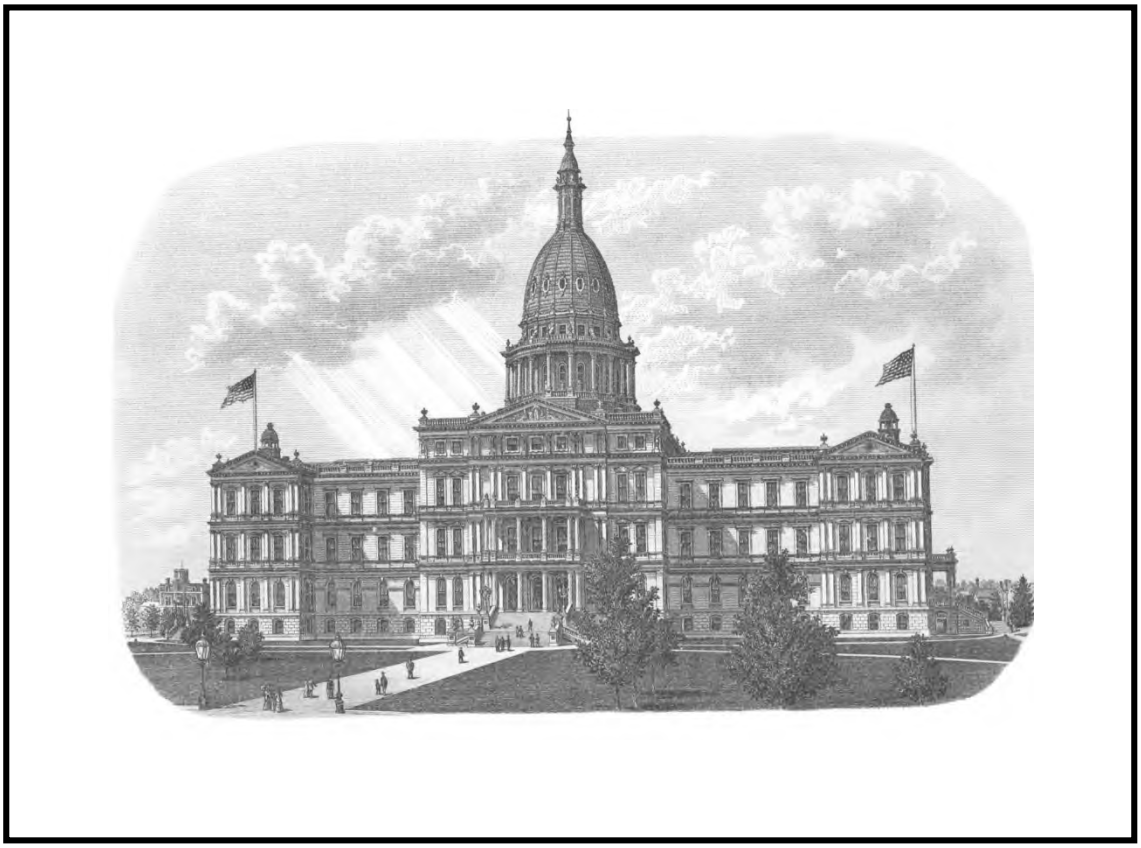
Michigan Register

Issue No. 15 – 2021 (Published September 1, 2021)



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 19th 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. 15— 2021
(This issue, published September 1, 2021, contains
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Katherine Wienczewski, State Administrative Manager, Michigan Office of Administrative Hearings and Rules; Deidre O'Berry, Administrative Rules Specialist for Operations and Publications.

Gretchen Whitmer, Governor

Garlin Gilchrist, Lieutenant Governor

PREFACE

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, 2021 MR 1 refers to the year of issue (2021) 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.

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

2021 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2021	February 1, 2021
2	February 1, 2021	February 15, 2021
3	February 15, 2021	March 1, 2021
4	March 1, 2021	March 15, 2021
5	March 15, 2021	April 1, 2021
6	April 1, 2021	April 15, 2021
7	April 15, 2021	May 1, 2021
8	May 1, 2021	May 15, 2021
9	May 15, 2021	June 1, 2021
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15	August 15, 2021	September 1, 2021
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18	October 1, 2021	October 15, 2021
19	October 15, 2021	November 1, 2021
20	November 1, 2021	November 15, 2021
21	November 15, 2021	December 1, 2021
22	December 1, 2021	December 15, 2021
23	December 15, 2021	January 1, 2022
24	January 1, 2022	January 15, 2022

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BILLS SIGNED INTO LAW OR VETOED

PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

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."

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BOARD OF PHARMACY

PHARMACY – CONTROLLED SUBSTANCES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a~~(6)~~**(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 board of pharmacy by sections **7106, 7109,** ~~7201,~~ **7203, 7216,** ~~7219,~~ 7301, **7303, 7303a, 7321, 7333, 7333a** ~~and 16204e~~**, and 17754** of **the public health code,** 1978 PA 368, **MCL 333.7106, 333.7109,** ~~MCL~~ ~~333.7201,~~ **333.7203, 333.7216,** ~~333.7219,~~ 333.7301, **333.7303, 333.7303a, 333.7321, 333.7333, 333.7333a,** ~~and 333.16204e~~ **and 333.17754,** 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 338.3101, R 338.3102, R 338.3104, R 338.3108, R 338.3111, R 338.3132, R 338.3135, R 338.3137, R 338.3141, R 338.3143, R 338.3145, R 338.3151, R 338.3153, R 338.3153a, R 338.3154, R 338.3161, R 338.3161a, R 338.3162, R 338.3162a, R 338.3162b, R 338.3162c, R 338.3162d, R 338.3163, R 338.3164, R 338.3165, R 338.3166, R 338.3167, R 338.3168, R 338.3170, R 338.3181, R 338.3183, R 338.3185 and R 338.3186 of the Michigan Administrative Code are amended, R 338.3109, R 338.3112, R 338.3113, R 338.3113a, R 338.3114, R 338.3114a, R 338.3116, R 338.3117, R 338.3118, R 338.3119, R 338.3119a, R 338.3119b, R 338.3120, R 338.3121, R 338.3121a, R 338.3122, R 338.3123, R 338.3125, R 338.3126, R 338.3127, R 338.3129, R 338.3136, R 338.3152, R 338.3162e, and R 338.3182 are rescinded, as follows:

PART 1. GENERAL PROVISIONS

R 338.3101 Definitions; A to H.

Rule 1. As used in these rules:

(a) "Automated device" means a mechanical system that performs an operation or activity, other than compounding or administration, relating to the storage, packaging, dispensing, or delivery of a drug and that collects, controls, and maintains transaction information.

(b) "Board" means the board of pharmacy.

~~(a)~~ **(c)** ~~"Act"~~ **"Code"** means **the public health code,** 1978 PA 368, MCL 333.1101 ~~et seq.~~ **to 333.25211.**

~~(b) "Deleterious drug" means a drug, other than a proprietary medicine, that is likely to be destructive to adult human life in quantities of 3.88 grams or less.~~

~~(c)~~ **(d)** "Department" means the department of ~~community health~~ **licensing and regulatory affairs (LARA)**.

~~(d)~~ **(e)** "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by ~~a person~~ **an individual** with the intent to sign the record. An electronic signature also is a unique identifier protected by appropriate security measures ~~such~~ that ~~it~~ is only available for use by the intended individual and ensures nonrepudiation so that the signature may not be rejected based on its validity.

R 338.3102 Definitions; I to P.

Rule 2. (1) As used in these rules:

(a) "Inventory" means all stocks in finished form of a controlled substance that ~~is~~ **are** manufactured or otherwise acquired by a licensee, whether in bulk or commercial containers or contained in pharmaceutical preparations in the possession of the licensee.

(b) "Licensee" means a person who is licensed pursuant to section 7303 of the ~~act~~ **code, MCL 333.7303**.

(c) "Michigan automated prescription system (~~maps~~**MAPS**) claim form" means a form, to be determined by the department, that is in the format and includes the information as specified by the ~~american society for automation in pharmacy~~ **American Society for Automation in Pharmacy** (~~asap~~**ASAP**) **4.1 Standard for Prescription Drug Monitoring Programs** and contains the information specified in R 338.3162b.

(d) "National drug code number (~~ndc~~ **NDC**)" means a number that identifies the labeler~~/~~**,** vendor, product, and package size and is assigned to each drug product listed under section 510~~, registration of producers of drugs and devices~~ **Registration of Producers of Drugs and Devices**, of the ~~federal food, drug, and cosmetic act~~ **Federal Food, Drug, and Cosmetic Act (FDCA) of 2017, 21 USC 360**.

(e) "Officer" means a **federal,** state, county, or local law enforcement officer who ~~has a will~~ ~~enforce~~ **enforces** the laws of this state.

(f) "Patient identifier" **means** ~~includes~~ all of the following information about a patient:

(i) Full name.

(ii) Address, including zip code.

(iii) Date of birth.

(iv) Any 1 of the following **identification numbers**:

(A) A ~~Michigan~~ **state-issued** driver's license number **obtained from a state-issued driver's license**.

(B) ~~An~~ **A state-issued** identification number obtained from a **state-issued** photo identification card ~~issued by the state of Michigan~~.

(C) A federal passport number obtained from a federal passport.

~~(C)~~ **(D)** The number zero. Zeroes ~~shall~~ **must** be entered as the identification number, if the positive identification presented ~~by~~ **for** the patient **or client** ~~or the patient's agent or caregiver~~ does not include a license number**,** ~~or an~~ identification number, **or passport number** as listed in subparagraphs (A) ~~and (B)~~ **to (C)** of this paragraph**, the patient is under the age of 16, or the animal's owner cannot be identified**.

(g) "Positive identification" means identification that includes a photograph of an individual in addition to his or her date of birth. Positive identification ~~shall include~~ **includes** an identification card issued by a governmental agency, ~~provided~~ **if** the identification card meets the requirements of this rule.

~~(2) As used in part 5 of these rules:~~

~~(a)~~ **(h)** "Medical institution" means **the term as defined in R 338.486** ~~an inpatient health facility which is licensed or approved by the state and which directly or indirectly provides or includes pharmacy services~~.

~~(b)~~ **(i)** "Pharmacy services" means the direct and indirect patient care services associated with the practice of pharmacy, **as defined in section 17707 of the code, MCL 333.17707**.

R 338.3104 Definitions; R, S.

Rule 4. As used in these rules:

(a) "Readily retrievable" means a record which is kept ~~in such a manner~~ **so** that it can be separated from all other records within 48 hours and in which a listed controlled substance ~~shall be~~ **is** marked with an asterisk, redlined, or in some other manner ~~be~~ visually identifiable apart from the other substances listed in the record.

~~(b) "Scientific investigator" means a person, other than a physician, who is licensed to conduct research with a controlled substance listed in schedules 1 to 5.~~

~~(c) "Sign" means to affix a signature manually in the same manner as signing a check or legal document or to use an electronic signature, as defined in subdivision (d) of R 338. 3101. Stamped signatures are not valid for any controlled substance prescription.~~

~~(d)~~ **(b)** "Substance" means a controlled substance unless the context indicates otherwise.

R 338.3108 Terms defined in ~~act~~ **code**.

Rule 8. **Unless otherwise defined in these rules, the** ~~Terms~~ **terms** defined in the ~~act~~ **code** have the same ~~meanings~~ **meaning** when used in these rules.

R 338.3109 ~~Rescission.~~ **Rescinded.**

~~Rule 9. Rules 14, 21, and 22 of the board, being R 338.484, R 338.491 and R 338.492 of the Michigan Administrative Code and appearing on pages 2880 and 2885 of the 1963 Annual Supplement of the Code, are rescinded.~~

PART 2. SCHEDULES

R 338.3111 ~~Schedule 1; opiates~~ **Schedules; federal controlled substance schedules adopt by reference; exceptions**.

Rule 11. **(1) The board approves and adopts by reference the complete list of drugs and other substances that are considered controlled substances under the Controlled Substance Act (CSA) of 1970, 21 USC 801, that have been divided into 5 schedules as published in 21 CFR 1308.11 to 1308.15, except for those drugs or other substances specifically excepted by this state's laws enacted after the effective date of these rules or as listed in subrule (3) of this rule.**

(2) The standards adopted by reference in subrule (1) of this rule are available at no cost at https://www.deadiversion.usdoj.gov/21cfr/cfr/2108cfrt.htm, or at 10 cents per page from the Board of Pharmacy, Bureau of Professional Licensing, Michigan Department of Licensing and Regulatory Affairs, Ottawa Building, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan 48909.

(3) The following drugs and other substances are scheduled as follows:

(a) Marijuana including pharmaceutical-grade cannabis, as those terms are defined in parts 71 and 81 of the code, MCL 333.7101 to 333.7125 and MCL 333.8101 to 333.8119, is a schedule 2 controlled substance if it is manufactured, obtained, stored, dispensed, possessed, grown, or disposed of in compliance with the code and as allowed by federal authority but only for the purpose of treating a debilitating medical condition as that term is defined in section 3(b) of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26423, and as allowed under the code.

(b) Tianeptine sodium by whatever official, common, usual, chemical, or brand name designated is a schedule 2 controlled substance.

(c) Gabapentin by whatever official, common, usual, chemical, or brand name designated is a schedule 5 controlled substance.

(d) Loperamide is not a scheduled controlled substance in this state.

(e) Pentazocine is a schedule 4 controlled substance.

(f) Brorphine is a schedule 1 controlled substance.

(g) Except in subdivision (h) of this subrule, ephedrine, a salt of ephedrine, an optical isomer of ephedrine, a salt of an optical isomer of ephedrine, or a compound, mixture, or preparation containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine is included in schedule 5.

(h) A product containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine is not included in schedule 5 if the drug product meets all of the following criteria:

(i) May lawfully be sold over the counter without a prescription under federal law.

(ii) Is labeled and marketed in a manner consistent with the pertinent over-the- counter tentative final or final monograph.

(iii) Is manufactured and distributed for legitimate medical use in a manner that reduces or eliminates the likelihood for abuse.

(iv) Is not marketed, advertised, or labeled for an indication of stimulation, mental alertness, energy, weight loss, appetite control, or muscle enhancement.

(v) The drug product is 1 of the following:

(A) A solid dosage form, including, but not limited to, a soft gelatin caplet that combines as active ingredients not less than 400 milligrams of guaifenesin and not more than 25 milligrams of ephedrine per dose and is packaged in blister packs with not more than 2 tablets or caplets per blister.

(B) An anorectal preparation containing not more than 5% ephedrine.

(C) A food product or a dietary supplement containing ephedrine, if the food product or dietary supplement meets all of the following criteria:

(I) Contains, per dosage unit or serving, not more than the lesser of 25 milligrams of ephedrine alkaloids or the maximum amount of ephedrine alkaloids in applicable regulations adopted by the Federal Food and Drug Administration (FDA) and contains no other controlled substance.

(II) Does not contain hydrochloride or sulfate salts of ephedrine alkaloids.

(III) Is packaged with a prominent label securely affixed to each package that includes all of the following:

(1) The amount in milligrams of ephedrine in a serving or dosage unit.

(2) The amount of the food product or dietary supplement that constitutes a serving or dosage unit.

(3) That the maximum recommended dosage of ephedrine for a healthy adult human is the lesser of 100 milligrams in a 24-hour period or the maximum recommended dosage or period of use in applicable regulations adopted by the FDA.

(4) That improper use of the product may be hazardous to an individual's health.

~~Unless, the following opiates including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, are included in schedule 1:~~

~~(a) Acetyl-alpha-methylfentanyl.~~

~~(b) Acetylmethadol.~~

~~(c) Allylprodine.~~

~~(d) Alphacetylmethadol, except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM.~~
~~(e) Alphameprodine.~~
~~(f) Alphamethadol.~~
~~(g) Alpha-methylfentanyl.~~
~~(h) Alpha-methylthiofentanyl.~~
~~(i) Benzethidine.~~
~~(j) Betacetylmethadol.~~
~~(k) Beta-hydroxyfentanyl.~~
~~(l) Beta-hydroxy-3-methylfentanyl.~~
~~(m) Betameprodine.~~
~~(n) Betamethadol.~~
~~(o) Betaprodine.~~
~~(p) Clonitazene.~~
~~(q) Dextromoramide.~~
~~(r) Diampromide.~~
~~(s) Diethylthiambutene.~~
~~(t) Difenoxin.~~
~~(u) Dimenoxadol.~~
~~(v) Dimepheptanol.~~
~~(w) Dimethylthiambutene.~~
~~(x) Dioxaphetyl butyrate.~~
~~(y) Dipipanone.~~
~~(z) Ethylmethylthiambutene.~~
~~(aa) Etonitazene.~~
~~(bb) Etoxeridine.~~
~~(cc) Furethidine.~~
~~(dd) Hydroxypethidine.~~
~~(ee) Ketobemidone.~~
~~(ff) Levomoramide.~~
~~(gg) Levophenacylmorphan.~~
~~(hh) MPPP(1-methyl-4-phenyl-4-propionoxypiperidine).~~
~~(ii)3-methylfentanyl(n-(3-methyl-1-2-phenylethyl)-4- piperidyl)-n-phenylpropanamide).~~
~~(jj) 3-Methylthiofentanyl.~~
~~(kk) Morpheridine.~~
~~(ll) Noracymethadol.~~
~~(mm) Norlevorphanol.~~
~~(nn) Normethadone.~~
~~(oo) Noripipanone.~~
~~(pp) Para-fluorofentanyl.~~
~~(qq) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine.~~
~~(rr) Phenadoxone.~~
~~(ss) Phenampromide.~~
~~(tt) Phenomorphan.~~
~~(uu) Phenoperidine.~~
~~(vv) Piritramide.~~
~~(ww) Proheptazine.~~
~~(xx) Properidine.~~

~~(yy) Propiram.~~
~~(zz) Racemoramide.~~
~~(aaa) Thiofentanyl.~~
~~(bbb) Tilidine.~~
~~(ccc) Trimeperidine.~~

R 338.3112 ~~Schedule 1; opium derivatives.~~ **Rescinded.**

~~Rule 12. Unless specifically excepted, the following opium derivatives, their salts, isomers and salts of isomers, when the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation, are included in schedule 1:~~

~~Substance~~	
~~a~~	~~Acetorphine~~
~~b~~	~~Acetyldihydrocodeine~~
~~c~~	~~Benzylmorphine~~
~~d~~	~~Codeine methylbromide~~
~~e~~	~~Codeine-N-Oxide~~
~~f~~	~~Cyprenorphine~~
~~g~~	~~Desomorphine~~
~~h~~	~~Dihydromorphine~~
~~i~~	~~Drotebanol~~
~~j~~	~~Etorphine (except hydrochloride salts)~~
~~k~~	~~Heroin~~
~~l~~	~~Hydromorphinol~~
~~m~~	~~Methyldesorphine~~
~~n~~	~~Methyldihydromorphine~~
~~o~~	~~Morphine methylbromide~~
~~p~~	~~Morphine methylsulfonate~~
~~q~~	~~Morphine-N-Oxide~~
~~r~~	~~Myrophine~~
~~s~~	~~Nicocodeine~~
~~t~~	~~Nicomorphine~~
~~u~~	~~Normorphine~~
~~v~~	~~Pholcodine~~
~~w~~	~~Thebacon~~

R 338.3113 ~~Schedule 1; hallucinogenic substances.~~ **Rescinded.**

~~Rule 13. Unless specifically excepted, any material, compound, mixture, or preparation that is not otherwise listed as a controlled substance in this schedule or in schedules II through V, is not approved by the federal food and drug administration as a drug, and contains any quantity of the following hallucinogenic substances, their salts, isomers (whether optical, positional, or geometric), homologues (analogs), and salts of isomers and homologues (analogs), whenever the existence of these salts, isomers, homologues (analogs) and salts of isomers and homologues (analogs) is possible within the specific chemical designation, is included in schedule 1:~~

	~~Substance~~	~~Trade or Other Names~~
~~a~~	~~1-(1-(2-thienyl)cyclohexyl)pyrrolidine~~	~~TCPY~~
~~b~~	~~2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine~~	~~2C-E~~

c	2-(2,5-Dimethoxy-4-methylphenyl)ethanamine	2C-D
d	2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine	2C-P
e	2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine	2C-N
f	2-(2,5-Dimethoxyphenyl)ethanamine	2C-H
g	2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine	2C-C
h	2-(4-Ethylthio-2,5-dimethoxyphenyl)ethanamine	2C-T-2
i	2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine	2C-I
j	2-[(4-Isopropylthio)-2,5-dimethoxyphenyl)]ethanamine	2C-T-4
k	2,5-dimethoxy-4-ethylamphetamine	DOET
l	2,5-dimethoxy-4-(n)-propylthiophenethylamine	2C-T-7
m	2,5-dimethoxyamphetamine	• 2,5-dimethoxy-alpha-methylphenethylamine • 2,5-DMA
n	3,4-methylenedioxy-n-ethylamphetamine	
o	3,4-methylenedioxyamphetamine	
p	3,4-methylenedioxymethamphetamine	MDMA
q	3,4,5-trimethoxyamphetamine	
r	4-bromo-2,5-dimethoxphenethylamine	• 2-(4-bromo-2-5-dimethoxyphenyl)-1-aminoethae • desmethyl DOB • 2c-b • nexus
s	4-bromo-2,5-dimethoxyamphetamine	• 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine • 4-bromo-2,5-DMA
t	4-methoxyamphetamine	• 4-methoxy-alpha-methylphenethylamine • Paramethoxyamphetamine • PMA
u	4-methyl-2,5-dimethoxyamphetamine	• 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine • DOM • STP
v	5-methoxy-3,4-methylenedioxyamphetamine	
w	5-methoxy-N, N-diisopropyltryptamine	5-MeO-DiPT
x	5-methoxy-N, N-dimethyltryptamine	5-MeO-DMT
y	Alpha-ethyltryptamine	• etryptamine • monase • a-ethyl-1h-indole-3-ethanamine • 3-(2-aminobutyl)indole • a-et • AE

~~z~~	~~Bufotenine~~	• ~~3-(beta-dimethylaminoethyl)-5-hydroxyindole~~ • ~~3-(2-dimethylaminoethyl)-5-indolol~~ • ~~N,N-dimethyserotonin~~ • ~~5-hydroxy-N-N-dimethyltryptamine~~ • ~~mappine~~
~~aa~~	~~Diethyltryptamine~~	• ~~N, N-Diethyltryptamine~~ • ~~DET~~
~~bb~~	~~Dimethyltryptamine~~	~~DMT~~
~~cc~~	~~Ethylamine analog of phencyclidine~~	• ~~n-ethyl-1-phenylcyclohexylamine~~ • ~~(1-phenylcyclohexyl)ethylamine~~ • ~~n-(1-phenylcyclohexyl)ethylamine~~ • ~~cyclohexamine~~ • ~~PCE~~
~~dd~~	~~Ibogaine~~	• ~~7-Ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6, 9-methano-5H-pyrido~~ • ~~[1',2':1.2]azepino[5,4-b]indole~~ • ~~tabernanthe iboga~~
~~ee~~	~~Lysergic acid diethylamine~~	
~~ff~~	~~Marihuana~~	
~~gg~~	~~Mescaline~~	
~~hh~~	~~N-ethyl-3-piperidyl benzilate~~	
~~ii~~	~~N-hydroxy-3,4-methylenedioxyamphetamine~~	
~~jj~~	~~N-methyl-3-piperidyl benzilate~~	
~~kk~~	~~Parahexyl~~	• ~~3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6Hdibenzol[b,d]pyran~~ • ~~synhexyl~~
~~ll~~	~~Peyote~~	
~~mm~~	~~Psilocybin~~	
~~nn~~	~~Psilocyn~~	
~~oo~~	~~Pyrrolidine analog of phencyclidine~~	• ~~1-(1-phenylcyclohexyl)-pyrrolidine~~ • ~~PCPy~~ • ~~PHP~~
~~pp~~	~~Thiophene analog of phencyclidine~~	• ~~1-[1-(2-thienyl)-cyclohexyl]-piperidine~~

		• 2-thienyl analog of phencyclidine • TPCP • TCP
qq	Any derivative of phenethylamine with single or multiple alkyl, halogen, alkoxy, or substituted C,S,N, or O groups on the aromatic ring and/or fused variations, with or without alkyl substituents on the ethylamine moiety and/or single or multiple alkyl, halogen, hydroxyl, or alkoxy including methoxybenzyl substitution which shall include but not be limited to, all of the following:	
i	1-(2,5-dimethoxy-4-idophenyl)-propan-2-amine	• DOI • 2,5-Dimethoxy-4-iodoamphetamine
ii	1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane	• DOB • 2,5-Dimethoxy-4-bromoamphetamine
iii	1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine	• bromo-benzodifuranylisopropylamine • bromo-dragonFLY
iv	1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine	• DOC • 2,5-Dimethoxy-4-chloroamphetamine
v	2-(2,5-dimethoxy-4(methylthio)phenyl)ethanamine	• 2C-T • 4-methylthio-2,5-dimethoxyphenethylamine
vi	2-(2,5-dimethoxy-4-nitro-phenyl)ethanamine	• 2C-N • 2,5-Dimethoxy-4-nitrophenethylamine
vii	2-(4-chloro-2,50dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine	• 2C-C-NBOMe • 25C-NBOMe • 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine
viii	2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine	• 2C-I-NBOMe • 25I-NBOMe • 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine
ix	2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine	2CB-5-hemiFLY
x	2-(8-bromo-2,3,6,7-tetrahydrofuro[2,3-f][1]benzofuran-4-yl)ethanamine	2C-B-FLY

