Rule 251. (1) When a contested case is ready for hearing, the tribunal shall issue a notice of hearing. The notice of hearing must indicate the date, time, and video link for the conducting of a hearing by video conference or the date, time, and location of the hearing for the conducting of a hearing in-person, as designated by the tribunal. The tribunal shall send the notice of hearing to the parties or their attorneys or authorized representatives not less than 28 days before the date of the hearing, unless otherwise ordered by the tribunal.

(2) The tribunal may, on motion or its own initiative, adjourn a hearing.

R 792.10253 Subpoenas.

Rule 253. (1) On written request signed by a party to a contested case, the tribunal, shall, as provided by section 36 of the tax tribunal act, MCL 205.736, issue subpoenas for the attendance and testimony of witnesses and, if appropriate, the production of evidence at hearing or deposition, including, but not limited to, books, records, correspondence, and documents in their possession or under their control.

(2) A party may serve a subpoena by mail or personal delivery. A party may not serve a subpoena less than 3 business days before a scheduled hearing or deposition, unless otherwise ordered by the tribunal.

(3) Proceedings to enforce a subpoena may be commenced in the circuit court for the county in which the hearing is held. For purposes of this subrule, a video-conference hearing is considered to be held in Ingham County.

R 792.10255 Conduct of hearings.

Rule 255. (1) All hearings before the entire tribunal must be recorded either electronically or stenographically, or both, in the discretion of the tribunal.

(2) Without leave of the tribunal, a witness may not testify as to the value of property without submission of a valuation disclosure signed by that witness and containing that witness' value conclusions and the basis for those conclusions. This requirement does not preclude an expert witness from rebutting another party's valuation evidence. The expert witness may not testify as to the value of the property at issue unless the expert witness submitted a valuation disclosure signed by that expert witness.

(3) If a witness is not testifying as to the value of property or as an expert witness, then their testimony in the form of opinions or inferences is limited to opinions or inferences that are rationally based on the perception of the witness and that are helpful to a clear understanding of their testimony or the determination of a fact in issue, as provided in MRE 701.

R 792.10257 Rehearings or reconsideration.

Rule 257. (1) The tribunal may order a rehearing or reconsideration of any decision or order upon its own initiative or motion filed within 21 days after the entry of the decision or order sought to be reheard or reconsidered.

(2) No response to the motion may be filed and there is no oral argument, unless otherwise ordered by the tribunal.

R 792.10259 Witness fees.

Rule 259. A witness who is summoned to a hearing, or whose deposition is taken, shall receive the same fees and mileage as witnesses in the state's circuit courts. A witness shall not be required to testify until the fees and mileage provided for have been tendered to them by the party at whose instance they were subpoenaed.

SUBPART C. MATTERS BEFORE SMALL CLAIMS DIVISION

R 792.10261 Scope.

Rule 261. The rules in subparts A and C of this part govern practice and procedure in all contested cases pending in the small claims division and are known as the small claims rules. If an applicable small claims rule does not exist, then the entire tribunal rules govern, except for rules that pertain to discovery, which, in the small claims division, is by leave of the tribunal only.

R 792.10263 Jurisdiction.

Rule 263. (1) A contested case disputing a property's state equalized or taxable value may be heard in the small claims division if any 1 of the following properties is exclusively involved:

(a) Real property classified as residential real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(b) Real property exempt under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc.

(c) Real property classified as agricultural real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(d) Real property with less than 4 rental units.

(e) Any other property where the value in contention is not more than the amount provided by section 62 of the tax tribunal act, MCL 205.762.

(2) A contested case disputing a non-property tax matter may be heard in the small claims division if the amount of tax in dispute is not more than the amount provided by section 62 of the tax tribunal act, MCL 205.762, exclusive of interest and penalty charges.

(3) A contested case disputing a special assessment may be heard in the small claims division if the amount of the special assessment in dispute is not more than the amount provided by section 62 of the tax tribunal act, MCL 205.762.

R 792.10265 Records.

Rule 265. (1) A formal transcript may not be taken for any hearing conducted in the small claims division, unless otherwise provided by the tribunal.

(2) An informal transcript of a hearing conducted in the small claims division is not a record of the hearing, unless otherwise ordered by the tribunal.

R 792.10267 Fees.

Rule 267. (1) There is no fee for the filing of a property tax appeal petition or motion in a small claims division contested case disputing a property's state equalized or taxable value or exemption from ad valorem taxation, if the property has, at the time of the filing of the petition, a principal residence exemption of at least 50% for all tax years at issue.

(2) There is no fee for the filing of a property tax appeal petition or motion in a small claims division contested case disputing the denial of a poverty exemption or disabled veterans exemption.

(3) For all other small claims contested cases, the following fees must be paid to the tribunal for the filing of all petitions and motions in each contested case. If a petition or motion is filed by mail, delivery, or through the tribunal's e-filing system, the fee must be paid upon filing. If a motion is filed by email, the fee must be paid within 14 days after the date of the emailed filing. For purposes of this rule, a motion includes a stipulation for entry of a consent judgment. The fees are, unless otherwise ordered by the tribunal, as follows:

(a) The fee for filing a property tax appeal petition contesting a property's state equalized or taxable value or exemption from ad valorem taxation for property defined as residential property under section 762 of the tax tribunal act, MCL 205.762, is 50% of the filing fee provided in R 792.10217(a). If the petition contains multiple, contiguous parcels of property owned by the same person, there is an additional \$25.00 fee for each additional parcel, not to exceed a total filing fee of \$1,000.00. For purposes of this subdivision, the contiguous parcels must be located in a single assessing unit.

(b) The fee for filing a property tax appeal petition contesting a property's state equalized or taxable value or exemption from ad valorem taxation for property that is not defined as residential property under section 762 of the tax tribunal act, MCL 205.762, is the fee provided in R 792.10217(a).

(c) The fee for filing a property tax appeal petition contesting the denial of a principal residence or qualified agricultural exemption is \$25.00.

(d) The fee for filing a property tax appeal petition contesting a special assessment or a non-property tax appeal petition is \$100.00.

(e) The fee for filing a property tax appeal petition contesting the classification of property is \$75.00.

(f) The fee for filing a motion for immediate consideration or a motion for summary disposition or partial summary disposition is \$50.00.

(g) The fee for filing a motion to withdraw a petition or a motion to have the hearing conducted on the file, by telephone, by video conference, or in-person for the moving party is \$0.00.

(h) The fee for the filing of a stipulation or motion by an attorney or authorized representative who has entered an appearance in a proceeding to withdraw from or be substituted for in that proceeding is \$0.00.

(i) The fee for the filing of a stipulation agreeing to participate in mediation is \$0.00.

(j) The fee for the filing of all other motions is \$25.00.

(k) The fee for the filing of multiple motions in a single document is the largest fee that would be charged if each motion is filed separately.

#### R 792.10271 Subsequent tax year assessments.

Rule 271. The appeal for each subsequent year for which an assessment has been established is added automatically to the petition for an assessment dispute as to the valuation or exemption of property at the time of hearing. For purposes of this rule, a subsequent tax year assessment is established by April 1 of that tax year.

#### R 792.10273 Transfers.

Rule 273. (1) A party may, by motion filed with the tribunal and served on the opposing parties, request a transfer of the contested case from the small claims division to the entire tribunal.

(2) If the motion is filed with the tribunal after the notice of hearing in the contested case has been issued by the tribunal, the parties shall appear at the hearing and be prepared to conduct the hearing, unless otherwise ordered by the tribunal.

(3) If the request is granted, the moving party shall pay all tribunal filing fees and any reasonable costs that the tribunal determines may be incurred by the opposing party or parties as a direct result of the transfer.

(4) With the permission of the petitioner, the tribunal may refer a contested case properly pending in the small claims division to the entire tribunal.

#### R 792.10275 Appearance and representation.

Rule 275. (1) The tribunal may, upon a motion filed with the tribunal and served on the opposing parties not less than 28 days before the hearing scheduled in a contested case, conduct the hearing on the file for the moving party. If the motion is granted, the tribunal shall render a decision based on the testimony provided by the opposing parties at the hearing, if any, and all pleadings and written evidence properly submitted by all parties not less than 21 days before the date of the scheduled hearing or as otherwise ordered by the tribunal.

(2) The tribunal may, upon motion filed with the tribunal and served on the opposing parties not less than 28 days before the hearing scheduled in a contested case, conduct a hearing by telephone, by video conference, or in-person for the moving party.

#### R 792.10277 Commencement of proceedings.

Rule 277. (1) The petition must be on a form made available by the tribunal.

(2) The petition must be signed and set forth a clear and concise statement of facts upon which the petitioner relies in making petitioner's claim for relief.

(3) For property tax contested cases, a copy of the notice giving rise to the appeal, including, but not limited to, notice of board of review action, notice of taxable value uncapping, or notice denying a principal residence exemption, must be submitted with the petition. For non-property tax contested cases, a copy of the final assessment, decision, or order being appealed must be submitted with the petition.

#### R 792.10279 Answers.

Rule 279. (1) An answer to a petition must be filed with the tribunal within 28 days after the tribunal serves the notice of docket number on the respondent. Failure to file the answer as required by this rule may result in the holding of respondent in default, as provided by R 792.10231.

(2) The answer must be on a form made available by the tribunal.

(3) The answer must be signed and set forth a clear and concise statement of facts upon which the respondent relies in defense of the matter.

(4) For special assessment contested cases, the answer must specify the statutory authority under which the special assessment district was created and a copy of the resolution confirming the special assessment roll must be submitted with the answer.

(5) The tribunal shall issue a notice to all parties upon the filing of the answer indicating that the answer is filed and that the contested case is ready for the scheduling of a hearing.

#### R 792.10281 Stipulations.

Rule 281. (1) A consent judgment may be entered upon submission of a stipulation with an appropriate fee, if the stipulation meets all of the following:

(a) Is filed after the filing of a petition and answer.



- (b) Is signed by all parties or their attorneys or authorized representatives.
  - (c) Addresses issues over which the tribunal's authority has been or may be properly invoked.
  - (d) Is found to be acceptable to the tribunal. The stipulation must be on a form made available by the tribunal or in a written form that is in substantial compliance with the tribunal's form.
- (2) If a party submits a stipulation by email, the party shall pay the fee required for the filing of the stipulation within 14 days after the date the stipulation is emailed. If a party submits a stipulation at the hearing and the hearing is conducted at a site other than the tribunal's office, the party shall pay the fee required for the filing of the stipulation within 14 days after the hearing date. If the hearing is conducted at the tribunal's office, the party shall pay the required filing fee upon submission. Failure to pay the required filing fee may result in the issuance of a notice of no action, an order holding the party in default, or the denial of the stipulation.

R 792.10283 Hearing sites; accessibility; accommodations.

Rule 283. (1) For property tax contested cases, the hearing may be conducted telephonically, by video conferencing, or in-person. If the hearing is in-person, the hearing must be conducted in the county in which the property is located or in a county contiguous to the county in which the property is located or at a site agreed upon by the parties and approved by the tribunal. An in-person rehearing by a tribunal member must be at a site to be determined by the tribunal.

(2) For non-property tax contested cases, the hearing may be conducted telephonically, by video conferencing, or in-person. If the hearing is in-person, the hearing must be conducted at a site to be determined by the tribunal.

(3) For all contested cases, an in-person hearing must be conducted in a location that is accessible to mobility-impaired individuals. Accessible parking must also be available.

(4) A person who has a disability and who needs to be accommodated for effective participation in a hearing shall contact the tribunal in writing or telephonically not less than 7 days before the scheduled hearing date.

R 792.10285 Notice of hearing.

Rule 285. Notice must be sent to the parties or their attorneys or authorized representatives not less than 45 days before the hearing, unless otherwise ordered by the tribunal. The notice must include the following information:

- (a) The time and date of the hearing.
- (b) The manner for the conducting of the hearing, including, but not limited to, by telephone, by video conference, or in-person.
- (c) If the hearing is in-person, the location of the hearing.

R 792.10287 Evidence.

Rule 287. (1) A copy of all evidence, other than rebuttal evidence, to be offered in support of a party's contentions must be filed with the tribunal and served on the opposing parties not less than 21 days before the date of the scheduled hearing, unless otherwise ordered by the tribunal. Failure to comply with this subrule may result in the exclusion of the valuation disclosure or other written evidence at the time of the hearing because the opposing parties may have been denied the opportunity to adequately consider and evaluate the valuation disclosure or other written evidence before the date of the scheduled hearing. If a valuation disclosure or other written evidence is excluded, the tribunal shall indicate the basis of the exclusion in the decision.

(2) Service of the evidence must be made on the opposing parties unless an attorney or authorized representative has entered an appearance in the contested case on behalf of an

opposing party and then service must be made on the attorney or authorized representative for that party.

(3) If a party wishes to submit rebuttal evidence to the tribunal and the opposing parties less than 21 days before the date of a scheduled hearing, the party shall, if the hearing is in-person, bring multiple copies of that evidence to the hearing, including 1 copy for the presiding judge and 1 copy for each opposing party. If the hearing is by telephone or video conference, the party shall submit the evidence to the tribunal and the opposing parties by email in advance of the commencement of the hearing.

R 792.10289 Exceptions; filing of exceptions; “good cause” defined; service of exceptions; rehearings.

Rule 289. (1) A party may submit exceptions to a decision by a referee or an administrative law judge, other than a tribunal member, by filing with the tribunal and serving on the opposing parties the exceptions within 20 days after the entry of the decision. The exceptions must be signed and are limited to the evidence submitted before or otherwise admitted at the hearing and any matter addressed in the proposed opinion and judgment and demonstrate good cause as to why the decision should be adopted, modified, or a rehearing held. As used in this subrule, “good cause” means error of law, mistake of fact, fraud, or any other reason the tribunal considers sufficient and material.

(2) The opposing parties may file with the tribunal and serve on all other parties a response to the exceptions within 14 days after the service of the exceptions on those parties. The response must be signed.

(3) Service of the exceptions or a response must be made on the opposing parties. If an attorney or authorized representative has entered an appearance in the contested case on behalf of the opposing parties, service must be made on the attorney or authorized representative for the opposing parties.

(4) The party that files exceptions or a response shall also file a proof of service or statement attesting to the service of the exceptions or response on all other parties or their attorney or authorized representative. The statement must specify who was served with the exceptions or response and the date and method by which the exceptions or response was served. If no statement attesting to the service of the exceptions or response is filed, the tribunal shall issue a notice of no action. If the statement is filed within the time period provided in the notice of no action described in R 792.10221(11), action shall be taken on the exceptions or response.

(5) A rehearing, if held, shall be conducted by a tribunal member in a manner to be determined by the tribunal and may be limited to the evidence considered at the hearing.

#### SUBPART D. MEDIATION

R 792.10291 Scope.

Rule 291. The rules in this subpart govern mediation in all contested cases pending in the tribunal and are known as the mediation rules. If an applicable mediation rule does not exist, the rules in subparts A, B, and C and MCR 2.411 and 2.412 govern.

R 792.10293 Mediation; referral to mediation; selection of mediator.

Rule 293. A contested case may be referred to mediation by order of the tribunal if all of the following apply:

(a) The parties file a stipulation agreeing to participate in mediation.

(b) The stipulation designates a mediator selected from the list of mediators certified and published by the tribunal.

(c) The stipulation specifies that the selected mediator has disclosed any potential basis for disqualification.

(d) The stipulation specifies that the parties and the selected mediator have agreed to the compensation of the mediator and the payment of that compensation.

R 792.10295 Scheduling; conduct of mediation; completion of mediation.

Rule 295. (1) The order referring a contested case to mediation must address all proceedings and deadlines previously scheduled by the tribunal in that contested case and specify the time within which the mediation is to be completed. The substitution of a mediator must not extend the time within which mediation is to be completed unless otherwise ordered by the tribunal.

(2) Mediation must be conducted as provided by MCR 2.411(C)(2).

(3) Within 7 days after mediation is completed, the mediator shall advise the tribunal of the completion by filing a mediation status report. The report must be on a form made available by the tribunal.

(4) If a contested case is settled through mediation, the parties shall file a stipulation for entry of consent judgment with appropriate filing fee and a consent judgment may be entered if the stipulation is found to be acceptable to the tribunal.

R 792.10297 Mediators; standards of conduct; eligibility; application fee; list of mediators; removal, rejection, and reconsideration.

Rule 297. (1) A mediator has no authoritative decision-making power to resolve a contested case before the tribunal in mediation.

(2) A mediator shall comply with the standards of conduct for mediators as provided under MCR 2.411(G).

(3) An individual desiring to be certified as a mediator shall file a mediation application with the tribunal. The application must be on a form made available by the tribunal.

(4) An individual is eligible to be a mediator if both of the following requirements are met:

(a) The individual has 5 years of state and local tax experience, and that experience has occurred within the 7 years immediately preceding the submission of the application.

(b) The individual is qualified as a general civil mediator under MCR 2.411(F)(2) and (4).

(5) An individual that files an application and pays the application fee may be certified, if eligible, and placed on a published list of mediators for a period of 1 year at which time the individual shall reapply in the same manner as a new individual.

(6) The fee for the filing of an application to be certified as a mediator is \$50.00.

(7) The tribunal shall review all applications and compile a list of certified mediators at least quarterly and publish the list of mediators on the tribunal's website.

(8) The mediator list must include all of the following:

(a) The hourly rate charged by each certified mediator for their mediation services.

(b) The type of tax the mediator is certified to mediate.

(c) A summary of the certified mediator's experience and training as a mediator.

(d) The forum or forums in which the mediator is certified to practice.

(9) The tribunal may remove a certified mediator from the list of mediators as provided by MCR 2.411(E)(4).

(10) If an individual files an application and pays the application fee but is not certified as a mediator or is removed from the list of mediators, the individual may file a motion seeking reconsideration of the rejection or removal. The motion must be considered by the tribunal chair.

PART 4: PUBLIC SERVICE COMMISSION  
PRACTICE AND PROCEDURE BEFORE THE COMMISSION

SUBPART A. GENERAL PROVISIONS

R 792.10402 Definitions.

Rule 402. As used in this part:

(a) "Applicant" means a person that applies, requests, or petitions for permission, authorization, or approval.

(b) "Commission" means the Michigan public service commission.

(c) "Complainant" means a person that files a complaint pursuant to these rules.

(d) "Complaint" means an initial pleading filed by a complainant.

(e) "Director of the regulatory affairs division" means the commission employee assigned to manage the executive secretary and administrative law specialists advising the commission.

(f) "Document" means a record produced on paper or a digital image of a record originally produced on paper or originally created by electronic means, the output of which is readable by sight and can be printed on paper.

(g) "Electronic filing" means the process of submitting a document over the internet to the commission in accordance with the e-docket instructions available on the commission's website.

(h) "Electronic service" means the serving of any document by email in accordance with MCR 2.107(C)(4).

(i) "Electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(j) "Intervenor" means a person permitted to intervene in a proceeding pursuant to these rules.

(k) "Party" means a person by or against whom a proceeding is commenced or a person that is permitted to intervene or the staff of the commission in any proceeding in which the staff participates.

(l) "Person" means any of the following entities:

(i) A natural person.

(ii) Corporation.

(iii) Municipal corporation.

(iv) Public corporation.

(v) Body politic.

(vi) Government agency.

(vii) Association.

(viii) Partnership.

(ix) Receiver.

(x) Joint venture.

(xi) Trustee.

(xii) Common law or statutory trust guardian.

(xiii) Executor.

(xiv) Administrator.

(xv) Fiduciary of any kind.

(xvi) Staff.

(m) "Pleading" means any of the following:

- (i) An application, petition, complaint, or other document requesting initiation of a proceeding before the commission.
- (ii) An answer to a document described in paragraph (i) of this subdivision.
- (iii) A reply to an answer described in paragraph (ii) of this subdivision.
- (iv) A petition to intervene or the staff's written appearance or notice of intention to participate.
- (v) An objection to a petition to intervene.
- (vi) A motion or a response to a motion.
- (vii) A petition to reopen a proceeding or a response to a petition to reopen a proceeding.
- (viii) A petition for rehearing or a response to a petition for rehearing.
- (ix) A petition for clarification or a response to a petition for clarification.
- (n) "Presiding officer" means the administrative law judge assigned by the hearing system or other person assigned by the commission to preside over and hear a proceeding or part of a proceeding held before the commission. The commission or a commissioner is a presiding officer only when it or they preside over and hear a proceeding or part of a proceeding.
- (o) "Prima facie case" means a case in which, assuming all the facts in the complaint are true, the complainant is requesting a remedy that is within the jurisdiction of the commission to grant.
- (p) "Proof of publication" means an affidavit stating the facts of publication, including the date, publication, and manner of publication with a copy of the publication attached.
- (q) "Proof of service" means an affidavit stating the facts of service, including the date, place, and manner of service and the parties served.
- (r) "Respondent" means one against whom a complaint is filed or against whom an investigation, order to show cause, or other proceeding on the commission's own motion is commenced and a utility rendering the same kind of service within a municipality or part of a municipality proposed to be served by another utility in a proceeding under the provisions of R 792.10447.
- (s) "Secretary" means the person designated by the commission as its executive secretary or, in the absence of the secretary, the person designated by the commission as its acting secretary.
- (t) "Staff" means an employee or employees of the commission other than the presiding officer and commissioners.

R 792.10403 Applicability; construction.

Rule 403. (1) These rules govern practice and procedure in all proceedings before the commission, except as otherwise provided by statute or these rules. In areas not addressed by these rules, the presiding officer may rely on appropriate provisions of the Michigan court rules.

(2) These rules shall be liberally construed to secure a just, economical, and expeditious determination of the issues presented.

R 792.10404 Information, documents, and communications.

Rule 404. (1) Pleadings and other documents must conform to all requirements of these rules. The secretary, upon reasonable request, shall provide advice about the form of pleadings and other documents to be filed in a proceeding.

(2) Except for confidential documents and filings addressed under subpart E of these rules, pleadings and other documents filed with the commission must be electronically filed, searchable, and able to be copied and pasted.

R 792.10405 Pleadings; verification and effect; adoption by reference; signature of attorney.

Rule 405. (1) Unless otherwise provided by these rules, statute, or commission order, a pleading need not be verified or accompanied by an affidavit.

(2) Statements in a pleading may be adopted by reference when they are clearly identified and a copy is attached.

(3) Every pleading of a party represented by an attorney must be signed or electronically signed by an attorney of record. A party who is not represented by an attorney shall sign or electronically sign the pleading.

(4) If a pleading is not signed, it is subject to rejection by the presiding officer or the commission unless it is signed promptly after the omission is called to the attention of the pleader.

(5) The signature or electronic signature of an attorney or party, whether or not the party is represented by an attorney, constitutes a certification by the signer of all of the following:

(a) The signer has read the pleading.

(b) To the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the pleading is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

(c) The pleading is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of the proceeding.

(6) If an application requests ex parte relief from the commission, the application must include "ex parte" in its title.

(7) Parties to a proceeding shall designate themselves as applicants, complainants, intervenors, respondents, or staff according to the nature of the proceeding and the relationship of the parties.

#### R 792.10406 Filing and service of documents.

Rule 406. (1) Pleadings and other documents are filed with the commission by filing with the secretary. Except as provided in subpart E of these rules and except as otherwise provided by statute or order of the commission or presiding officer, the filing and service of notices, pleadings, motions, and other documents required to be filed or served in a proceeding must be made electronically.

(2) Unless otherwise provided by rule or statute, the date of filing is the date the pleading or other document is received by the commission. If filed electronically, the date of filing is the date that a complete and compliant document is submitted in the e-dockets system. The date of service is the date it is deposited with the United States Postal Service for first-class mailing or courier delivery service or is delivered in-person, unless otherwise provided by the commission. If served electronically, the date of service is the date the email is sent. To be considered timely, a document must be filed and served by 11:59 p.m. on the due date unless that time is modified by the presiding officer or the commission. Documents filed after 11:59 p.m. or after the time designated by the presiding officer or the commission are considered to have been filed the next business day.

(3) Confidential filings must be made in accordance with the instructions on the commission's website.

(4) Filings may be removed from the e-docket only after submission of a written formal request for removal to the executive secretary along with a detailed explanation of the reason for requesting removal. All filings are retained and destroyed in accordance with the commission's approved record retention and disposal schedule.

(5) Filers must consult commission guideline 2014-1 for a description of documents that may be rejected for filing.

(6) Except for residential complaint cases addressed under R 792.10441(5), a party shall electronically serve on all other parties a copy of each document that the party files with the commission. After notice of hearing has been given in a proceeding, a party shall serve, on the assigned presiding officer or, if a presiding officer has not been assigned, on the administrative law manager assigned by the hearing system to the commission, a copy of each document that the party files.

(7) When a party has appeared by attorney, service upon the attorney is service upon the party.

(8) Service on municipalities must be made on supervisors of townships and on clerks of other municipalities.

(9) Within 7 days after a document is served, the person serving the document shall file proof of service or acceptance of service by the person served or that person's attorney.

(10) Not less than 7 days before the date set for the initial prehearing, an applicant may file a request that the commission read the record in a pending proceeding and dispense with the proposal for decision. A copy of the request must be served upon the other parties to the proceeding and upon the director of the regulatory affairs division. Applicants are cautioned that such requests will be granted only under extraordinary circumstances.

R 792.10407 Proceedings; location; time.

Rule 407. Meetings of the commission and hearings in all proceedings held pursuant to any statute or these rules must be held at the commission's offices located at 7109 West Saginaw Highway in Lansing, Michigan 48917 or such other place as the commission may direct on such days and at such hours as the commission, the secretary, or the presiding officer may direct.

R 792.10408 Cost of copies of decisions and transcripts.

Rule 408. A copy of the decision or order in a proceeding must be served electronically to each party to the proceeding. Paper copies of transcripts and proposals for must be furnished at rates consistent with current policy and statutes. Paper copies of orders must be provided upon request.

## SUBPART B. INTERVENTIONS

R 792.10410 Petitions.