~~xi~~	~~2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine~~	
~~xii~~	~~5-(2-Aminopropyl)-2,3-dihydrobenzofuran~~	~~5-APDB~~
~~xiii~~	~~5-(2-Aminopropyl)benzofuran~~	~~5-APB~~
~~xiv~~	~~5-(2-Aminopropyl)indole~~	~~5-IT~~
~~xv~~	~~5-methoxy-3,4-methylenedioxy-amphetamine~~	
~~xvi~~	~~6-(2-Aminopropyl)-2,3-dihydrobenzofuran~~	~~6-APDB~~
~~xvii~~	~~6-(2-Aminopropyl)benzofuran~~	~~6-APB~~
~~xviii~~	~~N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine~~	~~• 2C-INBOH~~ ~~• 25I-NBOH~~
~~xix~~	~~N-(2-Hydroxybenzyl-4-iodo-2,5-dimethoxyphenethylamine~~	~~2C-B-FLY-NBOME~~
~~xx~~	~~N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine~~	~~• Mescaline-NBOME~~ ~~• 3,4,5-trimethoxy-N-(2-methoxybenzyl) phenethylamine~~

R 338.3113a ~~Schedule 1; depressants.~~ **Rescinded.**

~~Rule 13a. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation is included in schedule 1:~~

~~(a) Gamma-hydroxbutyric acid.~~

~~Some other names:~~

~~(i) GHB.~~

~~(ii) gamma-hydroxybutyrate.~~

~~(iii) 4-hydroxybutyrate.~~

~~(iv) 4-hydroxybutanoic acid.~~

~~(v) sodium oxybate.~~

~~(vi) sodium oxybutyrate.~~

~~(b) Mecloqualone.~~

~~(c) Methaqualone.~~

R 338.3114 ~~Schedule 1; tetrahydrocannabinols.~~ **Rescinded.**

~~Rule 14. Synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis and synthetic substances, derivatives, and their isomers with similar chemical structure or pharmacological activity, or both, such as the following, are included in schedule 1:~~

~~—~~

~~Substance~~	
~~a~~	~~Δ1 cis or trans tetrahydrocannabinol and their optical isomers, excluding dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States food and drug administration.~~
~~b~~	~~Δ6 cis or trans tetrahydrocannabinol and their optical isomers.~~
~~c~~	~~Δ3,4 cis or trans tetrahydrocannabinol and their optical isomers. Since the nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are~~

	~~included.~~
~~d~~	~~Synthetic cannabinoids. As used in this subrule, "synthetic cannabinoids" includes any material, compound, mixture, or preparation that is not otherwise listed as a controlled substance in this schedule or in schedules II through V, is not approved by the federal food and drug administration as a drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues (analogs), and salts of isomers and homologues (analogs), unless specifically excepted, whenever the existence of these salts, isomers, homologues (analogs), and salts of isomers and homologues (analogs) is possible within the specific chemical designation:~~
~~i~~	~~Any compound containing a 3-(1-naphthoyl)indole structure, also known as napthoylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-007, JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, JWH-398, AM-1220, AM-2201, and WIN-55, 212-2.~~
~~ii~~	~~Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure, also known as napthylmethylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-175, JWH-184.~~
~~iii~~	~~Any compound containing a 3-(1-naphthoyl)pyrrole structure, also known as naphthoylpyrroles with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the pyrrole ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-370, JWH-030.~~
~~iv~~	~~Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted on the indene ring to any extent and whether or not substituted on the naphthyl ring to any extent. An example of this structural class includes, but is not limited to, JWH-176.~~
~~v~~	~~Any compound containing a 3-phenylacetylindole structure, also known as phenacetylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the phenyl ring to any extent. Examples of this structural class include but are not limited to: RCS-8 (SR-18), JWH-250, JWH-203, JWH-251, and JWH-302.~~
~~vi~~	~~Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure, also known as cyclohexylphenols, with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-~~

	~~piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not substituted on the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to: CP-47,497 (and homologues (analogs)), cannabicyclohexanol, and CP-55,940.~~
~~vii~~	~~Any compound containing a 3-(benzoyl)indole structure, also known as benzoylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the phenyl ring to any extent. Examples of this structural class include but are not limited to: AM-694, pravadoline (WIN-48,098), RCS-4, AM-630, AM-679, AM-1241, and AM-2233.~~
~~viii~~	~~Any compound containing a 11-hydroxy-Δ8-tetrahydrocannabinol structure, also known as dibenzopyrans, with further substitution on the 3-pentyl group by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkyethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group. Examples of this structural class include but are not limited to: HU-210, JWH-051, JWH-133.~~
~~ix~~	~~Any compound containing a 3-(L-adamantoyl)indole structure, also known as adamantoylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the adamantyl ring system to any extent. An example of this structural class includes, but is not limited to, AM-1248.~~
~~x~~	~~Any other synthetic chemical compound that is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring cannabinoids that is not listed in schedules II through V and is not approved by the federal food and drug administration as a drug.~~

R 338.3114a ~~Schedule 1; stimulants.~~ **Rescinded.**

~~Rule 14a. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers, is included in schedule 1:~~

~~Substance~~		~~Trade or Other Names~~
~~a~~	~~Aminorex~~	~~• aminoxaphen~~ ~~• 2-amino-5-phenyl-2-oxazoline~~ ~~• 4,5-dihydro-5-phenyl-2-oxazolamine~~
~~b~~	~~Cathinone~~	~~• 2-amino-1-phenyl-1-propanone~~ ~~• alpha-aminopropiophenone~~ ~~• 2-aminopropiophenone~~ ~~• norephedrone~~
~~c~~	~~Mephedrone~~	~~• 4-MMC~~ ~~• 4-methylmethcathinone~~ ~~• m-CAT~~
~~d~~	~~Methcathinone~~	~~• 2-methyiamino-l-phenylpropan-1-one~~ ~~• CAT~~

		• Ephedrone
e	Methylenedioxypyrovalerone	• 3,4-Methylenedioxypyrovalerone • MDPV • Methadrone
f	Fenethylline	
g	(□)cis-4-methylaminorex([(□)cis-4,5-dihydro-4-methyl-5phenyl-2-oxazolamine)	
h	N-ethylamphetamine	
i	N,N-dimethylamphetamine	• N,N-alpha-trimethyl-benzeneethanimine • N,N-alpha-trimethylphenethylamine
j	Synthetic cathinones. As used in this subrule, "synthetic cathinones" includes any material, compound, mixture, or preparation that is not otherwise listed as a controlled substance in this schedule or in schedules II through V, is not approved by the federal food and drug administration as a drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues (analogs), and salts of isomers and homologues (analogs), unless specifically excepted, whenever the existence of these salts, isomers, homologues (analogs), and salts of isomers and homologues (analogs) is possible within the specific chemical designation:	
i	Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic or fused polycyclic ring system and a substitution at the nitrogen atom by an alkyl group, cycloalkyl group, or incorporation into a heterocyclic structure. Examples of this structural class include, but are not limited to, dimethylcathinone, ethcathinone, and alpha-pyrrolidinopropiophenone.	
ii	Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic or fused polycyclic ring system and a substitution at the 3-position carbon with an alkyl, haloalkyl, or alkoxy group. An example of this structural class includes, but is not limited to, naphyrone.	
iii	Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic or fused polycyclic ring system and a substitution at any position of the ring system with an alkyl, haloalkyl, halogen, alkylenedioxy, or alkoxy group, whether or not further substituted at any position on the ring system to any extent. Examples of this structural class include, but are not limited to, mephedrone, methylone, and 3-fluoromethylone.	

R 338.3116 Schedule 2; substances of vegetable origin or chemical synthesis. **Rescinded.**

Rule 16. (1) Unless specifically excepted, the following substances of vegetable origin, or independently derived by means of chemical synthesis or by combination of extraction and chemical synthesis, are included in schedule 2:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including all of the following:

Substance	
i	Raw opium

~~ii~~	~~Opium extracts~~
~~iii~~	~~Opium fluid extracts~~
~~iv~~	~~Powdered opium~~
~~v~~	~~Granulated opium~~
~~vi~~	~~Tincture of opium~~
~~vii~~	~~Codeine~~
~~viii~~	~~Ethylmorphine~~
~~ix~~	~~Etorphine hydrochloride~~
~~x~~	~~Hydrocodone~~
~~xi~~	~~Hydromorphone~~
~~xii~~	~~Metopon~~
~~xiii~~	~~Morphine~~
~~xiv~~	~~Oripavine~~
~~xv~~	~~Oxycodone~~
~~xvi~~	~~Oxymorphone~~
~~xvii~~	~~Thebaine~~

~~(b) A salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with a substance referred to in subdivision (a) of this subrule, except that these substances do not include the isoquinoline alkaloids of opium.~~

~~(c) Opium poppy, poppy straw, and concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form, which contains the phenathrine alkaloids of the opium poppy).~~

~~(d) Coca leaves, and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation which is chemically equivalent to or identical with any of these substances.~~

~~(e) Cocaine; its salts; isomers; whether optical, position, or geometric; and salts of isomers.~~

~~(2) Decocainized coca leaves or the extraction of coca leaves, which extractions do not contain cocaine or ecgonine, are specifically excepted from schedule 2.~~

R 338.3117~~ Schedule 2; opiates.~~ **Rescinded.**

~~Rule 17. Unless specifically excepted, the following opiates, including their isomers, esters, and ethers, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation, are included in schedule 2:~~

~~Substance~~		~~Trade or Other Names~~
~~a~~	~~Alfentanil~~	
~~b~~	~~Alphaprodine~~	
~~c~~	~~Anileridine~~	
~~d~~	~~Benzitramide~~	
~~e~~	~~Bulk propoxyphene (nondosage forms)~~	
~~f~~	~~Carfentanil~~	
~~g~~	~~Dihydrocodeine~~	
~~h~~	~~Dihydroetorphine~~	
~~i~~	~~Diphenoxylate~~	
~~j~~	~~Fentanyl~~	
~~k~~	~~Isomethadone~~	
~~l~~	~~Levo-alphacetylmethadol~~	~~• Levo-alpha-acetylmethadol~~ ~~• Levomethadyl Acetate~~

		• LAAM
m	Levomethorphan	
n	Levorphanol	
o	Metazocine	
p	Methadone	
q	Methadone Intermediate, 4 cyano 2 dimethylamino 4,4 diphenyl butane	
r	Moramide Intermediate, 2 methyl 3 morpholino 1, 1 diphenyl propane carboxylic acid	
s	Pethidine (meperidine).	
t	Pethidine Intermediate A, 4 cyano 1 1 methyl 4 phenylpiperidine	
u	Pethidine Intermediate B, ethyl 4 phenylpiperidine 4 carboxylate	
v	Pethidine Intermediate C, 1 methyl 4 phenylpiperidine 4 carboxylic acid	
w	Phenazocine	
x	Piminodine	
y	Racemethorphan	
z	Racemorphan	
aa	Remifentanil	
bb	Sufentanil	
cc	Tapentadol	

R 338.3118 Schedule 2; stimulants. **Rescinded.**

Rule 18. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances and which has a stimulant effect on the central nervous system is included in schedule 2:

Substance	
a	Amphetamine, its salts, optical isomers and salts of its optical isomers
b	Lisdexamfetamine, its salts, optical isomers and salts of its optical isomers
c	Methamphetamine, its salts, isomers and salts of its isomers
d	Phenmetrazine and its salts
e	Methylphenidate and its salts

R 338.3119 Schedule 2; depressants. **Rescinded.**

Rule 19. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, when the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, is included in schedule 2:

(a) Amobarbital.

(b) Glutethimide.

(c) Pentobarbital.

(d) Phencyclidine.

~~(e) Secobarbital.~~
~~(f) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof in combination with itself, one another, or 1 or more other controlled substances.~~

R 338.3119a ~~Schedule 2; hallucinogenic substances.~~ **Rescinded.**
~~Rule 19a. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of nabilone, including its salts, isomers, and salts of isomers when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation, is included in schedule 2.~~

R 338.3119b ~~Schedule 2; immediate precursors.~~ **Rescinded.**
~~Rule 19b. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains~~
~~any quantity of the following substances:~~
~~(a) Immediate precursor to amphetamine and methamphetamine:~~
~~Phenylacetone~~
~~Some trade or other names:~~
~~Phenyl-2-propanone;~~
~~P2P;~~
~~Benzyl methyl ketone;~~
~~Methyl benzyl ketone.~~
~~(b) Immediate precursors to phencyclidine (PCP):~~
~~(i) 1-phenylcyclohexylamine.~~
~~(ii) 1-Piperidinocyclohexanecarbonitrile (PCC).~~

R 338.3120 ~~Schedule 3; stimulants; depressants; nalorphine.~~ **Rescinded.**
~~Rule 20. (1) Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and the salts of such isomers, when the existence of such salts, isomers, and the salts of isomers is possible within the specific chemical designation, is included in schedule 3:~~
~~(a) Benzphetamine.~~
~~(b) Chlorphentermine.~~
~~(c) Clortermine.~~
~~(d) Phendimetrazine.~~
~~(2) Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and the salts of such isomers, when the existence of such salts, isomers, and the salts of isomers is possible within the specific chemical designation, is included in schedule 3:~~
~~(a) Chlorhexadol.~~
~~(b) Embutramide.~~
~~(c) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug, and cosmetic act of 1938, 21 U.S.C.§301 et seq.~~
~~(d) Ketamine.~~
~~(e) Lysergic acid.~~
~~(f) Lysergic acid amide.~~

(g) Methyprylon.
(h) Perampanel.
(i) Pentazocine.
(j) Sulfondiethylmethane.
(k) Sulfonethylmethane.
(l) Sulfonmethane.
(m) Tiletamine-zolazepam.

(3) A compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or a salt thereof and 1 or more other active medicinal ingredients that are not listed in a schedule is included in schedule 3.

(4) A suppository dosage form which contains amobarbital, secobarbital, pentobarbital, or a salt of any of these drugs and which is approved by the food and drug administration for marketing only as a suppository is included in schedule 3.

(5) A substance that contains any quantity of a derivative of barbituric acid or any salt thereof is included in schedule 3.

(6) Nalorphine is included in schedule 3.

(7) Buprenorphine is included in schedule 3.

R 338.3121 Schedule 3; narcotic drugs. **Rescinded.**

Rule 21. Unless specifically excepted, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof is included in schedule 3:

(a) Not more than 1.8 grams of codeine per 100 milliliters and not more than 90 milligrams per dosage unit when combined with an equal or greater quantity of an isoquinoline alkaloid of opium.

(b) Not more than 1.8 grams of codeine per 100 milliliters and not more than 90 milligrams per dosage unit, with 1 or more active ingredients in recognized therapeutic amounts.

(c) Not more than 1.8 grams of dihydrocodeine per 100 milliliters and not more than 90 milligrams per dosage unit, with 1 or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(d) Not more than 300 milligrams of ethylmorphine per 100 milliliters and not more than 15 milligrams per dosage unit, with 1 or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams and not more than 25 milligrams per dosage unit, with 1 or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams and not more than 2.5 milligrams per dosage unit, with 1 or more active, nonnarcotic ingredients in recognized therapeutic amounts, including paregoric.

R 338.3121a Schedule 3; hallucinogenic substances. **Rescinded.**

Rule 21a. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved drug product and that has a hallucinogenic effect on the nervous system, including its salts, isomers, and salts of isomers when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation, is included in schedule 3.

R 338.3122 Schedule 3; anabolic steroids; exemptions. **Rescinded.**

Rule 22.(1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of an anabolic steroid, including its salts, isomers, and

salts of isomers if the existence of such salts of isomers is possible within the specific chemical designation, is included in schedule 3. As used in this rule, the term "anabolic steroid means any of the following drugs or hormonal substances which are chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids, and which promote muscle growth: —

Substance	
a	1-Androstenediol (3beta,17beta-dihydroxy-5alpha-androst-1-ene; 3alpha,17beta-dihydroxy-5alphaandrost-1-ene)
b	1-Androstenedione (5alpha-androst-1-en-3,17-dione)
c	3Alpha,17beta-dihydroxy-5alpha-androstane
d	3Beta,17beta-dihydroxy-5alpha-androstane
e	4-Androstenediol (3beta,17beta-dihydroxy-androst-4-ene)
f	4-Androstenedione (androst-4-en-3,17-dione)
g	4-Hydroxy-19-nortestosterone (4,17beta-dihydroxyestr-4-en-3-one)
h	4-Hydroxytestosterone (4,17beta-dihydroxyandrost-4-en-3-one)
i	5-Androstenediol (3beta,17beta-dihydroxy-androst-5-ene)
j	5-Androstenedione (androst-5-en-3,17-dione)
k	13Beta-ethyl-17beta-hydroxygon-4-en-3-one
l	17Alpha-methyl-3alpha,17beta-dihydroxy-5alpha-androstane
m	17Alpha-methyl-3beta,17beta-dihydroxy-5alpha-androstane
n	17Alpha-methyl-3beta,17beta-dihydroxyandrost-4-ene
o	17Alpha-methyl-4-hydroxynandrolone (17alpha-methyl-hydroxy-17beta-hydroxyestr-4-en-3-one)
p	17Alpha-methyl-delta1-dihydrotestosterone (17beta-hydroxy-17alpha-methyl-5alpha-androst-1-en-3-one)
q	19-nor-4, 9(10)-androstadienedione.
r	19-nor-5-androstendedione (estr-5-en-3, 17-dione)
s	Boldenone
t	Bolasterone
u	Boldione
v	Calusterone
w	4-chlortestosterone (clostebol)
x	Dehydrochlormethyltestosterone
y	Desoxymethyltestosterone
z	Drostanolone
aa	Ethylestrenol
bb	Fluoxymesterone
cc	Formebolone
dd	Mesterolone
ee	Methandriol
ff	Methandrostenolone (methandienone)
gg	Methasterone
hh	Methenolone
ii	Methyltestosterone
jj	Mibolerone
kk	Nandrolone
ll	Norethandrolone

mm	Oxandrolone
nn	Oxymesterone
oo	Oxymetholone
pp	Prostanozol
qq	Stanolone (4-dihydrotestosterone)
rr	Stanozolol
ss	Testolactone
tt	Testosterone
uu	Trenbolone
vv	Any salt, ester, or isomer of a drug or substance described or listed in this subrule, if that salt, ester, or isomer promotes muscle growth.

(2) An anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the United States drug enforcement administration for such administration is specifically excepted from schedule 3.

(3) The following anabolic steroid products are exempted from all schedules of controlled substances:

—

Substance	
a	Esterified estrogens 1.25 milligrams and methyl testosterone 2.5 milligram tablets.
b	Esterified estrogens 0.625 milligrams and methyl testosterone 1.25 milligram tablets.
c	Conjugated estrogens 1.25 milligrams and methyl testosterone 10 milligram tablets.
d	Conjugated estrogens 0.625 milligrams and methyl testosterone 5 milligram tablets.
e	Testosterone enanthate 90 milligram/milliliter and estradiol valerate 4 milligram/milliliter injection.
f	Testosterone cypionate 50 milligram/milliliter and estradiol cypionate 2 milligram/milliliter injection.

R 338.3123 Schedule 4; depressants; drugs affecting central nervous system: stimulants; exempt chemical preparations for industrial use; exceptions; narcotic drugs. **Rescinded.**

Rule 23. (1) Unless specifically excepted, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including its salts, isomers, and the salts of isomers when the existence of such salts, isomers, and the salts of isomers is possible within the specific chemical designation, is included in schedule 4:

	Substance
a	Alfaxalone
b	Alprazolam
c	Barbital
d	Bromazepam
e	Camazepan
f	Carisoprodol
g	Chloralbetaine
h	Chloral hydrate
i	Chlordiazepoxide

~~j~~	~~Clobazam~~
~~k~~	~~Clonazepam~~
~~l~~	~~Clorazepate~~
~~m~~	~~Clotiazepam~~
~~n~~	~~Cloxazolam~~
~~o~~	~~Dichloralphenazone~~
~~p~~	~~Delorazepam~~
~~q~~	~~Dextropropoxyphene~~
~~r~~	~~Diazepam~~
~~s~~	~~Estazolam~~
~~t~~	~~Eszopiclone~~
~~u~~	~~Ethchlorvynol~~
~~v~~	~~Ethinamate~~
~~w~~	~~Ethyl loflazepate~~
~~x~~	~~Fludiazepam~~
~~y~~	~~Flunitrazepam~~
~~z~~	~~Flurazepam~~
~~aa~~	~~Fospropfol~~
~~bb~~	~~Halazepam~~
~~cc~~	~~Haloxazolam~~
~~dd~~	~~Indiplon~~
~~ee~~	~~Ketazolam~~
~~ff~~	~~Loprazolam~~
~~gg~~	~~Lorazepam~~
~~hh~~	~~Lorcaserin~~
~~ii~~	~~Lormetazepam~~
~~jj~~	~~Mebutamate~~
~~kk~~	~~Medazepam~~
~~ll~~	~~Meprobamate~~
~~mm~~	~~Methohexital~~
~~nn~~	~~Methylphenobarbital (mephobarbital)~~
~~oo~~	~~Midazolam~~
~~pp~~	~~Modafinil~~
~~qq~~	~~Nimetazepam~~
~~rr~~	~~Nitrazepam~~
~~ss~~	~~Nordiazepam~~
~~tt~~	~~Oxazepam~~
~~uu~~	~~Oxazolam~~
~~vv~~	~~Paraldehyde~~
~~ww~~	~~Petrichloral~~
~~xx~~	~~Phenobarbital~~
~~yy~~	~~Pinazepam~~
~~zz~~	~~Prazepam~~
~~aaa~~	~~Quazepam~~
~~bbb~~	~~Suvorexant~~
~~ccc~~	~~Temazepam~~

ddd	Tetrazepam
eee	Tramadol
fff	Triazolam
ggg	Zaleplon
hhh	Zolpidem
iii	Zopiclone

(2) Unless specifically excepted, a material, compound, mixture, or preparation that contains any quantity of fenfluramine having a potential for abuse associated with an effect on the central nervous system, including its salts, isomers, whether optical, position, or geometric, and the salts of such isomers when the existence of such salts, isomers, and the salts of isomers is possible, is included in schedule 4.

(3) Unless specifically excepted, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including its salts, isomers, whether optical, position, or geometric, and the salts of isomers when the existence of such salts, isomers, and the salts of isomers is possible within the specific chemical designation, is included in schedule 4.

Substance	
a	Cathine ((+) norpseudoephedrine)
b	Dexfenfluramine
c	Diethylpropion
d	Fencamfamin
e	Fenproporex
f	Mazindol
g	Mefenorex
h	Phentermine
i	Pemoline, including organometallic complexes and chelates thereof
j	Pipradrol
k	Sibutramine
l	SPA((-)-1-dimethylamino-1,2-diphenylethane)

(4) Unless specifically excepted or unless listed in another schedule, any natural compound, mixture, or prescription which contains butorphanol, including its optical isomers and its salts, is included in schedule 4.

(5) Chloral hydrate is designated as an exempt chemical preparation for industrial use when packaged in a sealed, oxygen free environment under nitrogen pressure and safeguarded against exposure to air.

(6) Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation containing limited quantities of not more than 1 milligram of difenoxin and not less than 25 micrograms of atrophine sulfate per dosage unit or any salts thereof is included in schedule 4.

R 338.3125 Schedule 5; narcotics added to nonnarcotic compounds. **Rescinded.**

Rule 25. (1) Schedule 5 includes pregabalin and lacosamide by whatever official, common, usual, chemical, or brand name designated.

(2) Schedule 5 includes ezogabine by whatever official, common, usual, chemical, or brand name designated.

(3) Schedule 5 includes gabapentin by whatever official, common, usual, chemical, or brand name designated.