Rule 410. (1) A person who is not a complainant, respondent, applicant, or staff, and who claims an interest in a proceeding may petition for leave to intervene. Unless otherwise provided in the notice of hearing, a petition for leave to intervene must be filed with the commission not less than 7 days before the date set for the initial hearing or prehearing conference and the petition must be served on all parties to the proceeding. All parties must have an adequate opportunity to file objections to, and to be heard with respect to, the petition for leave to intervene. A petition for leave to intervene that is not filed in a timely manner may be granted upon a showing of good cause and a showing that a grant of the petition will not delay the proceeding or unduly prejudice any party to the proceeding. Except for good cause, an intervenor whose petition is not filed in a timely manner, but who is nevertheless granted leave to intervene, is bound by the record and procedural schedules developed before the granting of leave to intervene.

(2) A petition for leave to intervene must set out clearly and concisely the facts supporting the petitioner's alleged right or interest, the grounds of the proposed intervention, and the position of the petitioner in the proceeding to fully and completely advise the parties and the commission of the specific issues of fact or law to be raised or controverted. If affirmative relief is sought, the

petition for leave to intervene must specify that relief. Requests for relief may be stated in the alternative.

R 792.10413 Participation without intervention.

Rule 413. (1) In a proceeding to fix rates or investigate conditions of service of a utility subject to the jurisdiction of the commission, a person may appear without a formal petition for leave to intervene. There must be a full disclosure of the identity of the person and the interest of the person in the proceeding.

(2) An appearance pursuant to this rule entitles the person to make a statement at a time provided for that purpose by the presiding officer, but the person shall not be regarded as a party to the proceeding. The position to be taken must be fully and fairly stated, the contentions of the person must be reasonably pertinent to the issues in the proceeding, and any right to unduly broaden the issues must be disclaimed. A statement must not be given under oath and must not be subject to cross-examination by the parties. A statement made pursuant to this rule is not considered part of the administrative record.

(3) A person participating in a case pursuant to this rule is not entitled to notice of adjournment or any other notice, except as otherwise provided by law, and is not entitled to be served with pleadings or other documents.

R 792.10414 Rescinded.

## SUBPART C. HEARINGS

R 792.10415 General provisions.

Rule 415. (1) A contested case proceeding must be held when required by statute and may be held when the commission so directs.

(2) After a proceeding has been assigned to a presiding officer, the presiding officer may rule on all matters of evidence, scheduling, and motions. The presiding officer shall seek to secure a timely disposition of the proceeding, recognizing any applicable legislative directives.

(3) The presiding officer may conduct all or part of a hearing by telephone, video-conference, or other electronic means. All substantive and procedural rights apply to hearings under this subrule.

(4) An oral hearing before the commission must be made a matter of record. The record of the hearing in a contested case must be transcribed. In all other cases, the record of the hearing need not be transcribed unless a request for a transcript is made by the commission, a party, or the presiding officer. A transcript must be indexed to show the location of the testimony of each witness and the introduction and receipt into evidence or rejection of all prepared testimony and exhibits. If offered by a party, prefiled testimony may be bound into the record.

(5) Any party may request material and relevant corrections of the transcript within a reasonable time after the filing of each volume of the transcript. If the presiding officer does not provide otherwise, any party may file with the commission, within 7 days after each volume of the transcript is filed with the commission, a request for correction of the transcript. Within 7 days after the filing of any request, other parties may file responses in support of, or in opposition to, all or part of the proposed corrections. Thereafter, the presiding officer shall, either upon the record or by order served on all parties, specify the corrections to be made to the transcript. Further, the commission or the presiding officer may specify corrections to be made to the transcript by providing 7 days' notice to all parties and providing a time for responses.



(6) The commission or the presiding officer, or the administrative law manager assigned by the hearing system in any proceeding in which a presiding officer has not been assigned, may order proceedings consolidated for hearing on any or all matters at issue in the proceedings or may order the severance of proceedings or issues in a proceeding if consolidation or severance will promote the just, economical, and expeditious determination of the issues presented.

(7) Tape recorders and other mechanical or electronic devices are permitted at an oral hearing if they are unobtrusive and do not cause a witness to be intimidated or interfere with the orderly conduct of the proceeding.

R 792.10417 Initial notice of hearing.

Rule 417. Except as otherwise provided by statute or the commission, not less than 14 days before the date set for the initial hearing, written notice of the hearing must be provided to all parties and other persons as the commission or its secretary may direct. For good cause, the commission or its secretary may determine a shorter or longer period for notice. The notice must contain all of the following information:

- (a) A statement of the date, hour, place, and nature of the hearing.
- (b) The jurisdiction under which the hearing is to be held, including reference to the statutes, or sections of statutes, commission orders, or rules involved.
- (c) A short and plain statement of the matters asserted and issues involved. The commission or its secretary may prescribe the form and manner of notice to be given.

R 792.10418 Participation by staff.

Rule 418. Staff may enter an appearance in any proceeding before the commission and present testimony as to the results of its accounting, engineering, and economic investigations, studies, inspections, enforcement activities, or other technical investigations or studies, file briefs, cross-examine witnesses, and state its position, policy, or recommendations based upon the evidence.

R 792.10421 Prehearing conferences.

Rule 421. (1) A prehearing conference may be held for any of the following purposes:

- (a) Identifying and simplifying the factual and legal issues to be resolved.
- (b) Amending pleadings by agreement or by prehearing order.
- (c) Ruling on petitions to intervene and prehearing motions.
- (d) Determining the scope of the hearing.
- (e) Separating issues.
- (f) Providing for joint, coordinated, or consolidated presentations by parties having substantially identical interests to avoid repetitive, cumulative, or redundant evidence.
- (g) Disclosing the number, names, and order of presentation of witnesses.
- (h) Producing and exchanging proposed exhibits and prepared testimony of proposed witnesses, and considering the admissibility of proposed exhibits and other documents.
- (i) Providing for expeditious completion of discovery.
- (j) Presenting and considering appropriate legal authorities in support of, or in opposition to, the contentions of the parties.
- (k) Estimating the time required for hearing and establishing a schedule.
- (l) Discussing the possibility of voluntary dismissal or settlement of the proceeding.
- (m) Requiring production and distribution of proposed exhibits and written prepared testimony reasonably in advance of the hearing session at which the proposed exhibits and written testimony will be offered.

(n) Considering and ruling on other matters that may aid in the expeditious disposition of the proceeding.

(2) Notice of the time and place of any prehearing conference must be given to all parties. Any person failing to attend or otherwise participate in a prehearing conference after having been served appropriate notice of the time and place shall, with respect to procedural matters, be bound, except for good cause, by any agreements reached, schedules set, and any orders or rulings made. If a transcript of the conference is not prepared, the presiding officer shall ensure that a written summary of the conference is prepared and served on all parties.

(3) Additional conferences may be held, as appropriate, during the course of any proceeding.

(4) At any conference held pursuant to this rule, the presiding officer may dispose of, by ruling, any procedural matter upon which the presiding officer may rule during the course of the proceeding if the parties have had appropriate notice. All rulings made at any prehearing conference are binding on all parties to the proceeding unless the rulings are subsequently modified or reversed by the presiding officer or the commission.

(5) After proper notice, the presiding officer may, on his or her own initiative or upon the request of a party, direct that a conference telephone or other electronic device be used for a prehearing or status conference. If a transcript of the conference is not prepared, the presiding officer shall ensure that a written summary of the conference is prepared and served on all parties.

R 792.10429 Evidence; documents and exhibits.

Rule 429. (1) When the evidence consists of technical matters or figures so numerous as to make oral presentation difficult to follow, it must be presented in exhibit form, supplemented and explained, but not duplicated by testimony.

(2) Documentary exhibits must be on 1 side only, on paper not exceeding 8-1/2 by 11 inches, and have a sufficient margin for binding, preferably a margin of 1 1/2 inches on the left side of each sheet. A larger exhibit must be folded to not more than 8-1/2 by 11 inches, if practicable. An exhibit of 2 or more sheets must be stapled together and a notation made at the top of the first sheet as to the number of sheets contained in the exhibit. Each page of the exhibit must be numbered. An exhibit must show, at the top right-hand corner, the docket number of the proceeding and provide space for the name of the witness and the number and date of the exhibit. Except as otherwise directed by the commission or the presiding officer, all exhibits offered in a proceeding must be numbered sequentially regardless of the identity of the party offering them. The number of the exhibit must be preceded with a letter indicating the identity of the party offering it; for example, "A" for applicant, "I" for intervenor, "R" for respondent, and "S" for the staff.

(3) A party introducing an exhibit shall furnish copies to all parties and such additional copies as the presiding officer may direct.

(4) Nothing in this rule prohibits the use by a witness of charts, graphs, pictures, or other means of visual demonstration that are large enough to be viewed by the presiding officer and all persons in the hearing room; however, when charts, graphs, pictures, or other means of visual demonstration are used, copies conforming to the requirements of subrule (2) of this rule must be provided to all parties and the presiding officer, together with such additional copies as the presiding officer may direct, unless the provision of copies would, in the judgment of the presiding officer, be impracticable.

(5) Documentary evidence may be submitted after the close of the record by stipulation of the parties and with the approval of the presiding officer or the commission.

(6) Written or printed documents, maps, charts, graphs, pictures, or other means of visual demonstration that are received in evidence shall not be returned to the parties, except upon approval of the commission.

R 792.10430 Evidence; testimony in written form.

Rule 430. (1) Testimony of a witness under oath shall be offered in written form, except as otherwise provided by the commission or the presiding officer. Unless otherwise ordered by the presiding officer, the testimony must be electronically filed with the commission and a copy electronically served on each party and the presiding officer not less than 7 days in advance of the session of the proceeding at which it is to be offered. If all parties in attendance on the day on which the testimony is offered agree, any part of the 7 days may be waived. In the absence of agreement, the presiding officer may permit the offering of the testimony after providing all parties who are present not less than 24 hours to examine it, unless, for good cause, the presiding officer finds a shorter time to be reasonable.

(2) The presiding officer may authorize any witness to present oral direct testimony.

(3) In any proceeding, a witness whose testimony is submitted in written form must be made personally available for cross-examination at the time directed by the presiding officer, unless all parties in attendance on that day waive cross-examination of the witness. If the witness whose testimony is submitted in written or exhibit form is not made available for cross-examination, the testimony shall not be received in evidence, except by stipulation of all parties in attendance on the day the testimony is submitted and with the approval of the presiding officer or as otherwise provided by law.

(4) All testimony in written form must include page and line numbers and be in question and answer form.

R 792.10432 Motion practice.

Rule 432. (1) In a pending proceeding, a request to the commission or presiding officer for a ruling or order, other than a final order, must be by motion. Unless made during a hearing, a motion must comply with all of the following provisions:

(a) Be in writing.

(b) State with particularity the grounds and authority on which the motion is based.

(c) State the relief or order sought.

(d) Be signed or electronically signed by the party or the party's attorney.

(2) Except as provided under subrule (7) of this rule, unless a different time is set by the commission or presiding officer or unless the motion is one that may be heard ex parte, a written motion, notice of the hearing on the motion, and any supporting brief or affidavits shall be served as follows:

(a) Not less than 9 days before the hearing, if served by mail or courier delivery service.

(b) Not less than 7 days before the hearing, if served electronically or by delivery to the attorney or party under MCR 2.107(c)(1) or (2).

(3) Unless a different time is set by the commission or presiding officer, any response to a motion, including a brief or an affidavit, shall be served as follows:

(a) Not less than 5 days before the hearing, if served by mail or courier delivery service.

(b) Not less than 3 days before the hearing, if served electronically or by delivery to the attorney or party under MCR 2.107(c)(1) or (2).

(4) Motions must be noticed for hearing at the time designated by the commission or presiding officer.

(5) When a motion is based on facts not appearing on the record, the commission or presiding officer may hear the motion on affidavits presented by the parties or may direct that the motion be heard wholly or partly as oral testimony or deposition.

(6) The commission or presiding officer may limit oral arguments on motions and may require the parties to file briefs in support of, and in opposition to, a motion. The commission may dispense with oral argument on matters brought before the commission.

(7) Except for good cause, a motion to extend time must be filed and served before the expiration of the period originally prescribed.

(8) A motion addressed to the commission shall be filed and served on all parties and the director of the regulatory affairs division. Any responsive pleading shall be filed and served on all parties and the director of the regulatory affairs division within 7 days after the motion is filed unless otherwise provided by these rules.

(9) In instances where the presiding officer has transmitted a case to the commission, the director of the regulatory affairs division may approve uncontested scheduling changes, stipulations, and other minor requests by parties to the proceedings without notice, a hearing, or a commission order.

R 792.10433 Appeals to commission from rulings of presiding officers.

Rule 433. (1) During the course of a proceeding, a party may appeal a ruling of the presiding officer by filing an application for leave to appeal the ruling to the commission. Unless otherwise provided by the presiding officer, the application shall be filed within 14 days after an oral ruling or service of a written ruling and any response shall be filed within 14 days after service of the application.

(2) The commission shall grant an application and review the presiding officer's ruling if any of the following provisions apply:

(a) A decision on the ruling before submission of the full case to the commission for final decision will materially advance a timely resolution of the proceeding.

(b) A decision on the ruling before submission of the full case to the commission for final decision will prevent substantial harm to the appellant or the public-at-large.

(c) A decision on the ruling before submission of the full case to the commission for final decision is consistent with other criteria that the commission may establish by order.

(3) An offer of proof must be made in connection with an appeal of a ruling excluding evidence. The offer of proof must be made on the hearing record. If the ruling excluded oral testimony, the offer of proof must consist of a statement of the substance of the evidence that the appellant contends would be established by the testimony. If the ruling excluded written evidence or evidence that refers to documents or records, the offer of proof must consist of a copy of the evidence, documents, or records. If the ruling excluded prefiled testimony or rebuttal testimony, the offer of proof must consist of a copy of the testimony or rebuttal testimony.

(4) The application must be supported by a clear and concise brief, pursuant to the provisions of R 792.10434, stating the basis for the appeal and showing that it complies with the provisions of this rule. The brief must be supported by specific factual allegations as appropriate.

(5) The commission's failure to grant the application does not bar a party from asking the commission to consider the presiding officer's ruling on final disposition of the proceeding. A party's failure to file an application for leave to appeal does not constitute a waiver of the right to challenge any ruling of the presiding officer either in a brief or in exceptions to a proposal for decision.

R 792.10434 Oral arguments and briefs.

Rule 434. (1) Oral arguments may be made before the commission or the presiding officer at the discretion of the commission or the presiding officer, respectively. Oral arguments before the presiding officer must be requested before the close of the record. Oral arguments before the commission must be requested not later than the date for filing of exceptions.

(2) Initial briefs and reply briefs may be filed at the discretion of the parties unless the commission or presiding officer requires the filing of briefs and reply briefs by all parties. Unless otherwise provided, initial briefs must be filed within 21 days after the date of the filing of the last volume of the transcript, and reply briefs must be filed within 14 days after the date for filing initial briefs.

(3) Briefs containing factual allegations claimed to be established by the evidence must include a reference to the specific portions of the record where the evidence may be found. Materials incorporated by reference must be attached. Any factual or legal issue that is not addressed in a party's initial brief shall not be addressed by that party in a reply brief, except in response to another party's brief. Reply briefs must be confined to rebuttal of the arguments contained in other parties' initial briefs. The presiding officer may strike any brief that does not comply with this rule.

(4) Proposed findings of fact, if any, must be filed not later than the date for filing initial briefs. Each proposed finding of fact must be numbered, stated clearly, and limited to a single proposed fact.

#### R 792.10435 Exceptions to proposals for decision.

Rule 435. (1) Unless otherwise provided, exceptions to a proposal for decision must be filed and served on all parties and the director of the regulatory affairs division within 21 days after service of the proposal for decision. Replies to exceptions, if provided for, must be filed and served on all parties and the director of the regulatory affairs division within 14 days after the date for filing exceptions.

(2) If a party does not file exceptions to a proposal for decision within the time permitted by this rule, any objection to the proposal for decision is waived. If a party does not object to a part of a proposal for decision, any objection by the party to that part of the proposal for decision is waived.

(3) Exceptions and replies to exceptions must be supported by reasoned discussion of the evidence and the law. Exceptions and replies to exceptions containing factual allegations claimed to be established by the evidence must include a reference to the specific portions of the record where the evidence may be found. Materials incorporated by reference must be attached.

(4) Exceptions must clearly and concisely recite the specific findings of fact and conclusions of law to which exception is taken or the omission of, or imprecision in, specific findings of fact and conclusions of law to which the party takes exception.

### SUBPART D. REOPENINGS AND REHEARINGS

#### R 792.10436 Reopening of proceedings.

Rule 436. (1) A proceeding may be reopened for the purpose of receiving further evidence when a reopening is necessary for the development of a full and complete record or there has been a change in conditions of fact or law such that the public interest requires the reopening of the proceeding.

(2) After providing due notice and an opportunity for the parties to be heard, the presiding officer, upon his or her own motion or upon motion of any party, may reopen the proceeding at any time before the date for the filing of exceptions to a proposal for decision or, if provided for,

replies to exceptions. After the date for filing exceptions or replies to exceptions and until the expiration of the statutory time period for filing a petition for rehearing, the commission may reopen a proceeding. The commission may reopen a proceeding after the time period for filing a petition for rehearing for good cause.

(3) Within 21 days after service of a motion to reopen a proceeding, any party may file an answer. Any party failing to do so is considered to have waived objection to the granting of the motion. As soon as practicable after the time for filing answers to a motion to reopen, the presiding officer or the commission shall, in writing, grant or deny the motion. The presiding officer or the commission may provide for hearing and oral argument on a motion to reopen.

## SUBPART E. COMPLAINTS

R 792.10439 Complaints; limited matters; initiating complaint.

Rule 439. A complaint must be limited to matters involving alleged unjust, inaccurate, or improper rates or charges or unlawful or unreasonable acts, practices, or omissions of a utility, including a violation of any commission rule, regulation, tariff filed or published by a utility, order, or a violation of a statute administered or enforced by the commission. A complaint may be either formal or informal and may be made by a person having an interest in the subject matter of the complaint or may be made by the commission on its own motion or by staff, subject to applicable statutory standards.

R 792.10440 Informal complaints.

Rule 440. The commission shall attempt to resolve as an informal complaint any matter brought to its attention by any person not requesting initiation of a contested case proceeding.

R 792.10441 Formal complaints; content.

Rule 441. (1) A formal complaint may be filed on paper or may be filed by email in accordance with instructions on the commission's website. Formal complaints filed by corporations must be electronically filed in the commission's e-docket system. Complaints filed by residential customers must be processed under the provisions of this subpart. Complaints filed by sole proprietors may be processed under this subpart in accordance with instructions from the secretary.

(2) A formal complaint must set forth all of the following:

- (a) The name and address of the complainant and the complainant's attorney, if any.
- (b) The name and address of the respondent.
- (c) The interest of the complainant in the subject matter.
- (d) A concise statement of the facts on which the complainant relies in requesting relief, with the specific allegations necessary to reasonably inform the respondent of the nature of the claims the respondent is called upon to defend, with specific reference to the section or sections of all statutes, rules, regulations, orders, and tariffs upon which the complainant relies in filing a complaint.
- (e) A demand for a contested case proceeding.
- (f) A clear and concise statement of the relief sought and the authority upon which the complainant relies for the relief.
- (g) The signature of the person or persons filing the complaint.
- (h) A specification regarding whether the complaint will be addressed by email filing and service or by paper filing and service.

(3) Two or more complainants may join in 1 complaint if their complaints are against the same respondent, involve substantially the same purposes and subjects, and are predicated upon substantially similar facts. This rule shall not be construed to authorize class actions in proceedings before the commission.

(4) If a complaint states a prima facie case, and the complainant elects to proceed using email filing and service, the filings in the complaint proceeding will not be available to the public on the commission's website. In addition to email service to the parties, all documents shall be emailed to the secretary in accordance with the instructions found on the commission's website.

(5) If a complaint states a prima facie case, and the complainant elects to file and serve documents on paper, the filing and service of notices, pleadings, motions, and other documents must be made by deposit with the United States Postal Service for first-class mailing, courier delivery service or by delivery in person. In all residential complaint cases to be processed on paper, a party shall file an original and 3 copies of each document or pleading.

R 792.10442 Formal complaints; examination; rejection.

Rule 442. An administrative law specialist assigned by the director of the regulatory affairs division shall review a complaint to determine if the complaint states a prima facie case within the commission's jurisdiction. If the commission finds that a complaint does not state a prima facie case or does not conform to these rules, it shall notify the complainant or the complainant's attorney that the complaint is rejected, give the reasons for the rejection, and return the complaint. Nothing in this rule prohibits a complainant whose complaint has been rejected from amending and refiling the complaint. Upon the filing of a formal complaint that conforms to the provisions of R 792.10441 of these rules and states a prima facie case, the commission, acting through its staff, may commence an investigation of the matters raised in the complaint.

R 792.10443 Formal complaints; service; offers of relief; answers.

Rule 443. (1) If the complaint states a prima facie case and conforms to the provisions of these rules, the commission shall serve upon the respondent, a notice, accompanied by a copy of the complaint, requiring that the matter complained of be satisfied or that the complaint be answered within 21 days after the date of service of the notice or within such time as the commission may, for good cause, provide.

(2) Every answer to a formal complaint must specifically admit or deny each material allegation contained in the complaint and also set forth any facts relied upon by the respondent as constituting an affirmative defense. If the respondent lacks knowledge or information sufficient to form a belief as to the truth of an allegation contained in the complaint, the respondent shall indicate this lack of knowledge or information in the answer, which operates as a denial.

## SUBPART F. SPECIFIC PROCEEDINGS

R 792.10447 Public utilities; new construction.

Rule 447. (1) An entity listed in this subrule shall file an application with the commission for the necessary authority to do any of the following:

(a) A gas or electric utility within the meaning of the provisions of 1929 PA 69, MCL 460.501 to 460.506, that wants to construct a plant, equipment, property, or facility for furnishing public utility service for which a certificate of public convenience and necessity is required by statute.

(b) A natural gas pipeline company within the meaning of the provisions of 1929 PA 9, MCL 483.101 to 483.120, that wants to construct a plant, equipment, property, or facility for

furnishing public utility service for which a certificate of public convenience and necessity is required by statute.

(c) A corporation, association, or person conducting oil pipeline operations within the meaning of 1929 PA 16, MCL 483.1 to 483.11, that wants to construct facilities to transport crude oil or petroleum or any crude oil or petroleum products as a common carrier for which approval is required by statute.

(2) The application required in subrule (1) of this rule must set forth, or by attached exhibits show, all of the following information:

(a) The name and address of the applicant.

(b) The city, village, or township affected.

(c) The nature of the utility service to be furnished.

(d) The municipality from which the appropriate franchise or consent has been obtained, if required, together with a true copy of the franchise or consent.

(e) A full description of the proposed new construction or extension, including the manner in which it will be constructed.

(f) The names of all utilities rendering the same type of service with which the proposed new construction or extension is likely to compete.

(g) An environmental impact assessment, or environmental impact statement if appropriate, that addresses the environmental effects of the construction or extension.

(h) Information demonstrating that the proposed construction shall comply with all applicable safety and technical standards.

(3) A utility that is classified as a respondent pursuant to R 792.10402 may participate as a party to the application proceeding without filing a petition to intervene. It may file an answer or other response to the application.

#### SUBPART G. DECLARATORY RULINGS

R 792.10448 Declaratory rulings.

Rule 448. (1) Any person may request a declaratory ruling as to the applicability to an actual state of facts of a statute administered by the commission or of a rule or order of the commission, pursuant to sections 33 and 63 of the act, MCL 24.233 and 24.263. A request for a declaratory ruling must contain, or by attached exhibits show, all of the following:

(a) A complete, accurate, and concise statement of the facts or situation upon which the request is based.

(b) A concise statement of the issues presented.

(c) Specific reference to all statutes, rules, and orders to which the request relates.

(d) An analysis by the person's legal counsel of the issues presented and a proposed conclusion, or the person's analysis of the issues presented and a proposed conclusion.

(2) The commission may require that notice of the request for declaratory ruling be provided and may require a contested case proceeding instead of issuing a declaratory ruling.

(3) The decision to issue a declaratory ruling is within the discretion of the commission and is binding only on the applicant and the commission.

#### PART 12: WAGE AND FRINGE BENEFIT HEARINGS

R 792.11201 Scope.

Rule 1201. The rules in this part govern proceedings before an administrative law judge under 1978 PA 390, MCL 408.471 to 408.490, or the paid medical leave act, 2018 PA 338, MCL 408.961 to 408.974.



R 792.11202 Definitions.

Rule 1202. As used in this part:

- (a) "Appeal" means request for review.
- (b) "Appellant" means a party who files an appeal.
- (c) "Department" means the department of licensing and regulatory affairs.
- (d) "Determination order" means the written determination of the merits of a complaint, including violation citations, notices of violation, penalty assessments, and exemplary damage assessments, if any, issued by the department to an employee or employer pursuant to a complaint.
- (e) "Director" means the director of the department.
- (f) "Party" means a person admitted to participate in the hearing conducted pursuant to these rules. The employee, employer, and the department are parties to a proceeding before an administrative law judge brought under 1978 PA 390, MCL 408.471 to 408.490, or the paid medical leave act, 2018 PA 338, MCL 408.961 to 408.974.
- (g) "Representative" means a person authorized by a party to represent that party in a proceeding.
- (h) "Wage and hour program" means the agency within the department that is delegated the responsibility of investigating claims, issuing determination orders, issuing notices of violation, and representing the department in hearings held under 1978 PA 390, MCL 408.471 to 408.490, or the paid medical leave act, 2018 PA 338, MCL 408.961 to 408.974.

R 792.11204 Filing of documents.

Rule 1204. (1) The filing of a document, with the exception of an appeal, is effective at the time of mailing. The mailing date is presumed to be the postmark date appearing on the envelope if postage was prepaid and the envelope was properly addressed.

(2) An appeal from a determination order or notice of violation must be filed with the wage hour program and must be received within 14 days after the date of mailing of the determination or notice of violation.

R 792.11205 Late appeal; showing of good cause; hearing; determination order final.

Rule 1205. (1) Any appeal received by the department more than 14 days after the determination order or notice of violation is issued must be immediately transmitted, along with the employee claim and the determination order or notice of violation, to the hearing system.

(2) Upon receipt of a late appeal under this rule, the administrative law judge shall issue an order directing the appealing party to show good cause why the late appeal should not be dismissed and the determination order or notice of violation made final. If the administrative law judge finds good cause for the late appeal, the case proceeds to hearing. Absent such a finding, the determination order is held final.