~~(4) A compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which includes 1 or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation a valuable medicinal quality other than that possessed by the narcotic drug alone, is included in schedule 5:~~

~~Substance~~	
~~a~~	~~Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams, and not more than 10 milligrams per dosage unit.~~
~~b~~	~~Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams, and not more than 4 milligrams per dosage unit.~~
~~c~~	~~Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams, and not more than 5 milligrams per dosage unit.~~
~~d~~	~~Not more than 100 milligrams of opium per 100 milliliters or per 100 grams, and not more than 5 milligrams per dosage unit.~~
~~e~~	~~Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.~~
~~f~~	~~Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.~~

~~(5) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of pyrovalerone which has a stimulate effect on the central nervous system, including its salts, isomers, and salts of isomers, is included in schedule 5.~~

R 338.3126~~ Schedule 5; ephedrine; exceptions.~~ **Rescinded.**

~~Rule 26. (1) Except as otherwise provided in subrule (2) of this rule, ephedrine, a salt of ephedrine, an optical isomer of ephedrine, a salt of an optical isomer of ephedrine, or a compound, mixture, or preparation containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine is included in schedule 5.~~

~~(2) The following are not included in schedule 5:~~

~~(a) A product containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine if the drug product may lawfully be sold over the counter without a prescription under federal law, is labeled and marketed in a manner consistent with the pertinent over the counter tentative final or final monograph, is manufactured and distributed for legitimate medical use in a manner that reduces or eliminates the likelihood for abuse, and is not marketed, advertised, or labeled for an indication of stimulation, mental alertness, energy, weight loss, appetite control, or muscle enhancement and if the drug product is 1 of the following:~~

~~(i) A solid dosage form, including but not limited to a soft gelatin caplet, that combines as active ingredients not less than 400 milligrams of guaifenesin and not more than 25 milligrams of ephedrine per dose, packaged in blister packs with not more than 2 tablets or caplets per blister.~~

~~(ii) An anorectal preparation containing not more than 5% ephedrine.~~

~~(b) A food product or a dietary supplement containing ephedrine, if the food product or dietary supplement meets all of the following criteria:~~

~~(i) It contains, per dosage unit or serving, not more than the lesser of 25 milligrams of ephedrine alkaloids or the maximum amount of ephedrine alkaloids provided in applicable regulations adopted by the United States food and drug administration and contains no other controlled substance.~~

~~(ii) It does not contain hydrochloride or sulfate salts of ephedrine alkaloids.~~

~~(iii) It is packaged with a prominent label securely affixed to each package that states all of the following:~~

~~(A) The amount in milligrams of ephedrine in a serving or dosage unit.~~

~~(B) The amount of the food product or dietary supplement that constitutes a serving or dosage unit.~~
~~(C) That the maximum recommended dosage of ephedrine for a healthy adult human is the lesser of 100 milligrams in a 24-hour period or the maximum recommended dosage or period of use provided in applicable regulations adopted by the United States food and drug administration.~~
~~(D) That improper use of the product may be hazardous to a person's health.~~

R 338.3127~~ Exclusions for nonnarcotic substances which are not scheduled.~~ **Rescinded.**

Rule 27. ~~(1) A nonnarcotic substance which, under the federal food, drug, and cosmetic act of 1938, 21 U.S.C. §301 et seq., may be lawfully dispensed without a prescription is excluded from all schedules pursuant to the provisions of section 7208(2) of the act. A substance which contains 1 or more controlled substances in such a proportion or concentration to vitiate the potential for abuse is an excluded substance.~~

~~(2) An excluded substance is a deleterious drug as defined in section 7104(6) of the act and may only be manufactured, distributed, or dispensed by a person who is licensed to manufacture, distribute, or dispense a controlled substance under the act.~~

R 338.3129~~ Excepted components.~~ **Rescinded.**

~~Rule 29. A compound, mixture, or preparation which contains a depressant or stimulant substance, which is of a similar quantitative composition shown in federal regulations as an excepted compound, or which contains a lesser quantity of a controlled substance or other substances which do not have a stimulant, depressant, or hallucinogenic effect, and which is restricted by law to dispensing by prescription is excepted from the provisions of sections 7212, 7214, 7216, 7218, and 7220 of the act. Compliance with the federal law concerning an excepted compound is deemed compliance with this rule.~~

PART 3. LICENSES

R 338.3132 ~~Activities requiring separate licenses~~ **Controlled substance license**.

Rule 32. (1) ~~The following activities are deemed to be independent of each other, shall be conducted under separate licenses, and shall comply with all of the requirements and duties prescribed by law for persons who are licensed to engage in such coincidental activities:~~ **A person who manufactures, distributes, prescribes, or dispenses a controlled substance in this state or who proposes to engage in the manufacture, distribution, prescribing, or dispensing of a controlled substance in this state shall apply for a controlled substance license by submitting to the department a completed application on a form provided by the department along with the requisite fee.**

(2) In addition to meeting the requirements of section 7303 of the code, MCL 333.7303, an applicant's license shall be verified by the licensing agency of any state of the United States in which the applicant holds or has ever held a controlled substance license. This includes, but is not limited to, showing proof of any disciplinary action taken or pending against the applicant.

(3) Except for a prescriber or practitioner in subrule (8)(b)(ii) of this rule, a separate license is required for each principal place of business or professional practice where the applicant stores, manufactures, distributes, prescribes, or dispenses controlled substances.

(4) An applicant shall obtain a separate controlled substance license for each practitioner license issued under article 15 of the code, MCL 333.16101 to 333.18838. The controlled substance license must be renewed when the article 15 license is renewed and the controlled substance license is renewed for an equal number of years as the article 15 license.

(5) An applicant who intends to conduct research involving controlled substances shall submit all of the following with his or her application required under subrule (1) of this rule:

(a) The applicant's credentials to conduct the proposed research.

(b) The protocol and description of the nature of the proposed research that is filed and approved by the FDA and the Federal Drug Enforcement Administration (DEA) pursuant to the provisions of 21 CFR 1301.18.

(c) A list of the controlled substances and doses to be used.

(6) An applicant who intends to conduct instructional activity involving controlled substances shall submit all of the following information with his or her application required under subrule (1) of this rule:

(a) The applicant's credentials to conduct the proposed instructional activity.

(b) A course outline for the proposed instructional activity.

(c) A list of the controlled substances and doses to be used.

(7) An applicant who intends to conduct chemical analysis involving controlled substances shall submit all of the following information with his or her application required under subrule (1) of this rule:

(a) The applicant's credentials to conduct the proposed chemical analysis.

(b) The protocol and description of the nature of the chemical analysis that is filed and approved by the FDA and the DEA pursuant to the provisions of 21 CFR 1301.18.

(c) A list of the controlled substances and doses to be used.

(8) The following activities require a separate controlled substance license.

(a) Manufacturing and distributing a controlled substance **in schedules 2-5**. ~~A person~~ **An individual, partnership, cooperative, association, private corporation, other legal entity, or governmental entity** ~~who~~ **that** is licensed **in this state** to manufacture a controlled substance listed in schedules 2 to 5 may **also** conduct chemical analysis and research with a substance that is listed in the schedules **under the same controlled substance license**.

(b) Dispensing a controlled substance listed in schedules 2 to 5. A ~~physician~~ **prescriber or practitioner** who is licensed **in this state** to prescribe or dispense controlled substances listed in schedules 2 to 5 may **also prescribe, dispense, administer, and** conduct research with those substances **under the same controlled substance license**.

(i) A pharmacist shall maintain 1 controlled substance license in this state to dispense from any licensed pharmacy in this state.

(ii) A prescriber or practitioner who is licensed in this state to prescribe, administer, or dispense controlled substances at a principal place of business or professional practice consisting of multiple locations is not required to obtain a separate controlled substance license for each physical location of the business or professional practice if the prescriber or practitioner only prescribes at each physical location of the business or professional practice.

(c) Conducting research and instructional activity with a controlled substance listed in schedule 1**.** ~~as follows: (i) A person~~ **An individual, partnership, cooperative, association, private corporation, other legal entity, or governmental entity** ~~who~~ **that** is licensed **in this state** to conduct research with controlled substances listed in schedule 1 may do both of the following:

~~(A)~~ **(i)** Manufacture the **specific** substances as set forth in the research protocol that is filed and approved by the ~~federal food and drug administration~~ **FDA** and the ~~drug enforcement administration (~~DEA~~)~~ pursuant to the provisions of 21 ~~C.F.R.§~~**CFR** 1301.18 and submitted **to the department** with the application for licensure. ~~The Code of Federal Regulations, Title 21, Food and Drugs, part 1301, containing §1301.18 is available free of charge via the Internet at web site http://www.gpoaccess.gov. Printed copies may be purchased by mail order from the United States Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, USA, by calling toll free~~

~~at 1-866-512-1800, or via the Internet at web-site http://bookstore.gpo.gov at a cost of $24.00 as of the time of adoption of these amendments. Printed copies of 21 C.F.R. §1301.18 also are available for inspection and for distribution to the public at cost at the, Department of Community Health, Bureau of Health Professions, Ottawa Building – First Floor, 611 West Ottawa, , Lansing, MI 48909.~~

~~(B)~~ **(ii)** Distribute the **specific** substances to ~~other persons~~ **others** who are licensed ~~or authorized~~ **by this state** to conduct research or chemical analysis with the schedule 1 substances.

~~(ii) A licensed physician who is authorized to conduct research with schedule 1 substances under federal law may conduct research with those substances, upon furnishing the administrator with evidence of that federal authorization. A separate license is not required for the research activity.~~

(d) Conducting research with a controlled substance listed in schedules 2 to 5. ~~A person~~ **An individual, partnership, cooperative, association, private corporation, other legal entity, or governmental entity** who is licensed ~~or authorized~~ **in this state** to conduct research with the controlled substances listed in schedules 2 to 5 may **also participate in all of the following activities:**

(i) ~~conduct~~ **Conduct** chemical analysis with the **specific** substances listed in those schedules~~,~~**.**

(ii) ~~manufacture~~ **Manufacture** the **specific** substances if, and to the extent that, ~~such~~ **the** manufacture **of the specific controlled substances** is set forth in a statement filed with the application for licensure~~,~~**.**

(iii) ~~distribute~~ **Distribute** the **specific** substances to ~~other persons~~ **others** who are licensed ~~or authorized~~ **in this state** to conduct research, chemical analysis, or instructional activity with the substances~~,~~**.**

(iv) ~~and conduct~~ **Conduct** instructional activities with the **specific** substances.

(e) Conducting instructional activities with a **specific** controlled substance listed in schedules 2 to 5.

~~(f) Prescribing, dispensing, or administering a controlled substance to a drug-dependent person in a drug treatment and rehabilitation program.~~

~~(g)~~ **(f)** Conducting chemical analysis with a controlled substance listed in any schedule. ~~A person~~ **An individual, partnership, cooperative, association, private corporation, other legal entity, or governmental entity** ~~who~~ **that** is licensed **in this state** ~~or authorized~~ to conduct chemical analysis with all controlled substances may manufacture ~~such~~ **the** substances for analytical or instructional purposes, distribute the substances to ~~other persons~~ **others** who are licensed ~~or authorized~~ to conduct chemical analysis, instructional activity or research with the substances, and conduct instructional activities with the substances.

(g) A pharmacy stocking patient medication in an automated device located at an affiliated hospital location pursuant to section 17760 of the code, MCL 333.17760, or a hospital, county medical care facility, nursing home, hospice, or other skilled nursing facility as defined in section 20109 of the code, MCL 333.20109. The pharmacy responsible for the device shall obtain an additional controlled substance license for each location. If substances are stored at a health facility without an onsite pharmacy or an automated device stocked by a pharmacy, a designated prescriber shall obtain a controlled substance license.

~~(2) A~~ **a** ~~a~~separate license is required for each principal place of business or professional practice. ~~A principal place of business or a professional practice is the physical location where controlled substances are manufactured, grown, cultivated, processed, or by other means produced or prepared, distributed, stored, or dispensed by a licensee.~~

~~(3) If a principal place of business or professional practice consists of multiple locations, then each location shall obtain a separate controlled substance license if controlled substances are received, stored, administered, or dispensed at that location.~~

~~(4) A prescriber or practitioner who holds a controlled substance license to prescribe, administer, or dispense controlled substances at a principal place of business or professional practice consisting of multiple locations shall not be required to obtain a separate controlled substance license for each~~

~~physical location of the principal place of business or professional practice if the prescriber or practitioner only prescribes at the location .~~

~~(5) A pharmacist who holds a controlled substance license may dispense from any licensed pharmacy.~~

~~(6) A separate controlled substances license is required, as provided in R 338.3154(4), when controlled substances are stored in an automated device and the automated device is not located at the same address as the pharmacy responsible for the device.~~

R 338.3135 Opioids and other controlled substances awareness training standards for prescribers and dispensers of controlled substances; requirements.

Rule 35. (1) ~~Pursuant to section 7301 of the act, MCL 333.7301, an~~ **An** individual **who is applying for** ~~seeking~~ a controlled substance license or who is licensed to prescribe or dispense controlled substances **pursuant to section 7303 of the code, MCL 333.7303,** shall complete a 1-time training~~, offered after promulgation of this rule,~~ in opioids and controlled substances awareness that meets the following standards:

(a) Training content must cover all of the following topics:

(i) Use of opioids and other controlled substances.

(ii) Integration of treatments.

(iii) Alternative treatments for pain management.

(iv) Counseling ~~patients~~ on the effects and risks associated with using opioids and other controlled substances.

(v) The stigma of addiction.

(vi) Utilizing the ~~Michigan Automated Prescription System (~~MAPS~~)~~.

(vii) State and federal laws regarding prescribing and dispensing controlled substances.

(viii) Security features **for opioids and other controlled substances and prescriptions,** and proper disposal requirements for ~~prescriptions~~ **opioids and other controlled substances**.

(b) Topics covered under subrule (1)(a) of this rule may be obtained from more than 1 program.

(c) 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 offered by a continuing education program or activity that is accepted by a licensing board established under article 15 of the ~~act~~ **code, MCL 333.16101 to 333.18838**.

(iv) Training obtained in an educational program that has been approved by a board established under article 15 of the ~~act~~ **code, MCL 333.16101 to 333.18838,** for initial licensure or registration, or by a college or university.

(d) 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) A prescriber or dispenser shall ~~not~~ delegate**, allow by a practice agreement,** or order the prescribing~~,~~ **or** dispensing~~, or administering~~ of a controlled substance as ~~authorized~~ **allowed** by ~~this~~ **the** ~~act~~ **code** to ~~an advanced practice registered nurse, registered professional nurse, or licensed practical nurse~~ **an individual, other than a physician's assistant,** ~~unless the nurse complies~~ **only after the individual has complied** with **subrules (1) and (5) of** this rule. **A physician's assistant is subject to subrules (1), (3), and (4) of this rule.**

(3) The department may select and audit licensees and request documentation of proof of completion of training. **A licensee shall maintain proof of completion of training for 3 renewal periods plus 1**

additional year. If audited, an individual shall provide an acceptable proof of completion of training, including either of the following:

(a) A completion certificate issued by the training provider that includes the date, provider name, name of training, and individual's name.

(b) A self-attestation by the individual that includes the date, provider name, name of training, and individual's name.

(4) **An individual who has been issued a controlled substance license pursuant to section 7303 of the code, MCL 333.7303, shall complete the controlled substance training required by subrule (1) of this rule as follows:**

(a) A licensee who is renewing his or her controlled substance license shall complete the controlled substance training by the end of ~~The requirements specified in this rule apply to controlled substance license renewals beginning with~~ the first renewal cycle **that begins** after ~~the~~ **January 4, 2019**. ~~promulgation of this rule and for initial licenses issued after September 1, 2019~~.

(b) Other than a license renewal under subdivision (a) of this subrule, beginning September 1, 2019, the department shall not issue a controlled substance license until an applicant provides proof of having completed the controlled substance training.

(5) Beginning December 31, 2021, an individual, other than a physician's assistant, who is a delegatee, or allowed by a practice agreement or an order to prescribe or dispense a controlled substance by a prescriber or dispenser as allowed by the code, shall complete the controlled substance training required by subrule (1) of this rule.

(6) An individual who is licensed under section 7303 of the code, MCL 333.7303, to prescribe or dispense controlled substances only for research on animals is exempt from this rule.

R 338.3136 ~~Information in applications.~~ **Rescinded.**

~~Rule 36. (1) A researcher shall include, in his or her application for licensure, all of the following information:~~

~~(a) His or her credentials to conduct the proposed research.~~

~~(b) The protocol and description of the nature of the proposed research.~~

~~(c) A list of the controlled substances and doses to be used.~~

~~(2) A person who conducts instructional activity shall include, with his or her application for licensure, all of the following information:~~

~~(a) His or her credentials to conduct the proposed instructional activity.~~

~~(b) A course outline for the proposed instructional activity.~~

~~(c) A list of the controlled substances and doses to be used.~~

R 338.3137 Waiver of license requirement.

Rule 37. ~~(1)~~ The requirement of licensure is waived for ~~the following persons in the circumstances described in this rule:~~ **a prescriber, possessing a license issued under section 7303 of the code, MCL 333.7303, who meets both of the following:**

(a) A prescriber, who in the course of his or her professional practice, prescribes, dispenses, or administers a controlled substance listed in schedules 2 to 5 to a drug-dependent person for the purpose of maintenance or detoxification treatment.

(b) A prescriber who is registered with the DEA to provide maintenance or detoxification treatment and who complies with federal law.

~~(a) An officer or employee of the drug enforcement administration while engaged in the course of official duties.~~

~~(b) An officer of the United States customs service while engaged in the course of official duties.~~

~~(c) An officer or employee of the United States food and drug administration while engaged in the course of official duties.~~

~~(d) A federal officer who is lawfully engaged in the enforcement of a federal law relating to controlled substances, drugs, or customs and who is duly authorized to possess controlled substances in the course of that person's official duties.~~

~~(e) An officer or employee of the state of Michigan, or a political subdivision or agency thereof, who is engaged in the enforcement of a state or local law relating to controlled substances and who is duly authorized to possess controlled substances in the course of that person's duties.~~

~~(2) An official who is exempted from licensure by this rule may, when acting in the course of that person's official duties, possess a controlled substance and may transfer a controlled substance to any other official who is also exempted by this rule and who is acting in the course of that person's official duties.~~

~~(3) An official who is exempted by this rule may procure a controlled substance in the course of a criminal investigation involving the person from whom the substance was procured or in the course of an administrative inspection or investigation.~~

PART 4. SECURITY

R 338.3141 Thefts and diversions.

Rule 41. (1) An applicant or licensee shall provide effective controls against theft and diversion of controlled substances.

(2) A licensee shall ~~determine~~ **confirm** that a person is licensed to possess a controlled substance before distributing the substance to the person.

(3) Within ~~10~~ **15** days ~~following discovery~~ of **completion of an investigation regarding** a **suspected** theft or **significant** loss of ~~any~~ **a** controlled substance, a licensee shall notify the **department** ~~administrator~~ of the **suspected** theft or **significant** loss **of a controlled substance** ~~by submitting~~ a ~~United States drug enforcement administration~~ **and submit a copy of the DEA** theft and loss report form 106, ~~a copy thereof,~~ or equivalent document, **to the department,** whether or not the controlled substance is ~~subsequently~~ recovered or the responsible ~~party~~ **person** is identified and action is taken against ~~the party~~**him or her**, and whether or not it is also reported to the DEA.

(4) A licensee shall use all of the following criteria to determine if the loss in subrule (3) of this rule is significant:

(a) The quantity of the controlled substance lost in relation to the type of business.

(b) The specific controlled substance lost.

(c) Whether the loss of the controlled substance can be associated with access to the controlled substance by specific individuals, or whether the loss can be attributed to unique activities that may take place involving the controlled substance.

(d) A pattern of loss over a specific time period, whether the loss appears to be random, and the results of efforts taken to resolve the loss.

(e) Whether the specific controlled substance is a likely candidate for diversion.

(f) Local trends and other indicators of the diversion potential of the missing controlled substance.

R 338.3143 Storage of controlled substances.

Rule 43. (1) A **licensee shall store** controlled ~~substance~~ **substances** that ~~is~~ **are** listed in schedule 1 ~~of R 338.3111 to R 338.3114a shall be stored~~ in a securely locked, substantially constructed cabinet that is anchored to a wall or the floor.

(2) A **licensee shall store** controlled ~~substance~~ **substances** that ~~is~~ **are** listed in schedules 2, 3, 4, and 5 ~~of R 338.3116 to R 338.3126 shall be stored~~ in a securely locked, substantially constructed cabinet, room, or cart. However, in a pharmacy, the controlled substances may be dispersed throughout the stock of noncontrolled substances in a manner to obstruct the theft or diversion of controlled substances.

~~(3) Parenteral dosage forms which contain amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and which are required by the federal food, drug, and cosmetic act of 1938, 21 U.S.C.§301 et seq., or by regulations promulgated thereunder, to be kept under refrigeration may be stored in compliance with the schedule III regulations set forth in the provisions of 21 C.F.R. §§1301.71 to 1301.76. The Code of Federal Regulations, Title 21, Food and Drugs, part 1301, containing 21 C.F.R.§§1301.71 to 1301.76, is available the Internet at web-site http://www.access.gpo.gov/nara/cfr. Printed copies may be purchased from the United States Government Printing Office, Superintendent of Documents, P.O.Box 371954, Pittsburgh, PA 15250-7954, USA, by calling toll free at 1-866-512-1800, or via the Internet web-site: http://bookstore.gpo.gov at the cost of $20.00 as of the time of adoption of these amendments. Printed copies of 21 C.F.R. §§1301.71 to 1301.76 also are available for inspection and for distribution to the public at cost at Department of Consumer and Industry Services, Bureau of Health Services, Ottawa Building - First Floor, 611West Ottawa, , Lansing, MI 48909.~~

~~(4) This rule applies to all licensees.~~

R 338.3145 Employees; disqualification.

Rule 45. (1) ~~The following individuals shall not be employed or otherwise utilized, with or without compensation, in a pharmacy by a person~~ **An individual, partnership, cooperative, association, private corporation, other legal entity, or governmental entity** who is licensed by the ~~administrator~~ **department** pursuant to section 7303 **of the code, MCL 333.7303**~~, 17711,~~ or **section** 17748 of the ~~act~~ **code, MCL 333.17748, shall not** ~~in any manner or capacity that allows~~ **employ or utilize, with or without compensation, or allow** the **following** individuals access to controlled substances:

(a) An individual who the licensee knows, or should reasonably know, to be a substance abuser as defined in section ~~6107~~ **16106a** of the ~~act~~ **code, MCL 333.16106a**. This subdivision does not apply to a licensee enrolled in the health professional recovery program under a current monitoring agreement.

(b) An individual whose controlled substance license is suspended, revoked, or denied.

(c) An individual whose license issued by this state or another state is under suspension or revoked ~~in this state or another state~~ for a violation that involves controlled substances.

(d) An individual who has been convicted of a crime that involves controlled substances and who is currently under sentence for that conviction.

(2) **A licensee** ~~Delegation~~ **shall not delegate,** pursuant to section 16215 of the ~~act~~ **code, MCL 333.16215,** ~~shall not be made by a licensed person~~ to a licensed or unlicensed individual unless the delegation ~~is in compliance~~ **complies** with this rule.

PART 5. RECORDS

R 338.3151 Inventories.

Rule 51. (1) ~~A~~ **An individual, partnership, cooperative, association, private corporation, other legal entity, or governmental entity licensed to manufacture, distribute, prescribe, or dispense controlled substances** ~~licensee~~ shall **annually** ~~make~~ **perform** and maintain a complete and accurate inventory of all stocks of controlled substances **in the possession and control of the licensee**.

(2) The inventory ~~shall~~ **must** contain a complete and accurate record of all controlled substances in the possession or control of the licensee on the date the inventory is taken as follows:

(a) If the substance is listed in schedule 1 or 2, then the licensee shall make an exact count or measure of the contents.

(b) If the substance is listed in schedule 3, 4, or 5, then the licensee shall make an estimated count or measure of the contents, but if the container holds more than 1,000 dosage units, ~~such as tablets or capsules,~~ then the licensee shall make an accurate account of the contents.

(3) A licensee shall make a separate inventory for each licensed location on the date that he or she first engages in the activity covered by his or her license**, including a change of a pharmacist in charge**. The beginning inventory record for a licensed location shall be kept at the licensed location and a copy shall be forwarded to the ~~administrator~~ **department** upon request.

(4) A licensee shall indicate on the inventory record whether the inventory was taken ~~as of~~ **at** the opening or closing of the day that the inventory is taken.

(5) A licensee shall maintain the inventory in a written, typewritten, or printed form. The inventory taken by use of an oral recording device ~~shall~~ **must** be promptly transcribed.

(6) A licensee shall sign and date the inventory record.

(7) A licensee's printed name, address, and DEA number shall be recorded on the inventory.

(8) Schedule 2 drugs ~~shall~~ **must** be separated on the inventory from all other drugs.

(9) A licensee that is open for 24 hours shall indicate the time that the inventory was taken.

(10) On the effective date of the addition of a controlled substance to a schedule, which substance was not previously listed in any schedule, a licensee who possesses the substance shall take an inventory of all stocks of the substance on hand and incorporate it in the current inventory. Thereafter, the substance shall be included in each inventory taken.

R 338.3152 ~~Annual and changed inventories.~~ **Rescinded.**

~~Rule 52. (1) Pursuant to the provisions of section 7321 of the act an inventory shall be taken annually of all stocks of controlled substances in the possession or control of the licensee, in accordance with the requirements of R 338.3151.~~

~~(2) On the effective date of a rule by the administrator or DEA adding a controlled substance to a schedule, which substance was not previously listed in any schedule, a licensee who possesses the substance shall take an inventory of all stocks of the substance on hand and incorporate it in the current inventory. Thereafter, the substance shall be included in each inventory taken.~~

R 338.3153 Invoices, acquisition, dispensing, administration, and distribution records.

Rule 53. ~~(1)~~ **For 2 years, ~~A~~ a** licensee shall ~~keep and make available for inspection~~ **maintain in the pharmacy responsible for the automated device, for review by the department, an agency, or the board,** all records for controlled substances, including invoices**,** ~~and other~~ acquisition records, ~~but excluding~~ **and** sales receipts, ~~however, a copy of each receipt shall be retained for 90 days.~~**as follows:**

(a) **A licensee may keep** ~~Acquisition~~ **acquisition** records, except for executed DEA 222 order forms, ~~may be~~ **in an electronic form** ~~kept~~ at a central location~~,~~ **with notice to the department.** ~~subject to the approval of the administrator. The approval shall specify the nature of the acquisition records to be kept and the exact location where the acquisition records will be kept. All records shall be readily retrievable within 48 hours.~~

~~(2) A licensee shall maintain acquisition records, which may be electronic, as follows:~~

~~(a)~~ **(b) A licensee shall maintain** ~~Invoices~~ **invoices** and other acquisition records of all controlled substances listed in schedules 1 and 2 ~~of R 338.3111 to R 338.3119a shall be maintained~~ in a separate file **from invoices and other acquisition records of controlled substances listed in schedules 3, 4, and 5.**

~~(b) Invoices and other acquisition records of all controlled substances listed in schedules 3, 4, and 5 of R 338.3120 to R 338.3125 shall be maintained in a separate file or in such form so that the~~ **The**

information ~~required is~~ **must be** readily retrievable from the ordinary acquisition records maintained by the dispenser.