R 792.11209 Representation at hearing.

Rule 1209. A party may be represented at a hearing and before the hearing system by an attorney or authorized representative of the party's own choosing and at the party's own expense.

## PART 19: CORRECTIONS

R 792.11903 Hearing and decisions.

Rule 1903. (1) Not less than 24 hours before a formal hearing, a prisoner must receive written notice of the hearing. The notice must include all of the following:

- (a) Any charges of alleged violations.
- (b) A description of the circumstances giving rise to the hearing.
- (c) Notice of the date of hearing.

(2) A prisoner shall set forth all of the following on the notice form:

- (a) Necessary witnesses the prisoner wishes to have interviewed, if any.
- (b) A request for documents specifically relevant to the issue before the administrative law judge, if any.
- (c) A request for assistance of a hearing investigator to gather evidence or speak for the prisoner, if desired.

(3) A prisoner may verbally waive the 24-hour notice requirement either upon receipt of the written notice or at the hearing itself.

(4) If a prisoner fails to appear for a hearing after proper notice has been given as set forth in subrule (1) of this rule, the administrative law judge may proceed with the hearing and make a decision in the absence of the prisoner.

(5) A prisoner has all of the following rights at a formal hearing:

(a) To offer evidence, including written arguments, relevant documents, and witness statements, by making these requests to the hearing investigator at the time of the interview, or sufficiently in advance of the hearing to conduct an adequate investigation as determined by the administrative law judge.

(b) To be present and offer oral arguments on the prisoner's own behalf.

(c) To compel disclosure of evidence specifically relevant to the issue before the administrative law judge, unless the administrative law judge determines that disclosure may be dangerous to a witness or disruptive of normal prison operations. The reason for the nondisclosure must be entered into the record.

(d) To present evidence from necessary, relevant, and material witnesses, when to do so is not unduly hazardous to institutional or safety goals.

(e) To have presented to the administrative law judge the report of a hearing investigator who interviewed and obtained statements from relevant witnesses, secured relevant documents, and gathered other evidence, if a hearing investigator was requested when notice of the charges was given, unless that request is denied as set forth in subrule (7) of this rule, and if the prisoner has reasonably cooperated with the hearing investigator.

(f) To submit written questions to the hearing investigator to be asked of witnesses.

(6) If an administrative law judge denies a request made by a prisoner on the notice form provided under subrule (2) of this rule, specific reasons for the denial must be placed in the record. The presence of a witness is not necessary if the witness's testimony is repetitious or if the witness is able to provide the administrative law judge or hearing investigator with a complete written statement.

(7) A hearing investigator must be available, when necessary, to gather and present factual evidence orally or in writing at the request of either the prisoner or the administrative law judge. If the administrative law judge determines that a prisoner appears to be incapable of speaking effectively for himself or herself, the administrative law judge shall request a hearing investigator to appear and present arguments on the prisoner's behalf. The failure of a hearing investigator to present requested documents or statements is justified if to do so would be unduly hazardous to institution or safety goals or if the information is irrelevant or unnecessary to the particular case. The specific reason for such failure must be placed in the record.

(8) The administrative law judge shall render a written decision in every case. The written decision must include all of the following:

- (a) The reasons for the denial of a prisoner's requests, if any.
- (b) A statement of the facts found.
- (c) The evidence relied on in support of the decision.
- (d) A disposition of property, if applicable, in accordance with department of corrections policy.
- (e) Any sanctions or orders imposed by the administrative law judge. A copy of the decision must be furnished to the prisoner.

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**ADMINISTRATIVE RULES**

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DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

PHARMACY TECHNICIANS

Filed with the secretary of state on October 2, 2023

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) 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 16145, 16148, 16184, 16186, 16201, 16204, 16205, 16215, 16287, 17731, 17739, 17739a, 17739b, and 17739c of the public health code, 1978 PA 368, MCL 333.16145, 333.16148, 333.16184, 333.16186, 333.16201, 333.16204, 333.16205, 333.16215, 333.16287, 333.17731, 333.17739, 333.17739a, 333.17739b, and 333.17739c and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.3651, R 338.3652, R 338.3653, R 338.3654, R 338.3655, R 338.3657, R 338.3659, R 338.3661, R 338.3662, R 338.3663, and R 338.3665 of the Michigan Administrative Code are amended, and R 338.3651a is added, as follows:

R 338.3651 Definitions.

Rule 1. (1) As used in these rules:

(a) "ASHP/ACPE" means the American Society of Health-System Pharmacists/Accreditation Council for Pharmacy Education.

(b) "Board" means the Michigan Board of Pharmacy.

(c) "CCAPP" means the Canadian Council for Accreditation of Pharmacy Programs.

(d) "Code" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(e) "Department" means the department of licensing and regulatory affairs.

(f) "NHA" means the National Healthcareer Association.

(g) "PTCB" means the Pharmacy Technician Certification Board.

(2) Unless otherwise defined in these rules, the terms defined in the code have the same meaning when used in these rules.

R 338.3651a Pharmacy technician licensure; eligibility; examination.

Rule 1a. (1) An applicant for licensure by examination shall submit a completed application on a form provided by the department, together with the appropriate fee, unless the applicant is exempt from filing under any of the following exemptions pursuant to section 17739a(4) of the code, MCL 333.17739a:

(a) A student, while the student is enrolled in a pharmacy technician program approved by the board under R 338.3655.

(b) A licensee who holds a temporary pharmacy technician license under R 338.3652 and section 17739b of the code, MCL 333.17739b.

(c) A licensee who holds a limited pharmacy technician license under section 17739c of the code, MCL 333.17739c.

(2) In addition to meeting the requirements of R 338.7001 to R 338.7004, any other rule promulgated under the code, and section 16174 of the code, MCL 333.16174, an applicant shall comply with all of the following requirements:

(a) Have graduated from an accredited high school or comparable school or educational institution or passed the general educational development test or the graduate equivalency examination.

(b) Have passed, and provided proof to the department of passing, any of the following examinations:

(i) The certified pharmacy technician examination given by the PTCB or the NHA.

(ii) A nationally recognized and administered pharmacy technician certification examination that has been approved by the board under R 338.3654.

(iii) An employer-based training program examination that has been approved by the board under R 338.3654.

(c) An applicant shall submit proof of having completed the 1-time training in identifying victims of human trafficking as required in R 338.3659 and section 16148 of the code, MCL 333.16148.

(3) An applicant who is or has ever been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country, shall do both of the following:

(a) Disclose each license, registration, or certification on the application form.

(b) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.

#### R 338.3652 Temporary license.

Rule 2. (1) Subject to the limitations in section 16181 of the code, MCL 333.16181, and under section 17739b of the code, MCL 333.17739b, the department may issue a nonrenewable, temporary license to an applicant who is preparing for the proficiency examination and has completed all requirements for licensure as a pharmacy technician under R 338.3651a except passing the proficiency examination required under section 17739a(1)(d) of the code, MCL 333.17739a.

(2) An applicant applying for a pharmacy technician temporary license shall submit a completed application on a form provided by the department, together with the appropriate fee.

(3) The temporary license expires 1 year after the date the temporary license is issued.

#### R 338.3653 Licensure by endorsement.

Rule 3. (1) An applicant who has never held a pharmacy technician license in this state, but who is licensed in another state, may apply for licensure by endorsement by submitting a completed application on a form provided by the department, together with the requisite fee.

(2) An applicant is presumed to meet the requirements of section 16186 of the code, MCL 333.16186, if they meet the requirements of R 338.7001 to R 338.7004, any other rule promulgated under the code, and section 16174 of the code, MCL 333.16174, as well as all of the following requirements:

(a) Has graduated from an accredited high school or comparable school or educational institution or passed the general educational development test or the graduate equivalency examination.

(b) Satisfies the requirements in section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.

(c) Holds a pharmacy technician license or registration by examination in another state that is active and in good standing.

(d) Submits proof that the applicant passed 1 of the approved examinations specified in R 338.3651a(2)(b).

(e) Submits proof of having completed the 1-time training in identifying victims of human trafficking as required in R 338.3659 and section 16148 of the code, MCL 333.16148.

(f) Discloses each license, registration, or certification in a health profession or specialty issued by another state, the United States military, the federal government, or another country on the application form.

#### R 338.3654 Examination requirements; board approval; approval process.

Rule 4. (1) Except for the PTCB and NHA examinations, a nationally recognized pharmacy technician proficiency certification examination and an employer-based training program proficiency examination must be approved by the board.

(2) An employer-based training program proficiency examination must be offered in association with a specific employer-based training program and cover the topics specified in section 17739a(1)(d)(iv) of the code, MCL 333.17739a.

(3) An entity that offers a nationally recognized pharmacy technician proficiency certification examination shall submit to the department a completed application on a form provided by the department with proof of current national accreditation in order to be approved by the board. If the examination is nationally accredited, after the department processes the application, it must be considered approved by the board. If national accreditation is lost, the examination will no longer be approved by the board.

(4) An entity that offers an employer-based training program proficiency examination shall submit to the department a completed application on a form provided by the department and a copy of the examination with the correct answers clearly identified for each question.

(5) An entity that offers an employer-based training program proficiency examination shall submit a modification to a proficiency examination during its approval term to the department on a form provided by the department pursuant to the requirements of this rule.

(6) Except for PTCB and NHA, a nationally recognized certification proficiency examination or employer-based training program proficiency examination approved by the board before July 1, 2022, shall submit an application consistent with this rule for approval by December 31, 2023, or the program will no longer be listed as a board-approved program.

(7) The board's approval of an examination expires 5 years after the date of approval.

(8) One year after the effective date of this subrule, a board-approved program must include a proficiency examination grading procedure with the proficiency examination application, which will be reviewed by the board with the examination.

#### R 338.3655 Approved pharmacy technician programs.

Rule 5. (1) The following pharmacy technician programs are considered board-approved after a completed application on a form provided by the department along with proof of accreditation is submitted to and reviewed by the department:

(a) A pharmacy technician program including an employer-based training program that is accredited by the ASHP/ACPE Pharmacy Technician Accreditation Commission.

(b) A pharmacy technician program that is offered by an education program that is accredited by the ASHP/ACPE Pharmacy Technician Accreditation Commission or by an agency accredited by the United States Department of Education.

(2) If any of the following pharmacy technician programs do not meet the requirements in subrule (1) of this rule, the program may apply for board approval by submitting an application to the department on a form provided by the department, along with an attestation form that verifies compliance with the information required in subrule (3) of this rule:

(a) A comprehensive curriculum-based pharmacy technician education and training program conducted by a community college under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195 or a school that is licensed under the proprietary schools act, 1943 PA 148, MCL 395.101 to 395.103.

(b) A pharmacy technician training program utilized by a pharmacy that includes training in the functions, specified in section 17739(1) of the code, MCL 333.17739, and R 338.3665, required to assist the pharmacist in the technical functions associated with the practice of pharmacy.

(3) The contents of the training programs offered under subrule (2) of this rule must include all of the following:

(a) The duties and responsibilities of the pharmacy technician and a pharmacist, including the standards of patient confidentiality, and ethics governing pharmacy practice.

(b) The tasks and technical skills, policies, and procedures related to the pharmacy technician's position pursuant to the duties specified in section 17739(1) of the code, MCL 333.17739, and R 338.3665.

(c) The pharmaceutical-medical terminology, abbreviations, and symbols commonly used in prescriptions and drug orders.

(d) The general storage, packaging, and labeling requirements of drugs, prescriptions, or drug orders.

(e) The arithmetic calculations required for the usual dosage determinations.

(f) The essential functions related to drug, purchasing, and inventory control.

(g) The recordkeeping functions associated with prescriptions or drug orders.

(4) The pharmacy technician program shall maintain a record of a student's pharmacy technician training and education, specified in this rule, for 3 years after a student completes or leaves the program, whichever is earlier, that must include all of the following:

(a) The full name and date of birth of the pharmacy technician student.

(b) The starting date of the pharmacy technician program and date the student successfully completed the program.

(c) The program syllabus and activities performed in the program.

(5) A student shall complete a board-approved pharmacy technician program within 2 years of beginning the program in order to maintain the student's exemption from licensure in subrule (6) of this rule, and R 338.3651a.

(6) A student in a board-approved pharmacy technician program is exempt from licensure while in the program.

(7) A student who is at least 16 years of age, in a board-approved pharmacy technician program, may participate in practical hands-on training in the pharmacy.

(8) A pharmacy technician program that was board approved before July 1, 2022, shall reapply and meet the requirements of this rule no later than 1 year after these rules are promulgated, or the program will no longer be listed as a board-approved program. The board's approval of a

program expires 5 years after the date of approval. After 5 years, upon review by the department, a pharmacy technician program may be reapproved if it has maintained its accreditation.

(9) If the department determines that a board-approved program is not meeting the standards of the code or these rules, the department may send written notice to the program stating which areas in the program are deficient. The program has 30 days to fix any deficiency and report back to the department. If the department determines that the deficiencies are not resolved, the board will evaluate the deficiencies and may withdraw approval.

(10) Withdrawal of board approval of a program for stated deficiencies that were not remediated does not make any bona fide student enrolled in the program, at the time of withdrawal of approval, ineligible to sit for an approved licensure examination.

**R 338.3657 Relicensure requirements for pharmacy technicians.**

Rule 7. (1) An applicant for relicensure whose pharmacy technician license has lapsed in this state under section 16201(3) or (4) of the code, MCL 333.16201, as applicable, may be relicensed by complying with the following requirements:

(a) For a pharmacy technician whose license in this state has lapsed, and who is not currently licensed in another state:	License lapsed 0-3 years.	License lapsed more than 3 years.
(i) Submit a completed application on a form provided by the department, together with the requisite fee.	√	√
(ii) Establish that the applicant is of good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.	√	√
(iii) Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174.		√
(iv) Submit proof of having completed 20 hours of continuing education specified in R 338.3661(1) that was completed within the 2-year period before the application for relicensure. If the continuing education hours submitted with the application are deficient, an applicant has 2 years after the date of the application to complete the deficient hours. The application must be held, and the license may not be issued until the continuing education requirements are met.	√	√
(v) Within 2 years preceding the application for relicensure, pass 1 of the examinations specified in R 338.3651a(2)(b)(i) to (iii).		√
(vi) Submit proof of having completed a 1-time training in identifying victims of human trafficking as required in R 338.3659 and implicit bias training as required in R 338.7004.	√	√
(vii) An applicant who is or has ever been licensed, registered, or certified in a health profession or specialty by another state, the United States military,	√	√



the federal government, or another country, shall do both of the following: (A) Disclose each license, registration, or certification on the application form. (B) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.		
(viii) Meet the English language requirement under R 338.7002b.	√	√
(b) For a pharmacy technician whose license in this state has lapsed, but who holds a current and valid pharmacy technician license in another state:	License lapsed 0-3 years.	License lapsed more than 3 years.
(i) Submit a completed application on a form provided by the department, together with the requisite fee.	√	√
(ii) Establish that the applicant is of good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.	√	√
(iii) Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174.		√
(iv) Submit proof of having completed 20 hours of substantially similar continuing education as required in R 338.3661(1) that were completed within the 2-year period before the application for relicensure. If the continuing education hours submitted with the application are deficient, an applicant has 2 years after the date of the application to complete the deficient hours. The application must be held, and the license may not be issued until the continuing education requirements are met.	√	√
(v) Submit proof of having completed a 1-time training in identifying victims of human trafficking as required in R 338.3659 and implicit bias training as required in R 338.7004.	√	√
(vi) Submit verification from the licensing agency of another state of the United States in which the applicant has ever held a license to practice as a pharmacy technician. Verification must include the record of any disciplinary action taken or pending against the applicant. An applicant who is or has ever been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country, shall do both of the following: (A) Disclose each license, registration, or certification	√	√

on the application form. (B) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.		
(vii) Meet the English language requirement under R 338.7002b.	√	√

(2) If relicensure is granted and it is determined that a sanction has been imposed by another state, the United States military, the federal government, or another country, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

R 338.3659 Training standards for identifying victims of human trafficking; requirements.

Rule 9. (1) Under section 16148 of the code, MCL 333.16148, the individual licensed or seeking licensure shall have completed training in identifying victims of human trafficking that meets the following standards:

- (a) Training content covers all of the following:
  - (i) Understanding the types and venues of human trafficking in the United States.
  - (ii) Identifying victims of human trafficking in healthcare settings.
  - (iii) Identifying the warning signs of human trafficking in healthcare settings for adults and minors.
  - (iv) Identifying resources for reporting the suspected victims of human trafficking.
- (b) Acceptable providers or methods of training include any of the following:
  - (i) Training offered by a nationally-recognized or state-recognized health-related organization.
  - (ii) Training offered by, or in conjunction with, a state or federal agency.
  - (iii) Training obtained in an educational program that has been approved by the board for initial licensure, or by a college or university.
  - (iv) Reading an article related to the identification of victims of human trafficking that meets the requirements of subdivision (a) of this subrule and is published in a peer-review journal, healthcare journal, or professional or scientific journal.
- (c) Acceptable modalities of training include any of the following:
  - (i) Teleconference or webinar.
  - (ii) Online presentation.
  - (iii) Live presentation.
  - (iv) Printed or electronic media.

(2) The department may select and audit an individual and request documentation of proof of completion of training. If audited by the department, the individual shall provide an acceptable proof of completion of training, including either of the following:

- (a) Proof of completion certificate issued by the training provider that includes the date, provider name, name of training, and individual's name.
- (b) A self-certification statement by the individual. The certification statement must include the individual's name and 1 of the following:
  - (i) For training completed under subrule (1)(b)(i) to (iii) of this rule, the date, training provider name, and name of training.

(ii) For training completed pursuant to subrule (1)(b)(iv) of this rule, the title of article, author, publication name of the peer-review journal, healthcare journal, or professional or scientific journal, and the date, volume, and issue of publication, as applicable.

R 338.3661 License renewals; continuing education requirements.

Rule 11. (1) This rule applies to applications for renewal of a pharmacy technician's license and a special retired volunteer pharmacy technician's license under sections 16184 and 16201 of the code, MCL 333.16184 and 333.16201. A licensee seeking renewal shall comply with all of the following:

(a) Submit to the department a completed application for renewal on a form provided by the department together with the requisite fee.

(b) Complete the training in identifying victims of human trafficking as required in R 338.3659.

(c) An applicant for license renewal, who has been licensed for the entire 2-year period preceding the end of the license cycle, shall during the 2 years immediately preceding the application for renewal complete not less than 20 hours of continuing education approved by the board under R 338.3662 as follows:

(i) An applicant for license renewal shall complete 1 hour in pharmacy ethics and jurisprudence, which may be completed in 1 or more courses.

(ii) An applicant for license renewal shall complete 1 hour in pain and symptom management in the practice of pharmacy that includes, but is not limited to, courses in the following subjects:

(A) Behavior management.

(B) Psychology of pain.

(C) Pharmacology.

(D) Behavior modification.

(E) Stress management.

(F) Clinical applications as they relate to professional practice.

(iii) An applicant for license renewal shall complete 1 hour in patient safety.

(iv) An applicant for license renewal shall earn no more than 12 hours of continuing education during a 24-hour period.

(v) Except for the 1-time training in human trafficking and the implicit bias training, which may be used to comply with both the training requirement and the continuing education requirement in the same renewal period, an applicant for license renewal may not earn continuing education credit for a program or activity that is identical to a program or activity an applicant has already earned credit for during that renewal period.

(vi) An applicant for license renewal shall earn at least 5 hours of continuing education in live, synchronous, courses or programs, in-person or virtual, that provide for the opportunity of direct interaction between faculty and participants, including, but not limited to, lectures, symposia, live teleconferences, and workshops. ACPE courses designated as live meet this requirement.

(2) Submission of an application for renewal constitutes the applicant's certification of compliance with this rule. The licensee shall retain documentation of meeting the requirements of this rule for a period of 4 years after the date of applying for license renewal. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221.

(3) A request for a waiver under section 16205 of the code, MCL 333.16205, must be received by the department for the board's consideration at least 30 days before the last regularly scheduled board meeting before the expiration date of the license. The public notice for the board meetings can be found here:

<https://www.michigan.gov/lara/bureau-list/bpl/health/hp-lic-health-prof/pharmacy>.

(4) Continuing education that is earned during the 60-day grace period may be included up to the date the application for renewal is filed.

R 338.3662 Format of acceptable continuing education for licensees.

Rule 12. The board shall consider all of the following as acceptable continuing education:

FORMAT OF ACCEPTABLE CONTINUING EDUCATION ACTIVITIES		
	Type of Activity	Number/Maximum Hours Earned
(a)	<p>Completion of an approved continuing education course or program related to the practice of pharmacy. A continuing education course or program is approved, regardless of the format in which it is offered, if it is approved or offered for continuing education credit by any of the following:</p> <ul style="list-style-type: none"> <li>• A pharmacy program accredited by the ASHP/ACPE Pharmacy Technician Accreditation Commission or the CCAPP.</li> <li>• A continuing education sponsoring organization, institution, or individual approved by the ACPE.</li> <li>• Another state board of pharmacy.</li> </ul> <p>If audited, a licensee shall submit to the department a copy of a letter or certificate of completion showing the licensee's name, number of continuing education hours earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date that the program was held, or activity completed.</p>	<p>The number of continuing education hours earned will be the number of hours approved by the sponsor or the approving organization.</p> <p>If the activity was not approved for a set number of hours, then 1 credit hour for every 50 minutes of participation may be earned.</p> <p>No limitation on the number of hours earned.</p>
(b)	<p>Completion of pharmacy practice or administration courses offered for credit in a pharmacy program accredited by the ASHP/ACPE Pharmacy Technician Accreditation Commission or the CCAPP.</p> <p>If audited, a licensee shall submit to the department an official transcript that reflects completion of the postgraduate pharmacy practice or administration course and number of semester or quarter credit hours earned.</p>	<p>Twelve hours of continuing education will be credited for each academic quarter credit earned and 18 hours will be credited for each academic semester credit earned.</p> <p>No limitation on the number of hours earned.</p>
(c)	<p>Participation in a home study program offered through an ASHP/ACPE-approved provider or other instructional approaches that include an evaluation component including, but not</p>	<p>One hour of continuing education will be earned for each hour devoted to a home study program.</p>

	<p>limited to, online continuing education programs and journal articles.</p> <p>If audited, a licensee shall submit to the department an affidavit attesting to the number of hours the licensee spent participating in the home study program that includes a description of the activity.</p>	<p>A maximum of 20 hours may be earned per renewal period.</p>
(d)	<p>Renewal of a pharmacy technician license held in another state that requires continuing education for license renewal that is substantially equivalent in subject matter and total amount of required hours to that required in these rules if the licensee resides and practices in another state.</p> <p>If audited, a licensee shall submit to the department proof of current licensure in another state and a copy of a letter or certificate of completion showing all of the following: the licensee's name, number of continuing education hours earned, the sponsor's name or the name of the organization that approved the program or activity for continuing education credit, and the date that the program was held or the activity was completed.</p>	<p>Twenty hours of continuing education will be earned.</p> <p>A maximum of 20 hours may be earned in each renewal period.</p>
(e)	<p>Initial publication of an article or a chapter related to the practice of pharmacy in either of the following:</p> <ul style="list-style-type: none"> <li>• A pharmacy textbook.</li> <li>• A peer-reviewed journal.</li> </ul> <p>If audited, a licensee shall submit to the department a copy of the publication that identifies the licensee as the author or a publication acceptance letter.</p>	<p>Ten hours of continuing education will be earned per publication.</p> <p>A maximum of 10 continuing education hours may be earned in each renewal period.</p>
(f)	<p>Presentation of a continuing education program approved by the board under R 338.3663 or subdivision (a) of this rule that is not a part of the licensee's regular job description.</p> <p>If audited, a licensee shall submit to the department a copy of the curriculum and a letter from the program sponsor verifying the length and date of the presentation.</p>	<p>Two continuing education hours will be earned for every 50 minutes devoted to presenting the program.</p> <p>A maximum of 2 hours may be earned in each renewal period. This change is effective starting with the next full license cycle after promulgation of this rule.</p>
(g)	<p>Attendance at a pharmacy-related program,</p>	<p>The number of continuing</p>

	<p>that is approved by the board pursuant to R 338.3663.</p> <p>If audited, a licensee shall submit to the department a copy of a letter or certificate of completion showing the licensee's name, number of hours earned, sponsor name or the name of the organization that approved the program or course for continuing education credit, and the date that the program was held or the activity was completed.</p>	<p>education hours earned will be the number of hours approved by the sponsor or the approving organization.</p> <p>If the activity was not approved for a set number of hours, then 1 credit hour for every 50 minutes of participation may be earned.</p> <p>No limitation on the number of hours earned.</p>
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R 338.3663 Continuing education courses and programs; standards for approval.

Rule 13. A continuing education course or program that is not pre-approved under R 338.3662(a) may be approved by the board pursuant to the standards in R 338.3043.

R 338.3665 Performance of activities and functions; delegation.

Rule 15. In addition to performing the functions described in section 17739(1) of the code, MCL 333.17739, a licensed pharmacy technician may also engage in the following tasks, under the delegation and supervision of a licensed pharmacist:

(a) Reconstitute non-sterile dosage forms consistent with approved labeling provided by the manufacturer of a commercially available product.

(b) Provide technology-assisted final product verification, which includes all the following:

(i) A properly trained pharmacy technician performing final product verification with the use of bar coding or another error prevention technology.

(ii) The licensed pharmacy technician providing final product verification is subject to all of the following requirements:

(A) The licensed pharmacy technician holds a current full or limited pharmacy technician license in this state.

(B) Before performing final product verification the full or limited licensed pharmacy technician meets 1 of the following:

(1) Has accrued not less than 1,000 hours of pharmacy technician work experience in the same type of pharmacy practice site where the technology-assisted final product verification will be performed while the pharmacy technician holds a current full pharmacy technician license, a temporary license, a limited license, or is in training in this state.

(2) Has completed a final product verification training program that includes at least all of the following:

(i) The role of a pharmacy technician in the product verification process.

(ii) The legal requirements and liabilities of a final verification technician.

(iii) The use of technology assisted verification systems.

(iv) The primary causes of medication errors and misfills.