(c) A licensee shall retain sales receipts for 90 days.

~~(3)~~ **(d)** A licensee shall initial or electronically initial the invoice and indicate the date that the controlled substances are received.

~~(4)~~ **(e)** A licensee shall keep a record, which may be electronic, of all controlled substances dispensed by him or her.

~~(5)~~ **(f)** A **licensee that** ~~prescriber~~ **prescribes controlled substances** shall keep a record separate from the patient chart which contains all of the following information for controlled substances dispensed or administered by the prescriber:

~~(a)~~ **(i)** Name of **the** patient.

~~(b)~~ **(ii)** Name **and strength** of **the controlled** substance ~~and strength~~.

~~(c)~~ **(iii)** Quantity of **the controlled** substance.

~~(d)~~ **(iv)** Date **the controlled substance was** dispensed or administered.

~~(e)~~ **(v)** Name of **the** individual who dispensed or administered **the controlled substance**.

~~(6)~~ **(g)** Except in medical institutions, **a licensee shall sequentially number and maintain in chronological order the** patients' original prescriptions ~~shall be sequentially numbered and maintained in chronological order~~ as follows:

~~(a)~~ **(i)** A **licensee shall maintain a** separate file ~~shall be maintained~~ for dispensed substances listed in schedule 2 ~~of R 338.3116 to R 338.3119a~~.

~~(b)~~ **(ii)** A **licensee shall maintain a** separate file ~~shall be maintained~~ for dispensed substances listed in schedules 3, 4, and 5 ~~of R 338.3120 to R 338.3125~~.

~~(c)~~ **(h)** The **licensee shall keep the** original prescription record ~~shall be kept~~ **on site** for 5 years **from the last date of dispensing**. **However, after** ~~After~~ ~~3~~**2** years **from the last date of dispensing**, ~~an~~ **if an** electronic duplicate **is** ~~may be~~ made of the original paper prescription**,** which ~~shall become~~ **becomes** the original prescription**, the original prescription may be destroyed**. ~~Upon request of an authorized agent of the board, a paper copy of the electronic duplicate prescription shall be~~ ~~presented~~.

~~(7)~~ **(i) A licensee shall maintain records** ~~Records~~ of controlled substances distributed to another licensee, **which** shall include all of the following information and be maintained in the appropriate file described in ~~subrule~~ **subdivision** ~~(2)~~**(b)** of this rule or in a separate record that is available for inspection:

~~(a)~~ **(i)** Name, address, and ~~dea~~ **DEA** number of receiver.

~~(b)~~ **(ii)** Name, address, and ~~dea~~ **DEA** number of supplier.

~~(c)~~ **(iii)** Name and quantity of **the** controlled substances distributed.

~~(d)~~ **(iv)** Date **the controlled substances were** distributed.

(j) A DEA 222 order form ~~shall~~ **must** be used for schedule 2 drugs.

~~(8)~~ **(k) Except for controlled substance prescriptions pursuant to subdivision (h) of this rule,** ~~Complete~~ **a licensee shall maintain** controlled substances records ~~shall be maintained or controlled by the licensee~~ for 2 years**.** ~~, except for controlled substance prescriptions, which shall be maintained for 5 years from the last date of dispensing. After 3 years, an electronic duplicate may be made of the original paper prescription which shall become the original prescription~~. ~~Upon request of an authorized agent of the board, a paper copy of the electronic duplicate prescription shall be presented.~~

R 338.3153a Medication orders for patients in medical institutions.

Rule 53a. (1) **A licensee shall include all of the following information in a prescription** ~~Prescriptions~~ for controlled substance medications to be dispensed for administration to an inpatient in a medical institution ~~shall contain all of the following information~~:

(a) The patient's name.

(b) The prescriber's name, address, and ~~drug enforcement administration (~~DEA~~)~~ number. In place of including the address and DEA number on each medication order, the pharmacy may maintain a separate list of ~~authorized~~ prescribers. The list ~~shall~~ **must** contain the prescriber's name, address, and DEA number.

(c) The prescriber's signature.

(d) The name, dose, and frequency of administration of the medication.

(e) The date of the medication order.

(2) If alternative therapy has been evaluated and the immediate administration of a controlled substance, including a schedule 2 medication, is necessary for the proper treatment of a patient, then a pharmacist may dispense the controlled substance for administration to the inpatient if all of the following conditions are satisfied:

(a) The oral order of the prescriber is committed to a written or electronic order in the patient chart by a nurse licensed under part 172 of the ~~act~~ **code**, **MCL 333.17201 to 333.17242,** a physician's assistant licensed under part 170 **of the code, MCL 333.17001 to 333.17097,** or **part** 175 of the ~~act~~ **code**, **MCL 333.17501 to 333.17556,** or a pharmacist licensed under part 177 of the ~~act~~ **code, MCL 333.17701 to 333.17780,** who has communicated directly with the prescriber.

(b) The order states the name of the prescriber and the name of the nurse, physician's assistant, or pharmacist who received the verbal order.

(c) The order is forwarded to the pharmacy.

(d) The prescriber signs the original order at the ~~time of~~ next visit or within 7 days.

(3) **A licensee shall preserve** ~~Original~~ **an original** ~~orders~~ **order** ~~shall be preserved~~ for a period of 5 years from the ~~date of~~ patient discharge **date** and **the original order** ~~shall~~ **must** be readily retrievable ~~for any specific time period~~. After ~~3~~ **2** years, **a licensee may make** an electronic duplicate of the original order ~~may be made~~ which ~~shall become~~ **becomes** the original order. If **a licensee maintains** patient records ~~are kept~~ electronically, then a printed copy ~~shall~~ **must** be immediately available for a current inpatient and within 48 hours upon request of an authorized agent of the board for any patient of the previous 5 years.

R 338.3154 Medication records in medical institutions.

Rule 54. (1) A patient's chart shall constitute a record of medications ordered for, and actually administered to, a patient of medical institutions.

(2) Medication records are required for all controlled substances listed in schedules 2, 3, 4, and 5 ~~of R 338.3116 to R 338.3125~~. At a minimum, these records ~~shall~~ **must** include all of the following information:

(a) The number of doses of controlled substances purchased.

(b) The number of doses dispensed to individual patients or distributed to nursing stations or both.

(c) The number of doses administered.

(d) The number of doses dispensed, but not administered, to the patient.

~~(e) An annual physical inventory and status of any discrepancies between the inventory and the records of acquisition and the dispensing records.~~

(3) If the controlled substance is not dispensed to an individual patient, all of the following provisions ~~shall~~ **must** be complied with:

(a) Medication records for those controlled substances in schedules 2, 3, 4, and 5 ~~of R 338.3116 to R 338.3125 shall~~ **must** be maintained.

(b) Distribution of a controlled substance to a nursing unit ~~shall~~ **may** not be more than 25 doses per container.

(c) A distribution record for each multiple of 25 doses ~~shall~~ **must** be used to account for delivery to a nursing unit. The record ~~shall~~ **must** include all of the following information:

(i) The name and dose of the controlled substance.

(ii) The quantity of the substance.

(iii) The date of delivery.

(iv) The location of the nursing unit.

(v) The name of the distributing pharmacy and address if a different location from the medical institution.

(vi) Name of distributing pharmacist.

(vii) The name of the individual on the nursing unit who receives the substance.

(d) A proof of use record ~~shall~~ **must** be maintained to account for all doses of an administered substance. The record ~~shall~~ **must** include all of the following:

(i) The name of the substance.

(ii) The dose administered.

(iii) The date and time a dose was administered.

(iv) The name of the patient.

(v) The signature of the individual who administered the dose.

(e) Subrule 3 of this rule does not apply to automated ~~dispensing~~ devices.

(4) A controlled substance that is maintained at a nursing unit must be stored in a securely locked cabinet or medication cart that is accessible only to an individual who is responsible for the administration or distribution of the medication.

~~(4)~~ **(5)** If a controlled substance ~~or any medication or device~~ is dispensed from an automated device, then documentation ~~as to the type of equipment, serial numbers, content, policies, procedures, and location within the facility~~ **of all of the following** ~~shall~~ **must** be maintained on-site in the pharmacy **responsible for the automated device for 2 years** for review by the department**, an agency, or the board:**~~. When patient medication is stocked in an automated device, the pharmacy responsible for the device shall obtain an additional controlled substance license for each hospital, county medical care facility, nursing home, hospice, or other skilled nursing facility as defined in 1978 PA 368, MCL 333.20109, when the pharmacy is not located at the same address as the facility and controlled substances are dispensed from the automated device. The documentation shall include at least all of the following information:~~

(a) ~~Name~~ **The name** and address of the pharmacy or facility responsible for the operation of the automated device. ~~Manufacturer name and model number.~~

(b) The manufacturer, serial number, and model number of the automated device.

(c) The location of the automated device.

(d) The contents of the automated device.

~~(c)~~ **(e) The** ~~Quality~~ **quality** assurance policy and procedure to determine continued appropriate use and performance of the automated device~~.~~ **that includes all of the following quality assurance documentation for the use and performance of the automated device:**

(i) Use of monitors that alert the user when the wrong medication is filled or removed for administration to a patient.

(ii) Use of security monitors that include an alert for unauthorized access, patients not in the system, system security breaches, and controlled substance audits.

(iii) Corrective measures to address issues and errors identified in the internal quality assurance program.

~~(d)~~ **(f) The** ~~Policy~~ **policy** and procedure for system operation that includes all of the following:

(i) Safety.

(ii) Security **systems and procedures that include prevention of unauthorized access or use and comply with federal and state regulations.**

(iii) Accuracy.

(iv) Patient confidentiality.
(v) Access.
(vi) **Type of** ~~Controlled~~ **controlled** substances.
(vii) Data retention or archival.
(viii) Definitions.
(ix) Downtime procedures.
(x) Emergency procedures.
(xi) ~~Inspection~~ **Operator inspections.**
(xii) Installation requirements.
(xiii) Maintenance.
(xiv) Medication security.
~~(xv) Quality assurance.~~
(~~xvi~~**xv**) Medication inventory.
(~~xvii~~**xvi**) Staff education and training.
(~~xviii~~**xvii**) System set-up and malfunction.
(~~xix~~**xviii**) List of medications qualifying for emergency dose removal without pharmacist prior review of the prescription or medication order.

(xix) The use of the automated device that includes a requirement that a pharmacist review a prescription or medication order before system profiling or removal of any medication from the automated device for immediate patient administration, except in the following situations where a pharmacist shall review the orders and authorize any further dispensing within 48 hours:

(A) The automated device is being used as an after-hours cabinet for medication dispensing in the absence of a pharmacist under R 338.486(4)(j).

(B) The system is being used in place of an emergency kit under R 338.486(4)(c).

(C) The system is being accessed to remove medication required to treat the emergent needs of a patient under R 338.486(4)(c). A sufficient quantity to meet the emergent needs of the patient may be removed until a pharmacist is available to review the medication order.

~~(5) Automated devices shall have adequate security systems and procedures, evidenced by written pharmacy policies and procedures that document all of the following information: Prevention of unauthorized access or use. Compliance with any applicable federal and state regulations. Maintenance of patient confidentiality.~~

~~(6)~~ **(g)** ~~Records and electronic data kept~~ **The automated device must maintain transaction data that includes all** ~~by automated devices shall meet all of the following requirements:~~

~~(a) All events involving~~ **activity regarding** access to the contents of the automated **device** ~~devices shall be recorded electronically~~.

~~(b)~~ **(h) The pharmacy responsible for the automated device shall maintain records related to access to the automated device. The records must** ~~Records shall be maintained by the pharmacy responsible for the device and shall~~ be readily retrievable~~. The records~~ **and** ~~shall~~ **must** include all of the following information:

(i) The unique identity of **the** device ~~accessed~~.
(ii) Identification of the individual accessing the **automated** device.
(iii) The type of transaction.
(iv) The name, strength, dosage form**,** and quantity of the drug accessed.
(v) The name of the patient ~~for whom the drug was ordered~~.
(vi) ~~Identification~~ **The name and license number** of the pharmacist checking for the accuracy of the medications to be stocked or restocked in the **automated** device.

~~(vii) If the pharmacist delegates the stocking of the device, then technologies shall be in place and utilized to ensure that the correct drugs are stocked in their appropriate assignment utilizing a board~~

~~approved error prevention technology that is in compliance with R 338.490. This subdivision takes effect April 11, 2003.~~

(vii) **Any other** ~~Additional~~ information ~~as~~ the pharmacist ~~may deem~~ **considers** necessary.

(i) For medication removed from the automated device for on-site patient administration, the automated device must document all of the following information:

(i) The name of the patient.

(ii) The date and time medication was removed from the automated device.

(iii) The name, initials, or other unique identifier of the individual removing the drug.

(iv) The name, strength, and dosage form of the drug. The documentation may be on paper or electronic medium.

(j) If the pharmacist delegates the stocking of the automated device, then technologies must be in place and utilized to ensure that the correct drugs are stocked in their appropriate assignment utilizing bar-coding or another a board-approved error prevention technology.

~~(7) For medication removed from the system for on-site patient administration, the system shall document all of the following information:~~

~~(a) The name of the patient.~~

~~(b) The date and time medication was removed from the device.~~

~~(c) The name, initials, or other unique identifier of the person removing the drug.~~

~~(d) The name, strength, and dosage form of the drug. The documentation may be on paper or electronic medium.~~

~~(8)~~ **(k)** The automated device ~~shall~~ **must** provide a mechanism for securing and accounting for **controlled substances** ~~medications once~~ removed from ~~and subsequently returned to,~~ the automated device return bin. ~~Neither~~ **Controlled substances** ~~medication nor a device~~ may **not** be returned directly to the ~~system~~ **automated device** for immediate reissue or reuse. **Controlled substances** ~~Medication or devices once~~ removed **from the automated device** ~~shall~~ **may** not be reused or reissued, except as indicated in R 338.486(7).

~~(9)~~ **(l)** The automated device ~~shall~~ **must** provide a mechanism for securing and accounting for wasted or discarded medications.

~~(10) The internal quality assurance documentation for the use and performance of the automated device shall include at least all of the following:~~

~~(a) Safety monitors that include wrong medications removed and administered to patient.~~

~~(b) Accuracy monitors that include filling errors and wrong medications removed.~~

~~(c) Security monitors that include unauthorized access, patients not in the system, system security breaches, and controlled substance audits.~~

~~(d) Policies that establish corrective measures taken to address the problems and errors identified in the internal quality assurance program and its integration to the overall quality assurance policies.~~

~~(11) Policy and procedures for the use of the automated device shall include a requirement for pharmacist review of the prescription or medication order before system profiling or removal of any medication from the system for immediate patient administration. This subrule does not apply to the following situations:~~

~~(a) The system is being used as an after-hours cabinet for medication dispensing in the absence of a pharmacist as provided in R 338.486(4)(i).~~

~~(b) The system is being used in place of an emergency kit as provided in R 338.486(4)(c).~~

~~(c) The system is being accessed to remove medication required to treat the emergent needs of a patient as provided in R 338.486(4)(c). A sufficient quantity to meet the emergent needs of the patient may be removed until a pharmacist is available to review the medication order.~~

~~(d) In each of the situations specified in subdivisions (a) to (c) of this subrule, a pharmacist shall review the orders and authorize any further dispensing within 48 hours.~~

~~(12) A copy of all pharmacy policies and procedures related to the use of an automated device shall be maintained at the pharmacy responsible for the device's specific location and be available for review by an agent of the board.~~

~~(13) A controlled substance that is maintained at a nursing unit shall be stored in a securely locked cabinet or medication cart that is accessible only to an individual who is responsible for the administration or distribution of the medication.~~

~~(14) Records and documents required under this rule shall be maintained or controlled by the pharmacy responsible for the device for 2 years.~~

~~(15)~~ **(6)** An individual who is responsible for administering a controlled substance or a portion thereof shall record the quantity, disposition and an explanation of the destruction of the controlled substance on the proper accountability record. If the institution has a policy that reflects current practice standards and delineates the method of destruction, an explanation would only be required if policy was not followed.

PART 6. DISPENSING AND ADMINISTERING CONTROLLED SUBSTANCE PRESCRIPTIONS

R 338.3161 Controlled substance prescriptions.

Rule 61. (1) A prescription that is issued for a controlled substance ~~shall~~ **must** be dated**,** and signed **by the prescriber,** when issued**,** and ~~shall~~ contain all of the following information:

(a) The full name and address of the patient for whom the substance is being prescribed.

(b) The prescriber's ~~drug enforcement administration (dea)~~ **DEA** registration number, **preprinted, stamped, typed, or manually** printed name, address, **telephone number or pager number,** and professional designation.

(c) The drug name, strength, and dosage form.

(d) The quantity prescribed. For a **paper** prescription received in writing, the prescription ~~shall~~ **must** contain the quantity in both written and numerical terms. A ~~written~~ **paper** prescription ~~is in compliance if it contains~~ **must contain** preprinted numbers representative of the quantity next to ~~which is~~ a box or line **that** the prescriber may check.

(e) The directions for use.

(f) ~~In addition, if~~ **If** the prescription is for an animal, then the species of the animal and the full name and address of the owner**.**

(2) A written prescription for a controlled substance in schedules 2 to 5 shall be written legibly with ink or an indelible pencil~~,~~ or prepared using a printer and ~~shall be~~ signed by the prescriber.

(3) An agent of the prescriber may prepare a prescription for the signature of the prescriber, but, pursuant to the ~~act~~ **code**, the prescriber is liable if the prescription does not conform to these rules. A pharmacist who dispenses a controlled substance pursuant to a prescription not prepared in the form required by these rules is liable pursuant to the ~~act~~ **code**.

(4) If the controlled substance prescription or order in a medical institution is issued pursuant to delegation**,** ~~under R 338.2304, R 338.2305, R 338.108a, or R 338.108b~~ then the printed name of the delegatee, the licensure designation, the delegating prescriber, and the signature of the delegatee shall be on the written prescription. In medical facilities, orders ~~shall~~ **must** contain the signatures of the delegatee and the printed name of the delegating prescriber.

(5) A **prescriber shall not issue a** prescription ~~shall not be issued by a prescriber~~ to obtain a stock of a controlled substance for the purpose of dispensing or administering the substance to patients.

Rule 338.3161a. Exception to bona fide prescriber-patient relationship; alternative requirements.

Rule 61a. (1) A bona fide prescriber-patient relationship is required before a licensed prescriber may prescribe a controlled substance listed in schedules 2 to 5.

~~(2) As used in section 7303a of the act, MCL 333.7303a, a "bona fide prescriber-patient relationship" means a treatment or counseling relationship between a prescriber and a patient in which both of the following are present:~~

~~(a) The prescriber has reviewed the patient's relevant medical or clinical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant medical evaluation of the patient conducted in person or through telehealth. "Telehealth" means that term as defined in section 16283 of the act, MCL 333.16283.~~

~~(b) The prescriber has created and maintained records of the patient's condition in accordance with medically accepted standards.~~

~~(3)~~ **(2)** Pursuant to Section 16204e of the ~~act~~ **code**, MCL 333.16204e, a licensed prescriber may prescribe a controlled substance listed in schedules 2 to 5 without first establishing the bona fide prescriber-patient relationship required under Section 7303a of the ~~act~~ **code**, MCL 333.7303a, in the following situations:

(a) The prescriber is providing on-call coverage or cross-coverage for another prescriber who is not available and has established a bona fide prescriber-patient relationship with the patient for whom the on-call or covering prescriber is prescribing a controlled substance, the prescriber, or an individual licensed under article 15 of the ~~act~~ **code**, **MCL 333.16101 to 333.18838,** reviews the patient's relevant medical or clinical records, medical history, and any change in medical condition, and provides documentation in the patient's medical record ~~in accordance with~~ **pursuant to** medically accepted standards of care.

(b) The prescriber is following or modifying the orders of a prescriber who has established a bona fide prescriber-patient relationship with a hospital in-patient~~, hospice patient,~~ or nursing care facility resident and provides documentation in the patient's medical record ~~in accordance with~~ **pursuant to** medically accepted standards of care.

(c) The prescriber is prescribing for a patient that has been admitted to a licensed nursing care facility ~~or a hospice~~, completes the tasks identified in subrule (2)(a) and (2)(b) of this rule in compliance with ~~R 325.20602 or R 325.13302~~**R 325.45377**, as applicable, and provides documentation in the patient's medical record ~~in accordance with~~ **pursuant to** medically accepted standards of care.

(d) The prescriber is prescribing for a patient for whom the tasks listed in subrule (2)(a) and (2)(b) of this rule have been performed by an individual licensed under article 15 of the ~~act~~ **code**, **MCL 333.16101 to 333.18838,** and the prescriber provides documentation in the patient's medical record ~~in accordance with~~ **pursuant to** medically accepted standards of care.

(e) The prescriber is treating a patient in a medical emergency. For purposes of this subdivision, "medical emergency" means a situation that, in the prescriber's good-faith professional judgment, creates an immediate threat of serious risk to the life or health of the patient for whom the controlled substance prescription is being prescribed.

R 338.3162 Dispensing by pharmacists; delivery of controlled substances.

Rule 62. (1) **Except for a remote pharmacy, which is regulated by section 17742a of the code, MCL 333.17742a, and which allows a qualified pharmacy technician to assist in the dispensing process while being overseen by a pharmacist through the use of a surveillance system and telepharmacy system, ~~A~~ a** controlled substance shall be dispensed by a pharmacist or a pharmacy intern in the presence, and under the ~~immediate supervision,~~ **personal charge** of a pharmacist.

(2) A pharmacist shall require positive identification of individuals to whom controlled substances are dispensed or delivered when the individual is not known to the pharmacist or pharmacy employees~~. The following provide for waiver of this requirement~~ **except**

~~(a) When~~ **when** positive identification is not available and a pharmacist, who in exercising his or her professional judgment, determines that a delay in dispensing the controlled substance may be detrimental to a patient.

~~(b)~~ **(3)** ~~Subdivision (a)~~ **Subrule (2)** of this ~~subrule~~ **rule** does not exempt a pharmacist from the requirement to submit a patient identifier to **the electronic system for monitoring controlled substances**~~, as defined in R 338.3102(1)(f)~~.

~~(3)~~ **(4)** The dispensing pharmacist and pharmacy are **both** responsible for ~~compliance~~ **complying** with this rule.

~~(4)~~ **(5)** ~~Except as provided by R 338.3162a, a~~ **A** pharmacist may dispense a controlled substance ~~which~~ **that** is listed in schedules 3 to 5 and ~~which~~ **that** is a prescription drug pursuant to the provisions of the ~~federal food, drug, and cosmetic act~~ **FDCA** of 1991, 21 ~~U.S.C. §201.100(b)(i) et seq.~~ **USC 353**, only pursuant to a **prescription on a prescription form, an oral prescription of a practitioner, or a prescription that is electronically transmitted pursuant to R 338.3162a** ~~written, electronically transmitted, or oral order of a prescriber~~ **and** that contains all of the required information under R 338.3161, except that the signature of the prescriber is not required if the controlled substance is obtained pursuant to an oral order.

~~(5)~~ **(6) In addition to the requirements in section 17744 of the code, MCL 333.17744,** ~~If an~~ **if a prescriber's agent under delegation transmits an** oral ~~order~~ **prescription** for a controlled substance **to a pharmacy** ~~listed in schedule 3 to 5 is transmitted by the prescriber's agent under delegation then~~ all of the following shall be recorded on the prescription generated at the pharmacy:

(a) The information required by R 338.3161.

(b) The transmitting agent's identity.

(c) The individual who received the prescription at the pharmacy.

~~(6)~~ **(7)** Only ~~an order~~ **a prescription** that is issued in the usual course of professional treatment or in the course of legitimate and authorized research is a prescription.

R 338.3162a Electronic transmission of ~~prescriptions~~ **prescription**; **waiver of electronic transmission**~~"electronically transmitted prescription drug order" defined~~.

Rule 62a. ~~(1) As used in this rule, "electronically transmitted prescription drug order" means a prescription drug order that is communicated from the prescriber directly to the pharmacy by electronic means, so that the data cannot be altered, modified, extracted, viewed, or manipulated in the transmission process.~~

~~(2)~~ **(1) Until October 1, 2021, or the date established by the federal Centers for Medicare and Medicaid Services for the Medicare electronic transmission requirement, whichever occurs later, a prescription may be electronically transmitted, and a pharmacist may dispense the electronically transmitted prescription if all of the following conditions are satisfied:**

(a) The ~~An electronically transmitted~~ prescription ~~order shall be~~ **is** transmitted to the pharmacy of the patient's choice and ~~shall occur~~ **occurs** only at the option of the patient.

~~(3) A pharmacist may dispense an electronically transmitted prescription drug order only if both of the following conditions are satisfied:~~

~~(a)~~**(b)** The electronically transmitted prescription ~~drug order~~ includes all of the following information:

(i) The name and address of the prescriber.

(ii) An electronic signature or other board-approved means of ensuring prescription validity.

(iii) The prescriber's telephone number for verbal confirmation of the order.

(iv) The time and date of the **electronic** transmission.

(v) The name of the pharmacy intended to receive the **electronic** transmission.

(vi) Unless otherwise authorized under section 17754(1)(b) of the code, MCL 333.17754, the full name of the patient for whom the prescription is issued.

~~(vi)~~**(vii)** All other information that ~~is required to~~ **must** be contained in a prescription under ~~the provisions of~~ R 338.3161.

~~(b)~~ **(c)** The pharmacist exercises professional judgment regarding the accuracy or authenticity of the transmitted prescription. Technological devices shall not be used to circumvent any applicable prescription documentation and verification requirement.

(d) All requirements in section 17754 of the code, MCL 333.17754 are met.

~~(4)~~ **(2)** An electronically transmitted prescription ~~drug order~~ that meets the requirements of subrule ~~(3)~~ **(1)** of this rule ~~shall be deemed to be~~ **is** the original prescription.

~~(5)~~ **(3)** This rule does not apply to the use of electronic equipment to transmit prescription orders within inpatient medical institutions.

(4) Effective October 1, 2021, or the date established by the federal Centers for Medicare and Medicaid Services for the Medicare electronic transmission requirement, whichever occurs later,~~An~~ **prescribers shall electronically transmit a prescription for a controlled substance consistent with both of the following requirements:**

(a) All the requirements in section 17754a of the code, MCL 333.17754a, are met.

(b) All the requirements in R 338.3161 are met.

(5) A prescriber applying for a waiver from section 17754a of the code, MCL 333.17754a, shall submit a completed application to the department, on a form provided by the department, and satisfy all of the following requirements:

(a) The prescriber is unable to meet the requirements of section 17754a(1) and (2) of the code, MCL 333.17754a.

(b) The prescriber meets 1 of the following:

(i) The prescriber provides evidence satisfactory to the department that he or she has received a waiver of the Medicare requirements for the electronic transmission of controlled substances prescriptions at the federal Centers for Medicare and Medicaid Services.

(ii) The prescriber and dispensing pharmacy are the same entity.

(iii) The prescriber demonstrates economic hardship or technological limitations that are not within the control of the prescriber.

(iv) The prescriber demonstrates exceptional circumstances.

(v) The prescriber issues prescriptions from a non-profit charitable medical clinic.

(6) A waiver is valid for 2 years and is applicable to the specific circumstances included in the application. A waiver may be renewed by application to the department.

R 338.3162b Electronic system for monitoring schedules 2, 3, 4, and 5 controlled substances.

Rule 62b. (1) **Except as otherwise exempt under section 7333a of the code, MCL 333.7333a,** ~~A~~ **a** pharmacist, dispensing prescriber, and veterinarian licensed under Part 177 **of the code, MCL 333.17701 to 333.17780,** who dispenses a prescription drug ~~which~~ **that** is a controlled substance listed in schedules 2 to 5 or a pharmacy licensed by the state that dispenses in this state or dispenses to an address in this state a controlled substance listed in schedules 2 to 5 shall report to the department or the department's contractor by means of an electronic data transmittal process the following information for each prescription of a ~~schedules~~ **scheduled** 2 to 5 controlled substance ~~prescription~~ **that has been** dispensed:

(a) The patient identifier **identification number**~~, as defined in R 338.3102(1)(f)~~. **For purposes of this subdivision, all of** ~~The~~ **the** following apply:

(i) An identification number, as specified in R 338.3102(1)(f)(iv)(A) ~~or~~ **to** ~~(B)~~**(C)**, is not required for patients under the age of 16.

(ii) If the patient is under 16 years of age, zeroes ~~shall~~ **must** be entered as the identification number.

(iii) If the **medication being dispensed is for** ~~patient is~~ an animal, **the patient identification number applies to** ~~positive identification of~~ the animal's owner**, the client,** that meets the requirements of R 338.3102(1)(f)(iv). **If the animal's owner cannot be identified, zeroes must be entered as the identification number.**

(b) ~~The name of the controlled substance dispensed.~~ **The patient's name; client's name, including first name, middle name, or middle initial, if available; and last name.**

(c) The patient's or client's address, including street, city, state, and zip code.

(d) The patient's or client's phone number.

(e) The patient's or client's gender.

(f) The patient's or client's date of birth.

(g) The species code, as specified by ASAP.

~~(c)~~ **(h)** The metric quantity of the controlled substance dispensed.

~~(d)~~ **(i)** The ~~national drug code number (ndc)~~ **NDC** of the controlled substance dispensed.

~~(e)~~ **(j)** The date of issue of the prescription.

~~(f)~~ **(k)** The date of dispensing.

(l) The number of refills authorized.

(m) The refill number of the prescription fill.

~~(g)~~ **(n)** The estimated days of supply of the controlled substance dispensed.

~~(h)~~ **(o)** The prescription number assigned by the dispenser.

(p) The prescription transmission form code, as specified by ASAP, that indicates how the pharmacy received the prescription.

(q) The prescription payment type.

(r) The electronic prescription reference number, if applicable.

(s) The patient's or client's location code when receiving pharmacy services, as specified by ASAP.

~~(i)~~ **(t)** The ~~(dea)~~ **DEA** registration number of the prescriber and the dispensing pharmacy.

~~(j) The Michigan license number of the dispensing pharmacy.~~

(2) A pharmacist, dispensing prescriber, or veterinarian may presume that the patient identification information provided by a patient**,** ~~or~~ a patient's representative**, or veterinarian's client** is correct.

(3) As used in this rule, R 338.3162c, and R 338.3162d, the term "dispense" or "dispensing" means the preparation, compounding, packaging, or labeling of a controlled substance along with delivery of the controlled substance pursuant to a prescription or other authorization issued by a prescriber, and does not include the acts of prescribing a controlled substance or administering a controlled substance directly to a patient.

(4) As used in this rule, the term "patient" refers to an individual, not an animal.

R 338.3162c Format for electronic transmission of data **to electronic system for monitoring**; waiver.

Rule 62c. (1) A pharmacist, dispensing prescriber, or veterinarian who dispenses a prescription drug ~~which~~ **that** is a controlled substance listed in schedules 2 to 5 shall transmit the data, as specified under R 338.3162b~~,~~ by electronic media or other means as approved by the department or the department's contractor.

(2) The data ~~shall~~ **must** be transmitted in the format established by the ~~american society for automation in pharmacy (asap)~~ **ASAP 4.1 Standard for Prescription Drug Monitoring Programs** ~~telecommunications format for controlled substances~~.

(3) A pharmacist, dispensing prescriber, or veterinarian who dispenses controlled substances and who does not have an automated record-keeping system capable of producing an electronic report in the

format established by subrule (2) of this rule may request a waiver from electronic reporting. The request shall be made in writing to the department.

(4) A pharmacist, dispensing prescriber, or veterinarian may be granted a waiver, if he or she demonstrates an inability to report as required by R 338.3162b and he or she agrees in writing to report the data to the department or the department's contractor by submitting a completed ~~maps~~ **MAPS** claim form as defined in R 338.3102**(1)**(c) or transmitting data via an internet web portal that is provided by the ~~Department~~ **department** or the ~~Department's~~ **department's** contractor for this purpose.

R 338.3162d Required reporting of prescription data; error reporting.

Rule 62d. (1) A pharmacist, pharmacy, dispensing prescriber, or veterinarian shall report all ~~schedules~~ **scheduled** 2 to 5 controlled substances dispensed.

(2) The **licensee shall forward the** data required by R 338.3162b ~~shall be forwarded~~ by on-line transmission, computer diskette, compact disk, or other approved medium, as specified in R 338.3162c to the department or the department's contractor, **on a daily basis,** ~~twice monthly and shall include the data for all controlled substances dispensed since the previous transmission or report. Beginning 180 days after these amendatory rules take effect, the data required by R 338.3162b shall be forwarded to the department or the department's contractor~~ by the end of the next business day and ~~shall~~ include the data for all controlled substances dispensed since the previous transmission or report.

(3) ~~For each~~ **A** pharmacist, pharmacy, dispensing prescriber, or veterinarian who does not have the capacity to forward the information as specified in R 338.3162b, **shall mail or deliver** the information ~~shall be mailed or delivered~~ to a location specified by the department or the department's contractor not later than 7 calendar days after the date that the controlled substance has been dispensed, and ~~shall~~ include the data for all controlled substances dispensed since the previous transmission or report.

(4) The department or the department's contractor shall notify a pharmacist, pharmacy, dispensing prescriber, or veterinarian of an error in data reporting. Upon receiving notification of an error in data reporting, a pharmacist, pharmacy, dispensing prescriber, or veterinarian shall take appropriate measures to correct the error and transmit the corrected data to the department or the department's contractor within 7 calendar days of being notified of the error.

(5) A pharmacist, pharmacy, dispensing prescriber, or veterinarian who fails to report the dispensing of a prescription for a controlled substance listed in schedules 2 to 5 as required, ~~beginning on the date that these amendatory rules take effect, shall be~~ **is** subject to the penalty provisions in section 16221, 17741, or 17768 **of the code, MCL 333.16221, 333.17741, or 333.17768,** in article 15 of the ~~act~~ **code, MCL 333.16101 to 333.18838**.

R 338.3162e ~~Exemption from reporting requirements~~. **Rescinded.**

~~Rule 62e. A pharmacist, dispensing prescriber, or veterinarian shall be exempt from the reporting requirements under the following circumstances:~~

~~(a) When a controlled substance in schedules 2 to 5 is administered directly to a patient.~~

~~(b) When a controlled substance in schedules 2 to 5 is dispensed from a health facility or agency licensed under article 17 of the act by a dispensing prescriber in a quantity adequate to treat a patient for not more than 48 hours.~~

R 338.3163 Drug-dependent ~~person~~ **individual**; prescribing, dispensing, and administering controlled substance.

Rule 63. ~~(1)~~ A **licensee** ~~prescription~~ shall not ~~be issued~~ **prescribe, dispense, or administer** ~~for~~ a controlled substance ~~nor shall a controlled substance be dispensed or administered~~ to a drug**-**dependent ~~person~~ **individual** for the purpose of continuing his or her drug dependency, except as follows:

(a) A prescriber, licensed ~~in accordance with~~ **pursuant to** federal ~~and state~~ law to conduct the drug treatment of a drug**-**dependent ~~person~~ **individual** ~~in a program~~ may **within his or her scope of practice** prescribe, **dispense, and administer** a controlled substance for the purpose of legitimate treatment of the drug-dependent ~~person~~ **individual**. **A prescription may only be issued for a schedule 3 through 5 substance.**

(b) A **licensed health professional within the scope of his or her practice may administer or dispense a** controlled substance ~~may be administered or dispensed, or both, by a dispenser,~~ directly to a drug-dependent ~~person~~ **individual** for the purpose of continuing his or her dependence ~~who is enrolled in a drug treatment and rehabilitation program.~~ **consistent with both of the following requirements:**

(i) The drug-dependent individual is in 1 of the following situations:

(A) The drug-dependent individual is participating in a drug treatment and rehabilitation program.

(B) The drug-dependent individual is experiencing acute withdrawal symptoms and administration of a controlled substance is necessary while the licensed health professional is arranging referral for treatment. The following requirements must be followed:

(I) Not more than 1 day's supply of medication may be administered or directly dispensed to the drug-dependent individual.

(II) The emergency treatment may be carried out for not more than 3 consecutive days and may not be renewed or extended.

(ii) The controlled substance must be approved by the FDA specifically for use in maintenance or detoxification treatment.

(~~2~~**c**) A **licensed health professional within the scope of his or her practice** ~~controlled substance~~ may ~~be prescribed~~ **administer** ~~or dispensed~~ **a controlled substance** ~~in an acute care hospital to continue maintenance treatment for drug dependency for a patient whose hospitalization is for treatment of a medical condition other than addiction. The enrollment of the patient in an approved maintenance treatment program shall be verified.~~ **to a drug-dependent individual consistent with both of the following:**

(i) The licensed health professional is administering a controlled substance to continue maintenance or detoxification treatment as an adjunct to medical or surgical treatment of conditions other than addiction.

(ii) The licensed health professional is administering a controlled substance to relieve intractable pain for which no relief or cure is possible, or none has been found after reasonable efforts.

R 338.3164 Emergency dispensing of schedule 2 substances; oral prescriptions.

Rule 64. A pharmacist may dispense a controlled substance listed in schedule 2 in ~~case of~~ an emergency in which all of the following conditions are met:

(a) The prescriber advises the pharmacist of **all of** the following:

(i) Immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user.

(ii) Appropriate alternative treatment is not available, including administration of a drug that is not a controlled substance under schedule 2.

(iii) It is not reasonably possible for the prescriber to provide a written prescription to be presented to the ~~person dispensing the substance~~ **dispenser** before the dispensing.

(iv) The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period and pursuant to a written prescription.

(b) The **pharmacist** ~~prescription~~ shall ~~be~~ immediately ~~reduced~~ **put the prescription** ~~to~~ **in** writing**,** ~~by the pharmacist and~~ **which** ~~shall contain~~**contains** ~~all~~ **the** information that ~~is required to~~ **must** be contained in a prescription under ~~provisions of~~ R 338.3161, except for the prescriber's signature.

(c) If the prescriber is not known to the pharmacist, then the pharmacist shall make a reasonable effort to determine that the oral authorization came from a prescriber by returning the prescriber's call, using the telephone number listed in the telephone directory**,** and other good faith efforts to ~~assure~~ **ensure** the prescriber's identity.

R 338.3165 Emergency dispensing of schedule 2 substances; written prescriptions.

Rule 65. **(1)** Within 7 days after authorizing an emergency oral prescription of a controlled substance listed in schedule 2, the prescriber shall **comply with all of the following:**

(a) The prescriber shall deliver to the dispensing pharmacist a written prescription or electronically transmit the prescription pursuant to R 338.3162a. ~~reduce the prescription to writing and have recorded on the~~

(b) The prescriber shall include on the ~~prescription's face~~ **prescription both** "Authorization for Emergency Dispensing" and the date of the oral order. ~~The written prescription shall be delivered to the pharmacist in person or by mail within 7 days after the oral prescription is issued.~~

(2) A pharmacist that has dispensed a prescription on an emergency oral prescription shall comply with all of the following:

(a) The dispensing pharmacist shall reduce the oral prescription to writing.

(b) Upon receipt **of the prescription**, the dispensing pharmacist shall attach ~~this~~ **the** prescription to the oral order which **was** earlier ~~had been~~ reduced to writing.

(c) The **dispensing** pharmacist shall notify the department ~~of consumer and industry services~~ if the prescriber fails to deliver **to him or her either** a written prescription **or a prescription transmitted electronically** ~~to him or her~~.

(3) The failure of a pharmacist to notify the department if the prescriber fails to deliver a ~~written~~ prescription **pursuant to subrule (1) of this rule** voids the authority conferred by this rule ~~to dispense without a written prescription of a prescriber~~.

R 338.3166 Partial dispensing of ~~schedule 2~~ **controlled** substances.

Rule 66. (1) A pharmacist may partially dispense a controlled substance listed in schedule 2 **in conformance with the following:**

(a) The pharmacist ~~if he or she~~ is unable to supply the full quantity called for in a written or emergency oral prescription**.**

(b) The pharmacist ~~and he or she~~ makes a notation of the quantity supplied on the face of the written prescription**,** ~~or~~ written record of the emergency oral prescription**, or in the electronic prescription record**.

(c) The **pharmacist** ~~remainder of the prescription~~ may ~~be dispensed~~ **dispense the remainder of the prescription** within 72 hours after the first partial dispensing.

(d) If the remainder of the prescription is not or cannot be dispensed within the 72 hours, the pharmacist shall ~~so~~ notify the prescriber.

(e) The pharmacist ~~A further quantity~~ shall not ~~be dispensed~~ **dispense any additional quantity** beyond ~~the~~ 72 hours without a new prescription.

(f) The pharmacy must have the balance of the prescription ready for dispensing before the 72-hour limit, but the patient is not required to pick up the balance of the prescription within that 72-hour limit.

(2) A pharmacist may partially dispense a prescription for a controlled substance in schedule 2 at the request of the patient or the prescribing practitioner in conformance with the following:

(a) The prescription is written and filled pursuant to the CSA and DEA regulations and state law.

(b) The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed.

(c) The remaining portions of a partially filled prescription in schedule 2, if filled, shall be filled not later than 30 days after the date on which the prescription was written.

(d) For each partial filling, the dispensing pharmacist shall record, on the back of the prescription or on another appropriate record that is uniformly maintained and readily retrievable, all of the following information:

(i) Date of the partial filling.

(ii) Quantity dispensed.

(iii) Remaining quantity that may be dispensed.

(iv) Identification of the dispensing pharmacist.

~~(2)~~ **(3) A pharmacist may partially dispense, including individual dosage units, a** ~~Prescriptions~~ **prescription** for **a** schedule 2 controlled ~~substances~~ **substance** that ~~are~~ **is** written for a patient in **a** long-term care ~~facilities~~ **facility** or for a patient with a medical diagnosis that documents a terminal illness ~~may be filled in partial quantities, including individual dosage units~~ **in conformance with all of the following:**

(a) For each partial filling, the dispensing pharmacist shall record, on the back of the prescription or on another appropriate record that is uniformly maintained and readily retrievable, all of the following information:

~~(a)~~ **(i)** Date of the partial filling.

~~(b)~~ **(ii)** Quantity dispensed.

~~(c)~~ **(iii)** Remaining quantity authorized to be dispensed.

~~(d)~~ **(iv)** Identification of the dispensing pharmacist.

(b) The total quantity of schedule 2 controlled substances dispensed in all partial fillings ~~shall~~ **may** not be more than the total quantity prescribed. ~~Schedule 2 prescriptions for a patient in a long-term care facility or for a patient with a medical diagnosis that documents a terminal illness~~

(c) Prescriptions ~~shall be~~ **are** valid for a period of not more than 60 days from the issue date unless terminated at an earlier date by the discontinuance of medication.

(d) A pharmacist shall record on the prescription whether the patient is terminally ill or is a long-term care facility patient.

(4) A pharmacy may partially fill a prescription for a schedule 3, 4, or 5 controlled substance if all of the following provisions are met:

(a) Each partial filling is recorded in the same manner as a refilling.

(b) The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed.

(c) No dispensing occurs after 6 months from the date the prescription was issued for schedules 3, 4, and 5.

R 338.3167 Dispensing schedule 5 substances without prescriptions.

Rule 67. (1) A pharmacist may, without a prescription, dispense a controlled substance listed in schedule 5 ~~which~~ **that** is not a prescription medication as determined under the ~~federal food, drug, and cosmetic act~~ **FDCA**, 21 ~~U.S.C. §§~~**USC** 301 to 392, if all of the following provisions are met:

(a) The dispensing pharmacist ~~has determined~~ ~~it~~ **determines the controlled substance** is **intended** to be used for a medical purpose.

(b) Not more than 240 cc**,** ~~(~~8 ounces~~)~~**,** or 48 solid doses of a substance containing opium or more than 120 cc**,** ~~(~~4 ounces~~)~~**,** or 24 solid doses of any other substance listed in schedule 5 are distributed at retail to the same purchaser in any single 48-hour period.

(c) The purchaser is ~~at least~~ **not younger than** 18 years of age.

(d) The **dispensing** pharmacist requires a purchaser**,** not known to the pharmacist**,** to furnish suitable identification, including proof of age where appropriate.

(2) If a pharmacist dispenses a controlled substance listed in schedule 5 **without a prescription**, then he or she shall affix to the container in which the substance is dispensed a label that shows the date, his or her ~~own~~ name, and the name and address of the place of practice ~~in which~~ **where** the substance is dispensed.

(3) The pharmacist shall maintain a record of the dispensing **without a prescription** of controlled substances listed in schedule 5 **with the following requirements:**

(a) The record must be kept for 5 years from the date of dispensing. After 2 years, an electronic duplicate of the original order may be made which becomes the original record.

(b) The record ~~shall~~ **must** be immediately retrievable and may be maintained in the same manner as required for schedule 5 prescription medication.

(c) The record ~~shall~~ **must** contain all of the following information:

~~(a)~~ **(i)** The name and address of the patient.

~~(b)~~ **(ii)** The name and address of the purchaser if different from the patient.

~~(c)~~ **(iii)** The name and quantity of substance purchased.

~~(d)~~ **(iv)** The date purchased.

~~(e)~~ **(v)** The name or initials of the pharmacist or pharmacy intern who dispensed the substance.

~~(f)~~ **(vi)** The medical purpose for which the medication is being used as determined by the pharmacist.

R 338.3168 Refilling of prescriptions.

Rule 68. (1) A prescription for a controlled substance listed in schedule 2 ~~shall~~ **may** not be refilled.

(2) A prescription for a controlled substance listed in schedules ~~3and~~ **3 and** 4 ~~shall~~ **may** not be refilled more than 6 months after the prescription's date of issuance and ~~shall~~ **may** not be refilled more than 5 times. Renewal of the prescription ~~shall~~ **must** be **consistent with the requirements for original prescriptions** ~~effected and recorded in the same manner as an original prescription~~.

~~(3) A partial filling of a controlled substance prescription in schedules 3, 4, and 5 is permissible if all of the following provisions are met:~~

~~(a) Each partial filling is recorded in the same manner as a refilling.~~

~~(b) The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed.~~

~~(c) No dispensing occurs after 6 months after the date on which the prescription was issued for schedules 3 and 4.~~

~~(4)~~ **(3)** A prescription for a controlled substance listed in schedule 5 may be refilled only as expressly authorized by the prescriber on the prescription **up to 1 year**; if no authorization is indicated, then the prescription ~~shall~~ **may** not be refilled.

R 338.3170 Dispensing and administering controlled substances by prescribers.

Rule 70. (1) A prescriber in the course of his or her professional practice ~~only,~~ may dispense**,** ~~or~~ administer~~, or both~~, **or delegate under direct supervision the administering of** a controlled substance listed in schedules 2 to 5**.** ~~or he or she may cause them to be administered by an assistant under personal charge supervision~~.

~~(2) A prescriber may dispense or administer, or both, in the course of professional practice, a controlled substance listed in schedules 2 to 5, directly to a drug-dependent person for the purpose of continuing the dependence in a drug treatment and rehabilitation program, if the prescriber is appropriately~~

~~registered under federal law and licensed under state law to treat a drug-dependent person with controlled substances.~~

~~(3)~~ **(2)** A veterinarian, in the course of **his or her** professional practice ~~only and not for use by a human being,~~ may dispense**,** ~~or~~ administer,~~ or both,~~ **or delegate the administering under direct supervision of** a controlled substance listed in schedules 2 to 5 **to an animal** ~~or may cause them to be administered by an assistant or orderly under his or her direction and personal charge supervision~~.

PART 7. DISTRIBUTIONS

R 338.3181 Distributions by dispensers.

Rule 81. (1) A dispenser who is not licensed as a **wholesale** distributor may distribute a controlled substance to another dispenser for the purpose of general dispensing to his or her patients if all of the following conditions are satisfied:

(a) The receiving dispenser is licensed to dispense the substance.

(b) The distribution is recorded by the distributing dispenser and a receipt record is maintained by the receiving dispenser.

(c) An order form for substances listed in schedules 1 and 2 is used.

(d) The total number of dosage units of all controlled substances distributed by the distributing dispenser during the 12-month period in which the dispenser is licensed is not more than 5% of the total number of all dosage units distributed and dispensed during the 12-month period.

(2) If the dispenser has reason to believe that the total number of dosage units which will be distributed by him or her pursuant to this rule will be more than 5% of the total number of dosage units of all controlled substances distributed and dispensed by him or her during the 12-month period, the dispenser shall obtain a license to distribute controlled substances.

R 338.3182 ~~Distribution of aqueous and oleaginous solutions.~~ **Rescinded.**

~~Rule 82. (1) A pharmacist who is licensed to dispense may distribute, without being licensed to distribute, to a licensed practitioner, an aqueous or oleaginous solution, in a quantity of not more than 1 ounce at any one time, which contains a narcotic controlled substance in a proportion that is not more than 20% of the complete solution and which is to be used by the practitioner in the course of his or her professional practice for administration to a patient. The pharmacist shall maintain a written record that contains all of the following information:~~

~~(a) The date of the transaction.~~

~~(b) The name, form, and quantity of the substance.~~

~~(c) The name, address, and license number of the pharmacist or other licensed person.~~

~~(d) The name, address, and license number of the practitioner.~~

~~(2) In the case of a controlled substance listed in schedules 1 or 2, an order form shall be used and maintained as the written record of the transaction.~~

R 338.3183 Distribution to suppliers.

Rule 83. (1) A person who is lawfully in possession of a controlled substance that is listed in any schedule may distribute the substance ~~without being licensed to distribute~~ to the person from whom he or she obtained the substance or to the manufacturer of the substance **without obtaining a license to distribute**. The person who **distributes** ~~is in possession of~~ the substance shall maintain a written record that contains all of the following information:

(a) The date of the ~~transaction~~**distribution**.

(b) The name, form, and quantity of the substance.

(c) The name, address, and license number, if any, of the person who makes the distribution.

(d) The name, address, and license number, if known, of the supplier or manufacturer.

(2) In the case of a controlled substance listed in schedules 1 or 2, an order form ~~shall~~ **must** be used and maintained as the written record of the ~~transaction~~ **distribution**.