(v) The identification and resolution of dispensing errors.

(C) The practice setting where a licensed pharmacy technician performs final product verification has in place policies and procedures including a quality assurance plan governing pharmacy technician technology-assisted final product verification.

(D) The technology enabled verification system must document and electronically record each step of the prescription process including which individuals complete each step.

(E) A licensed pharmacy technician shall not perform technology-assisted final product verification for sterile or nonsterile compounding.

(F) Technology-assisted final product verification by a licensed pharmacy technician is not limited to a practice setting.

(G) A pharmacist using professional judgment may choose to delegate technology-assisted final product verification after ensuring licensed pharmacy technicians have completed and documented relevant training or work experience.

(c) Access the electronic database of a pharmacy from inside or outside of the pharmacy to perform the delegated tasks in paragraph (iii) of this subdivision related to prescription processing functions outside of the personal charge of a pharmacist.

(i) A pharmacy technician remotely performing the tasks in paragraph (iii) of this subdivision must be supervised by a licensed pharmacist.

(ii) The remote supervision in paragraph (i) of this subdivision means that a pharmacist directs and controls the actions of the remote technician using technology to ensure the supervising pharmacist does both of the following:

(A) Is readily and continuously available to answer questions, review the practice of the supervised pharmacy technician, provide consultation, review records, and educate the pharmacy technician in the performance of functions.

(B) Has established predetermined procedures and drug protocol governing any activity performed remotely including protection of patient confidentiality.

(iii) Delegated tasks relating to prescription processing functions include, but are not limited to, the following:

(A) Verification of a patient's medication history.

(B) Data entry regarding processing prescription data and patient data.

(C) Claims adjudication.

(D) Handling phone calls regarding processing prescription data and patient data.

(E) Processing refill requests.

(F) Technology-assisted final product verification.

(G) Transferring prescriptions for non-controlled substances.

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**ADMINISTRATIVE RULES**

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DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

BARBERS

Filed with the secretary of state on October 2, 2023

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) 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 and the board of barber examiners by sections 205, 308, 1110, and 1112 of the occupational code, 1980 PA 299, MCL 339.205, 339.308, 339.1110, and 339.1112, Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 339.6002, R 339.6022, R 339.6023, R 339.6031, R 339.6033, R 339.6035, R 339.6037, R 339.6039, R 339.6041, R 339.6047, and R 339.6049 of the Michigan Administrative Code are amended, R 339.6021, R 339.6042, R 339.6044, and R 339.6045 are added, and R 339.6040 is rescinded, as follows:

**PART 1. GENERAL PROVISIONS**

R 339.6002 Definitions.

Rule 2. (1) As used in these rules:

- (a) "ANSI" means the American National Standards Institute.
  - (b) "Apprenticeship program" means a barber teaching program conducted in a licensed barbershop teaching barbering services to an apprentice without charging a fee.
  - (c) "Board" means the board of barber examiners created under section 1102 of the code, MCL 339.1102.
  - (d) "Code" means the occupational code, 1980 PA 299, MCL 339.101 to 339.2677.
  - (e) "Department" means the department of licensing and regulatory affairs.
  - (f) "EPA" means the United States Environmental Protection Agency.
  - (g) "NACES" means the National Association of Credential Evaluation Services.
  - (h) "ISEA" means the International Safety Equipment Association.
  - (i) "NBCP" examination means the National Barber Cosmetology Program examination.
  - (j) "PSI" means PSI Services, LLC.
  - (k) "UV" means ultraviolet.
- (2) Terms that are defined in the code have the same meaning when used in these rules.

**PART 2. LICENSES**

R 339.6021 License examination requirement; examination administrator; valid



score.

Rule 21. (1) Until 1 year after the effective date of these rules, an applicant for an initial barber license, in addition to meeting all the requirements of the code, shall pass the state examination required for the license in table 21. A passing score is valid for 1 year after the date it was earned.

(2) Beginning 1 year after the effective date of these rules, the board adopts the NBCP examination developed and scored by PSI. An applicant for an initial barber license, in addition to meeting all the requirements of the code, shall achieve a passing score on the NBCP examination, as determined by PSI, on the examination required for the license in table 21. A passing score is valid for 1 year after the date it was earned.

(3) Until 1 year after the effective date of these rules, an applicant for an initial barber instructor license, in addition to meeting all the requirements of the code, shall pass the state examination required for the license in table 21. A passing score is valid for 1 year from the date it was earned.

(4) Beginning 1 year after the effective date of these rules, the board adopts the NBCP examination developed and scored by PSI. An applicant for an initial barber instructor license, in addition to meeting all the requirements of the code, shall achieve a passing score on the NBCP examination, as determined by PSI, on the examination required for the license in table 21. A passing score is valid for 1 year after the date it was earned.

(5) The state examination must be administered by a third party chosen by the department. The NBCP examination must be administered by PSI or its successor organization.

(6) The passing score on the state or national examination is determined by the third party chosen to administer the examination.

(7) The required examination or examinations for each license type is listed below in table 21.

TABLE 21

License Type		Required Examination
(a)	Barber	Barber theory Barber practical
(b)	Instructor	Barber instructor theory

R 339.6022 Licensure by endorsement; substantially equal requirements; substituted experience; training obtained outside the United States.

Rule 22. (1) An individual who is licensed as a barber in another state, jurisdiction, or country may apply for a barber license by endorsement under this rule.

(2) An applicant for licensure by endorsement, in addition to meeting all the requirements under section 1108 of the code, MCL 339.1108, shall submit an application on a form provided by the department, pay the required fee, and satisfy all of the following requirements:

(a) Hold or have held in good standing a license as a barber for at least 1 of the 3 years immediately preceding the date of application.

(b) Provide proof of any name change, if the name on the application does not match the name shown on the submitted documents.

(c) Demonstrate that the licensure requirements of the state, jurisdiction, or country, in which the applicant has held a barber license for at least 1 of the 3 years immediately preceding the date of application, are substantially equal to the requirements for licensure under the code and these rules.

(3) The requirements of another state, jurisdiction, or country are considered substantially equal to the requirements for a barber license in this state if the state, jurisdiction, or country required

an applicant to pass 1 or more examinations that tested barber theory and practical applications that are substantially equal to the barber theory and practical application examinations for licensure in this state and the applicant satisfies either of the following:

(a) The state, jurisdiction, or country required an applicant to receive not less than 1,800 hours of prelicensure instruction at a licensed barber college.

(b) The state, jurisdiction, or country required an applicant to receive not less than 1,800 hours of prelicensure instruction in a barber apprenticeship program.

(4) If an applicant received instruction outside of the United States, the evidence that the prelicensure instruction was substantially equal to the requirements for a barber license in this state must include an evaluation completed by a current member of the NACES.

(5) Except as provided in subrule (6) of this rule, if the applicant received prelicensure instruction at a licensed barber college and the applicant's records fail to satisfy the requirements of subrule (3)(a) of this rule, under section 1108(3) of the code, MCL 339.1108, the hours of prelicensure instruction required under the code and these rules may be substituted with barber or barber apprentice experience at a ratio of 100 hours of training for each 3 months of barber or barber apprentice experience. To receive credit, the applicant shall attest on a form provided by the department that the applicant worked as a barber or barber apprentice for a period of time equal to the number of hours of training required for licensure.

(6) If the applicant's records of prelicensure instruction at a licensed barber college cannot be produced because the instruction was obtained in a country from which records are not generally available, the applicant may substitute the hours as allowed under subrule (5) of this rule for those required under R 339.6047, table 47, except those under the topics of safety and sanitation and laws, rules, and regulations by providing both of the following:

(a) A notarized affidavit stating all of the following, as applicable:

(i) The name and address of each school or barber college program where prelicensure instruction was completed, including a description of the type of instruction and grades received.

(ii) The total number of years of prelicensure instruction received.

(iii) The name and address of each entity where barber or barber apprenticeship experience was acquired, along with the dates and hours of qualified experience as a barber or as a barber apprentice.

(b) A notarized statement from a government official of the country in which the records are unavailable attesting to the unavailability of the applicant's records.

(7) Each state, jurisdiction, or country in which the applicant holds or has ever held a license as a barber shall verify that the applicant's license is currently in good standing or was in good standing just before it lapsed.

#### R 339.6023 Relicensure requirements.

Rule 23. (1) An applicant whose license has lapsed for 3 years or less after the expiration date of the last license may be relicensed under section 411(3) of the code, MCL 339.411, after submitting a completed application on a form provided by the department and the required fee.

(2) An applicant whose license has lapsed for more than 3 years after the expiration date of the last license may be relicensed under section 411(4) of the code, MCL 339.411, after submitting a completed application on a form provided by the department, the required fee, and satisfying either of the following requirements:

(a) Pass the examination required for licensure under section 1108(1)(d) of the code, MCL 339.1108.

(b) Establish that the applicant has or had an active barber license in good standing in another state, jurisdiction, or country for at least 1 of the 3 years immediately preceding the application for relicensure.

### PART 3. HEALTH, SAFETY, AND SANITATION AT THE PREMISES OF A BARBERSHOP OR BARBER COLLEGE

R 339.6031 Premises of barbershop or barber college.

Rule 31. (1) The owner of a barbershop or barber college shall ensure that the barbershop or college complies with the requirements of subrules (2) to (10) of this rule.

(2) A barbershop or barber college shall have and maintain all of the following:

(a) An adequate supply of running hot and cold water necessary to complete all cleaning requirements and barber services offered on the premises and necessary to comply with all local, state, and federal laws and regulations where services are provided.

(b) Adequate ventilation to prevent the concentration of chemical vapors and strong odors.

(c) Clean, covered containers for holding used towels, capes, and neck strips.

(d) An adequate amount of cleaning, disinfecting, and sterilizing equipment, including a washbasin, and supplies necessary to meet the sanitation requirements of these rules.

(e) The manufacturer-labeled container of each disinfectant and sterilant that is used.

(f) Covered waste containers that are large enough to contain 1 day's accumulation of waste materials.

(g) If a chair, headrest, or other station is used for providing services to patrons, it must be made of, or covered in, a nonporous material that can be disinfected.

(h) If providing shampooing services, a shampoo bowl equipped with hot and cold running water.

(i) At least 1 first aid kit that is labeled by the manufacturer as meeting the ANSI/ISEA American national standard - minimum requirements for workplace first aid kits and supplies. A first aid kit labeled by the manufacturer with a stamp indicating "ANSI Z308.1" or "ANSI/ISEA Z308.1" satisfies this requirement.

(3) A barbershop or barber college shall keep the premises clean.

(4) A barbershop or barber college shall ensure that waste containers are always closed and emptied when full, but not less than once every 24 hours. Additionally, the waste container must be cleaned and disinfected at least once every 24 hours unless lined with a plastic bag that is disposed of each time that the waste container is emptied.

(5) A barbershop or barber college shall maintain tools and equipment in a safe condition and in good working order.

(6) A barbershop or barber college shall store equipment and supplies used for barbering services separately from storage for any other purpose.

(7) Clean tools and supplies must be stored in covered containers separate from used tools and supplies.

(8) Used towel and rubbish storage must not be adjacent to storage for clean supplies.

(9) A barbershop or barber college shall have toilet facilities on the premises for patron or student use unless public toilet facilities are reasonably available.

(10) A barbershop or barber college shall comply with all local, state, and federal regulations, including building codes, health regulations, and fire safety regulations.

R 339.6033 Cleaning, disinfecting, and sterilizing tools and equipment.

Rule 33. (1) Unless otherwise provided under this rule, a licensee, student, or apprentice shall disinfect all non-electrical tools that are not disposed of after each use on a patron in the following sequential manner:

- (a) Remove all visible debris.
- (b) Wipe sharp-edged tools with a 70% alcohol solution.
- (c) Disinfect using 1 of the following methods:
  - (i) Exposing all surfaces to UV light in compliance with the requirements for disinfection established by the manufacturer of the disinfecting device.
  - (ii) Fully immersing in a wet sanitizer that contains a sanitizing agent registered with the EPA for not less than 10 minutes or the period recommended by the manufacturer of the disinfectant.
  - (iii) Scrubbing all surfaces with a disinfectant wipe or clean towel and disinfectant spray that contains a disinfecting agent registered with the EPA.
- (d) Fully dry by air or with a clean towel before storing in a clean, covered place such as a fully enclosed drawer, cabinet, or container.

(2) Unless otherwise provided under this rule, a licensee, student, or apprentice shall disinfect all removeable parts of an electrical tool after each use on a patron in the following sequential manner:

- (a) Remove all visible debris.
- (b) Wipe sharp-edged tools with an alcohol solution of, at a minimum, 70% alcohol.
- (c) Disinfect using 1 of the following methods:
  - (i) Exposing all surfaces to UV light in compliance with the requirements for disinfection established by the manufacturer of the disinfecting device.
  - (ii) Fully immersing in a wet sanitizer that contains a sanitizing agent registered with the EPA for not less than 10 minutes or the period recommended by the manufacturer of the disinfectant.
  - (iii) Scrubbing all surfaces with a disinfectant wipe or clean towel and disinfectant spray that contains a disinfecting agent registered with the EPA.
- (d) Fully dry by air or with a clean towel before storing in a clean, covered place such as a fully enclosed drawer, cabinet, or container. Electrical items with a cord must not be stored in a container used for storing other clean items.

(3) A licensee, student, or apprentice shall disinfect a shampoo bowl after each use in the following sequential manner:

- (a) Remove all visible debris.
- (b) Scrub all surfaces with a disinfectant wipe or clean towel and disinfectant spray that contains a disinfecting agent registered with the EPA.
- (4) A licensee, student, or apprentice shall dispose of a single-use duster or other brush after each use or disinfect a reusable duster or other brush in the following sequential manner after each use:

- (a) Remove all visible debris.
- (b) Wash with soap or detergent and water and rinse with clean water.
- (c) Immerse in a wet sanitizer for not less than 10 minutes or the period recommended by the manufacturer of the disinfectant.

(5) A licensee, student, or apprentice shall disinfect every barbering chair, headrest, or other station that comes in direct contact with a patron's skin after use by a patron in the following sequential manner:

- (a) Remove all visible debris.
- (b) Scrub all surfaces with a disinfectant wipe or a clean towel and disinfectant spray that contains a disinfecting agent registered with the EPA.

R 339.6035 Use or storage of certain items prohibited on the premises of a barbershop or barber college; use of powdered or liquid astringent to stop bleeding.

Rule 35. (1) The owner of a barbershop or barber college shall not allow the use or storage of styptic pencils, or lump alum on the premises.

(2) The owner of a barbershop or barber college shall not allow the use of drops, washes, or treatment of the eyes on the premises.

(3) A licensee, student, or apprentice shall not use a styptic pencil, lump alum, or any drops, wash, or treatment of the eyes. Only a powdered or liquid astringent applied on a clean towel, cotton, or gauze may be used to stop bleeding.

R 339.6037 Patron protection.

Rule 37. (1) A licensee, student, or apprentice shall comply with all of the following for each patron:

(a) Use a clean, fresh paper or cloth towel.

(b) Cover the headrest of the chair with clean, fresh paper or cloth.

(c) Use a clean, fresh hair cloth or cape.

(d) Place a clean, fresh towel or sanitary paper or cloth neck strip around the patron's neck to prevent the hair cloth or cape from touching the patron's skin.

(2) A licensee, student, or apprentice shall launder reusable towels, capes, and neck strips with a detergent in water that is not less than 160 degrees Fahrenheit for not less than 25 minutes during a wash and rinse cycle. The following exceptions and presumption apply to this subrule:

(a) A detergent registered as a disinfectant with the EPA is not required.

(b) Machine washing is not required for plastic or nylon capes that are disinfected after each use by scrubbing all surfaces using a disinfectant wipe or a clean towel and disinfect spray.

(c) Towels, capes, and neck strips laundered through commercial laundry services are presumed to satisfy the requirements of this subrule.

(3) A licensee, student, or apprentice shall comply with all of the following:

(a) Wash hands or apply hand sanitizer before beginning each new barbering service.

(b) Store soiled towels, capes, and neck strips in fully enclosed covered containers.

(c) Store clean tools, towels, capes, neck strips, and supplies in a clean, covered, fully enclosed container and separate from used tools, towels, capes, neck strips, and supplies.

(d) Use clean tools, equipment, and supplies on patrons.

(e) Dispose of all 1-time-use tools and supplies after each use on a patron.

(f) Remove any hair clippings from the floor and work surfaces once hair care services are completed on each patron.

(g) Store all semi-solid substances, including, but not limited to, creams, lotions, oils, and powders in a fully enclosed, covered container.

(h) Remove all semi-solid substances by using a clean spatula or 1-time-use spatula that is disposed of after use on a patron unless the substance is dispensed from a shaker dispenser that prevents contact with the skin.

(4) When not in use, a licensee, student, or apprentice shall ensure that all tools and equipment that are intended to come in contact with a patron are stored in a covered container or under a UV light in compliance with the requirements established by the manufacturer of the UV disinfecting device.

(5) A licensee, student, or apprentice shall ensure that small items of equipment, including combs and brushes, are maintained in a sanitary condition. Small items of equipment must not be carried between work areas on the person of a licensee, student, or apprentice.

R 339.6039 Blood spill procedures.

Rule 39. (1) A licensee, barbershop owner, instructor, student, apprentice, or barber school owner shall comply with all of the following provisions if a blood spill occurs:

- (a) Temporarily suspend the service being performed.
- (b) Provide the patron or other individual who is bleeding with adequate first aid supplies so that the bleeding can be stopped and the wound covered.
- (c) Sterilize any equipment, implements, or tools that have come into contact with the blood spill.
- (d) Immediately discard porous materials that have come into contact with the blood spill.
- (e) Immediately clean surfaces soiled with blood and dispose of all blood-soiled waste in compliance with the current standards established by the Michigan Occupational Safety and Health Administration.

(2) A licensee, student, apprentice, or instructor shall not perform services or demonstrations until all bleeding has ceased and all wounds have been covered. A licensee, student, apprentice, or instructor shall keep an open sore, cut, burn, or other injury on patrons or on themselves covered at all times when performing a service or demonstration.

**PART 4. BARBER COLLEGES AND APPRENTICESHIP PROGRAMS**

R 339.6040 Rescinded.

R 339.6041 Construction standards and required equipment for barber college.

Rule 41. (1) The owner of a barber college shall ensure that the barber college complies with the requirements of subrules (2) to (5) of this rule.

(2) A barber college shall provide for all of the following:

(a) A classroom with adequate space and sufficient number of desk chairs for each student in attendance.

(b) A practical training room.

(c) A separate student locker area.

(d) Adequate toilet facilities to meet the needs of the number of enrolled students.

(3) A practical training room must be equipped with all of the following:

(a) Sufficient practical training stations so that students are not required to share a station during practical training periods.

(b) Tile, first-grade linoleum, or nonporous floor covering.

(c) Ample lamps and vibrators to give demonstrations in scientific treatment as provided in the curriculum.

(d) Ample supplies of steamers, sources of lather, and clean towels provided by the college for the proper performance of services by each student.

(4) A practical training station must be equipped with all of the following:

(a) A barber chair that is in mechanical working order, easily cleaned, and not less than 6 feet from the next chair, when measured from the center of one chair base to the center of the next chair base.

(b) One storage cabinet for tools, clean towels, and hair cloths.

(c) One electric sterilizer.

(d) One approved soiled towel container with a hinged lid or door.

(e) One complete set of the customary barber tools.

(5) A barber college shall indicate to the public that it is a barber college by a sign, with letters that are not less than 6 inches in height, that includes the words "barber school" or "barber

college." A sign must be displayed indicating that the work performed in the barber college is primarily performed by students.

R 339.6042 Barber college or barbershop owner's duty concerning program requirements; barber college and apprenticeship program requirements.

Rule 42. (1) The owner of a barber college or a barbershop conducting an apprenticeship program shall ensure that the barber college or barbershop complies with the requirements of subrules (2) to (7) of this rule.

(2) A barber college shall display all licenses as required under section 1110(8) of the code, MCL 339.1110.

(3) A barbershop conducting an apprenticeship program shall display the apprentice registration permit in a prominent place on the premises that is visible to the public at all times.

(4) A barbershop conducting an apprenticeship program shall ensure that all the apprentice's training is performed by an individual who holds an active barber license issued by this state.

(5) A barber college may transfer credit of hours a student had previously earned in a barber college toward the completion of a curriculum under R 339.6047, if the barber college determines that the previously earned hours are substantially similar to the hours required under the applicable curriculum. If a barber college allows a student to substitute substantially similar hours earned in another barber college, it shall include in the student's records the number of substantially similar theory and practical hours it has allowed the student to substitute.

(6) A barbershop conducting an apprenticeship program may grant credit for hours an apprentice has earned in another apprenticeship program toward the completion of a curriculum under R 339.6047, if the new apprenticeship program determines that the previously earned hours are substantially similar to the hours required under the applicable curriculum. If a barbershop conducting an apprenticeship program allows an apprentice to substitute substantially similar hours earned in another apprenticeship program, it shall include in the apprentice's records the number of substantially similar theory and practical hours it has allowed the apprentice to substitute.

(7) A barber college shall not transfer credit of hours that were earned in an apprenticeship program toward the completion of the student's school curriculum. An apprenticeship program shall not transfer credit of hours that were earned as a student toward the completion of an apprenticeship program.

R 339.6044 Substitution of hours for credits earned in Michigan-licensed cosmetology school; substantially similar criteria and determination; notice to department.

Rule 44. (1) Under section 1110(6) of the code, MCL 339.1110, a barber college may allow a student who is a Michigan-licensed cosmetologist to substitute up to 1,000 hours of substantially similar instruction completed at a Michigan-licensed cosmetology school for hours of instruction required by the barber college.

(2) In determining if an hour of instruction completed at a Michigan-licensed cosmetology school is substantially similar and may be substituted for required instruction in the barber student's curriculum, the barber college may consider all of the following:

- (a) The student's cosmetology school transcript.
- (b) The student's scores on examinations.
- (c) The cosmetology school's course descriptions.
- (d) The student's performance on an examination conducted by the barber college that tests the student's theory and practical knowledge.

(3) The barber college shall determine the number of substantially similar instruction hours that will be substituted for hours of required instruction in the student's barber college curriculum before the student begins a barber college program.

(4) Until January 1, 2024, the barber college shall notify the department of the number of substantially similar hours it allowed the student to substitute in the student's barber college curriculum.

**R 339.6045 Distance education requirements.**

Rule 45. (1) As used in this rule, "distance education" means education that uses technology to deliver instruction to a student who is physically separated from the instructor while allowing live interaction between the student and the instructor.

(2) Distance education is allowed in the delivery of theory hours of the curriculum if all of the following are satisfied:

(a) The instructor has been trained in the use of the modality and technology resources used in distance education.

(b) The technology and practices are in place to verify the identity of the distance education student who participates, while protecting student privacy.

(c) The student has been provided with written information that clearly describes the distance education technology requirements to successfully complete the course.

(3) A barber college offering distance education under subrule (2) of this rule shall have a policy in place that it provides to each student that includes all of the following clear statements:

(a) All practical hours in the curriculum must be done in-person.

(b) The student's interaction with the instructor through distance education must be logged by the instructor.

(c) An in-person performance evaluation must be completed after each 10% of the distance education component.

(d) The student shall pass a comprehensive theory and practical examination before the student graduates from the program.

(e) The student's transcript and other documents must identify the portion of the curriculum that was delivered through distance education.

(4) Before a student enrolls in the barber college, the barber college shall provide, and the student shall sign, a disclaimer that advises the student that distance education may not be accepted for reciprocity or licensure in some states. The barber college shall maintain a copy of the signed waiver in the student's record.

**R 339.6047 Barber college and apprenticeship; curriculum requirements.**

Rule 47. (1) A barber college and apprenticeship program shall follow a curriculum of instruction in barbering as shown under table 47.

**TABLE 47**  
**Barber Training Curriculum**

Topic	Theory Hours	Practical Hours
(a) Orientation: (i) History of barbering profession. (ii) Implements of barbering profession.	10	0
(b) Safety and sanitation: (i) General, including and work stations. (ii) Infection control and diseases of hair, scalp,	60	50



skin, nails, and glands. (iii) Implements, including sanitation, maintenance, and care. (iv) Laws and rules governing safety and sanitation.		
(c) Client services: (i) Composition, structure, and function of skin, hair, head, face, and neck. (ii) Analysis of bone structure, skin, and hair. (iii) Determination of services desired by client. (iv) Examination of client, including identification of potential disorders and diseases of the head, neck, and face and recommendation of appropriate follow up for medical evaluation. (v) Recommendation of services and follow-up maintenance.	30	These activities must be performed as part of the activities specified in subdivisions (d), (e), and (f) of this subrule.
(d) Haircut and shave: (i) Hair cutting. (ii) Hair styling. (iii) Shaving, including the use of a clipper and a straight razor. (iv) Beard trimming.	60	1,000
(e) Chemical services: (i) Shampooing and conditioning hair. (ii) Hair waving and relaxing. (iii) Hair coloring and lightening.	15	125
(f) Additional services: (i) Skin care, including facials, massage, and therapy. (ii) Hair and scalp treatments, including preparations, massage, and therapy. (iii) Selling and servicing hairpieces. (iv) Eyebrow razor shaping.	25	275
(g) Laws, rules, and regulations: (i) Governing the barber. (ii) Governing the barbershop.	10	0
(h) Business management: (i) Ethics. (ii) Merchandising. (iii) Bookkeeping. (iv) Taxes. (v) Insurances.	10	100
(i) Licensure examination preparation.	5	25
	225	1,575

(2) The curriculum may vary within 10% of the hours for each subject specified in this rule as long as the total theory hours is not less than 225 and the total practical hours is not less than 1,575.

R 339.6049 Student or apprentice records.