R 338.3185 Discontinuances and transfers.

Rule 85. A licensee who wants to discontinue or transfer business activities or a professional practice altogether or only with respect to controlled substances shall return his or her DEA registration and any unexecuted order forms in his or her possession to the ~~drug enforcement administration~~ **DEA**. The **licensee** ~~administrator's license~~ shall ~~be returned~~ **return the state controlled substances license** to the ~~administrator~~ **department**. The transfer of **the** controlled substances is subject to approval by the ~~drug enforcement administration~~ **DEA** ~~or~~ ~~administrator~~ ~~in accordance with~~ **pursuant to** the provisions of 21 ~~C.F.R. S300~~ **CFR 1301.52 and written notification must be provided to the department**.

R 338.3186 Use of order forms and invoices.

Rule 86. An order form ~~shall~~ **must** be used to distribute schedule 2 substances and an invoice ~~shall~~ **must** be used to distribute schedules 3 to 5 substances. The order form may be executed only by a practitioner who is licensed **under article 7 of the code, MCL 333.7101 to 333.7545,** to prescribe or dispense controlled substances.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
Administrative Rules for Pharmacy- Controlled Substances
Rule Set 2020-82 LR

NOTICE OF PUBLIC HEARING
Thursday, September 9, 2021
01:00 PM

Location: G. Mennen Williams Building Auditorium
525 W. Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Pharmacy- Controlled Substances rule set.

The proposed revisions to the rules will: adopt the federal schedule of controlled substances; clarify when a controlled substance license is required; modify the requirements for opioids and other controlled substances training; modify the licensure requirements for prescribers who provide maintenance or detoxification treatment in the course of their professional practice or who are registered with the DEA to provide such treatment; clarify when a licensee may prescribe, dispense, and administer a controlled substance to a drug dependent individual; clarify "significant" loss; clarify when an inventory of controlled substances is required; modify record retention to two years for most records and 5 years for an original prescription; provide the requirements for electronic transmission of prescriptions; provide the process for a waiver from the mandate to electronically transmit a prescription; and modify reporting to the electronic system for monitoring.

By authority conferred on the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing in consultation with the Board of Pharmacy pursuant to MCL 333.7106, MCL 333.7109, MCL 333.7203, MCL 333.7216, MCL 333.7301, MCL 333.7303, MCL 333.7303a, MCL 333.7321, MCL 333.7333, MCL 333.17754, MCL 333.7333a; and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030.
The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: BPL-BoardSupport@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/9/2021 at 05:00PM.

Comments on the proposed rules may be presented in person at the public hearing. Written comments will also be accepted from date of publication until 5:00 p.m. on September 9, 2021. Email: BPL-BoardSupport@michigan.gov Department of Licensing and Regulatory Affairs Bureau of Professional Licensing– Boards and Committees Section P.O. Box 30670 Lansing, MI 48909-8170 Attention: Policy Analyst

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-241-7500 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF TREASURY

STATE TREASURER

SCHOOL BOND QUALIFICATION, APPROVAL, AND LOAN RULES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the state treasurer by section 11 **of the school bond qualification, approval, and loan act,** 2005 PA 92, MCL 388.1931, and section 33 **of the administrative procedures act of 1969,** 1969 PA 306, MCL **24.233** ~~24.201 to 24.328 all as amended~~)

R 388.2, R 388.3, R 388.11, R 388.12, and R 388.13 of the Michigan Administrative Code are amended, **and** R 388.6, R 388.10 and R 388.20 of the Code are rescinded, as follows:

PART 2. SCHOOL BOND QUALIFICATION

R 388.2 Preliminary qualification; application.

Rule 2. (1) A completed preliminary qualification application shall include a submission to the department that complies with section 5 of the act, **MCL 388.1925,** any other applicable law, and any other guidance published by the department including, but not limited to, global instructions, policies, procedures, guidelines**,** or rules. The application shall include the following:

The proposed ballot language to be submitted to the electors shall include all language required by the following statutes:

Section 1361 of the revised school code, 1976 PA 451, MCL 380.1361~~, the revised school code~~.

Section 24f of the general property tax act, 1893 PA 206, MCL 211.24f~~, general property tax act~~.

Section 8 of the act**, MCL 388.1928**.

Any other applicable law.

A description of the project or projects to be financed including all of the following:

A cost analysis providing summary totals that can be matched to budget estimates as reported by the school district.

For new construction, all of the following shall be included:

The estimated number of rooms.

The types of rooms expected to be constructed.

The estimated square footage of the project or projects.

(D) The estimated cost per square foot.

For remodeling and site work, all of the following shall be included:

The planned use of the space.

The type of work expected to be performed.

The estimated total cost of the work to be performed.
For site acquisitions, the total cost of acquisition shall be included, or if such information is not available, the estimated total cost of acquisition.
For technology, furnishings, and equipment, school districts shall provide detail regarding the types of technology, furnishings, and equipment to be purchased.
A pro forma debt service projection, which shall demonstrate both of the following:
That the projected computed millage will be sufficient to repay principal and interest on all of the school district's existing and proposed new qualified bonds plus principal and interest on all existing and anticipated qualified loans related to those bonds not later than the final mandatory repayment date.
That the school district's projected average growth in taxable value is based on the assumptions required by the act.
The utilization rate for each project included in the preliminary qualification application, which meets the following specifications:
The utilization rate shall be calculated by dividing the projected 5-year enrollment by the standard pupil capacity factor provided by the department.
The 5-year enrollment projection used in this calculation shall be obtained from an enrollment projection service provider approved by the department.
~~When the utilization rate for any building is below 60% for remodeling projects and 85% for new construction projects, the school district shall submit a written explanation of such variance discussing the actions the school district intends to take to address the underutilization.~~
Evidence that the cost per square foot of the project or projects will be reasonable in light of economic conditions applicable to the geographic area in which the school district is located.
An amortization schedule in accordance with **sections 5(2)(k) and 7(1)(d) of the act,** MCL 388.1925~~(2)(k)~~ and ~~MCL~~ 388.1927~~(1)(d)~~.
~~A completed prequalification application includes the following data, which the department shall use for informational purposes only:~~
~~The total bonded debt outstanding of the school district for the school district fiscal year in which the application is filed.~~
~~The total taxable value of property in the school district for the school district fiscal year in which the application is filed.~~
~~A statement describing any environmental or usability problems to be addressed by the project or projects.~~
~~An architect's analysis of the overall condition of the facilities to be renovated or replaced as a part of the project or projects.~~
~~Acknowledgement that the district will keep books and records of expenditure of bond proceeds and make this information available to the department upon request within 5 business days.~~
The department shall determine the reasonableness of cost per square foot by comparing the cost included in the preliminary qualification application to the cost per square foot parameter announced annually by the department. The cost per square foot parameter announced annually by the department shall be calculated from data derived from reputable independent sources, including but not limited to, R.S. Means or such similar entity that provides reliable objective information.
~~If it has been more than 12 months since the preliminary qualification was approved, then a school district shall submit the following information to update the application prior to submitting an application for final qualification:~~
~~A status report of any previous series of bonds included in the authorization.~~
~~Updated project sheets for each project included in the proposed series and supporting cost detail, as described in R 388.2(1)(b).~~
~~A cost summary sheet for proposed bond series.~~

~~An updated pro forma debt service projection showing bond structure for proposed series.~~

R 388.3 Qualification of bonds.
Rule 3. (1) To obtain final qualification of bonds, a school district shall, along with meeting any other requirements of section 7 of the act, **MCL 388.1927,** submit a final qualification application and supporting documentation in the form prescribed by the department.
Supporting documentation shall include all of the following:
A cover letter from legal counsel indicating the requested approval date and delivery date if known at the time of submission.
The certificate of determination of election results and vote count approving the bonds.
An updated pro forma debt service projection.
A copy of any adopted resolution authorizing the issuance of bonds.
A copy of any resolution authorizing the sale of bonds if such a resolution is applicable.
~~The preliminary or final official statement, whichever is available at the time of submission.~~
~~Acknowledgement that the district will keep books and records of expenditure of bond proceeds and make this information available to the department upon request within 5 business days.~~
Supporting documentation for refunding bond issues shall include **additional financial schedules that document net present value savings of the refunding bond issue.** ~~both of the following:~~
~~Additional financial schedules that document net present value savings of the refunding bond issue.~~
~~A draft verification report of mathematical accuracy of the refunding tables, prepared by a reliable independent source.~~
~~If a school district does not issue its qualified bonds within 180 days after the date of the order qualifying bonds, then the school district shall submit a revised application and updated pro forma debt service projection to the department.~~
(4) Notwithstanding the repayment requirements of these rules, all bonds qualified under the act and **Aa**rticle IX of the state constitution of 1963 shall be considered qualified upon issuance of the order qualifying bonds by the state treasurer until final maturity.

PART 3. SCHOOL LOAN REVOLVING FUND LOANS

~~R 388.6 Certification of computed millage~~. **Rescinded.**
~~Rule 6. Subject to the act and other provisions of these rules, a school district shall authorize, agree to, and certify the levy of its full computed millage before borrowing from the school loan revolving fund.~~

~~R 388.10 Final mandatory repayment dates for borrowing related to new bond issues.~~ Rescinded.
~~Rule 10. The final mandatory repayment dates for borrowing related to qualified bond issues shall be determined in accordance with the act.~~

R 388.11 Interest rates on qualified loans.
Rule 11. (1) All qualified loans shall bear interest as defined in section 9(8) of the act**, MCL 388.1929.**
(2) The department shall recalculate the interest rate on all qualified loans **at least quarterly.** ~~if any of the following occur:~~
~~Additional school loan bonds or school loan revolving fund bonds are issued.~~
~~Existing school loan bonds or school loan revolving fund bonds are refunded.~~
~~Principal payments are made on existing school loan bonds or school loan revolving fund bonds.~~
~~Each time variable interest rates are adjusted on school loan bonds, or quarterly for school loan revolving fund bonds.~~

Interest on all qualified loans shall be compounded annually on September 30.

R 388.12 Repayment; invoices.

Rule 12. ~~(1) If the revenue generated by a school district's computed millage levied in a 12-month period exceeds the debt service due on qualified bonds during that 12- month period, then the school district shall pay the difference, less a reasonable amount of funds on hand, as determined by the state treasurer, to cover minimum balance requirements or potential tax disputes, to the department as payment of the outstanding loan.~~

(1) The department shall issue an invoice to the school district at least once a year when the information contained in a loan activity statement demonstrates that the revenue generated by a school district's levy of the computed millage will exceed the annual debt service on the bonds.

(2) The school district shall remit the amount specified in the invoice to the department not later than the next succeeding May 15 after the dated date of the invoice.

(3) The school district shall promptly submit to the department an explanation of any difference between the invoiced payment due and the payment remitted.

PART 4. NONCOMPLIANCE

R 388.13 Noncompliance; remedies.

Rule 13. (1) The following situations constitute noncompliance:

A school district that owes the state loan repayments relating to qualified bonds fails to levy at least the computed millage upon its taxable value for debt retirement purposes for qualified bonds or qualified loans under the act.

A school district fails to honor its agreement to repay a qualified loan or any installment of a qualified loan.

A school district fails to file or correctly file required documentation as defined in the act or these rules.

In addition to any other remedies provided by the act or other state law, in the event of noncompliance, the school district shall **file or correct the required documentation.** ~~do all of the following as required by the~~ department:

~~File or correct the required documentation.~~

~~Increase its debt levy in the next succeeding year to obtain the funds necessary to repay the amount of the default plus a late charge that shall be 3% of the amount due. If a school district fails to levy at least the computed millage upon its taxable value, then the school district shall increase its debt levy in the next succeeding year to obtain the amount necessary to repay the amount of the default plus a late charge that shall be 3% of the amount due even when such an increase will be higher than the computed millage.~~

~~Shall pay to the state the amount of the default plus the 3% late charge together with any other amounts owed during the next tax year following the year in which the default occurred.~~

~~The department shall cause state school aid not to be disbursed to the non- complying school district until arrangements for the payment of the amount in arrears are made with the department's approval.~~

(3) Failure of a school district to comply with application due dates or failure of a school district to process any report, application, confirmation, or repayment as required under the act or in these rules may result in 1 or both of the following:

The department may issue a notification to the school board requiring a written response of remedy.

The department may withhold a school district's state aid funds until the school district complies with all requirements.

(4) None of the following situations constitutes noncompliance:

Taxpayer delinquencies.

Failure of projected pupil or tax base growth rates to meet initial projections.
Decline in the school district tax base.

PART 10. USE OF REMAINING PROCEEDS

~~R 388.20 Use of remaining proceeds~~. **Rescinded.**
~~Rule 20. (1) School districts may only use bond proceeds remaining after the approved projects are completed to do the following:~~
~~Pay debt service on qualified bonds.~~
~~Pay qualified loans.~~
~~(2) Only under limited circumstances, and if in the opinion of the district's bond counsel, the use of remaining proceeds to pay down debt would adversely affect the tax treatment of interest on the qualified bonds, the district may use remaining bond proceeds to pay for enhancements to the projects approved by the school electors as described in the ballot language.~~

NOTICE OF PUBLIC HEARING

Department of Treasury
Bureau of State and Authority Finance
Administrative Rules for School Bond Qualification, Approval, And Loan Rules
Rule Set 2020-104 TY

NOTICE OF PUBLIC HEARING
Thursday, September 16, 2021
09:00 AM

430 West Allegan Street, Lansing MI, 48933, 1st Floor, Austin Building. https://bit.ly/3y6yGp6. Phone number: 248-509-0316 Conference ID: 517 711 14#

The Department of Treasury will hold a public hearing to receive public comments on proposed changes to the School Bond Qualification, Approval, And Loan Rules rule set.

General goal and purpose of these rules are to provide a quick reference guide for school districts who plan to obtain a qualified loan status or plan to borrow funds through the School Loan Revolving Fund (SLRF) with the State. This rule change will ensure that guidelines in the Statute are not duplicated in the Rules and ensure that all Rules follow the Statute. Existing Rules will be updated for clarification purposes of the Statute.

By authority conferred on the Director of the Bureau of State and Authority Finance by MCL 388.1931 of the School Bond Qualification, Approval and Loan Act, MCL 388.1921 to 388.1939. The proposed rules will take effect immediately after filing with the Secretary of State.

The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: 430 W. Allegan St., Lansing Michigan 48933 or electronic transmission sabinj1@michigan.gov. The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: Requests for copies of the rules can be sent to Janelle Sabin at SabinJ1@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/16/2021 at 05:00PM.

The mail address to send comments to is School Bond Loan Program, 430 W. Allegan St., Lansing, MI 48933, Attention Janelle Sabin

Email: Written comments may also be sent electronically to SabinJ1@michigan.gov

The mail address to send comments to is School Bond Loan Program, 430 W. Allegan St., Lansing, MI 48933, Attention Janelle Sabin.

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-335-4302 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

~~BOARD OF~~ PHYSICAL THERAPY – GENERAL RULES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(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 16141, 16145, 16148, 16174, 16201, 16204, 16205, 16206, 16215, 16287, and 17823 of the public health code, 1978 PA 368, MCL 333.16141, 333.16145, 333.16148, 333.16174, 333.16201, 333.16204, 333.16205, 333.16206, 333.16215, 333.16287, and 333.17823 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 338.7121, R 338.7122, R 338.7126, R 338.7131, R 338.7132, R 338.7133, R 338.7134, R 338.7135, R 338.7136, R 338.7137, R 338.7138, R 338.7139, R 338.7141, R 338.7142, R 338.7145, R 338.7146, R 338.7147, R 338.7148, R 338.7149, R338.7161, and R 338.7163 of the Michigan Administrative Code are amended, and R 338.7127 is added, as follows:

PART 1. DEFINITIONS

R 338.7121 Definitions.

Rule 21. **(1)** As used in these rules:

(a) "Board" means the Michigan board of physical therapy created under section 17821 of the code, MCL 333.17821.

(b) "Code" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(c) "Department" means the Michigan department of licensing and regulatory affairs.

(d) "Patient or client of record" means a patient or client who is receiving physical therapy services from a licensed physical therapist or from a licensed physical therapist assistant under the direction and supervision of a physical therapist.

(2) A term defined in the code has the same meaning when used in these rules.

PART 2. GENERAL PROVISIONS

R 338.7122 Prescription.

Rule 22. (1) As used in these rules, a prescription is a written or electronic order for physical therapy. A prescription must include all ~~of~~ the ~~following:~~ **following information:**

(a) The name of the patient.

(b) The patient's medical diagnosis.

(c) The signature of either an individual who is licensed and authorized to prescribe physical therapy in Michigan or an individual who holds the equivalent license issued by another state, as provided in section 17820(1) of the code, MCL 333.17820.

(d) The date that the **authorized licensee wrote the** prescription**.** ~~was written.~~

(2) A prescription is valid for 90 days from the date that the **authorized licensee writes the** prescription ~~was written~~ unless the termination date is otherwise ~~stated~~ **specified** by the authorized licensee on the prescription.

R 338.7126 Training standards for identifying victims of human trafficking; requirements.

Rule 26. (1)~~Pursuant to~~ **Under** section 16148 of the code, MCL 333.16148, an individual seeking licensure or who is licensed shall complete training in identifying victims of human trafficking that ~~meets~~ **satisfies** all ~~of~~ the following standards:

(a) Training content must cover all ~~of~~ the following:

(i) Understanding the types and venues of human trafficking in the United States.

(ii) Identifying victims of human trafficking in health care settings.

(iii) Identifying the warning signs of human trafficking in health care settings for adults and minors.

(iv) 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~~ **satisfies** the requirements of subdivision (a) of this subrule and is published in a peer review journal, health care 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 a sample of individuals and request documentation of proof of completion of training. If audited by the department, an 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 an individual. The certification statement ~~shall~~**must** include the individual's name and either of the following:

(i) For training completed ~~pursuant to~~ **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~~ **under** subrule (1)(b)(iv) of this rule, the title of article, author, publication name of peer review journal, health care journal, or professional or scientific journal, and date, volume, and issue of publication, as applicable.

(3) ~~Pursuant to~~**Under** section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule apply for license renewals beginning with the 2017 renewal cycle and for initial licenses issued beginning January 6, 2022.

R 338.7127 Telehealth.

Rule 27. (1) A licensee shall obtain consent for treatment before providing a telehealth service under section 16284 of the code, MCL 333.16284.

(2) A licensee shall keep proof of consent for telehealth treatment in the patient's up-to-date medical record and follow section 16213 of the code, MCL 333.16213.

(3) A licensee providing any telehealth service shall do both 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 health care service.

PART 3. PHYSICAL THERAPISTS

R 338.7131 Program accreditation standards; physical therapist; adoption of standards by reference.

Rule 31. (1) The standards and evaluative criteria for accreditation of physical therapist educational programs set forth by the Commission on Accreditation in Physical Therapy Education (CAPTE) in the document entitled "PT Standards and Required Elements" effective January 1, 2016 are adopted by reference in these rules. Copies of the evaluative criteria are available, at no cost, from CAPTE, 1111 North Fairfax St., Alexandria, ~~VA~~ **Virginia** 22314-1488, and on CAPTE's website at ~~http://www.capteonline.org.~~ **https://www.capteonline.org.** Copies of the evaluative criteria also are available for inspection and ~~distribution, at cost,~~ **distribution at a cost of 10 cents per page** from the Board of Physical Therapy, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, ~~MI~~ **Michigan** 48909.

(2) Any educational program for physical therapists ~~that is~~ accredited by CAPTE ~~meets~~ **satisfies** the qualifications for an approved physical therapist educational program.

R 338.7132 Licensure by examination; physical therapist; requirements.

Rule 32. An applicant for a physical therapist license by examination shall ~~submit~~ **provide** the required fee and a completed application on a form provided by the department. In addition to ~~meeting~~ **satisfying** the requirements of the code and these rules, an applicant shall ~~meet~~ **satisfy** all ~~of~~ the following requirements:

(a) Graduate from an accredited physical therapist educational program that ~~meets~~ **satisfies** the standards under R 338.7131.

(b) Pass the National Physical Therapy Examination (NPTE) for physical therapists required under R 338.7133(1).

(c) Achieve a converted score of not less than 75 on the Michigan Physical Therapist Jurisprudence Exam required under R 338.7133(2).

R 338.7133 Examinations; physical therapist; adoption and approval.

Rule 33. (1) The board approves and adopts the NPTE for physical therapists ~~that was~~ developed, administered, and scored by the Federation of State Boards of Physical Therapy (FSBPT). The board adopts the passing score recommended by FSBPT.

(2) The board approves the Michigan Physical Therapist Jurisprudence Exam on laws and rules related to the practice of physical therapy in Michigan, which is administered by a third party approved by the department.

R 338.7134 Physical therapist examination; eligibility.

Rule 34. (1) To be eligible for the NPTE for physical therapists, an applicant shall ~~meet~~ **satisfy** 1 of the following requirements:

(a) Graduate from an accredited physical therapist educational program that ~~meets~~ **satisfies** the standards under R 338.7131.

(b) ~~Comply with~~**Satisfy** the requirements under R 338.7135.

(c) Verify ~~that he or she is currently enrolled~~ **current enrollment** in the final semester, term, or quarter of an approved physical therapist educational program and ~~is~~ expected ~~to graduate.~~ **date of graduation.**

(2) An applicant who fails to achieve passing scores on the examinations required under R 338.7133 may retake the Michigan Physical Therapist Jurisprudence Exam without limitation and the NPTE for physical therapists consistent with the FSBPT testing standards. **An applicant requesting an appeal of the 6-time lifetime limit policy or the 2 very low scores policy shall complete the following requirements before the board will consider the request. The department shall reject a request to the board if the applicant does not provide all the following information in writing:**

(a) A completed NPTE Appeal form, which includes the information under subdivisions (b) to (j) of this subrule.

(b) The candidate's name.

(c) Whether the request relates to the physical therapy or physical therapy assistant examination level.

(d) Whether the 6-time lifetime limit policy or the 2 very low scores policy is being appealed.

(e) The state where the applicant is seeking licensure.

(f) The reason for the appeal, including why the applicant believes the 6-time lifetime limit policy or the 2 very low scores policy should not apply to the applicant.

(g) A list of all physical therapist or physical therapist assistant examination level examinations taken by the applicant, including the date of the examinations, province or state where taken, and the scores on the examinations.

(h) A list of any disciplinary action taken against the applicant by the FSBPT or by a province of Canada or another state, including the date, the province or state, and an explanation of the circumstances surrounding the discipline.

(i) The applicant's signature.

(j) The date the applicant completed the form.

R 338.7135 Graduate of non-accredited postsecondary institution; physical therapist; examination; eligibility.

Rule 35. To be eligible for the NPTE for physical therapists, an applicant who graduated from a non-accredited physical therapist educational program shall ~~comply with both of the following requirements:~~

~~(a) Verify~~ **verify** ~~that he or she has completed~~ **completion of** a physical therapist educational program that is substantially equivalent to a physical therapist program that is accredited by CAPTE, as provided under R 338.7131. ~~Evidence~~ **Proof** of having completed a substantially equivalent physical therapist educational program must include an evaluation of the applicant's non-accredited education through an evaluation that uses the **current** FSBPT Coursework Tool for Foreign Educated Physical Therapists.

~~(b) Demonstrate a working knowledge of the English language. An applicant shall demonstrate a working knowledge of the English language by satisfying either of the following requirements:~~

~~(i) Submitting proof that he or she has obtained a total score of not less than 89 on the test of English as a foreign language internet-based test (TOEFL-iBT) administered by the Educational Testing Service (ETS) and obtained the following section scores:~~

~~(A) Not less than 22 on the reading section.~~

~~(B) Not less than 21 on the listening section.~~

~~(C) Not less than 24 on the speaking section.~~

~~(D) Not less than 22 on the writing section.~~

~~(ii) Submitting proof that he or she graduated from a physical therapist educational program or physical therapist assistant educational program located in Australia, a province of Canada that is not Quebec, Ireland, New Zealand, the United Kingdom, or the United States.~~

R 338.7136 Licensure by endorsement of physical therapist; requirements.

Rule 36. (1) An applicant for a physical therapist license by endorsement ~~shall submit the required fee and a completed application on a form provided by the department and satisfy~~ **who satisfies** the requirements of the code and this ~~rule.~~ **rule satisfies the requirements of section 16186 of the code, MCL 333.16186. The department shall issue a physical therapist license to an applicant who satisfies all the following requirements:**

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

(b) Holds a current physical therapist license in another state or in a province of Canada.

(c) Completed the educational requirements for a physical therapist license in another state or province of Canada to obtain licensure as a physical therapist in a province of Canada or another state.

(d) Received a passing score on either of the following examinations for a physical therapist license in another state or province of Canada to obtain licensure as a physical therapist in a province of Canada or another state:

(i) The NPTE for physical therapists required under R 338.7133(1).

(ii) The Physiotherapy Competency Examination (PCE).

(e) Passed the Michigan Physical Therapist Jurisprudence Exam required under R 338.7133(2).