Rule 49. (1) A barber college and a barbershop conducting an apprenticeship program shall maintain records of each student or apprentice for not less than 7 years after the student's or apprentice's last date of attendance. A barber college's or barbershop's apprenticeship program's records must be available to the department upon request. The records must contain all of the following information:

- (a) A daily attendance record.
  - (b) A record of the types of services and practical applications performed by the student or apprentice.
  - (c) The date of the student's enrollment or the date the apprentice began participation in the program.
  - (d) A copy of the student's or apprentice's contract.
  - (e) The student's final grades or the apprentice's evaluation and progress records.
  - (f) The student's graduation date or the date that the student withdrew from the barber college, or the apprentice's proposed completion date, actual completion date, the date when the apprentice withdrew from the apprenticeship program, or the termination date.
- (2) A barber college and a barbershop's apprenticeship program shall create and maintain a monthly record for each student or apprentice. The record must include the student's or apprentice's name and the number of credit hours that the student or apprentice accumulated that month and the total credit hours that the student or apprentice has earned to date. A barber college shall submit a copy of the monthly record to the department on or before the tenth day of the following month for all months through December 2023. Beginning with the monthly record for January 2024, a barber college shall discontinue submitting a copy of the monthly record to the department. A barbershop conducting an apprenticeship program shall not submit a copy of the monthly record to the department, unless requested by the department to do so.

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**ADMINISTRATIVE RULES**

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DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

AIR QUALITY DIVISION

AIR POLLUTION CONTROL

Filed with the secretary of state on October 4, 2023

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) 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 environment, Great Lakes, and energy by sections 5503 and 5512 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order Nos. 1995-16, 2009-31, 2011-1, and 2019-1, MCL 324.99903, 324.99919, 324.99921, and 324.99923)

R 336.1703, R 336.1704, R 336.1705, and R 336.1706 of the Michigan Administrative Code are rescinded, as follows:

PART 7. EMISSION LIMITATIONS AND PROHIBITIONS--  
NEW SOURCES OF VOLATILE ORGANIC COMPOUND EMISSIONS

R 336.1703 Rescinded.

R 336.1704 Rescinded.

R 336.1705 Rescinded.

R 336.1706 Rescinded.

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**PROPOSED ADMINISTRATIVE RULES,  
NOTICES OF PUBLIC HEARINGS**

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*MCL 24.242(3) states in part:*

*“... the agency shall submit a copy of the notice of public hearing to the Office of Regulatory Reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the Office of Regulatory Reform.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(d) Proposed administrative rules.*

*(e) Notices of public hearings on proposed administrative rules.”*

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**PROPOSED ADMINISTRATIVE RULES**

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**DEPARTMENT OF ~~LICENSING AND REGULATORY AFFAIRS~~ LABOR AND  
ECONOMIC OPPORTUNITY**

**DIRECTOR'S OFFICE**

**CONSTRUCTION SAFETY AND HEALTH STANDARDS**

Filed with the secretary of state on

These rules take effect immediately ~~after~~<sup>upon</sup> filing with the secretary of state unless adopted under section 33, 44, or 45a(9) 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~~ **labor and economic opportunity** by sections 19 and 21 of **the Michigan occupational safety and health act**, 1974 PA 154, **MCL 408.1019 and 408.1021**, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, ~~and~~ 2011-4, **and 2019-3**, MCL 445.2001, 445.2011, 445.2025, ~~and~~ 445.2030, **and 125.1998**)

R 408.40901, R 408.40925, R 408.40926, R 408.40927, R 408.40932, R 408.40933, R 408.40941, R 408.40942, R 408.40943, R 408.40945, R 408.40951, and R 408.40953 of the Michigan Administrative Code are amended, as follows:

**PART 9-, EXCAVATION, TRENCHING, AND SHORING**

**R 408.40901 Scope and referenced standards.**

Rule 901. (1) This part pertains to the digging of excavations and trenches which an employee is required to enter and the supporting systems used on construction operations.

(2) **The following Michigan occupational safety and health (MIOSHA) standards are referenced in these rules:**

(a) **Construction Safety and Health Standard Part 21. “Guarding of Walking and Working Areas,” R 408.42101 to R 408.42160.**

(b) **Construction Safety Standard Part 45. “Fall Protection,” R 408.44501 to R 408.44502.**

(3) **Up to 5 copies of the standards listed in subrule (2) of this rule may be obtained at no charge from the Department of Labor and Economic Opportunity, MIOSHA, Standards and FOIA Section, 530 West Allegan Street, P.O. Box 30645, Lansing, Michigan, 48909-8145 or via the internet at the following website: [www.michigan.gov/mioshastandards](http://www.michigan.gov/mioshastandards). For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.**

R 408.40925 Definitions A to Q.

Rule 925. (1) "Angle of repose" means the maximum permissible slope as determined by table 1.

(2) **"Benching" means a method of protecting employees from cave-ins by excavating the sides of an excavation to form 1 or a series of horizontal levels or steps, usually with vertical or near-vertical surfaces between levels.**

~~(2)~~(3) "Braces" or "struts" means the horizontal cross members of a shoring system that bear against the uprights or stringers.

(4) **"Cave-in" means the separation of a mass of soil or rock material from the side of an excavation, or the loss of soil from under a trench shield or support system, and its sudden movement into the excavation, either by falling or sliding, in sufficient quantity so that it could entrap, bury, or otherwise injure and immobilize a person.**

(5) **"Competent person" means an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.**

~~(3)~~(6) "Excavation" means any man-made cut, cavity, trench, or depression in the earth's surface, including its sides, walls, or faces, formed by earth removal.

~~For the purpose of this part, a trench is an excavation.~~

~~(4)~~(7) "Hazardous atmosphere" means an atmosphere which, by reason of being any of the following, may cause death, illness, or injury:

(a) Explosive.

(b) Flammable.

(c) Poisonous.

(d) Corrosive.

**(e) Oxidizing.**

~~(e)~~(f) Irritating.

~~(f)~~(g) Oxygen deficient.

~~(g)~~(h) Toxic.

~~(h)~~(i) Otherwise harmful.

~~(5)~~(8) "Kickouts" means the accidental release or failure of a stringer or brace.

(9) **"Protective system" means a method of protecting employees from cave-ins, from material that could fall or roll from an excavation face or into an excavation, or from the collapse of adjacent structures. Protective systems include support systems, sloping and benching systems, shield systems, and other systems that provide the necessary protection.**

~~(6)~~(10) "Qualified person" means ~~an individual~~~~person~~ who, by possession of a recognized degree or certificate of professional standing, or who, by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems relating to the subject matter and work.

(11) **"Ramp" means an inclined walking or working surface that is used to gain access to 1 point from another and is constructed from earth or from structural materials such as steel or wood.**

(12) **"Registered professional engineer" means a person who is registered as a professional engineer in the state where the work is to be performed. However, a professional engineer, registered in any state is deemed to be a registered professional engineer within the meaning of this standard when approving designs for manufactured protective systems or tabulated data to be used in interstate commerce.**

R 408.40926 Definitions; S.

Rule 926. (1) **“Sheeting” means the members of a shoring system that retain the earth in position and in turn are supported by other members of the shoring system.**

(2) "Sheet piling" means a continuous row of timber or steel piles driven in close contact to provide a tight wall to resist lateral pressure of water, adjacent earth, or other materials.

(3) **“Shield” or “shield system” means a structure that is able to withstand the forces imposed on it by a cave-in and thereby protect employees within the structure. Shields can be permanent structures or can be designed to be portable and moved along as work progresses. Additionally, shields can be either premanufactured or job-built in accordance with R 408.40932, R 408.40942, R 408.40943, R 408.40945, and R 408.40953. Shields used in trenches are usually referred to as trench boxes or trench shields.**

(4) **“Shoring” or “shoring system” means a structure such as a metal hydraulic, mechanical, or timber shoring system that supports the sides of an excavation and which is designed to prevent cave-ins.**

~~(2)~~(5) "Sides;" sometimes called faces or walls, ~~means~~**mean** the vertical or inclined earth surfaces formed as a result of excavation work.

~~(3)~~(6) "Slope" means the acute angle formed by the side of a trench or excavation and the horizontal plane.

~~(4)~~(7) "Soil" means any of the following:

(a) "Clay"—~~means~~ a very fine textured soil that derives its resistance to displacement from cohesion and may be:

(i) "Soft clay"—~~means~~ a clay-type soil that has an unconfined strength of less than 1.0 ton per square foot.

(ii) "Medium clay;" ~~sometimes called plastic, or "plastic" means~~—a clay-type soil that has a minimum unconfined strength of 1.0 ton per square foot.

(iii) "Firm soil"— ~~means~~ a clay-type soil that is resistant to forces causing rupture or displacement. A firm clay has a minimum unconfined strength of 1.5 tons per square foot.

(iv) "Stiff clay" —~~means~~ a clay-type soil that is very resistant to forces causing rupture or displacement. A stiff clay has a minimum unconfined strength of 2.5 tons per square foot.

(b) "Fill" ~~means~~—a manmade soil condition that may be constructed of any type of soil or combination thereof.

(c) "Granular soil"—~~means~~ a coarse grained soil that does not possess cohesion but derives its strength from internal friction.

(d) "Organic soil"—~~means~~ a soil that contains significant amounts of peat, muck, or marl.

(e) "Running soil"—~~means~~ any type of soil that has insufficient strength to stand unsupported. Running soil tends to run or slough into the excavation as the excavation is being dug.

~~(5)~~(8) "Stringers" ~~means~~**mean** the horizontal members of a trench shoring system whose sides bear against the uprights or earth.

(9) **“Structural ramp” means a ramp built of steel or wood, usually used for vehicle access. Ramps made of soil or rock are not considered structural ramps.**

~~(6)~~(10) "Supporting system" ~~means the total system necessary to restrain the sides of an excavation from moving~~**“Support system” means a structure such as underpinning, bracing, or shoring, which provides support to an adjacent structure, underground installation, or the sides of an excavation.**

R 408.40927 Definitions; T, U.

Rule 927. (1) ~~"Tight sheeting" means a continuous row of wood or steel sheets in close contact to provide a tight wall, but is not driven as with piling~~**“Tabulated data” means tables**

**and charts approved by a registered professional engineer and used to design and construct a protective system.**

(2) "Toe of slope" means the point at which the side of an excavation intersects the lowest level of the excavation.

(3) "Trench" means an excavation having a depth greater than its width measured at the bottom.

(4) "Trench jack" means a screw or hydraulic jack used as a brace in a trench shoring system.

(5) "Trench shield," sometimes called a trench box, means a trench shoring system composed of steel plates and bracing, welded or bolted together, which can be moved along as work progresses.

(6) "Uprights" ~~means~~**mean** the vertical members of a trench shoring system.

R 408.40932 Excavation; consideration of soil types; water; slide hazards.

Rule 932. (1) If different textured soils are encountered in the side of an excavation, each soil type of the excavation shall be cut to the proper angle of repose, except that the slope shall not steepen between the toe of the slope and the ground level where soft clay or running soil is encountered in the lower cut.

(2) An employee shall not work in an excavation in which there is accumulated water or in which water is accumulating unless precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but may include special support or shield systems to protect from cave-ins, water removal to control the level of accumulating water, or the use of a safety harness and lifeline.

(3) If water is controlled or prevented from accumulating by the use of water removal equipment, the water removal equipment and operation shall be monitored by a ~~qualified~~**competent** person or a monitoring system to ensure that the equipment is properly operated.

(4) An ongoing inspection of an excavation or trench shall be made by a ~~qualified~~**competent** person. After every rainstorm or other hazard-producing occurrence, an inspection shall be made by a ~~qualified employee~~**competent person** for evidence of possible slides or cave-ins. Where these conditions are found, all work shall cease until additional precautions, such as additional shoring or reducing the slope, have been accomplished.

(5) When installed forms, walls, or similar structures create a trench between the form, wall, or structure and the side of the excavation, an employer shall comply with the provisions of R 408.40941 to R 408.40944.

R 408.40933 Excavation; obstructions; retaining materials; egress; guarding; heavy equipment.

Rule 933. (1) A tree, boulder, rock fragments, or other obstructions whose movement could cause injury to an employee shall be removed or supported.

(2) An excavation that an employee is required to enter shall have excavated and other material stored and retained not less than 2 feet from the excavation edge.

(3) When mobile equipment is utilized or permitted adjacent to an excavation where the operator's vision is restricted, stop logs or barricades shall be utilized or a signal person shall be used.

(4) An excavation 48 or more inches in depth and occupied by an employee shall be provided with either a ladder extending not less than 3 feet above the top as a means of access or with a



ramp meeting the requirements of subrule (5) of this rule. Lateral travel along the wall of a trench to a ladder or other means of egress shall not exceed 25 feet.

(5) An earth ramp may be used in place of a ladder if it meets all of the following requirements:

- (a) The ramp material shall be stable.
- (b) The sides of the excavation above the ramp shall be maintained to the angle of repose or sheeted or shored along the means of egress.
- (c) The degree of angle of the ramp shall not be more than 45 degrees.
- (d) Vertical height between the floor of the trench and the toe of the ramp shall not exceed 30 inches.

**(6) Structural ramps that are used solely by employees as a means of access or egress from excavations shall be designed by a competent person. Structural ramps used for access or egress of equipment shall be designed by a competent person qualified in structural design and shall be constructed in accordance with the design.**

**(7) Ramps and runways constructed of 2 or more structural members shall have the structural members connected together to prevent displacement.**

**(8) Structural members used for ramps and runways shall be of uniform thickness.**

**(9) Cleats or other appropriate means used to connect runway structural members shall be attached to the bottom of the runway or shall be attached in a manner to prevent tripping.**

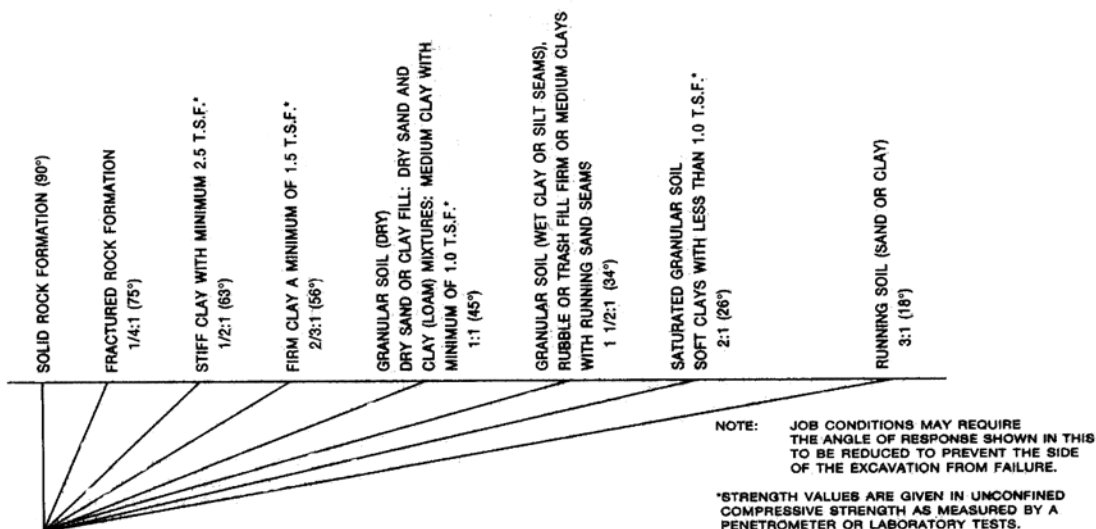
**(10) Structural ramps used in lieu of steps shall be provided with cleats or other surface treatments on the top surface to prevent slipping.**

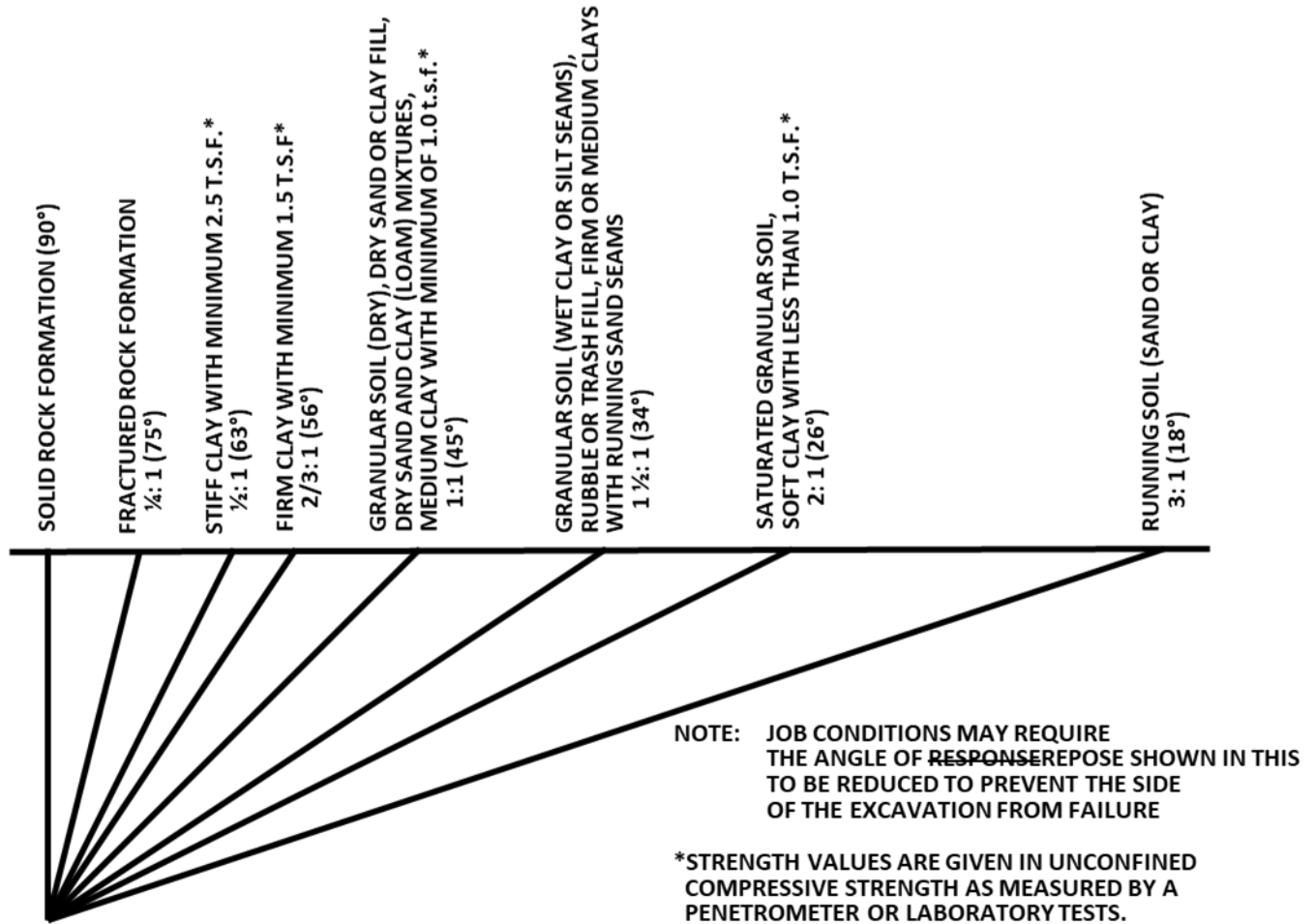
R 408.40941 Excavation; angle of repose.

Rule 941. (1) The side of an excavation more than 5 feet deep shall be sloped as prescribed in table 1, unless supported as prescribed in this part.

(2) An excavation less than 5 feet in depth shall also be effectively protected when examination of the ground indicates hazardous earth movement may be expected.

TABLE 1  
MAXIMUM ALLOWABLE ANGLE OF REPOSE FOR THE SIDE OF AN EXCAVATION IN EXCESS OF 5' DEPTH





R 408.40942 Supporting systems; angle of repose; tie backs; ~~tight~~-sheeting; additional bracing.

Rule 942. (1) The angle of repose and the design of the supporting system for a side of an excavation shall be based on the evaluation of all of the following factors:

- (a) Depth of cut and type of soil.
- (b) Possible variation in the water content of the material while the excavation is open.
- (c) Anticipated changes in the material due to exposure to air, sun, water, or freezing temperatures.

- (d) Load imposed by structures, equipment, overlying material, or stored material.
- (e) Vibration from traffic, equipment, or blasting.

(2) A support system shall be designed by a qualified ~~employee~~**person**. The design of the ~~supporting~~**supporting** system shall be maintained at the jobsite. Changes from the design of the support system shall be approved by a qualified ~~employee~~**person**.

(3) Tie rods and other forms of tie backs used to restrain the top of sheeting shall be anchored a minimum of 10 feet. The measurement to the anchor point shall start at the intersection of an angle of repose with the surface of the soil retained. The tie back and anchor shall be capable of restraining any pressure exerted on the system.

(4) When ~~tight~~-sheeting or sheet piling is used, pressures due to existing ground water conditions shall be considered in the design. Sheet piling shall be driven to the predetermined

depth set forth in the required design. Changes from the design shall be approved by the designer of the support system.

(5) Materials used for a supporting system shall be in good serviceable condition. When timbers are used, they shall be sound and free of large or loose knots.

(6) A supporting system shall include additional bracing approved by the designer of the support system when the sides of excavations are cut adjacent to a previous known excavation or a known fill, particularly when the separation between the previous excavation and the new excavation is less than the depth of the excavation.

(7) ~~Tight~~ Sheet piling shall be braced or anchored at the bottom and along the vertical plane to prevent lateral movement.

**(8) Protective systems for use in excavations more than 20 feet in depth must be designed by a registered professional engineer.**

R 408.40943 Additional requirements for trench support systems.

Rule 943. (1) ~~A brace or trench jack that is used for a support system for a trench shall be spaced as designed and shall be secured to prevent sliding, failing, or kickout~~ **Members of support systems shall be securely connected together to prevent sliding, falling, kickouts, or other predictable failure.**

(2) The backfilling and the removal of a support system for a trench shall progress together from the bottom of the trench. In unstable or running soil, the jacks and braces shall be removed from above the trench after employees have cleared the trench.

(3) The excavation of material to a level that is not more than 2 feet, (.61 m), below the bottom of the members of a support system shall be permitted, but only if the system is designed to resist the forces calculated for the full depth of the trench and if there are no indications, while the trench is open, of a possible loss of soil from behind or below the bottom of the support system.

(4) The installation of a support system shall be closely coordinated with the excavation of trenches.

**(5) Support systems shall be installed and removed in a manner that protects employees from cave-ins, structural collapses, or from being struck by members of the support system.**

**(6) Individual members of support systems shall not be subjected to loads exceeding those which those members were designed to withstand.**

**(7) Before temporary removal of individual members begins, additional precautions shall be taken to ensure the safety of employees, such as installing other structural members to carry the loads imposed on the support system.**

R 408.40945 Trenching boxes and shields.

Rule 945. (1) Portable trench boxes or sliding trench shields may be used for the protection of personnel in place of a shoring system or sloping. Where such trench boxes or shields are used, they shall be designed, constructed, and maintained in a manner that provides protection equal to or greater than the sheeting or shoring required for the trench.

(2) The use of benching in conjunction with a portable trench box is permitted when the toe of the trench box is not more than 2 feet above the trench bottom, but only if the trench box is designed to resist the forces calculated for the full depth of the trench and if there are no indications, while the trench is open, of a possible cave-in below the bottom of the trench box.

(3) An employee shall not be allowed in shields when shields are being installed, removed, or moved **vertically**.

(4) Shield systems shall not be subjected to loads exceeding those which the system was designed to withstand.

(5) Shields shall be installed in a manner to restrict lateral or other hazardous movement of the shield in the event of the application of sudden lateral loads.

(6) Employees shall be protected from the hazard of cave-ins when entering or exiting the areas protected by shields.

R 408.40951 Walkways, sidewalks, roadways.

Rule 951. (1) ~~A sidewalk shall not be undermined unless it is shored to support a live load of not less than 125 pounds per square foot.~~ **Sidewalks, pavements, and appurtenant structure shall not be undermined unless a support system or another method of protection is provided to protect employees from the possible collapse of such structures.**

(2) If an employee or equipment is required or permitted to cross a trench or ditch, a walkway, runway, ramp, or bridge shall be provided and shall have a designed capacity of not less than 3 times the imposed load. A guardrail prescribed by the provisions of **Construction Safety and Health Standard Part 21. Guarding of Walking and Working Areas, R 408.421 to R 408.42160** and **Construction Safety Standard Part 45. Fall Protection, R 408.42101 and R 408.44501,** shall be provided.

R 408.40953 Adjacent structures; protection; design; inspection of shoring, bracing, and underpinning.

Rule 953. (1) A structure that is adjacent to an excavation or trench below the level of the base or footing of any foundation or retaining wall shall be protected against settlement, lateral movement, undermining, or washout.

(2) Before the excavation begins, the design of the protection used shall be set forth by a qualified person who is knowledgeable in the subject area.

(3) The shoring, bracing, and underpinning shall be inspected daily or more often, as conditions warrant, by a ~~qualified employee~~ **competent person.**

(4) **Where the stability of adjoining buildings, walls, or other structures is endangered by excavation operations, support systems such as shoring, bracing, or underpinning shall be provided to ensure the stability of such structures for the protection of employees.**

(5) **Excavation below the level of the base or footing of any foundation or retaining wall that could be reasonably expected to pose a hazard to employees shall not be permitted except when 1 of the following applies:**

(a) **A support system, such as underpinning, is provided to ensure the safety of employees and the stability of the structure.**

(b) **The excavation is in stable rock.**

(c) **A registered professional engineer has approved the determination that the structure is sufficiently removed from the excavation so as to be unaffected by the excavation activity.**

(d) **A registered professional engineer has approved the determination that such excavation work will not pose a hazard to employees.**

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**OPINIONS OF THE  
ATTORNEY GENERAL**

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*MCL 14.32 states in part:*

*“It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

(j) Attorney general opinions. ”

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**OPINIONS OF THE ATTORNEY GENERAL**

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STATE OF MICHIGAN

DANA NESSEL, ATTORNEY GENERAL

MICHIGAN CAMPAIGN FINANCE ACT:      Maintaining records of unpaid late filing fees and fines assessed against candidates and committees.

STATUTE OF LIMITATIONS:

There is a statute of limitations that applies to the collection of late filing fees and fines assessed under the Michigan Campaign Finance Act, and that limitation period is six years.

A filing official must still consider unpaid late fees that are beyond the six-year statute of limitations on collection when determining whether a candidate is qualified to be on the ballot pursuant to MCL 168.558(4).

Unpaid fines assessed against a committee that are beyond the six-year statute of limitations on collection should not be removed from that committee's record.

Opinion No. 7323

Date: October 4, 2023

The Honorable Paul Wojno  
State Senator  
The Capitol  
Lansing, MI 48909

You have asked four questions about county clerks' collection of late filing fees and fines that have been assessed under the Michigan Campaign Finance Act (MCFA), MCL 169.201, *et seq.*

Your first two questions will be addressed together. Specifically, you ask first whether there is a statute of limitations applicable to the collection of late filing fees or fines assessed under the MCFA, and second, if there is a limitation period, how long it is.<sup>1</sup>

A review of the MCFA reveals no specific limitation provision that would apply to the collection of late filing fees or fines assessed under the Act.<sup>2</sup> There are, however, several limitation periods set out in the Revised Judicature Act (RJA), MCL 600.5801, *et seq.* But a review of the RJA similarly reveals no limitation provision that specifically refers to the collection of late filing fees or fines assessed under the MCFA. That said, the RJA does include a “catch-all” limitation period of six years that applies to “[a]ll other personal actions.” MCL 600.5813. Although there is no authority applying that provision to the collection of late filing fees or fines assessed under the MCFA, courts have found that provision to apply to other types of collection actions initiated on behalf of the government. See, e.g., *Great Lakes Gas Transmission Co v State Treasurer*, 140 Mich App 635, 650 (1985) (Department of Treasury’s collection action). In the absence of any directly applicable statutory period in either the MCFA or the RJA, the case law suggests that the “catch-all” provision of the RJA applies. See *Ins Comm’r v Aageson Thibo Agency*, 226 Mich App 336, 345 (1997) (“Other cited case law demonstrates that

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<sup>1</sup> For purposes of this opinion, it is presumed that you are referring to civil fines, and not criminal fines assessed by a court as punishment for violating the MCFA. See, e.g., MCL 169.267(3).

<sup>2</sup> It is worth noting, however, that there is a provision in the MCFA that provides, “[a] late filing fee assessed by a county clerk that remains unpaid for more than 60 days is considered a debt of

MCL 600.5813 . . . applies to a claim only when there is no directly applicable statute of limitation.”).

It is my opinion, therefore, that there is a statute of limitations that would apply to the collection of late filing fees and fines assessed under the MCFA, and that limitation period is six years.

The third question to be answered is whether the filing official<sup>3</sup> should only consider unpaid late fees that are not barred by the statute of limitations for purposes of determining whether a candidate is qualified to be on the ballot pursuant to MCL 168.558(4).<sup>4</sup>

The statutory section to which you refer, MCL 168.558, is part of the Michigan Election Law<sup>5</sup> and requires candidates for “a federal, county, state, city, township, village, metropolitan district, or school district office in any election” to file an “affidavit of identity.” MCL 168.558(1). The specific subsection you mention, MCL 168.558(4), requires an affidavit of identity to include:

a signed and notarized statement that as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate’s election under the Michigan campaign finance act, 1976 PA 388, MCL

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the county, and the county treasurer shall collect that late fee in the same manner as other county debts are collected.” MCL 169.217(2).

<sup>3</sup> The MCFA defines a “filing official” as “the official designated under this act to receive required statements and reports.” MCL 169.207(3). Such an official can be a county clerk, MCL 169.215(19), or the Secretary of State, MCL 169.218. Although your request focuses on county clerks, the analysis in this opinion applies equally to both county clerks and the Secretary of State.

<sup>4</sup> This question is listed in your letter as the fourth question, but for analytical purposes it will be addressed third.

<sup>5</sup> MCL 168.1, *et seq.*



169.201 to 169.282, have been filed or paid; and a statement that the candidate acknowledges that making a false statement in the affidavit is perjury, punishable by a fine up to \$1,000.00 or imprisonment for up to 5 years, or both. [MCL 168.558(4).]

In addition, that subsection precludes a candidate who has made a false statement regarding unpaid late filing fees on his or her affidavit of identity from being on the ballot:

An officer shall not certify to the board of election commissioners the name of a candidate who . . . executes an affidavit of identity that contains a false statement with regard to any information or statement required under this section. [*Id.*]

“The primary goal of statutory interpretation is to ascertain the legislative intent that may reasonably be inferred from the statutory language.” *Krohn v Home-Owners Ins Co*, 490 Mich 145, 156 (2011). “Unless statutorily defined, every word or phrase of a statute should be accorded its plain and ordinary meaning, taking into account the context in which the words are used.” *Id.*

Here, looking at the language of MCL 168.558(4), it is clear that the affidavit of identity is required to include a statement that all “late filing fees” assessed under the MCFA against a candidate or that candidate’s committee have been “paid.” But the plain and ordinary meaning of the statutory language used to convey that requirement, standing alone, does not answer your question, as there is no indication whether only those late filing fees that are collectible (i.e., within the six-year statute of limitations) are relevant. However, when that statutory language is examined in the context in which it is used in MCL 168.558(4), the legislative intent and the answer to your question become apparent.

MCL 168.558(4) not only requires a statement that all “late filing fees” assessed under the MCFA against a candidate or that candidate’s committee have been “paid,” but it also requires a statement that all “fines” assessed under the MCFA against a candidate or that candidate’s committee have been “paid” and that all “statements” and “reports” that are necessary under the MCFA for a candidate or that candidate’s committee have been “filed.” When these additional requirements are considered, it is apparent that the intent behind MCL 168.558(4) is for a candidate to attest, under risk of criminal prosecution and not being placed on the ballot, that any prior noncompliance with the MCFA in regard to paying late filing fees and fines, or filing statements and reports, has been corrected, and no such fees, fines, statements, or reports remain outstanding.

Considering this intent and the lack of limiting language, whether a late fee is collectible is of no consequence. Even though a candidate’s late filing fees are not collectible after six years, it does not change the fact that prior noncompliance with the MCFA in regard to paying those fees has not been corrected and those late filing fees remain outstanding. In other words, the intent behind MCL 168.558(4) is to ensure that a candidate is in full compliance with the MCFA when it comes to the filing of statements and reports and the payment of late fees and fines. And a candidate who failed to pay all late fees that had been imposed under the MCFA is not in full compliance with the Act. This is true regardless of whether those late filing fees are actually collectible. Simply put, to effectuate the intent behind MCL 168.558(4), even if a late filing fee is not collectible, it remains an outstanding “late

filing fee” for purposes of that statutory provision. And this understanding comports with the provision’s plain language.

It is my opinion, therefore, that a filing official must still consider unpaid late fees that are beyond the six-year statute of limitations on collection when determining whether a candidate is qualified to be on the ballot pursuant to MCL 168.558(4).

The last question to be answered is whether unpaid fines assessed under the MCFA that are beyond the statute of limitations should be removed from a committee’s record.

As an initial matter, your letter references a “committee.” But there are various types of committees that can be formed under the MCFA. See, e.g., MCL 169.224(2)(f) (referring to “a candidate committee, political party committee, independent expenditure committee, political committee, or ballot question committee”). Because you did not identify any particular type of committee, it is presumed that you are referring to *any* committee formed under the MCFA.

In regard to a candidate committee, your question can be answered, in part, by the previous analysis. As mentioned, the affidavit of identity discussed above must contain an attestation that “all ... late filing fees and *fines* required of the candidate *or any candidate committee* organized to support the candidate’s election . . . have been filed or paid.” MCL 168.558(4) (emphasis added). For the same reasons unpaid late fees beyond the statute of limitations should still be considered

for purposes of MCL 168.558(4), unpaid fines assessed under the MCFA that are beyond the statute of limitations should also be considered for purposes of MCL 168.558(4). And it is not only unpaid fines beyond the statute of limitations that have been assessed against a candidate that are to be considered, but such fines against a candidate's committee as well. Therefore, there is a purpose other than collection for which maintaining a record of a candidate committee's unpaid fines is relevant. In light of that non-collection-related purpose, unpaid fines should not be removed from a candidate committee's record simply because the statute of limitations may have passed on collecting the fines.

To be clear, it is worth reiterating that the affidavit of identity and attestation requirements of MCL 168.558(4) discussed above apply only to a candidate committee, not to any other type of committee. Accordingly, the preceding analysis does not apply to a committee other than a candidate committee.

That said, although the analysis is slightly different, the conclusion remains the same for *any* type of committee – unpaid fines should not be removed from a committee's record simply because the statute of limitations may have passed on collecting the fines. For example, one thing that *all* committees have in common is that “[a] committee may not dissolve if it has assets, outstanding debts, or unpaid late filing fees.” Mich Admin Code, R 169.28(3). This dissolution rule does not specifically mention “unpaid fines,” but a review of the plain and ordinary meaning of the language indicates that the rule does pertain to unpaid fines as well. In particular, an “outstanding debt” is an “obligation or liability to pay someone else”

that “is still in existence; not settled or resolved.” *The American Heritage Dictionary*, (Second College Edition) (1985) (defining “outstanding” and “debt”).<sup>6</sup> And a fine is indeed an obligation to pay someone else. Accordingly, unpaid fines (i.e., fines that have not been settled or resolved) would amount to “outstanding debts” for purposes of Rule 169.28(3). Significantly, the rule does not say “outstanding *collectible* debts” or otherwise exclude uncollectible debts. Rather, the existence of *any* obligation to pay someone that has not been settled or resolved, including unpaid fines, would prevent a committee from dissolving, whether the obligation is collectible or not. As a result, there is a purpose other than collection for which maintaining a record of any committee’s unpaid fines is relevant. In light of a non-collection-related purpose such as this, unpaid fines should not be removed from a committee’s record simply because the statute of limitations may have passed on collecting the fines.<sup>7</sup>

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<sup>6</sup> A dictionary may be consulted to ascertain the plain meaning of a word. *Wardell v Hincka*, 297 Mich App 127, 132 (2012).

<sup>7</sup> In situations where there are no outstanding late fees or fines, the filing official should consult their attorney and the applicable retention schedules to determine how long records should be kept. See generally, [www.michigan.gov/dtmb/services/recordsmanagement/schedules](http://www.michigan.gov/dtmb/services/recordsmanagement/schedules)

It is my opinion, therefore, that unpaid fines assessed against a committee that are beyond the six-year statute of limitations on collection should not be removed from that committee's record.



Dana Nessel  
Attorney General

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**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2023 SESSION)**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*“(2) The office of regulatory reform shall publish a cumulative index for the Michigan register.”*

*The following table cites administrative rules promulgated during the year 2023 and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).*

**MICHIGAN ADMINISTRATIVE CODE TABLE  
(2023 RULE FILINGS)**

R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue
37.2	*	10	125.154	*	6	205.16	*	15
37.4	*	10	125.161	*	6	205.20	*	15
37.5	*	10	125.171	*	6	205.22	*	15
37.6	*	10	125.172	*	6	205.26	*	15
37.7	*	10	125.173	*	6	205.29	A	15
37.10	*	10	125.181	*	6	205.52	R	15
37.11	*	10	125.182	*	6	205.54	*	15
37.12	*	10	125.190	*	6	205.55	*	15
37.25	*	10	125.191	*	6	205.56	R	15
37.28	A	10	125.192	*	6	205.57	R	15
37.29	A	10	125.193	*	6	205.58	R	15
37.30	A	10	125.194	*	6	205.62	*	15
37.31	A	10	125.195	*	6	205.63	R	15
125.101	*	6	125.196	*	6	205.64	R	15
125.102	*	6	125.197	*	6	205.66	R	15
125.103	*	6	125.198	*	6	205.67	*	15
125.104	A	6	125.199	*	6	205.68	*	15
125.105	*	6	125.201	*	6	205.70	*	15
125.109	*	6	125.202	*	6	205.71	*	15
125.111	*	6	125.203	*	6	205.72	R	15
125.113	*	6	125.204	*	6	205.73	R	15
125.115	*	6	125.211	*	6	205.75	R	15
125.119	*	6	125.212	*	6	205.76	*	15
125.121	*	6	125.213	*	6	205.77	*	15
125.122	*	6	125.214	*	6	205.78	R	15
125.123	*	6	125.215	*	6	205.79	*	15
125.131	*	6	125.216	*	6	205.80	*	15
125.132	*	6	125.217	*	6	205.81	R	15
125.133	*	6	125.218	*	6	205.83	R	15
125.134	*	6	125.219	*	6	205.84	R	15
125.141	*	6	125.220	*	6	205.88	*	15
125.142	*	6	125.221	*	6	205.89	R	15
125.143	*	6	125.222	*	6	205.79	*	15
125.144	*	6	125.223	*	6	205.80	*	15
125.145	*	6	125.224	*	6	205.81	R	15
125.146	*	6	205.8	R	15	205.83	R	15
125.151	*	6	205.10	*	15	205.84	R	15
125.152	*	6	205.13	*	15	205.88	*	15
125.153	*	6	205.15	*	15	205.89	R	15

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)



R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue
205.90	R	15	257.993	*	10	325.1301	*	12
205.91	R	15	257.994	*	10	325.1302	A	12
205.92	R	15	257.996	*	10	325.1303	*	12
205.93	*	15	257.1691	*	15	325.1304	A	12
205.94	*	15	285.623.205	*	6	325.1305	*	12
205.97	R	15	285.623.214	*	6	325.1307	*	12
205.98	*	15	285.623.215	*	6	325.1315	*	12
205.99	R	15	299.701	R	9	325.1331	*	12
205.100	R	15	299.702	R	9	325.1335	*	12
205.101	R	15	299.703	R	9	325.1337	*	12
205.102	R	15	299.704	R	9	325.1339	*	12
205.104	*	15	299.705	R	9	325.1349	*	12
205.106	R	15	299.1021	*	6	325.1351	*	12
205.107	R	15	299.1022	*	6	325.1353	*	12
205.108	*	15	299.1023	*	6	325.1355	*	12
205.109	*	15	299.1024	*	6	325.1357	*	12
205.110	R	15	299.1025	*	6	325.1359	*	12
205.111	*	15	299.1026	*	6	325.1361	*	12
205.112	*	15	299.1027	*	6	325.1363	*	12
205.113	R	15	299.1028	*	6	325.1365	*	12
205.114	R	15	318.111	*	11	325.1367	*	12
205.115	R	15	318.145	*	11	325.1371	*	12
205.116	R	15	318.145c	*	11	325.1377	R	12
205.117	R	15	318.146	*	11	325.1379	R	12
205.118	R	15	323.951	R	6	325.1381	*	12
205.119	R	15	323.952	R	6	325.1383	*	12
205.124	R	15	323.953	R	6	325.1385	*	12
205.126	R	15	323.954	R	6	325.1387	R	12
205.130	R	15	323.955	R	6	325.1388	A	12
205.131	R	15	323.956	R	6	325.1389	R	12
205.132	*	15	323.957	R	6	325.1391	*	12
205.133	R	15	323.958	R	6	325.1393	*	12
205.134	R	15	323.959	R	6	325.1395	*	12
205.135	R	15	323.960	R	6	325.1603a	*	10
205.137	*	15	323.961	R	6	325.1610	*	10
205.139	R	15	323.962	R	6	325.1633a	*	10
205.142	A	15	323.963	R	6	325.1640	*	10
257.991	*	10	323.964	R	6	325.1901	*	6
257.992	*	10	323.965	R	6	325.1924	*	6

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue
325.1932	*	6	325.22184	*	10	336.1621	*	8
325.2651	*	10	325.22186	*	10	336.1621a	A	8
325.2652	*	10	325.22187	*	10	336.1622	*	8
325.2653	*	10	325.22189	*	10	336.1623	*	8
325.2654	R	10	325.22190	*	10	336.1624	*	8
325.2655	*	10	325.22191	*	10	336.1624a	*	8
325.2656a	A	10	325.22193	*	10	336.1625	*	8
325.2657a	A	10	325.22194	*	10	336.1627	*	8
325.2658	*	10	325.22201	*	10	336.1628	*	8
325.2659	A	10	325.22202	*	10	336.1629	*	8
325.22101	*	10	325.22203	*	10	336.1630	*	8
325.22102	*	10	325.22204	*	10	336.1631	*	8
325.22103	*	10	325.22205	*	8	336.1632	*	8
325.22111	*	10	325.22206	*	8	336.1633	A	8
325.22112	*	10	325.22207	*	8	336.1634	A	8
325.22113	*	10	325.22208	*	8	336.1635	A	8
325.22114	*	10	325.22209	*	8	336.1636	A	8
325.22116	*	10	325.22210	*	8	336.1637	A	8
325.22117	*	10	325.22211	*	8	336.1638	A	8
325.22118	*	10	325.22212	*	8	336.1639	A	8
325.22120	*	10	325.22213	*	8	336.1640	A	8
325.22122	*	10	325.22214	*	8	336.1634	A	6
325.22123	*	10	325.22215	*	8	336.1635	A	6
325.22124	*	10	325.22216	*	8	336.1636	A	6
325.22125	*	10	325.22217	*	8	336.1637	A	6
325.22126	*	10	325.22218	A	8	336.1638	A	6
325.22127	*	10	333.5065	*	11	336.1639	A	6
325.22131	*	10	336.1601	*	8	336.1640	A	6
325.22132	*	10	336.1602	*	8	336.1641	A	6
325.22133	*	10	336.1606	*	8	336.1642	A	6
325.22134	*	10	336.1607	*	8	336.1643	A	6
325.22136	*	10	336.1608	*	8	336.1644	A	6
325.22137	*	10	336.1609	*	8	336.1660	*	6
325.22138	*	10	336.1610	*	8	336.1661	R	10
325.22139	A	10	336.1610a	A	8	336.1662	A	10
325.22165	*	10	336.1611	*	8	338.114	*	10
325.22181	*	10	336.1618	*	8	338.115	*	10
325.22182	*	10	336.1620	*	8	338.119	*	10
325.22183	*	10	336.1620a	A	8	338.120	*	10

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue
338.121	*	10	338.909	R	8	338.1037a	R	15
338.123	*	10	338.911	R	8	338.1039a	R	8
338.125	*	10	338.921	R	8	338.1099a	R	8
338.127	*	10	338.921a	R	8	338.1211	*	8
338.129	*	10	338.922	R	8	338.1215	*	8
338.133	*	10	338.923	R	8	338.1221	*	8
338.141	*	10	338.924	R	8	338.1222	R	8
338.143	*	10	338.924a	R	8	338.1223	*	8
338.301	*	10	338.924b	R	8	338.1223a	R	8
338.302	R	10	338.925	R	8	338.1224	*	8
338.303	*	10	338.926	R	8	338.1225	*	8
338.305	R	10	338.927	R	8	338.1226	*	8
338.306	*	10	338.928	R	8	338.1227	*	6
338.307	R	10	338.1101a	R	8	338.1229	*	6
338.309	R	10	338.1002a	R	8	338.1229a	*	6
338.311	R	10	338.1003a	R	8	338.1231	*	6
338.313	R	10	338.1004a	R	8	338.1232	R	6
338.315	R	10	338.1005a	R	8	338.1233	*	6
338.317	R	8	338.1005b	R	8	338.1233a	R	6
338.319	R	8	338.1005c	R	8	338.1234a	*	6
338.320	R	8	338.1005d	R	8	338.1235	*	6
338.322	A	8	338.1006a	R	8	338.1236	*	8
338.323	A	8	338.1006b	R	8	338.1241	A	8
338.325	A	8	338.1007a	R	8	338.1243	A	8
338.327	A	8	338.1008a	R	8	338.1251	*	8
338.328	A	8	338.1009a	R	8	338.1252	*	8
338.329	A	8	338.1010a	R	8	338.1301	*	8
338.330	A	8	338.1011a	R	8	338.1303	*	8
338.331	A	8	338.1012a	R	8	338.1309	*	8
338.332	A	8	338.1013a	R	8	338.1317	*	8
338.333	A	8	338.1014a	R	8	338.1321	*	8
338.901	R	8	338.1015a	R	8	338.1345	*	8
338.902	R	8	338.1016a	R	8	338.1349	*	8
338.903	R	8	338.1017a	R	8	338.1357	*	6
338.904	R	8	338.1018a	R	8	338.1369	*	6
338.905	R	8	338.1022a	R	8	338.1751	*	6
338.906	R	8	338.1023a	R	8	338.1758	A	6
338.907	R	8	338.1027a	R	8	338.1761	*	6
338.908	R	8	338.1035a	R	8	338.1763	*	6

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue
338.1765	*	6	338.2525	*	11	338.4903	*	6
338.1771	*	6	338.2529	*	11	338.4904	*	6
338.1772	*	6	338.2541	*	11	338.4905	*	6
338.1774	*	6	338.2543	*	11	338.4906	*	6
338.1775	*	6	338.2545	*	11	338.4907	*	6
338.1776	*	6	338.2547	*	11	338.4907a	*	6
338.1777	A	6	338.2549	*	11	338.4907b	*	6
338.1781	*	6	338.2551	*	11	338.4907c	*	6
338.2201	*	6	338.2553	*	11	338.4909	*	6
338.2201a	*	6	338.2555	*	11	338.4910	*	6
338.2202a	*	6	338.2561	*	11	338.4921	*	6
338.2205	*	6	338.2563	*	11	338.4901a	*	6
338.2205a	A	6	338.2565	*	11	338.4903	*	6
338.2206	*	6	338.2567	*	11	338.4904	*	6
338.2207	R	6	338.2569	*	11	338.4905	*	6
338.2401	*	6	338.2571	*	11	338.4906	*	6
338.2407	*	6	338.2573	*	11	338.4907	*	6
338.2411	*	6	338.2581	*	11	338.4907a	*	6
338.2413	*	6	338.2583	*	11	338.4907b	*	6
338.2421	*	6	338.2585	*	11	338.4907c	*	6
338.2423	*	6	338.3041	*	12	338.4909	*	6
338.2425	*	6	338.3042	A	12	338.4910	*	6
338.2427	*	6	338.3043	*	12	338.4921	*	6
338.2429	*	6	338.3044	*	12	338.6101	*	6
338.2431	*	10	338.3051	*	10	338.6103	*	6
338.2435	*	10	338.3052	*	10	338.6201	*	6
338.2437	*	10	338.3053	*	10	338.6301	*	6
338.2441	*	10	338.3054	*	10	338.6305	*	6
338.2443	*	10	338.3055	*	10	338.6308	*	6
338.2455	*	10	338.3056	*	10	338.6311	*	6
338.2457	*	10	338.3901	*	6	338.7001	*	6
338.2461	*	10	338.3911	*	6	338.7002	*	6
338.2462	*	10	338.3913	*	6	338.7003	*	6
338.2463	*	10	338.3921	*	6	338.7121	*	9
338.2465	A	10	338.3925	*	6	338.7122	*	9
338.2471	*	10	338.3927	*	6	338.7126	*	9
338.2473	*	10	338.3929	*	6	338.7131	*	9
338.2481	*	10	338.3931	*	6	338.7132	*	9
338.2521	*	11	338.4901a	*	6	338.7133	*	9

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue
338.7134	*	9	339.223b	A	6	339.5172	A	8
338.7135	*	9	339.223c	A	6	339.5173	A	8
338.7136	*	9	339.225	*	6	339.5174	A	8
338.7137	*	9	339.225a	A	6	339.5175	A	8
338.7139	*	9	339.226	*	6	339.5176	A	8
338.7141	*	9	339.226b	A	6	339.5201	A	8
338.7142	*	9	339.226c	A	6	339.5202	A	8
338.7145	*	9	339.230	*	6	339.5203	A	8
338.7146	*	9	339.230a	A	6	339.5204	A	8
338.7147	*	9	339.230b	A	6	339.5205	A	8
338.7148	*	9	339.232	*	6	339.5206	A	8
338.7149	*	9	339.232a	A	6	339.5207	A	8
338.7161	*	9	339.232b	A	6	339.5208	A	8
338.7163	*	9	399.246b	A	6	339.5209	A	8
338.8102	*	6	339.261	*	6	339.5210	A	8
338.8103	*	6	339.265	*	6	339.5211	A	8
338.8104	*	6	339.929	R	8	339.5212	A	8
338.8107	*	6	339.930	R	8	339.5213	A	8
338.8109	*	6	339.931	R	8	339.5214	A	8
338.8110	*	6	339.931a	R	8	339.5215	A	8
338.8113	*	6	339.931b	R	8	339.5216	A	8
338.8126	*	6	339.932	R	8	339.5217	A	8
338.8127	*	6	339.5101	A	8	339.5218	A	8
338.17101	*	6	339.5102	A	8	339.5219	A	8
338.17111	*	6	339.5111	A	8	339.5220	A	8
338.17115	*	6	339.5112	A	8	339.5221	A	8
338.17121	*	6	339.5113	A	8	339.5222	A	8
338.17123	*	6	339.5114	A	8	339.5223	A	8
338.17125	*	6	339.5115	A	8	339.5224	A	8
338.17127	R	6	339.5116	A	8	339.5225	A	8
338.17134	*	6	339.5117	A	8	339.5226	A	8
338.17137	*	6	339.5118	A	8	339.5227	A	8
338.17141	*	6	339.5119	A	8	339.5231	A	8
339.101	*	6	339.5121	A	8	339.5232	A	8
339.104	A	6	339.5131	A	8	339.5233	A	8
339.201	*	6	339.5141	A	8	339.5234	A	8
339.203	*	6	339.5151	A	8	339.5235	A	8
339.204a	A	6	339.5161	A	8	339.5236	A	8
339.205a	*	6	339.5171	A	8	339.5237	A	8