(2) ~~An applicant who was first licensed in another jurisdiction recognized by FSBPT and who engaged in the practice of physical therapy for 5 years or more immediately preceding the date of filing an application for a Michigan physical therapist license shall satisfy both of the following requirements:~~ **An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall 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. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.**

~~(a) Pass the Michigan Physical Therapist Jurisprudence Exam required under R 338.7133(2).~~

~~(b) Have passed the NPTE for physical therapists required under R 338.7133(1).~~

~~(3) An applicant who was first licensed in another jurisdiction recognized by FSBPT and engaged in the practice of physical therapy for less than 5 years immediately preceding the date of filing an application for a Michigan physical therapist license shall satisfy all of the following requirements:~~

~~(a) Have graduated from either a physical therapist educational program that meets the standards under R 338.7131 or from a physical therapist educational program determined to be substantially equivalent to an educational program by satisfying the verification process under R 338.7135(a).~~

~~(b) Pass the Michigan Physical Therapist Jurisprudence Exam required under R 338.7133(2).~~

~~(c) Have passed the NPTE for physical therapists required under R 338.7133(1).~~

~~(d) Demonstrate a working knowledge of the English language by satisfying the requirements under R 338.7135(b) if the applicant graduated from a nonaccredited physical therapist educational program.~~

~~(4) An applicant's license must be verified, on a form provided by the department, by the licensing agency of any jurisdiction recognized by FSBPT in which the applicant holds a current license or registration or ever held a license or registration as a physical therapist. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.~~

R 338.7137 Requirements for relicensure; physical therapist.

Rule 37. (1) An applicant ~~whose license has lapsed for less than 3 years preceding the date of application for relicensure~~ may be relicensed **within 3 years after the expiration date of the license** under section 16201(3) of the code, MCL 333.16201, if the applicant ~~meets~~ **satisfies** all ~~of~~ the following requirements:

(a) ~~Submits~~ **Provides** the required fee and a completed application on a form provided by the department.

(b) Establishes ~~that he or she is of~~ good moral character as defined under section 1 of 1974 PA 381, MCL 338.41.

(c) Passes the Michigan Physical Therapist Jurisprudence Exam required under R 338.7133(2).

(d) Complies with either of the following:

(i) ~~Submits~~ **Provides** proof to the department of accumulating not less than 24 professional development requirement (PDR) credits consistent with R 338.7161 to R 338.7165 during the 2 years immediately preceding the date of the application for relicensure. However, if the PDR credit~~s~~ hours ~~submitted~~ **provided** with the application are deficient, the applicant shall have 2 years from the date of the application to complete the deficient credits.

(ii) Establishes ~~that he or she has been employed~~ **employment** as a physical therapist in another jurisdiction recognized by FSBPT for a minimum of 500 hours during the 2-year period immediately preceding the date of application for relicensure.

(2) An applicant ~~whose license has lapsed for 3 years or more preceding the date of application for relicensure~~ may be relicensed **more than 3 years after the expiration date of the license** under section 16201(4) of the code, MCL 333.16201**,** if the applicant ~~meets~~ **satisfies** all ~~of~~ the following requirements:

(a) ~~Submits~~ **Provides** the required fee and a completed application on a form provided by the department.

(b) Establishes ~~that he or she is of~~ good moral character as defined under section 1 of 1974 PA 381, MCL 338.41.

(c) ~~Submits~~ **Provides** fingerprints as ~~set forth in~~ **required under** section 16174(3) of the code, MCL 333.16174.

(d) Passes the Michigan Physical Therapist Jurisprudence Exam required under R 338.7133(2).

(e) Complies with either of the following:

(i) Establishes ~~that he or she has been employed~~ **employment** as a physical therapist in another jurisdiction recognized by FSBPT for a minimum of 500 hours during the 2-year period immediately preceding the date of application for relicensure.

(ii) Passes the NPTE for physical therapists required under R 338.7133(1).

(3) ~~An applicant's license or registration must be verified by the licensing agency of any jurisdiction recognized by FSBPT in which the applicant holds a current license or registration or ever held a license or registration as a physical therapist. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.~~ **An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall 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. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.**

R 338.7138 Delegation of acts, tasks, or functions to a physical therapist assistant; supervision of physical therapist assistant; requirements.

Rule 38. (1) A physical therapist who delegates the performance of selected acts, tasks, or functions to a physical therapist assistant as permitted under section 16215 of the code, MCL 333.16215, shall supervise the physical therapist assistant consistent with section 16109(2) of the code, MCL 333.16109, and satisfy the requirements of this rule.

(2) A physical therapist who delegates acts, tasks, or functions under this rule shall also ~~comply with~~ **satisfy** all ~~of~~ the following:

(a) Ensure the qualifications of the physical therapist assistant under the physical therapist's supervision, including verification of the physical therapist assistant's training, education, and licensure.

(b) Examine and evaluate the patient or client before delegating acts, tasks, or functions ~~to be~~ performed by a physical therapist assistant.

(c) Provide predetermined procedures and protocols for **delegated** acts, tasks, or functions**.** ~~that have been delegated.~~

(d) Maintain a record of the names of the physical therapist assistants to whom acts, tasks, or functions ~~have been~~ **are** delegated.

(e) Monitor a physical therapist assistant's practice and provision of assigned physical therapy acts, tasks, or functions.

(f) Meet regularly ~~and in person~~ with the physical therapist assistant to whom acts, tasks, or functions have been delegated to evaluate the assistant's performance, review records, and educate the physical therapist assistant on the acts, tasks, or functions that have been delegated.

(3) A physical therapist shall not supervise more than 4 physical therapist assistants at the same time.

R 338.7139 Delegation of acts, tasks, or functions to a licensed or unlicensed individual; direct supervision of a licensed or unlicensed individual; requirements.

Rule 39. (1) ~~Pursuant to~~ **Under** section 16215(6) of the code, MCL 333.16215, the requirements of this rule do not apply to a physical therapist who delegates to a physical therapist assistant if the physical therapist satisfies the requirements for delegation to a physical therapist assistant under R 338.7138.

(2) Except as provided under subrule (1) of this rule, a physical therapist who delegates the performance of selected acts, tasks, or functions to a licensed or unlicensed individual under section 16215 of the code, MCL 333.16215, shall supervise the individual ~~pursuant to~~ **under** section 16109(2) of the code, MCL 333.16109, in addition to providing direct supervision of the individual. As used in this rule, "direct supervision" means that the physical therapist is physically present and immediately

available for direction and supervision when patients or clients are present at the time the act, task, or function is performed, and that the physical therapist has direct contact with the patient or client during each visit.

(3) A physical therapist who delegates acts, tasks, or functions under subrule (2) of this rule shall also ~~comply with~~ **satisfy** all ~~of~~ the following:

(a) Ensure the qualifications of the individual under the physical therapist's direct supervision, including verification of the individual's training and education.

(b) Examine and evaluate the patient or client before delegating acts, tasks, or functions ~~to be~~ performed by the individual.

(c) Directly supervise the individual to whom acts, tasks, or functions ~~have been~~ **are** delegated.

(d) Provide predetermined procedures and protocols for acts, tasks, or functions ~~that have been~~ delegated.

(e) Maintain a record of the names of the individuals to whom acts, tasks, or functions ~~have been~~ **are** delegated.

(f) Monitor the individual's practice and provision of assigned acts, tasks, or functions.

(g) Meet regularly and in person with the individual to whom acts, tasks, or functions have been delegated to evaluate the individual's performance, review records, and educate the individual on the acts, tasks, or functions that have been delegated.

(4) A physical therapist shall not supervise more than 3 individuals under this rule at the same time.

(5) Under section 16171 of the code, MCL 333.16171, the requirements of subrule (3)(b) of this rule do not apply to a student enrolled in an accredited physical therapist or physical therapist assistant educational program approved by the board.

PART 4. PHYSICAL THERAPIST ASSISTANTS

R 338.7141 Program accreditation standards; physical therapist assistant; adoption of standards by reference.

Rule 41. (1) The standards and evaluative criteria for accreditation of physical therapist assistant educational programs set forth by CAPTE in the document entitled "PTA Standards and Required Elements" effective January 1, 2016 are adopted by reference in these rules. Copies of the evaluative criteria are available at no cost from CAPTE, 1111 North Fairfax St., Alexandria, ~~VA~~ **Virginia** 22314-1488 and on CAPTE's website at ~~http://www.capteonline.org.~~ **https://www.capteonline.org.** Copies of the evaluative criteria also are available for inspection and distribution at **a** cost **of 10 cents per page** from the Board of Physical Therapy, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, ~~MI~~ **Michigan** 48909.

(2) Any educational program for physical therapist assistants ~~that is~~ accredited by CAPTE ~~meets~~ **satisfies** the qualifications for an approved physical therapist assistant educational program.

R 338.7142 Licensure by examination; physical therapist assistant; requirements.

Rule 42. (1) An applicant for a physical therapist assistant license by examination shall ~~submit~~ **provide** the required fee and a completed application on a form provided by the department. In addition to ~~meeting~~ **satisfying** the requirements of the code and these rules, an applicant shall ~~meet~~ **satisfy** all ~~of~~ the following requirements:

(a) Graduate from an accredited physical therapist assistant educational program that ~~meets~~ **satisfies** the standards under R 338.7141.

(b) Pass the NPTE for physical therapist assistants required under R 338.7145(1).

(c) Achieve a converted score of not less than 75 on the Michigan Physical Therapist Assistant Jurisprudence Exam required under R 338.7145(2).

(2) An applicant who graduated on or before January 1, 2008, from an accredited educational program that ~~meets~~ **satisfies** the standards under R 338.7141 is presumed to ~~meet~~ **satisfy** the requirements of this rule.

R 338.7145 Examinations; physical therapist assistant; adoption and approval; passing score.

Rule 45. (1) The board approves and adopts the NPTE for physical therapist assistants ~~that was~~ developed, administered, and scored by FSBPT. The board adopts the passing score recommended by FSBPT.

(2) The board approves the Michigan Physical Therapist Assistant Jurisprudence Exam on laws and rules related to the practice of physical therapy in Michigan, which is administered by a third party approved by the department.

R 338.7146 Physical therapist assistant examination; eligibility.

Rule 46. (1) To be eligible for the NPTE for physical therapist assistants, an applicant shall ~~meet~~ **satisfy** 1 of the following requirements:

(a) Graduate from an accredited physical therapist assistant educational program that ~~meets~~ **satisfies** the standards under R 338.7141.

(b) ~~Comply with~~ **Satisfy** the requirements under R 338.7147.

(c) Verify ~~that he or she is currently enrolled~~ **current enrollment** in the final semester, term, or quarter of an approved physical therapist assistant educational program and ~~is~~ expected ~~to graduate.~~ **date of graduation.**

(2) An applicant who fails to achieve passing scores on the examinations required under R 338.7145(1) and (2) may retake the Michigan Physical Therapist Assistant Jurisprudence Exam without limitation and the NPTE for physical therapist assistants consistent with the FSBPT testing standards. **An applicant requesting an appeal of the 6-time lifetime limit policy or the 2 very low scores policy shall complete the following requirements before the board will consider the request. The department shall reject a request to the board if the applicant does not provide all the following information in writing:**

(a) A completed NPTE Appeal form, which includes the information under subdivisions (b) through (j) of this subrule.

(b) The candidate's name.

(c) Whether the request relates to the physical therapy or physical therapy assistant examination level.

(d) Whether the 6-time lifetime limit policy or the 2 very low scores policy is being appealed.

(e) The state where the applicant is seeking licensure.

(f) The reason for the appeal, including why the applicant believes the 6-time lifetime limit policy or the 2 very low scores policy should not apply to the applicant.

(g) A list of all physical therapist or physical therapist assistant examination level examinations taken by the applicant, including the date of the examinations, province or state where taken, and the scores on the examinations.

(h) A list of any disciplinary action taken against the applicant by the FSBPT or by a province of Canada or another state, including the date, the province or state, and an explanation of the circumstances surrounding the discipline.

(i) The applicant's signature.

(j) The date the applicant completed the form.

R 338.7147 Graduate of non-accredited postsecondary institution; physical therapist assistant; examination; eligibility.

Rule 47. To ensure eligibility for examination, an applicant who graduated from a United States military or non-accredited physical therapist assistant educational program shall ~~submit~~ **provide** the required fee and a completed application on a form provided by the department. To be eligible for examination, an applicant shall ~~comply with both of the following requirements:~~

~~(a) Verify~~ **verify** ~~that he or she has completed~~ **completion of** a physical therapist or physical therapist assistant educational program that is substantially equivalent to a physical therapist assistant program that is accredited by CAPTE, as provided under R 338.7141. ~~Evidence~~ **Proof** of having completed a substantially equivalent physical therapist assistant educational program must include an evaluation of the applicant's non-accredited education through an evaluation that uses the **current** FSBPT Coursework Tool for Foreign Educated Physical Therapist Assistants.

~~(b) Demonstrate a working knowledge of the English language by satisfying the requirements under R 338.7135(b) if the applicant graduated from a nonaccredited physical therapist assistant educational program.~~

R 338.7148 Licensure by endorsement of physical therapist assistant; requirements.

Rule 48. (1) An applicant for a physical therapist assistant license by endorsement ~~shall submit the required fee and a completed application on a form provided by the department and satisfy~~ **who satisfies** the requirements of the code and this ~~rule.~~ **rule satisfies the requirements of section 16186 of the code, MCL 333.16186. The department shall issue a physical therapist assistant license to an applicant who satisfies all the following requirements:**

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

(b) Holds a current physical therapist assistant license in another state or in a province of Canada.

(c) Completed the educational requirements for a physical therapist assistant license in another state or province of Canada to obtain licensure as a physical therapist assistant in a province of Canada or another state.

(d) Received a passing score on the NPTE for physical therapist assistants required under R 338.7145(1) for a physical therapist assistant license in another state or province of Canada to obtain licensure as a physical therapist assistant in a province of Canada or another state.

(e) Passed the Michigan Physical Therapist Assistant Jurisprudence Exam required under R 338.7145(2).

(2) ~~An applicant who was first licensed in another jurisdiction recognized by FSBPT and engaged in practice as a physical therapist assistant for 5 years or more immediately preceding the date of filing an application for a Michigan physical therapist assistant license shall satisfy both of the following requirements:~~ **An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall 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. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

~~(a) Pass the Michigan Physical Therapist Assistant Jurisprudence Exam required under R 338.7145(2).~~

~~(b) Have passed the NPTE for physical therapist assistants required under R 338.7145(1).~~

~~(3) An applicant who was first licensed in another jurisdiction recognized by FSBPT and engaged in practice as a physical therapist assistant for less than 5 years immediately preceding the date of filing an application for a Michigan physical therapist assistant license shall satisfy the following requirements:~~

~~(a) Have graduated from a physical therapist assistant educational program that meets the standards under R 338.7141 or graduate from a physical therapist or physical therapist assistant educational program determined to be substantially equivalent to such an educational program by satisfying the verification process under R 338.7147(a).~~

~~(b) Pass the Michigan Physical Therapist Assistant Jurisprudence Exam required under R 338.7145(2).~~

~~(c) Have passed the NPTE for physical therapist assistants required under R 338.7145(1).~~

~~(d) Demonstrate a working knowledge of the English language by satisfying the requirements under R 338.7135(b) if the applicant graduated from a nonaccredited physical therapist assistant educational program.~~

~~(4) An applicant's license must be verified, on a form provided by the department, by the licensing agency of any jurisdiction recognized by FSBPT in which the applicant holds a current license or registration or ever held a license or registration as a physical therapist assistant. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.~~

R 338.7149 Requirements for relicensure; physical therapist assistant.

Rule 49. (1) An applicant ~~whose license has lapsed for less than 3 years preceding the date of application for relicensure~~ may be relicensed **within 3 years after the expiration date of the license** under section 16201(3) of the code, MCL 333.16201, if the applicant ~~meets~~ **satisfies** all ~~of~~ the following requirements:

(a) ~~Submits~~ **Provides** the required fee and a completed application on a form provided by the department.

(b) Establishes ~~that he or she is of~~ good moral character as defined under section 1 of 1974 PA 381, MCL 338.41.

(c) Passes the Michigan Physical Therapist Assistant Jurisprudence Exam required under R 338.7145(2).

(d) Complies with either of the following:

(i) ~~Submits~~ **Provides** proof to the department of accumulating not less than 24 PDR credits consistent with R 338.7161 to R 338.7165 during the 2 years immediately preceding the date of the application for relicensure. However, if the PDR credits ~~submitted~~ **provided** with the application are deficient, the applicant shall have 2 years from the date of the application to complete the deficient credits.

(ii) Establishes ~~that he or she has been employed~~ **employment** as a physical therapist assistant in another jurisdiction recognized by FSBPT for a minimum of 500 hours during the 2-year period immediately preceding the date of application for relicensure.

(2) An applicant ~~whose license has lapsed for 3 years or more preceding the date of application for relicensure~~ may be relicensed **more than 3 years after the expiration date of the license** under section 16201(4) of the code, MCL 333.16201, if the applicant ~~meets~~ **satisfies** all ~~of~~ the following requirements:

(a) ~~Submits~~ **Provides** the required fee and a completed application on a form provided by the department.

(b) Establishes ~~that he or she is of~~ good moral character as defined under section 1 of 1974 PA 381, MCL 338.41.

(c) ~~Submits~~ **Provides** fingerprints as ~~set forth in~~ **required under** section 16174(3) of the code, MCL 333.16174.

(d) Passes the Michigan Physical Therapist Assistant Jurisprudence Exam required under R 338.7145(2).

(e) Complies with either of the following:

(i) Establishes ~~that he or she has been employed~~ **employment** as a physical therapist assistant in another jurisdiction recognized by FSBPT for a minimum of 500 hours during the 2-year period immediately preceding the date of application for relicensure.

(ii) Passes the NPTE for physical therapist assistants ~~required~~ under R 338.7145(1).

(3) ~~An applicant's license or registration must be verified by the licensing agency of any jurisdiction recognized by FSBPT in which the applicant holds a current license or registration or ever held a license or registration as a physical therapist assistant. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.~~ **An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall 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. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.**

PART 5. PROFESSIONAL DEVELOPMENT REQUIREMENTS

R 338.7161 License renewals; requirements; applicability.

Rule 61. (1) This part applies to applications for renewal of a physical therapist or physical therapist assistant license under sections 16201 and 17823 of the code, MCL 333.16201 and 333.17823.

(2) An applicant for license renewal who has been licensed for the 2-year period immediately preceding the expiration date of the license shall accumulate not less than 24 PDR credits in activities approved by the board under these rules during the 2 years immediately preceding the expiration date of the license.

(3) Submission of an application for renewal ~~shall~~ constitute**s** the applicant's certification of compliance with the requirements of this rule. A licensee shall ~~retain~~ **keep** documentation of ~~meeting~~ **satisfying** the requirements of this rule for 4 years from the date of applying for license renewal. Failure to ~~comply with~~ **satisfy** this rule is a violation of section 16221(h) of the code, MCL 333.16221.

(4) The requirements of this rule do not apply to a licensee during ~~his or her~~ **the** initial licensure cycle.

(5) The PDR requirements ~~established~~ in these rules ~~meet~~ **satisfy** the professional development requirements ~~established~~ under section 17823 of the code, MCL 333.17823.

R 338.7163 Acceptable professional development requirement activities; requirements; limitations.

Rule 63. (1) The 24 PDR credits required under R 338.7161(2) for the renewal of a license ~~shall~~**must** ~~meet~~ **satisfy** the following requirements, as applicable:

(a) No more than 12 PDR credits ~~shall be earned~~ **are allowed** for approved online continuing education programs or activities ~~during~~ **completed in** one 24-hour period.

(b) A licensee shall not earn PDR credit for a continuing education program or activity that is identical or substantially identical to a program or activity for which the licensee has already earned credit during that renewal period.

(c) ~~Pursuant to~~ **Under** section 16204(2) of the code, MCL 333.16204, a licensee shall earn at least 1 PDR credit in the area of pain and symptom management by completing a continuing education program or activity. 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 interventions as they relate to the practice of physical therapy.

(2) The board adopts by reference the procedures and criteria for recognizing accrediting organizations of the Council for Higher Education Accreditation (CHEA), effective ~~June 28, 2010,~~ **September 28, 2018,** and the procedures and criteria for recognizing accrediting agencies of the United States Department of Education, effective July 1, 2010, as contained in The Secretary's Recognition of Accrediting Agencies, 34 CFR ~~602.1~~ **602.10** to 34 CFR ~~602.50~~ **602.38.** ~~(2018).~~ Copies of the procedures and criteria of CHEA and the United States Department of Education are available for inspection and distribution at **a** cost **of 10 cents per page** from the Board of Physical Therapy, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs 611 West Ottawa, P.O. Box 30670, Lansing, ~~MI~~ **Michigan** 48909. CHEA's procedures and criteria **are** also ~~may be obtained,~~ **available** from ~~CHEA,~~ **CHEA at** One Dupont Circle NW, Suite 510, Washington, DC 20036-1110 and at no cost from CHEA's website at ~~http://www.chea.org.~~ **https://www.chea.org.** The federal recognition criteria may be obtained at no cost from the United States Department of Education Office of Postsecondary Education, 1990 K Street, NW, Washington, DC 20006 or from the department's website at ~~www.ed.gov.~~ **https://www.ed.gov.**

(3) As used in this rule, "continuous instruction" means education or presentation time that does not include breakfast, lunch, or dinner periods, coffee breaks, or any other breaks in the activity or program.

(4) **Licensees** ~~Credit~~ may ~~be earned~~ **earn credit** for any of the following activities:

ACCEPTABLE PDR ACTIVITIES

Activity Code	Activity	Number of PDR credits earned for activity
~~1~~ **(a)**	Completing an approved continuing education program or activity related to the practice of physical therapy or any non-clinical subject relevant to the practice of physical therapy. 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: • Another state board of physical therapy. • Another board or task force regulated under article 15 of the code, MCL 333.16101 to 333.18838. • FSBPT. • The American Physical Therapy Association (APTA) or its components. APTA components include the **APTA** Michigan ~~Physical Therapy~~	The number of credits approved by the sponsor or the approving organization ~~shall be~~ **are** granted. When the sponsor or approving organization calculates credit at a rate of 0.1 credit for every 50 to 60 minutes of continuous instruction then 0.1 credit ~~shall~~ equal**s** 1 PDR credit. A maximum of 20 PDR credits may be earned for this activity in each renewal period.