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue
339.5238	A	8	339.5411	A	8	339.19018	R	6
339.5240	A	8	339.5412	A	8	339.19021	A	6
339.5241	A	8	339.15101	*	9	339.19022	A	6
339.5242	A	8	339.15201	*	9	339.19024	A	6
339.5243	A	8	339.15202	*	9	339.19031	A	6
339.5244	A	8	339.15204	*	9	339.19034	A	6
339.5245	A	8	339.15304	*	9	339.19036	A	6
339.5246	A	8	339.15401	*	9	339.23101	*	8
339.5247	A	8	339.15404	*	9	339.23203	*	8
339.5248	A	8	339.15501	*	9	339.23303	*	8
339.5249	A	8	339.15502	*	9	339.23307	*	8
339.5250	A	8	339.16001	*	9	339.23309	*	8
339.5251	A	8	339.16021	*	9	339.23315	*	8
339.5252	A	8	339.16022	*	9	339.23317	*	8
339.5253	A	8	339.16025	*	9	339.23321	*	8
339.5261	A	8	339.16026	*	9	400.301	A	6
339.5262	A	8	339.16031	*	9	400.303	A	6
339.5263	A	8	339.16032	*	9	400.311	A	6
339.5264	A	8	339.16040	*	9	400.313	A	6
339.5265	A	8	339.16041	*	9	400.315	A	6
339.5266	A	8	339.17101	*	9	400.317	A	6
339.5270	A	8	339.17201	*	9	400.319	A	6
339.5290	A	8	339.17202	*	9	400.320	A	6
339.5295	A	8	339.17301	*	9	400.321	A	6
339.5300a	A	8	339.17303	*	9	400.323	A	6
339.5300b	A	8	339.17401	*	9	400.325	A	6
339.5300c	A	8	339.17402	*	9	400.327	A	6
339.5300d	A	8	339.17403	*	9	400.329	A	6
339.5300e	A	8	339.17505	*	9	400.331	A	6
339.5300f	A	8	339.17506	*	9	400.332	A	6
339.5301	A	8	339.19004	R	6	400.333	A	6
339.5302	A	8	339.19006	R	6	400.334	A	6
339.5305	A	8	339.19008	R	6	400.335	A	6
339.5306	A	8	339.19010	R	6	400.337	A	6
339.5309	A	8	339.19011	A	6	400.339	A	6
339.5400	A	8	339.19012	R	6	400.341	A	6
339.5405	A	8	339.19013	A	6	400.343	A	6
339.5406	A	8	339.19014	R	6	400.345	A	6
339.5408	A	8	339.19016	R	6	400.347	A	6

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue
400.349	A	6	400.9409	*	11	400.12309	*	12
400.351	A	6	400.9410	*	11	400.12310	*	12
400.352	A	6	400.9411	*	11	400.12311	*	12
400.353	A	6	400.9412	*	11	400.12312	*	12
400.354	A	6	400.9413	*	11	400.12313	*	12
400.355	A	6	400.9415	*	11	400.12314	*	12
400.356	A	6	400.9416	*	11	400.12315	*	12
400.357	A	6	400.9417	*	11	400.12316	*	12
400.1401	*	11	400.9419	*	11	400.12317	*	12
400.1416	*	11	400.9420	*	11	400.12318	*	12
400.1416a	A	11	400.9501	*	11	400.12319	*	12
400.1417	R	11	400.9502	*	11	400.12320	*	12
400.2404	*	11	400.9503	*	11	400.12321	*	12
400.2404a	A	11	400.9505	*	11	400.12322	*	12
400.2454	*	11	400.9506	*	11	400.12323	*	12
400.9102	*	11	400.12101	*	12	400.12324	*	12
400.9201	*	11	400.12102	*	12	400.12325	*	12
400.9202	*	11	400.12103	*	12	400.12326	*	12
400.9203	*	11	400.12104	*	12	400.12327	*	12
400.9204	*	11	400.12202	*	12	400.12328	*	12
400.9205	*	11	400.12203	*	12	400.12401	*	12
400.9206	*	11	400.12205	*	12	400.12402	*	12
400.9207	R	11	400.12206	*	12	400.12403	*	12
400.9301	*	11	400.12207	*	12	400.12404	*	12
400.9302	*	11	400.12208	*	12	400.12405	*	12
400.9303	*	11	400.12209	*	12	400.12409	*	12
400.9305	*	11	400.12210	*	12	400.12411	*	12
400.9306	*	11	400.12211	*	12	400.12413	*	12
400.9308	*	11	400.12212	*	12	400.12415	*	12
400.9309	*	11	400.12213	*	12	400.12417	*	12
400.9310	*	11	400.12214	*	12	400.12418	*	12
400.9401	*	11	400.12301	*	12	400.12419	*	12
400.9402	*	11	400.12302	*	12	400.12420	*	12
400.9403	*	11	400.12303	*	12	400.12421	*	12
400.9404	*	11	400.12304	*	12	400.12422	*	12
400.9405	*	11	400.12305	*	12	400.12501	*	12
400.9406	*	11	400.12306	*	12	400.12502	*	12
400.9407	*	11	400.12307	*	12	400.12503	*	12
400.9408	*	11	400.12308	*	12	400.12504	*	12

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue
400.12505	*	12	408.4001	R	8	408.4105	R	8
400.12506	*	12	408.4012	R	8	408.4107	R	8
400.12507	*	12	408.4024	R	8	408.4109	R	8
400.12509	*	12	408.4025	R	8	408.4111	R	8
400.12510	*	12	408.4026	R	8	408.4114	R	8
400.12511	*	12	408.4027	R	8	408.4117	R	8
400.12601	*	12	408.4028	R	8	408.4119	R	8
400.12602	*	12	408.4029	R	8	408.4120	R	8
400.12603	*	12	408.4031	R	8	408.4121	R	8
400.12604	*	12	408.4032	R	8	408.4122	R	8
400.12605	*	12	408.4033	R	8	408.4123	R	8
400.12606	*	12	408.4034	R	8	408.4124	R	8
400.12607	*	12	408.4035	R	8	408.4125	R	8
400.12608	*	12	408.4036	R	8	408.4127	R	8
400.12701	*	12	408.4038	R	8	408.4129	R	8
400.12702	*	12	408.4039	R	8	408.4131	R	8
400.12703	*	12	408.4045	R	8	408.4133	R	8
400.12704	*	12	408.4047	R	8	408.4139	R	8
400.12705	*	12	408.4049	R	8	408.4143	R	8
400.12706	*	12	408.4051	R	8	408.4149	R	8
400.12707	R	12	408.4055	R	8	408.4151	R	8
400.12708	*	12	408.4057	R	8	408.4153	R	8
400.12709	*	12	408.4058	R	8	408.4155	R	8
400.12710	*	12	408.4059	R	8	408.4157	R	8
400.12711	*	12	408.4065	R	8	408.4161	R	8
400.12712	*	12	408.4067	R	8	408.4163	R	8
400.12713	*	12	408.4069	R	8	408.4165	R	8
400.12801	*	12	408.4071	R	8	408.4167	R	8
400.12802	*	12	408.4073	R	8	408.4169	R	8
400.12803	*	12	408.4075	R	8	408.4171	R	8
400.12804	*	12	408.4079	R	8	408.4172	R	8
400.12805	*	12	408.4081	R	8	408.4175	R	8
400.12806	*	12	408.4087	R	8	408.4177	R	8
400.12807	*	12	408.4089	R	8	408.4179	R	8
400.12808	*	12	408.4091	R	8	408.4182	R	8
400.14102	*	11	408.4096	R	8	408.4185	R	8
400.14311	*	11	408.4099	R	8	408.4187	R	8
400.15102	*	11	408.4101	R	8	408.4189	R	8
400.15311	*	11	408.4103	R	8	408.4193	R	8

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue
408.4195	R	8	408.4267	R	8	408.4711	R	8
408.4197	R	8	408.4268	R	8	408.5501	R	8
408.4201	R	8	408.4269	R	8	408.5601	R	8
408.4202	R	8	408.4270	R	8	408.5603	R	8
408.4203	R	8	408.4272	R	8	408.5604	R	8
408.4205	R	8	408.4274	R	8	408.5605	R	8
408.4206	R	8	408.4277	R	8	408.5606	R	8
408.4207	R	8	408.4278	R	8	408.5607	R	8
408.4208	R	8	408.4280	R	8	408.5608	R	8
408.4210	R	8	408.4281	R	8	408.5609	R	8
408.4212	R	8	408.4283	R	8	408.12306	*	6
408.4214	R	8	408.4284	R	8	408.12310	*	6
408.4215	R	8	408.4286	R	8	408.12331	*	6
408.4216	R	8	408.4287	R	8	408.12341	*	6
408.4217	R	8	408.4288	R	8	408.12363	*	6
408.4218	R	8	408.4290	R	8	408.12373	*	6
408.4219	R	8	408.4291	R	8	408.30001	R	8
408.4220	R	8	408.4292	R	8	408.30002	R	8
408.4222	R	8	408.4293	R	8	408.30004	R	8
408.4223	R	8	408.4294	R	8	408.30007	R	8
408.4225	R	8	408.4296	R	8	408.30010	R	8
408.4230	R	8	408.4298	R	8	408.30013	R	8
408.4232	R	8	408.4301	R	8	408.30016	R	8
408.4235	R	8	408.4302	R	8	408.30019	R	8
408.4236	R	8	408.4501	R	8	408.30022	R	8
408.4240	R	8	408.4503	R	8	408.30025	R	8
408.4241	R	8	408.4507	R	8	408.30028	R	8
408.4242	R	8	408.4510	R	8	408.30031	R	8
408.4244	R	8	408.4511	R	8	408.30034	R	8
408.4246	R	8	408.4512	R	8	408.30037	R	8
408.4251	R	8	408.4515	R	8	408.30040	R	8
408.4253	R	8	408.4520	R	8	408.30043	R	8
408.4255	R	8	408.4522	R	8	408.30046	R	8
408.4257	R	8	408.4566	R	8	408.30049	R	8
408.4258	R	8	408.4575	R	8	408.30052	R	8
408.4259	R	8	408.4581	R	8	408.30055	R	8
408.4260	R	8	408.4601	R	8	460.102	*	7
408.4263	R	8	408.4626	R	8	460.102a	*	7
408.4265	R	8	408.4701	R	8	460.106	*	7

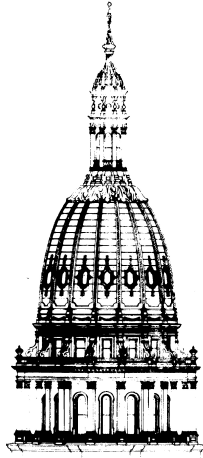
(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue
460.107	*	7	460.733	*	7	460.960	A	8
460.115	*	7	460.734	*	7	460.962	A	8
460.115a	A	7	460.741	*	7	460.964	A	8
460.143	*	7	460.742	*	7	460.966	A	8
460.151	*	7	460.743	*	7	460.968	A	8
460.154	*	7	460.744	*	7	460.970	A	8
460.601a	R	8	460.745	*	7	460.974	A	8
460.601b	R	8	460.746	*	7	460.976	A	8
460.602	R	8	460.747	*	7	460.978	A	8
460.604	R	8	460.748	*	7	460.980	A	8
460.606	R	8	460.751	*	7	460.982	A	8
460.608	R	8	460.752	*	7	460.984	A	8
460.610	R	8	460.901a	A	8	460.986	A	8
460.612	R	8	460.901b	A	8	460.988	A	8
460.615	R	8	460.902	A	8	460.990	A	8
460.618	R	8	460.904	A	8	460.991	A	8
460.620	R	8	460.906	A	8	460.992	A	8
460.622	R	8	460.908	A	8	460.1001	A	8
460.624	R	8	460.910	A	8	460.1004	A	8
460.626	R	8	460.911	A	8	460.1006	A	8
460.628	R	8	460.920	A	8	460.1008	A	8
460.640	R	8	460.922	A	8	460.1010	A	8
460.642	R	8	460.924	A	8	460.1012	A	8
460.644	R	8	460.926	A	8	460.1014	A	8
460.646	R	8	460.928	A	8	460.1016	A	8
460.648	R	8	460.930	A	8	460.1018	A	8
460.650	R	8	460.932	A	8	460.1020	A	8
460.652	R	8	460.934	A	8	460.1022	A	8
460.654	R	8	460.936	A	8	460.1024	A	8
460.656	R	8	460.938	A	8	460.1026	A	8
460.701	*	7	460.942	A	8	460.3101	*	7
460.702	*	7	460.944	A	8	460.3102	*	7
460.703	*	7	460.945	A	8	460.3203	*	7
460.721	*	7	460.948	A	8	460.3204	*	7
460.722	*	7	460.950	A	8	460.3205	*	7
460.723	*	7	460.952	A	8	460.3301	*	7
460.724	*	7	460.954	A	8	460.3303	*	7
460.731	*	7	460.956	A	8	460.3304	*	7
460.732	*	7	460.958	A	8	460.3305	*	7

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

R Number	Action	2023 MR Issue	R Number	Action	2023 MR Issue
460.3308	*	7	500.23	A	6
460.3309	R	7	500.24	A	6
460.3408	*	7	500.25	A	6
460.3409	*	7			
460.3410	*	7			
460.3411	*	7			
460.3501	*	7			
460.3502	*	7			
460.3503	*	7			
460.3504	*	7			
460.3505	*	7			
460.3506	A	7			
460.3601	*	7			
460.3602	*	7			
460.3603	*	7			
460.3605	*	7			
460.3606	*	7			
460.3607	*	7			
460.3608	R	7			
460.3609	*	7			
460.3610	*	7			
460.3611	*	7			
460.3612	*	7			
460.3613	*	7			
460.3613a	A	7			
460.3614	*	7			
460.3615	*	7			
460.3617	*	7			
460.3701	*	7			
460.3702	*	7			
460.3703	*	7			
460.3704	*	7			
460.3705	*	7			
460.3801	*	7			
460.3802	*	7			
460.3803	*	7			
460.3804	*	7			
500.21	A	6			
500.22	A	6			

(\* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)



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**ADMINISTRATIVE RULES  
ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2023 SESSION)**

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*Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”*

*Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\* \* \*

*(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.*

*(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”*



# 2023 Michigan Public Acts Table

Legislative Service Bureau  
Legal Division, Statutory Compiling and Law Publications Unit  
124 W. Allegan, Lansing, MI 48909

October 25, 2023  
Compiled through PA 176 of 2023

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0001		0007	Yes	1/31/2023	1/31/2023	1/31/2023	<b>Appropriations; supplemental;</b> appropriations for multiple departments and branches for fiscal years 2021-2022 and 2022-2023; provide for. ( <b>Sen. Sarah Anthony</b> )
0002		0013	No	2/1/2023	2/1/2023	**	<b>Elections; presidential primary;</b> presidential primary election date; revise. ( <b>Sen. Jeremy Moss</b> )
0003		0008	Yes	2/14/2023	2/14/2023	2/14/2023	<b>Appropriations; supplemental;</b> supplemental appropriations in the school aid act for fiscal years 2021-2022 and 2022-2023; provide for. ( <b>Sen. Sarah Anthony</b> )
0004	4001		No	3/7/2023	3/7/2023	**	<b>Individual income tax</b> retirement or pension benefits; limitations and restrictions on deductions of certain retirement or pension benefits, revenue distributions, earned income tax credit, rebate payments, rebate and revitalization and placemaking funds; revise, increase, and provide for. ( <b>Rep. Angela Witwer</b> )
0005	4016		Yes	3/8/2023	3/8/2023	3/8/2023	<b>Appropriations; supplemental;</b> appropriations for multiple departments for fiscal years 2021-2022 and 2022-2023; provide for. ( <b>Rep. Angela Witwer</b> )
0006		0004	No	3/16/2023	3/16/2023	**	<b>Civil rights; general discrimination</b> sexual orientation and gender identity or expression; include as categories protected under the Elliott-Larsen civil rights act. ( <b>Sen. Jeremy Moss</b> )
0007		0012	No	3/24/2023	3/24/2023	**	<b>Education; elementary;</b> requirements related to the retention of certain grade 3 pupils; modify. ( <b>Sen. Dayna Polehanki</b> )
0008		0034	No	3/24/2023	3/24/2023	**	<b>Labor; collective bargaining</b> collective bargaining rights; revise to restore former provisions. ( <b>Sen. Darrin Camilleri</b> )

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91st day after sine die adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto.

++ - Pocket veto.

# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0009	4004		No	3/24/2023	3/24/2023	**	<b>Labor</b> ; <i>collective bargaining</i> requirement for agency fee for nonunion members; allow in bargaining agreements and as condition of employment in public sector. (Rep. Regina Weiss)
0010	4007		No	3/24/2023	3/24/2023	**	<b>Labor</b> ; <i>hours and wages</i> prevailing wage; reenact. (Rep. Brenda Carter)
0011	4006		No	4/5/2023	4/5/2023	**	<b>Crimes</b> ; <i>abortion</i> ; penalty for administering with intent to procure miscarriage and advertisement or sale of certain drugs; repeal. (Rep. Laurie Pohutsky)
0012		0002	No	4/5/2023	4/5/2023	**	<b>Crimes</b> ; <i>abortion</i> ; provision related to publication of cures for contraceptive preventatives; repeal. (Sen. Erika Geiss)
0013	4032		No	4/5/2023	4/5/2023	** #	<b>Criminal procedure</b> ; <i>sentencing guidelines</i> reference to crime of administering drugs to procure miscarriage; remove to reflect repeal. (Rep. Stephanie A. Young)
0014		0082	No	4/13/2023	4/13/2023	**	<b>Use tax</b> ; <i>exemptions</i> ; firearm safety devices; exempt. (Sen. Kevin Hertel)
0015		0081	No	4/13/2023	4/13/2023	**	<b>Sales tax</b> ; <i>exemptions</i> ; firearm safety devices; exempt. (Sen. Jeff Irwin)
0016		0080	No	4/13/2023	4/13/2023	** #	<b>Crimes</b> ; <i>weapons</i> ; sentencing guidelines reference; update. (Sen. Kristen McDonald Rivet)
0017		0079	No	4/13/2023	4/13/2023	**	<b>Crimes</b> ; <i>weapons</i> ; penalties for storing or leaving a firearm where it may be accessed by a minor; provide for. (Sen. Rosemary Bayer)
0018	4142		No	4/13/2023	4/13/2023	** #	<b>Weapons</b> ; <i>firearms</i> ; references to pistol in penal code; update. (Rep. Brenda Carter)

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\*\* - Act takes effect on the 91st day after sine die adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto.

++ - Pocket veto.

# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0019	4138		No	4/13/2023	4/13/2023	**	<b>Weapons; firearms;</b> license or background check for purchase of firearms; require. (Rep. Jaime Churches)
0020	4039		Yes	4/26/2023	4/26/2023	4/26/2023	<b>Sales tax; exemptions;</b> delivery and installation; exempt from sales tax. (Rep. Pat Outman)
0021	4253		Yes	4/26/2023	4/26/2023	4/26/2023	<b>Use tax; exemptions;</b> delivery and installation; exempt from use tax. (Rep. Kevin Coleman)
0022	4143		No	4/26/2023	4/26/2023	** #	<b>Weapons; firearms;</b> references in sentencing guidelines; update. (Rep. Kristian Grant)
0023	4045		Yes	4/26/2023	4/26/2023	5/1/2023	<b>Law enforcement; background check;</b> volunteer employee criminal history system; establish. (Rep. Kathy Schmaltz)
0024	4219		Yes	4/26/2023	4/26/2023	4/26/2023	<b>Economic development; Michigan strategic fund</b> membership on the Michigan strategic fund board; modify. (Rep. Matt Hall)
0025		0259	Yes	5/1/2023	5/1/2023	5/1/2023	<b>Elections; absent voters;</b> tabulating absent voter ballots received up to 6 days after an election from an absent uniformed services voter or overseas voter; provide for. (Sen. Paul Wojno)
0026		0063	Yes	5/8/2023	5/8/2023	8/6/2023	<b>Education; financing;</b> use of school sinking fund; allow for school transportation. (Sen. Dayna Polehanki)
0027		0097	Yes	5/8/2023	5/8/2023	5/8/2023 #	<b>Use tax; exemptions;</b> industrial processing exemption; clarify. (Sen. Joseph Bellino)
0028		0101	Yes	5/8/2023	5/8/2023	5/8/2023	<b>Insurance; other;</b> procedures for electronic meetings of private insurance companies; eliminate sunset. (Sen. Sarah Anthony)

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\*\*\* - See Act for applicable effective date.

+ - Line item veto.

++ - Pocket veto.

# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0029		0160	Yes	5/8/2023	5/8/2023	5/8/2023	<b>Taxation; other</b> ; reporting estimate of amount of use tax forgone; modify to reflect change in use tax act. ( <b>Sen. Sam Singh</b> )
0030	4054		Yes	5/8/2023	5/8/2023	5/8/2023 #	<b>Sales tax; exemptions</b> ; industrial processing exemption; clarify. ( <b>Rep. Greg VanWoerkom</b> )
0031		0147	No	5/17/2023	5/17/2023	**	<b>Civil rights; other</b> ; certain references to nontherapeutic abortions in the Elliott-Larsen civil rights act; remove. ( <b>Sen. Erika Geiss</b> )
0032		0018	Yes	5/17/2023	5/17/2023	8/15/2023	<b>Holidays; other</b> ; "Fred Korematsu Day"; designate as January 30 of each year. ( <b>Sen. Stephanie Chang</b> )
0033	4199		Yes	5/20/2023	5/22/2023	5/22/2023	<b>Military affairs; other</b> ; Michigan National Guard tuition assistance program; expand eligibility for spouses and dependants. ( <b>Rep. Jennifer Conlin</b> )
0034	4166		No	5/22/2023	5/22/2023	**	<b>Education; school districts</b> ; letter grade system for ranking public schools; eliminate. ( <b>Rep. Matt Koleszar</b> )
0035	4147		No	5/22/2023	5/22/2023	** #	<b>Civil procedure; service of process</b> ; service of process for extreme risk protection order actions; provide for, and waive court fees. ( <b>Rep. Julie Brixie</b> )
0036	4148		No	5/22/2023	5/22/2023	** #	<b>Criminal procedure; sentencing guidelines</b> ; guidelines for offenses under the extreme risk protection order act; enact. ( <b>Rep. Stephanie A. Young</b> )
0037	4146		No	5/22/2023	5/22/2023	** #	<b>Weapons; firearms</b> ; purchase of firearms or obtaining a concealed pistol license; prohibit if individual has an extreme risk protection order. ( <b>Rep. Kelly Breen</b> )
0038		0083	No	5/22/2023	5/22/2023	** #	<b>Civil procedure; injunctions</b> ; extreme risk protection order act; enact. ( <b>Sen. Mallory McMorrow</b> )

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91st day after sine die adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto.

++ - Pocket veto.

# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0039	4251		Yes	6/7/2023	6/7/2023	6/30/2023 #	<b>Traffic control; driver license</b> penalties for operating a vehicle while sending or receiving a message on an electronic wireless device; enhance. (Rep. Tyrone Carter)
0040	4252		Yes	6/7/2023	6/7/2023	6/30/2023 #	<b>Traffic control; violations</b> ; forwarding abstract of record or report to secretary of state for penalties for operating a vehicle while sending or receiving a message on an electronic wireless device; enhance. (Rep. Mike Mueller)
0041	4250		Yes	6/7/2023	6/7/2023	6/30/2023 #	<b>Traffic control; violations</b> ; penalties for operating a vehicle while sending or receiving a message on an electronic wireless device; enhance. (Rep. Matt Koleszar)
0042	4555		Yes	6/12/2023	6/12/2023	6/12/2023	<b>Holidays; other</b> ; "Women Veterans Recognition Day"; designate as June 12 of each year. (Rep. Julie M. Rogers)
0043	4176		Yes	6/13/2023	6/13/2023	6/13/2023 #	<b>Law enforcement; training</b> ; law enforcement agencies that fund police training for recruits; allow agreements requiring reimbursement in certain situations. (Rep. Tyrone Carter)
0044		0032	Yes	6/13/2023	6/13/2023	6/13/2023 #	<b>Law enforcement; training</b> ; law enforcement agencies that fund police training for recruits; allow agreements requiring reimbursement in certain situations. (Sen. Sylvia Santana)
0045		0090	Yes	6/15/2023	6/15/2023	6/15/2023	<b>Civil rights; racial discrimination</b> ; discrimination based on traits historically associated with race such as hair texture; prohibit. (Sen. Sarah Anthony)
0046	4120		Yes	6/29/2023	6/29/2023	9/27/2023	<b>Children; protection</b> ; distribution of training package to individuals designated as mandatory reporters for child abuse or child neglect; require. (Rep. Julie M. Rogers)
0047	4121		Yes	6/29/2023	6/29/2023	9/27/2023 #	<b>Health occupations; health professionals</b> permanent revocation of license or registration if convicted of sexual conduct under pretext of medical treatment; provide for. (Rep. Kelly Breen)
0048	4122		Yes	6/29/2023	6/29/2023	9/27/2023 #	<b>Health occupations; health professionals</b> permanent revocation of license or registration if convicted of sexual conduct under pretext of medical treatment; provide for. (Rep. Kara Hope)

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	HB	SB					
0049	4123		Yes	6/29/2023	6/29/2023	9/27/2023	<b>Crimes; other</b> , preventing reporting of crime; prohibit by use of position of authority. (Rep. Graham Filler)
0050	4124		Yes	6/29/2023	6/29/2023	9/27/2023	<b>Crimes; other</b> , preventing reporting of certain alleged crimes to title IX coordinator by use of position of authority; prohibit. (Rep. Carol Glanville)
0051	4125		Yes	6/29/2023	6/29/2023	9/27/2023	<b>Education; discipline</b> , certain actions regarding a pupil who reports being sexually assaulted; require, and prohibit a pupil from being expelled or suspended for certain actions related to the incident. (Rep. Carrie Rheingans)
0052	4375		No	6/29/2023	6/29/2023	**	<b>Economic development; other</b> , definition of qualified city; modify. (Rep. Kristian Grant)
0053		0035	No	7/11/2023	7/12/2023	**	<b>Human services; food assistance</b> , asset test for food assistance program eligibility; eliminate. (Sen. Jeff Irwin)
0054		0050	Yes	7/11/2023	7/12/2023	7/12/2023	<b>Holidays; other</b> , "Juneteenth"; designate as a public holiday and observe on June 19. (Sen. Sylvia Santana)
0055		0052	Yes	7/11/2023	7/12/2023	7/12/2023	<b>Natural resources; hunting</b> , penalty for failing to report a deer harvest or retain a deer harvest confirmation number; modify. (Sen. John Cherry)
0056		0059	Yes	7/11/2023	7/12/2023	7/12/2023	<b>Mental health; code</b> , definition of a peace officer in the mental health code; modify. (Sen. John Cherry)
0057		0066	Yes	7/11/2023	7/12/2023	10/10/2023	<b>Education; students</b> , information regarding sexual assault and harassment; require schools to provide to students and encourage related professional development. (Sen. Stephanie Chang)
0058		0067	Yes	7/11/2023	7/12/2023	10/10/2023	<b>Crimes; criminal sexual conduct</b> , sexual contact and sexual penetration under pretext of medical treatment; prohibit, and provide penalties. (Sen. Dan Lauwers)

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	HB	SB					
0059		0068	Yes	7/11/2023	7/12/2023	10/10/2023 #	<b>Criminal procedure; sentencing guidelines</b> sentencing guidelines for sexual contact or sexual penetration under pretext of medical treatment; modify. ( <b>Sen. Erika Geiss</b> )
0060		0069	Yes	7/11/2023	7/12/2023	10/10/2023	<b>Health occupations; health professionals</b> additional individual present during certain examinations of minors; require under certain circumstances and require consent. ( <b>Sen. Lana Theis</b> )
0061		0070	Yes	7/11/2023	7/12/2023	10/10/2023 #	<b>Criminal procedure; sentencing guidelines</b> sentencing guidelines for the crime of performing certain medical treatments on a minor without consent and another individual present and intentionally omitting certain services in a medical record; enact. ( <b>Sen. Ruth Johnson</b> )
0062		0071	Yes	7/11/2023	7/12/2023	10/10/2023	<b>Health; medical records</b> provision for the protection, retention, and maintenance of medical records referencing a vaginal or anal penetration treatment for 15 years by a health professional and health facility or agency; implement, and authorize department to provide guidance to licensees on certain medical services. ( <b>Sen. Roger Hauck</b> )
0063		0072	Yes	7/11/2023	7/12/2023	10/10/2023 #	<b>Criminal procedure; sentencing guidelines</b> sentencing guidelines for the crime of performing certain medical treatments on a minor without consent and another individual present and intentionally omitting certain services in a medical record; enact. ( <b>Sen. Kristen McDonald Rivet</b> )
0064		0073	Yes	7/11/2023	7/12/2023	7/12/2023	<b>Civil rights; public records</b> identity of parties proceeding anonymously in civil actions alleging sexual misconduct; exempt from disclosure under freedom of information act. ( <b>Sen. Sue Shink</b> )
0065		0236	Yes	7/11/2023	7/12/2023	10/10/2023	<b>Crimes; criminal sexual conduct</b> definition of mentally incapacitated for criminal sexual conduct cases; modify. ( <b>Sen. Jeff Irwin</b> )
0066		0125	Yes	7/11/2023	7/12/2023	7/12/2023 #	<b>Transportation; railroads</b> local grade separation grant program and fund; create. ( <b>Sen. Darrin Camilleri</b> )
0067	4153		Yes	7/11/2023	7/12/2023	7/12/2023 #	<b>Transportation; railroads</b> priorities for local grade separation fund; provide for. ( <b>Rep. Jaime Churches</b> )

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	HB	SB					
0068		0137	Yes	7/11/2023	7/12/2023	7/12/2023 #	<b>Children; guardians;</b> guardians of tribal children; allow access to guardian funds. ( <b>Sen. John Damoose</b> )
0069		0138	Yes	7/11/2023	7/12/2023	7/12/2023 #	<b>Children; guardians;</b> guardians of tribal children; allow access to guardian funds. ( <b>Sen. Jeff Irwin</b> )
0070	4689		Yes	7/11/2023	7/12/2023	7/12/2023	<b>Highways; memorial;</b> portion of US-127; designate as the "Trooper Starr Memorial Highway". ( <b>Rep. Kara Hope</b> )
0071		0209	Yes	7/11/2023	7/12/2023	9/19/2023 #	<b>Family law; marriage and divorce</b> marriage entered into by a person under 18 years of age; void. ( <b>Sen. Sarah Anthony</b> )
0072		0212	Yes	7/11/2023	7/12/2023	7/12/2023 #	<b>Probate; other;</b> references to a "married minor" in the estates and protected individuals code; eliminate. ( <b>Sen. Veronica Klinefelt</b> )
0073		0213	Yes	7/11/2023	7/12/2023	7/12/2023	<b>Family law; marriage and divorce</b> right for emancipated minor to marry; revoke. ( <b>Sen. Rosemary Bayer</b> )
0074		0216	Yes	7/11/2023	7/12/2023	7/12/2023	<b>Children; other;</b> reference to "marriage of minor child" in safe families for children act; remove. ( <b>Sen. Erika Geiss</b> )
0075	4299		Yes	7/11/2023	7/12/2023	7/12/2023	<b>Children; other;</b> marriage license as documentation of emancipation; prohibit. ( <b>Rep. Kristian Grant</b> )
0076	4300		Yes	7/11/2023	7/12/2023	7/12/2023	<b>Family law; marriage and divorce</b> action to annul a marriage based on legal age of consent; modify. ( <b>Rep. Jenn Hill</b> )
0077	4202		Yes	7/11/2023	7/12/2023	7/12/2023	<b>Criminal procedure; defenses;</b> defense to criminal sexual conduct charges based solely on mental incapacitation of the victim if the victim is the actor's spouse; repeal. ( <b>Rep. Laurie Pohutsky</b> )

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	HB	SB					
0078		0056	Yes	7/11/2023	7/12/2023	7/12/2023	<b>Crimes; other</b> , lewd and lascivious cohabitation; repeal prohibition. ( <b>Sen. Stephanie Chang</b> )
0079		0164	No	7/11/2023	7/12/2023	**	<b>Economic development; other</b> , principal shopping district and business improvement zones; modify. ( <b>Sen. Sue Shink</b> )
0080	4454		No	7/11/2023	7/12/2023	**	<b>Economic development; other</b> , principal shopping district and business improvement zones; modify. ( <b>Rep. Tyrone Carter</b> )
0081		0367	No	7/18/2023	7/19/2023	** #	<b>Elections; voting procedures</b> early voting procedures; provide for, allow processing and tabulation of absent voter ballots during the early voting period, and allow an absent voter to tabulate the absent voter's ballot in person at a polling place or early voting site. ( <b>Sen. Jeremy Moss</b> )
0082		0370	No	7/18/2023	7/19/2023	** #	<b>Elections; absent voters</b> signature matching and curing for absent voter ballot applications and absent voter ballot return envelopes; provide for, and provide for modifications to the absent voter ballot application and process. ( <b>Sen. Sylvia Santana</b> )
0083	4696		No	7/18/2023	7/19/2023	** #	<b>Criminal procedure; sentencing guidelines</b> sentencing guidelines for certain Michigan election law violations; provide for and update. ( <b>Rep. Penelope Tsernoglou</b> )
0084		0339	No	7/18/2023	7/19/2023	**	<b>Elections; absent voters</b> absent voter ballot and application tracking system; create. ( <b>Sen. Mallory McMorrow</b> )
0085	4697		No	7/18/2023	7/19/2023	**	<b>Elections; absent voter ballot drop boxes</b> requirements for absent voter ballot drop boxes; modify. ( <b>Rep. Matt Koleszar</b> )
0086	4699		No	7/18/2023	7/19/2023	**	<b>Elections; absent voters</b> provisions regarding permanent mail ballot voters; implement, and modify certain election material retention periods. ( <b>Rep. Erin Byrnes</b> )
0087		0373	No	7/18/2023	7/19/2023	** #	<b>Elections; voters</b> definition of identification for election purposes; expand. ( <b>Sen. Stephanie Chang</b> )

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	HB	SB					
0088	4702		No	7/18/2023	7/19/2023	**	<b>Elections; other</b> , precinct size; increase. ( <b>Rep. Penelope Tsernoglou</b> )
0089		0289	Yes	7/18/2023	7/19/2023	7/19/2023	<b>Economic development; brownfield redevelopment authority</b> ; tax capture revenues; modify. ( <b>Sen. Jeremy Moss</b> )
0090		0129	Yes	7/18/2023	7/19/2023	7/19/2023	<b>Economic development; brownfield redevelopment authority</b> ; certain housing activities; allow, and modify tax capture revenues. ( <b>Sen. Sam Singh</b> )
0091		0130	Yes	7/18/2023	7/19/2023	7/19/2023 #	<b>Property tax; other</b> , reference to the brownfield redevelopment financing act; update. ( <b>Sen. Kristen McDonald Rivet</b> )
0092		0131	Yes	7/18/2023	7/19/2023	7/19/2023 #	<b>Use tax; other</b> , reference to the brownfield redevelopment financing act; update. ( <b>Sen. Mary Cavanagh</b> )
0093		0132	Yes	7/18/2023	7/19/2023	7/19/2023 #	<b>Sales tax; other</b> , reference to the brownfield redevelopment financing act; update. ( <b>Sen. Sue Shink</b> )
0094		0326	Yes	7/18/2023	7/19/2023	7/19/2023	<b>Use tax; definitions</b> ; definitions; modify. ( <b>Sen. Sam Singh</b> )
0095		0141	Yes	7/18/2023	7/19/2023	7/19/2023	<b>Liquor; licenses</b> ; carryout sales and delivery of alcoholic liquor by an on-premises licensee; eliminate sunset. ( <b>Sen. Mallory McMorrow</b> )
0096		0247	Yes	7/18/2023	7/19/2023	7/19/2023	<b>Liquor; licenses</b> ; issuance of liquor licenses to sporting venues on premises of public universities; allow. ( <b>Sen. Sean McCann</b> )
0097		0219	Yes	7/18/2023	7/19/2023	7/19/2023	<b>Health occupations; pharmacists</b> ; pharmacists to order and administer certain vaccines and laboratory tests and dispense drugs under certain circumstances; allow. ( <b>Sen. Sylvia Santana</b> )

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	HB	SB					
0098	4495		Yes	7/18/2023	7/19/2023	7/19/2023	<b>Human services; medical services</b> general changes to the medical assistance program; provide for. (Rep. Will Snyder)
0099	4496		Yes	7/18/2023	7/19/2023	7/19/2023	<b>Human services; medical services</b> general changes to the medical assistance program; provide for. (Rep. Graham Filler)
0100	4362		Yes	7/18/2023	7/19/2023	7/19/2023 #	<b>Individual income tax forms</b> ; option for individuals to complete a donor registry schedule to participate in organ donor registry with annual income tax return; provide for. (Rep. Felicia Brabec)
0101	4363		Yes	7/18/2023	7/19/2023	7/19/2023 #	<b>Health; anatomical gifts</b> inclusion on the donor registry of an individual who elects to be a donor on an income tax schedule; allow. (Rep. Cynthia Neeley)
0102	4364		Yes	7/18/2023	7/19/2023	7/19/2023 #	<b>Taxation; administration</b> ; disclosure of certain information related to the donor registry program; allow. (Rep. Natalie Price)
0103		0173	Yes	7/20/2023	7/21/2023	***	<b>Appropriations; school aid omnibus</b> appropriations in the school aid act for fiscal year 2023-2024; provide for. (Sen. Darrin Camilleri)
0104		0014	No	7/26/2023	7/27/2023	**	<b>Administrative procedure; rules</b> ; prohibition on adoption of rules by state agencies from being more stringent than federal regulations; eliminate. (Sen. Sean McCann)
0105		0288	Yes	7/26/2023	7/27/2023	7/27/2023	<b>Human services; services or financial assistance</b> ; Michigan energy assistance program sunset; repeal. (Sen. Sam Singh)
0106		0302	No	7/26/2023	7/27/2023	** #	<b>Energy; alternative sources</b> property assessed clean energy program; require new construction energy projects to exceed uniform energy code standards. (Sen. Darrin Camilleri)
0107		0303	No	7/26/2023	7/27/2023	** #	<b>Energy; alternative sources</b> property assessed clean energy program; include environmental hazard and new construction projects and agricultural and multifamily property. (Sen. Kristen McDonald Rivet)

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	HB	SB					
0108	4317		Yes	7/26/2023	7/27/2023	7/27/2023 #	<b>Property tax</b> ; payment in lieu of taxes; payment in lieu of taxes for certain renewable energy facilities; provide for. (Rep. Curtis VanderWall)
0109	4318		Yes	7/26/2023	7/27/2023	7/27/2023 #	<b>Property tax</b> ; payment in lieu of taxes; payment in lieu of taxes for renewable energy facilities; provide for. (Rep. Cynthia Neeley)
0110		0161	Yes	7/26/2023	7/27/2023	7/27/2023	<b>Education</b> ; teachers and administrators; certain requirements concerning teacher certification; modify. (Sen. Erika Geiss)
0111		0162	Yes	7/26/2023	7/27/2023	7/27/2023	<b>Education</b> ; counseling; reciprocity for out-of-state school counselors; expand. (Sen. Sean McCann)
0112		0359	Yes	7/26/2023	7/27/2023	7/27/2023	<b>Labor</b> ; collective bargaining method of compensation for teachers and school administrators; modify. (Sen. Stephanie Chang)
0113	4044		No	7/26/2023	7/27/2023	**	<b>Labor</b> ; public service employment provisions related to the collection of union dues by public school personnel and the freezing of wages and benefits for certain public employees during contract negotiations; repeal. (Rep. Matt Koleszar)
0114	4233		No	7/26/2023	7/27/2023	**	<b>Labor</b> ; public service employment labor organizations' assistance in collecting dues from public school employees; remove prohibition against. (Rep. Jaime Churches)
0115	4354		No	7/26/2023	7/27/2023	**	<b>Labor</b> ; public service employment performance evaluation standards, merit pay standards, and decisions on layoff, recall, hiring, position eliminations, classroom observation, teacher placement, evaluation, discipline, and discharge; remove from prohibited subjects of bargaining for public school employers. (Rep. Regina Weiss)
0116	4820		No	7/26/2023	7/27/2023	7/1/2024 #	<b>Education</b> ; teachers and administrators; factors for personnel decisions; modify. (Rep. Phil Skaggs)
0117	4616		No	7/26/2023	7/27/2023	** #	<b>Mental health</b> ; children; conversion therapy; prohibit. (Rep. Felicia Brabec)

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	HB	SB					
0118	4617		No	7/26/2023	7/27/2023	** #	<b>Mental health; other</b> ; definition of conversion therapy; provide for. (Rep. Jason Hoskins)
0119	4437		Yes	7/31/2023	8/1/2023	8/1/2023 +	<b>Appropriations; omnibus</b> ; appropriations for multiple departments and branches for fiscal year 2023-2024; provide for, and make supplemental appropriations for fiscal year 2022-2023. (Rep. Angela Witwer)
0120	4829		Yes	9/12/2023	9/13/2023	9/13/2023	<b>Michigan business tax credits</b> ; time frame for completion of certain multiphase projects; modify. (Rep. Abraham Aiyash)
0121	4294		Yes	9/18/2023	9/19/2023	9/19/2023 #	<b>Family law; marriage and divorce</b> minimum age of consent for marriage; establish at 18. (Rep. Kara Hope)
0122	4295		Yes	9/18/2023	9/19/2023	9/19/2023 #	<b>Family law; marriage and divorce</b> minimum without publicity for persons under 18 years of age; prohibit. (Rep. Alabas Farhat)
0123	4296		Yes	9/18/2023	9/19/2023	9/19/2023 #	<b>Children; other</b> ; certain obligations of minor children released upon marriage; clarify. (Rep. Betsy Coffia)
0124		0134	Yes	9/18/2023	9/19/2023	9/19/2023 #	<b>Courts; drug court</b> specialty court authorization to issue a restricted license requiring an ignition interlock device; modify. (Sen. Ruth Johnson)
0125		0135	Yes	9/18/2023	9/19/2023	9/19/2023 #	<b>Vehicles; registration</b> ; issuance of a restricted license requiring the installation of ignition interlock device and specialty court admission; modify. (Sen. Kevin Hertel)
0126	4302		Yes	9/26/2023	9/27/2023	9/27/2023 #	<b>Crimes; criminal sexual conduct</b> references to married minors in the Michigan penal code; modify. (Rep. Joey Andrews)
0127	4982		Yes	9/29/2023	9/29/2023	9/29/2023	<b>Higher education; education programs</b> authorization and distance education reciprocal exchange act; extend sunset. (Rep. Carol Glanville)

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	HB	SB					
0128	4988		Yes	9/29/2023	9/29/2023	9/29/2023	<b>Agriculture; animals;</b> livestock licensing fees; modify. (Rep. Jasper Martus)
0129	4990		Yes	9/29/2023	9/29/2023	9/29/2023	<b>Vehicles; registration plates</b> sunset on registration tax; eliminate. (Rep. Felicia Brabec)
0130	4991		Yes	9/29/2023	9/29/2023	10/1/2023	<b>State; identification cards</b> commercial look-up service fees; increase. (Rep. Felicia Brabec)
0131	4993		Yes	9/29/2023	9/29/2023	9/29/2023	<b>Occupations; licensing fees</b> licensing fees related to certain occupations; eliminate sunset. (Rep. Phil Skaggs)
0132	4994		Yes	9/29/2023	9/29/2023	9/29/2023	<b>Businesses; securities;</b> certain fees under the uniform securities act (2002); modify. (Rep. Phil Skaggs)
0133	4995		Yes	9/29/2023	9/29/2023	9/29/2023	<b>Businesses; limited liability companies</b> annual statement fees under the Michigan limited liability company act; modify. (Rep. Phil Skaggs)
0134	4996		Yes	9/29/2023	9/29/2023	9/29/2023	<b>Businesses; nonprofit corporations</b> annual report fees under the nonprofit corporation act; modify. (Rep. Phil Skaggs)
0135	4997		Yes	9/29/2023	9/29/2023	9/29/2023	<b>Businesses; business corporations</b> annual report fees under the business corporation act; modify. (Rep. Phil Skaggs)
0136	5000		Yes	9/29/2023	9/29/2023	9/29/2023	<b>Law enforcement; fingerprinting;</b> sunset on fees for fingerprinting and criminal record check; eliminate. (Rep. Jimmie Wilson)
0137	5003		Yes	9/29/2023	9/29/2023	9/29/2023	<b>Mental health; facilities;</b> licensing fees related to psychiatric hospitals; extend sunset. (Rep. Christine Morse)

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	HB	SB					
0138	5004		Yes	9/29/2023	9/29/2023	9/29/2023	<b>Health; other</b> ; certain fees and assessments; modify, and make general revisions to the public health code. (Rep. Christine Morse)
0139	5006		Yes	9/29/2023	9/29/2023	9/29/2023	<b>State management; funds</b> ; funding related to the 21st century jobs trust fund; modify. (Rep. Will Snyder)
0140	5007		Yes	9/29/2023	9/29/2023	9/29/2023	<b>Environmental protection; other</b> ; general amendments to fees in the natural resources and environmental protection act; modify. (Rep. Donavan McKinney)
0141	4377		No	10/3/2023	10/3/2023	**	<b>Use tax; exemptions</b> ; definitions of food sold in an unheated state by weight or volume and food sold with eating utensils; modify. (Rep. Brenda Carter)
0142	4378		No	10/3/2023	10/3/2023	**	<b>Sales tax; exemptions</b> ; definitions of food sold in an unheated state by weight or volume and food sold with eating utensils; modify. (Rep. Cynthia Neeley)
0143	4356		No	10/3/2023	10/3/2023	**	<b>Labor; collective bargaining</b> prohibited subjects of bargaining; remove a public school employer's decision to contract with a third party for noninstructional support services from. (Rep. Brenda Carter)
0144	4357		No	10/3/2023	10/3/2023	** #	<b>Labor; collective bargaining</b> collective bargaining agreements that require the automatic deduction of union dues; remove prohibition against a district or intermediate district from entering into. (Rep. Rachel Hood)
0145	4200		Yes	10/3/2023	10/3/2023	10/3/2023 #	<b>Health; screening</b> ; certificate of immunization; require department of health and human services to update to indicate whether minor has been tested for lead poisoning. (Rep. Helena Scott)
0146		0031	Yes	10/3/2023	10/3/2023	10/3/2023 #	<b>Health; screening</b> ; screening minors for lead poisoning; require at intervals determined by the department of health and human services by rule, and require documentation of screening in certificate of immunization. (Sen. John Cherry)
0147	4752		Yes	10/10/2023	10/10/2023	10/10/2023	<b>Retirement; public school employees</b> employment of retirant without forfeiting the retirant's retirement allowance for retirant earning less than a certain dollar amount; allow. (Rep. Matt Koleszar)

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+ - Line item veto.

++ - Pocket veto.

# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0148	4352		Yes	10/10/2023	10/10/2023	10/10/2023	<b>Highways; other</b> , designation of high-occupancy vehicle lanes by agency having jurisdiction over the highway; provide for. (Rep. Nate Shannon)
0149	4353		Yes	10/10/2023	10/10/2023	10/10/2023	<b>Transportation; authorities</b> , designation of high-occupancy vehicle lanes by agency having jurisdiction over the highway; provide for. (Rep. Sharon MacDonell)
0150		0176	Yes	10/19/2023	10/19/2023	10/19/2023#	<b>Property tax; exemptions</b> , filing requirements for disabled veteran exemption and provisions concerning eligibility of surviving spouses; modify. (Sen. Sylvia Santana)
0151		0330	Yes	10/19/2023	10/19/2023	10/19/2023#	<b>Property tax; exemptions</b> , filing requirements for disabled veteran exemption; modify. (Sen. Mary Cavanagh)
0152		0364	Yes	10/19/2023	10/19/2023	10/19/2023#	<b>Property tax; board of review</b> , definition of qualified error; modify. (Sen. John Damoose)
0153	4602		Yes	10/19/2023	10/19/2023	10/19/2023	<b>Highways; memorial</b> , portion of I-94; designate as the "Washtenaw County Vietnam Veterans Memorial Highway". (Rep. Jimmie Wilson)
0154	4341		Yes	10/19/2023	10/19/2023	10/24/2023#	<b>Water supply; quality and standards</b> , clean drinking water in schools and child care centers; provide for. (Rep. Ranjeev Puri)
0155	4342		Yes	10/19/2023	10/19/2023	10/24/2023#	<b>Water supply; quality and standards</b> , installations of filtration systems in child care centers; require. (Rep. Cynthia Neeley)
0156	4619		No	10/19/2023	10/19/2023	**	<b>Insurance; insurers</b> , denying coverage based on gender, gender identity, or sexual orientation or expression; prohibit. (Rep. Julie M. Rogers)
0157	4620		No	10/19/2023	10/19/2023	**	<b>Insurance; health insurers</b> , denying coverage for preexisting conditions; prohibit, and prohibit canceling coverage based on health of insured. (Rep. Kimberly Edwards)

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	HB	SB					
0158	4621		No	10/19/2023	10/19/2023	**	<b>Insurance</b> ; health insurers coverage for dependents under the age of 26; require. (Rep. John Fitzgerald)
0159	4622		No	10/19/2023	10/19/2023	** #	<b>Insurance</b> ; health insurers annual and lifetime dollar limits; prohibit. (Rep. Reggie Miller)
0160	4623		No	10/19/2023	10/19/2023	**	<b>Insurance</b> ; health insurers minimum required coverage; provide for. (Rep. Matt Koleszar)
0161		0356	No	10/19/2023	10/19/2023	**	<b>Insurance</b> ; health insurers summary of benefits and coverage provided to insureds; modify. (Sen. Kevin Hertel)
0162		0357	No	10/19/2023	10/19/2023	**	<b>Insurance</b> ; health insurers prohibition on rescission of coverage; provide for. (Sen. Mary Cavanagh)
0163		0358	No	10/19/2023	10/19/2023	**	<b>Insurance</b> ; health insurers providing coverage equivalent to a certain percentage of the full actuarial value of benefits under a health insurance policy; require. (Sen. Veronica Klinefelt)
0164		0043	Yes	10/19/2023	10/19/2023	10/19/2023	<b>Highways</b> ; construction and repair use of certain traffic control devices when closing a freeway or portion of freeway; require under certain conditions. (Sen. John Cherry)
0165		0179	Yes	10/19/2023	10/19/2023	10/19/2023 #	<b>Marihuana</b> ; taxation; marihuana tax revenue; allocate to Indian tribes under certain circumstances. (Sen. Jeff Irwin)
0166		0180	Yes	10/19/2023	10/19/2023	10/19/2023 #	<b>Marihuana</b> ; other; tribal marihuana businesses; allow cannabis regulatory agency to contract with Indian tribes regarding the operation of. (Sen. Roger Hauck)
0167		0268	Yes	10/19/2023	10/19/2023	10/19/2023	<b>Insurance</b> ; life; adjustment of death benefit for cemetery or funeral goods and services; modify. (Sen. Kevin Hertel)

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	HB	SB					
0168		0281	Yes	10/19/2023	10/19/2023	10/19/2023	<b>Insurance;</b> health insurers granting third party access to a dental network contract; allow. ( <b>Sen. Sam Singh</b> )
0169		0397	Yes	10/19/2023	10/19/2023	10/19/2023	<b>Housing;</b> housing development authority principal amount for outstanding bonds and notes; increase. ( <b>Sen. Mary Cavanagh</b> )
0170	4071		No	10/24/2023	10/24/2023	**	<b>Insurance;</b> health insurers coverage for orally administered anticancer chemotherapy; provide equal treatment for. ( <b>Rep. Samantha Steckloff</b> )
0171	4438		Yes	10/24/2023	10/24/2023	1/22/2024	<b>Labor; arbitration;</b> compulsory arbitration for local police and firefighters; include corrections officers. ( <b>Rep. Kelly Breen</b> )
0172	4439		Yes	10/24/2023	10/24/2023	10/24/2023#	<b>Labor; arbitration;</b> certain references in 1969 PA 312 regarding arbitration for local police officers and firefighters; make gender neutral. ( <b>Rep. Robert J. Bezotte</b> )
0173		0088	Yes	10/24/2023	10/24/2023	10/24/2023#	<b>Water supply; quality and standards</b> installations of filtration systems in child care centers; require. ( <b>Sen. Sylvia Santana</b> )
0174	4553		Yes	10/24/2023	10/24/2023	10/24/2023#	<b>State management; funds;</b> local government reimbursement fund; create. ( <b>Rep. John Fitzgerald</b> )
0175	4554		Yes	10/24/2023	10/24/2023	10/24/2023#	<b>Use tax; distribution;</b> distribution of money to the local government reimbursement fund; provide for. ( <b>Rep. Denise Mentzer</b> )
0176		0331	Yes	10/24/2023	10/24/2023	12/31/2023#	<b>Property tax; exemptions;</b> small business property tax exemption; modify application process. ( <b>Sen. Kevin Hertel</b> )

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