	~~Association~~ and other APTA Chapters, APTA Sections, and APTA Academies. • An accredited physical therapist educational program that ~~meets~~ **satisfies** the standards under R 338.7131. • An accredited physical therapist assistant educational program that ~~meets~~ **satisfies** the standards under R 338.7141. If audited, a licensee shall ~~submit~~ **provide** a copy of a letter or certificate of completion showing the licensee's name, number of credits earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date or dates on which the program was held or activity completed.	
~~2~~ **(b)**	Passing a postgraduate academic course related to the practice of physical therapy offered by either of the following: • An accredited physical therapist educational program that ~~meets~~ **satisfies** the standards under R 338.7131. • A nationally accredited university or college that ~~meets~~ **satisfies** the standards in subsection (2) of this rule. If audited, a licensee shall ~~submit~~ **provide** a copy of the transcript showing credit hours of the academic courses related to physical therapy.	Fifteen PDR credits ~~shall be~~ **are** granted for each semester credit earned and 10 PDR credits ~~shall be~~ **are** granted for each quarter or term credit earned. A maximum of 20 PDR credits may be earned for this activity in each renewal period.
~~3~~ **(c)**	Reading an article related to the practice of physical therapy in a professional or scientific journal. This activity does not include articles ~~that are~~ approved for PDR credit under activity code 1. To receive credit, a licensee shall successfully complete an evaluation that was provided with the article or the general response form provided by the department as an evaluative component for this activity. If audited, a licensee shall ~~submit~~ **provide** documentation from the professional or scientific journal or a copy of the completed general response form to verify that ~~he or she~~ **the licensee** completed an evaluation.	One PDR credit ~~shall be~~ **is** granted for each article. A maximum of 6 PDR credits may be earned for this activity in each renewal period.
4 (d)	Viewing or listening to media devoted to professional education related to the practice of physical therapy, other than on-line ~~programs,~~ **programs** ~~that was~~ not approved or offered for continuing education credit.	One-half of 1 PDR credit ~~shall be~~ **is** granted for every 30 minutes of continuous instruction**.** A maximum of 6 PDR credits

	To receive credit, a licensee shall successfully complete an evaluation that was provided with the educational media or the general response form provided by the department as an evaluative component for this activity. If audited, a licensee shall ~~submit~~ **provide** a copy of the completed evaluation or completed general response form to verify that ~~he or she~~ **the licensee** completed an evaluation, and identify the title of the media, the name of the publisher of the media, the date the media was published or copyrighted, and the length of the media.	may be earned for this activity in each renewal period.
~~5~~ **(e)**	Presenting a continuing education program related to the practice of physical therapy. To receive credit, the presentation ~~shall~~**must** be approved or offered for continuing education credit by any of the following: • Another state board of physical therapy. • Another board or task force regulated under article 15 of the code, MCL 333.16101 to 333.18838. • FSBPT. • APTA or its components. APTA components include the **APTA** Michigan ~~Physical Therapy Association~~ and other APTA Chapters, APTA Sections and APTA Academies. • An accredited physical therapist educational program that ~~meets~~ **satisfies** the standards under R 338.7131. • An accredited physical therapist assistant educational program that ~~meets~~ **satisfies** the standards under R 338.7141. If audited, a licensee shall ~~submit~~ **provide** a letter from the program sponsor confirming the licensee as the presenter and the presentation date and time, or a copy of the presentation notice or advertisement showing the date of the presentation, the licensee's name listed as a presenter, and the name of the organization that approved or offered the presentation for continuing education credit.	Two PDR credits ~~shall be~~ **are** granted for every 50 minutes of continuous instruction. A presentation ~~shall~~ **may** not be less than 50 minutes in length. A maximum of 12 PDR credits may be earned for this activity in each renewal period.
~~6~~ **(f)**	Presenting a scientific exhibit or scientific paper accepted for presentation through a peer review process at a state, regional, national, or international physical therapy conference, or its components, or a related professional organization.	Two PDR credits ~~shall be~~**are** granted for every 50 minutes of continuous instruction. A maximum of 12 PDR credits may be earned for this activity in

	If audited, a licensee shall ~~submit~~ **provide** a copy of the document presented with ~~evidence~~ **proof** of presentation or a letter from the program sponsor verifying the exhibit or paper was accepted for presentation through a peer review process and the date of the presentation.	each renewal period.
~~7~~ **(g)**	~~Writing~~ **Authoring** an article related to the practice, education, or research of physical therapy ~~that is~~ published in any of the following: • The journal of a national physical therapy association or its components. • A peer-reviewed journal. • A health care journal. • A professional or scientific journal. If audited, a licensee shall ~~submit~~ **provide** a copy of the publication that ~~identifies~~ **shows** the licensee as the author of the article or a publication acceptance letter.	Six PDR credits ~~shall be~~ **are** granted for each article. A maximum of 12 PDR credits may be earned for this activity in each renewal period.
~~8~~ **(h)**	Writing a chapter related to the practice, education, or research of physical therapy ~~that is~~ published in a book. If audited, a licensee shall ~~submit~~ **provide** a copy of the publication that ~~identifies~~ **shows** the licensee as the author of the chapter or a publication acceptance letter.	Six PDR credits ~~shall be~~ **are** granted for each chapter. A maximum of 12 PDR credits may be earned for this activity in each renewal period.
~~9~~ **(i)**	Successfully completing 1 of the following: • An American Board of Physical Therapy Specialties (ABPTS) certification examination. • An ABPTS recertification examination. • The APTA's PTA Advanced Proficiency Pathways Program. If audited, a licensee shall ~~submit~~ **provide** proof of certification or recertification.	Twenty-three PDR credits ~~shall be~~ **are** granted for each successful completion. A maximum of 23 PDR credits may be earned for this activity in each renewal period.
~~10~~ **(j)**	Participating as a student for a minimum of 1,000 hours in any of the following: • A postgraduate clinical training program related to the practice of physical therapy provided through or recognized by an accredited physical therapist educational program that ~~meets~~ **satisfies** the standards under R 338.7131. • A postgraduate clinical training program related to the practice of physical therapy provided through or recognized by an accredited physical therapist assistant educational program that ~~meets~~ **satisfies** the standards under R 338.7141. • A postgraduate clinical training program related to the practice of physical therapy offered through	Twelve PDR credits ~~shall be~~ **are** granted for 1,000 hours of participation. A maximum of 12 PDR credits may be earned for this activity in each renewal period.

	a health care organization accredited by an organization recognized by the Centers for Medicare and Medicaid Services. • A postgraduate clinical training program related to the practice of physical therapy ~~that is~~ accredited or credentialed by the APTA or an organization approved by the board. If audited, a licensee shall ~~submit~~ **provide** a letter from the program director verifying the number of hours the licensee participated in the clinical training program and that the program was provided, offered, or accredited by an educational program or organization that ~~meets~~ **satisfies** the requirements of this rule.	
~~11~~ **(k)**	Participation in a health care organization committee, physical therapy or physical therapy assistant educational program, or task force dealing with patient care related issues, which may include physical therapy education, research, or practice or quality of patient care and utilization review. If audited, a licensee shall ~~submit~~ **provide** a letter from an appropriate official representing the committee, educational program, or task force verifying that the committee, educational program, or task force dealt with patient care related issues, which may include physical therapy education, research, or practice or quality of patient care and utilization review. The letter must also include the dates and the amount of time the licensee ~~participated~~ **took part** on each date.	One PDR credit ~~shall be~~ **is** granted for every 50 minutes of participation. A maximum of 6 PDR credits may be earned for this activity in each renewal period.
~~12~~ **(l)**	Serving as a guest instructor of students, staff, or other licensees at any of the following: • A clinical training program related to the practice of physical therapy provided through or recognized by an accredited **or developing** physical therapist educational program that ~~meets~~ **satisfies** the standards under R 338.7131. • A clinical training program related to the practice of physical therapy provided through or recognized by an accredited **or developing** physical therapist assistant educational program that ~~meets~~ **satisfies** the standards under R 338.7141. • A clinical training program related to the practice of physical therapy offered through a health care organization accredited by an organization recognized by the Centers for Medicare and Medicaid Services.	Two PDR credits ~~shall be~~ **are** granted for every 50 minutes of continuous instruction. A maximum of 12 PDR credits may be earned for this activity in each renewal period.

	• A clinical training program related to the practice of physical therapy ~~that is~~ accredited or credentialed by APTA or an organization approved by the board. If audited, a licensee shall ~~submit~~ **provide** a letter from the program director verifying the licensee's role, the number of instructional sessions on specific subjects provided by the licensee, and the length of the instructional sessions. Also, the letter ~~shall~~ **must** verify that the clinical training program ~~was~~ provided, offered, or accredited by an educational program or organization ~~that meets~~ **satisfies** the requirements of this rule.	
~~13~~ **(m)**	Serving as a clinical instructor or clinical supervisor for students completing an internship, residency, or fellowship program that ~~is~~ recognized or approved by any of the following: • An accredited **or developing** educational program for physical therapists that ~~meets~~ **satisfies** the standards under R 338.7131. • An accredited **or developing** educational program for physical therapist assistants that ~~meets~~ **satisfies** the standards under R 338.7141. • APTA or an organization approved by the board. If audited, a licensee shall ~~submit~~ **provide** a letter from the educational program or clinical agency director verifying the licensee's role, the number of hours of instruction or supervision provided by the licensee, and that the internship, residency, or fellowship program is recognized or approved by an educational program or organization that ~~meets~~ **satisfies** the requirements of this rule.	Three PDR credits ~~shall be~~ **are** granted for 40 hours of clinical instruction or supervision. A maximum of 12 PDR credits may be earned for this activity in each renewal period.
~~14~~ **(n)**	Identifying, researching, and addressing an event or issue related to professional practice. If audited, a licensee shall ~~submit~~ **provide** a completed experiential activity form provided by the department for each issue or event.	One PDR credit ~~shall be~~ **is** granted for each separate event or issue. A maximum of 6 PDR credits may be earned for this activity in each renewal period.
~~15~~ **(o)**	Participating on an international, national, regional, state, state component, or local task force, committee, board, council, or association related to the field of physical therapy that is considered acceptable by the board. A task force, committee, board, council, or association is ~~considered~~ acceptable if it enhances the participant's knowledge and understanding of the field of physical therapy.	Four PDR credits ~~shall be~~ **are** granted for participation on each task force, committee, board, council, or association. A maximum of 12 PDR credits may be earned for this activity in each renewal period.

	If audited, a licensee shall ~~submit~~ **provide** documentation verifying the licensee's participation in at least 50% of the regularly scheduled meetings of the task force, committee, board, council, or association.	
~~16~~ **(p)**	Participating as a surveyor for an external agency in a program involving the accreditation, certification, or inspection of an educational program for physical therapists or physical therapist assistants or a certification process for a clinical agency. If audited, a licensee shall ~~submit~~ **provide** a letter from the accreditation, certification, or inspection program verifying the licensee's participation, the location of the inspections, and the number of hours the licensee spent participating as a surveyor.	One PDR credit ~~shall be~~ **is** granted for every 50 minutes of participation. A maximum of 12 PDR credits may be earned for this activity in each renewal period.
~~17~~ **(q)**	Performing volunteer work related to the field of physical therapy without reimbursement**.** ~~in a public or nonprofit entity.~~ If audited, a licensee shall ~~submit~~ **provide** a letter from an official ~~at the public or nonprofit entity~~ **other than the licensee** verifying the number of hours and the type of volunteer work performed by the licensee.	One PDR credit ~~shall be~~ **is** granted for every 50 minutes of volunteer work performed. A maximum of 6 PDR credits may be earned for this activity in each renewal period.
~~18~~ **(r)**	Serving as a center or site coordinator of clinical education at an agency that provides clinical internships for students enrolled in programs that are recognized or approved by either of the following: • An accredited **or developing** educational program for physical therapists that ~~meets~~ **satisfies** the standards under R 338.7131. • An accredited **or developing** educational program for physical therapist assistants that ~~meets~~ **satisfies** the standards under R 338.7141. If audited, a licensee shall ~~submit~~ **provide** a letter from the educational program or clinical agency director verifying the licensee's role and that students were placed and participated in the internship program during the time for which the licensee is claiming PDR credit.	Two PDR credits ~~shall be~~ **are** granted per year of serving as the coordinator. A maximum of 4 PDR credits may be earned for this activity in each renewal period.
~~19~~ **(s)**	Completing a self-review tool ~~that is~~ developed by FSBPT**.** To receive credit, a licensee shall ~~submit~~ **provide** documentation from FSBPT verifying completion of the self-review tool.	Three PDR credits ~~shall be~~ **are** granted for each completion. A maximum of 3 PDR credits may be earned for this activity in each renewal period.

(5) **The department must receive a** ~~A~~ request for a continuing education waiver ~~pursuant to~~ **under** section 16205(1) of the code, MCL 333.16205, ~~must be received by the department~~ before the expiration date of the license.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
Administrative Rules for Physical Therapy- General Rules
Rule Set 2020-111 LR

NOTICE OF PUBLIC HEARING
Thursday, September 9, 2021
09:00 AM

G. Mennen Williams Building Auditorium
525 W. Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Physical Therapy- General Rules rule set.

The proposed revisions to the rules supply conditions related to consent, scope of practice, and standard of care for telehealth services; supply conditions under which the board will consider a request from an applicant for an appeal of current examination policies; remove the English language requirement, as the Public Health Code – General Rules now address the requirement; incorporate the recent legislative changes that allow licensure by endorsement for individuals licensed in another state or a province of Canada; revise the requirements for verification of licenses held in other jurisdictions; remove the requirement to meet in-person to evaluate the physical therapist assistant's performance, review records, and to educate the physical therapist assistant on the acts, tasks, or functions delegated; supply updated accreditation standards, names of entities; and allows credit for instruction or serving as a coordinator in developing educational programs.

By authority conferred on the Department of Licensing and Regulatory Affairs under MCL 333.16141, MCL 333.16145, MCL 333.16148, MCL 333.16174, MCL 333.16201, MCL 333.16204, MCL 333.16205, MCL 333.16206, MCL 333.16215, MCL 333.16287, and MCL 333.17823 and Executive Reorganization Nos. 1991-9, 1996-2, 2003-1 and 2011-4, MCL 338.3501, 445.2001,445.2011, and 445.2030. The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: BPL-BoardSupport@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/9/2021 at 05:00PM.

BPL-BoardSupport@michigan.gov

Email: BPL-BoardSupport@michigan.gov

Department of Licensing and Regulatory Affairs Bureau of Professional Licensing – Boards and Committees Section P.O. Box 30670 Lansing, MI 48909-8170 Attention: Policy Analyst

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-241-7500 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

BEHAVIOR ANALYSTS - GENERAL RULES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(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, 18257, and 18259 of **the public health code,** 1978 PA 368, MCL 333.16145, 333.16148, 333.18257, and 333.18259, 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 338.1801, R 338.1821, R 338.1823, R 338.1825, R 338.1827, R 338.1831, R 338.1833, and R 338.1835 of the Michigan Administrative Code are amended, and R 338.1824 and R 338.1832 are added, as follows:

PART 1. GENERAL PROVISIONS

R 338.1801 Definitions.

Rule 801. (1) As used in these rules:

(a) "BACB" means the ~~behavior analyst certification board,~~ **Behavior Analyst Certification Board,** or its successor.

(b) "Board" means the Michigan ~~board of behavior analysts~~ **Board of Behavior Analysts** created under section 18255 of the code, MCL 333.18255.

(c) "Code" means **the public health code,** 1978 PA 368, MCL 333.1101 to 333.25211~~, known as the public health code~~.

(d) "Department" means the ~~department of licensing and regulatory affairs.~~ **department of licensing and regulatory affairs.**

(2) ~~Except as otherwise defined in these rules, the terms~~ **A term** defined in the code ~~have~~ **has** the same meaning when used in these rules.

PART 2. LICENSURE

R 338.1821 Training standards for identifying victims of human trafficking; requirements.

Rule 821. (1) ~~Pursuant to~~ **Under** section 16148 of the code, MCL 333.16148, an individual seeking licensure or registration or who is licensed or registered shall complete training in identifying victims of human trafficking that ~~meets~~ **satisfies** the following standards:

(a) Training content shall cover all ~~of~~ the following:

(i) Understanding the types and venues of human trafficking in the United States.

(ii) Identifying victims of human trafficking in health care settings.

(iii) Identifying the warning signs of human trafficking in health care settings for adults and minors.

(iv) 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 registration, or by a college or university.

(iv) Reading an article related to the identification of victims of human trafficking that ~~meets~~ **satisfies** the requirements of subdivision (a) of this subrule and is published in a peer review journal, health care journal, or professional or scientific journal.

(c) Acceptable modalities of training may 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 a sample of individuals and request documentation of proof of completion of training. If audited by the department, an 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 an individual. The certification statement ~~shall~~**must** include the individual's name and either of the following:

(i) For training completed ~~pursuant to~~ **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~~ **under** subrule (1)(b)(iv) of this rule, the title of article, author, publication name of peer review journal, health care journal, or professional or scientific journal, and date, volume, and issue of publication, as applicable.

(3) ~~Pursuant to~~ **Under** section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule ~~shall~~ apply for license ~~or registration~~ renewals beginning with the ~~first~~ **2023** renewal cycle ~~after the promulgation of this rule~~ and for initial licenses ~~or registrations~~ issued ~~5 or more years after the promulgation of this rule.~~ **beginning January 7, 2024.**

R 338.1823 Application for license; qualifications.

Rule 823. (1) In addition to ~~meeting~~ **satisfying** the requirements of the code, the department shall issue a behavior analyst license to ~~a person~~ **an applicant** who satisfies all ~~of~~ the ~~following:~~ **following requirements:**

(a) ~~Submits~~ **Provides** a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) Has ~~the BACB issue directly to the department~~ proof of current certification in good standing with the BACB.

(d) Has not been convicted of a listed offense ~~as that term is defined in~~ **under** section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant ~~whose application was denied under this subrule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232.~~ **MCL 333.16232, if denied under this subdivision.**

(2) In addition to ~~meeting~~ **satisfying** the requirements of the code, the department shall issue an assistant behavior analyst license to ~~a person~~ **an applicant** who satisfies all ~~of~~ the ~~following:~~ **following requirements:**

(a) ~~Submits~~ **Provides** a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) Has ~~the BACB issue directly to the department~~ proof of current certification in good standing with the BACB.

(d) Has not been convicted of a listed offense ~~as that term is defined in~~ **under** section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant ~~whose application was denied under this subrule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232.~~ **MCL 333.16232, if denied under this subdivision.**

(e) Provides proof acceptable to the department that ~~he or she~~ **supervision** will ~~be supervised by~~ **occur under** a Michigan licensed behavior analyst in this state who is currently certified and in good standing with the BACB, and that the supervision ~~complies with~~ **satisfies** current BACB supervision requirements.

(3) ~~An applicant shall have his or her license, certification, or registration verified by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or has ever held a license, certification, or registration as a behavior analyst or assistant behavior analyst. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.~~ **An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall 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. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.**

R 338.1824 Application for license by endorsement; qualifications.

Rule 824. (1) An applicant for a behavior analyst license by endorsement who satisfies the requirements of the code and this rule satisfies the requirements of section 16186 of the code, MCL 333.16186. The department shall issue a behavior analyst license to an applicant who satisfies all the following requirements:

(a) Provides a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) Holds a current behavior analyst license in another state or in a province of Canada.

(d) Has proof of current certification in good standing with the BACB.

(e) Has not been convicted of a listed offense under section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant may request a hearing under section 16232 of the code, MCL 333.16232, if denied under this subdivision.

(2) An applicant for an assistant behavior analyst license by endorsement who satisfies the requirements of the code and this rule satisfies the requirements of section 16186 of the code, MCL 333.16186. The department shall issue an assistant behavior analyst license to an applicant who satisfies all the following requirements:

(a) Provides a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) Holds a current assistant behavior analyst license in another state or in a province of Canada.

(d) Has proof of current certification in good standing with the BACB.

(e) Has not been convicted of a listed offense under section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant may request a hearing under section 16232 of the code, MCL 333.16232, if denied under this subdivision.

(f) Provides proof acceptable to the department that supervision will occur under a Michigan licensed behavior analyst in this state who is currently certified and in good standing with the BACB, and that the supervision satisfies current BACB supervision requirements.

(3) An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall 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. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

R 338.1825 ~~Relicensure.~~ **Application for relicensure; qualifications.**

Rule 825. (1) An applicant ~~whose license has lapsed for less than 3 years preceding the date of application for relicensure~~ may be relicensed **within 3 years after the expiration date of the license** under section 16201(3) of the code, ~~MCL 333.16201(3),~~ **MCL 333.16201,** if the applicant satisfies all ~~of~~ the following requirements:

(a) ~~Submits~~ **Provides** a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) Has ~~the BACB issue directly to the department~~ proof of current certification in good standing with the BACB.

(d) Has not been convicted of a listed offense ~~as that term is defined in~~ **under** section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant ~~whose application was denied under this subrule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232.~~ **MCL 333.16232, if denied under this subdivision.**

(e) Establishes ~~that he or she is of~~ good moral character as defined under sections ~~(1)~~ **1** to ~~(7)~~ **7** of 1974 PA 381, MCL 338.41 to 338.47.

(f) If applying for relicensure as an assistant behavior analyst, provides proof acceptable to the department that ~~he or she~~ **supervision** will ~~be supervised by~~ **occur under** a Michigan licensed behavior analyst in this state who is currently certified and in good standing with the BACB, and that the supervision ~~complies with~~ **satisfies** current BACB supervision requirements.

(2) An applicant ~~whose license has lapsed for 3 years or more preceding the date of application for relicensure~~ may be relicensed **more than 3 years after the expiration date of the license** under section 16201(4) of the code, ~~MCL 333.16201(4),~~ **MCL 333.16201,** if the applicant satisfies all ~~of~~ the following requirements:

(a) ~~Submits~~ **Provides** a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) Has ~~the BACB issue directly to the department~~ proof of current certification in good standing with the BACB.

(d) Has not been convicted of a listed offense ~~as that term is defined in~~ **under** section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant ~~whose application was denied~~

~~under this subrule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232.~~ **MCL 333.16232, if denied under this subdivision.**

(e) Establishes ~~that he or she is of~~ good moral character as defined under sections ~~(1)~~ **1** to ~~(7)~~ **7** of 1974 PA 381, MCL 338.41 to 338.47.

(f) ~~Submits~~ **Provides** fingerprints as required under section 16174(3) of the code, ~~MCL 333.16174(3).~~ **MCL 333.16174.**

(g) If applying for relicensure as an assistant behavior analyst, provides proof acceptable to the department that ~~he or she~~ **supervision** will ~~be supervised by~~ **occur under** a Michigan licensed behavior analyst in this state who is currently certified and in good standing with the BACB, and that the supervision ~~complies with~~ **satisfies** current BACB supervision requirements.

(3) ~~An applicant shall have his or her license, certification, or registration verified by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or has ever held a license, certification, or registration as a behavior analyst or assistant behavior analyst. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.~~ **An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall 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. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.**

R 338.1827 Application for renewal of license; qualifications.

Rule 827. (1) The department shall renew a behavior analyst license for a current licensee who satisfies all ~~of~~ the ~~following:~~ **following requirements:**

(a) ~~Submits~~ **Provides** a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) Has ~~the BACB issue directly to the department~~ proof of current certification in good standing with the BACB.

(d) Has not been convicted of a listed offense ~~as that term is defined in~~ **under** section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant ~~whose application was denied under this subrule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232.~~ **MCL 333.16232, if denied under this subdivision.**

(2) The department shall renew an assistant behavior analyst license for a current licensee who satisfies all ~~of~~ the ~~following:~~ **following requirements:**

(a) ~~Submits~~ **Provides** a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) Has ~~the BACB issue directly to the department~~ proof of current certification in good standing with the BACB.

(d) Has not been convicted of a listed offense ~~as that term is defined in~~ **under** section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722. An applicant ~~whose application was denied under this subrule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232.~~ **MCL 333.16232, if denied under this subdivision.**

(e) Provides proof acceptable to the department that ~~he or she~~ **supervision** will ~~be supervised by~~ **occur under** a Michigan licensed behavior analyst in this state who is currently certified and in good

standing with the BACB, and that the supervision ~~complies with~~ **satisfies** current BACB supervision requirements.

PART 3. STANDARDS OF PRACTICE

R 338.1831 Certification; requirement.

Rule 831. A licensee shall ~~maintain~~ **keep** active status certification with the ~~BACB.~~ **BACB throughout the duration of the license cycle.**

R 338.1832 Telehealth.

Rule 832. (1) A licensee shall obtain consent for treatment before providing a telehealth service under section 16284 of the code, MCL 333.16284.

(2) A licensee shall keep proof of consent for telehealth treatment in the patient's up-to-date medical record and follow section 16213 of the code, MCL 333.16213.

(3) A licensee providing any telehealth service shall do both 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 health care service.

R 338.1833 Adoption of standards.

Rule 833. The ~~board adopts by reference the~~ professional standards of the ~~BACB,~~ **BACB are adopted by reference,** as specified in the publication entitled ~~"Professional and Ethical Compliance Code for Behavior Analysts" August 2014.~~ **"Ethical Code for Behavior Analysts," effective January 1, 2022.** The standards are available from the BACB's website ~~at https://www.bacb.com/wp-content/uploads/2017/09/170706-compliance-code-english.pdf~~ **https://www.bacb.com/ethics-information/ethics-codes/** at no cost. Copies of the standards are available for inspection and distribution at **the** cost **of 10 cents per page** from the Board of Behavior Analysts, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 W. Ottawa Street, P.O. Box 30670, Lansing, ~~MI~~ **Michigan** 48909.

R 338.1835 Permanent revocation; grounds; hearing.

Rule 835. (1) Notwithstanding sections 16221, 16226, and 16245 of the code, MCL 333.16221, 333.16226, and 333.16245, a licensee's license shall be permanently revoked if ~~he or she is~~ convicted of a listed offense ~~as that term is defined~~ under section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, while licensed under this part.

(2) A licensee ~~whose license was permanently revoked under subrule (1) of this rule~~ may request a hearing under section 16232 of the code, ~~MCL 333.16232.~~ **MCL 333.16232, if revocation of the license occurs under subrule (1) of this rule.**

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
Administrative Rules for Behavior Analysts- General Rules
Rule Set 2020-112 LR

NOTICE OF PUBLIC HEARING
Thursday, September 9, 2021
09:00 AM

G. Mennen Williams Building Auditorium
525 W. Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Behavior Analysts- General Rules rule set.

The proposed revisions to the rules supply specific dates in which the training requirement must be satisfied; revise the requirements for verification of licenses held in other jurisdictions; incorporate the recent legislative changes that allow licensure by endorsement for individuals licensed in another state or a province of Canada; revise the requirements for verification of licenses held in other jurisdictions; supply conditions related to consent, scope of practice, and standard of care for telehealth service; and adopt an updated ethical code.

By authority conferred on the Department of Licensing and Regulatory Affairs under MCL 333.16145, MCL 333.16148, MCL 333.18257, and MCL 333.18259, and Executive Reorganization Order Nos. 19919, 1996-2, 2003-1, and 2011-4, MCL 338.3501,445.2001,445.2011, and 445.2030. The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: BPL-BoardSupport@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/9/2021 at 05:00PM.

BPL-BoardSupport@michigan.gov

Email: BPL-BoardSupport@michigan.gov

Department of Licensing and Regulatory Affairs Bureau of Professional Licensing – Boards and Committees Section P.O. Box 30670 Lansing, MI 48909-8170 Attention: Policy Analyst

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-241-7500 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

~~TASK FORCE ON~~ PHYSICIAN'S ASSISTANTS – GENERAL RULES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(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, 17060, and 17068 of **the public health code,** 1978 PA 368, MCL 333.16145, 333.16148, 333.17060, and 333.17068, 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 338.6101, R 338.6103, R 338.6201, R 338.6301, R 338.6305, R 338.6308, and R 338.6311 of the Michigan Administrative Code are amended, as follows:

PART 1. GENERAL PROVISIONS

R 338.6101 Definitions.

Rule 101. (1) As used in these rules:

(a) "Code" the means public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(b) "Department" means the department of licensing and regulatory affairs.

(c) "Task force" means the Michigan task force on physician's assistants created under section 17025 of the code, MCL 333.17025.

(2) ~~The terms~~ **A term** defined in the code ~~have~~ **has** the same meaning when used in these rules.

R 338.6103 Training standards for identifying victims of human trafficking; requirements.

Rule 103. (1) ~~Pursuant to~~ **Under** section 17060 of the code, MCL 333.17060, an individual seeking licensure or licensed shall complete training in identifying victims of human trafficking that ~~meets~~ **satisfies** the following standards:

(a) Training content ~~shall~~ **must** cover all ~~of~~ the following:

(i) Understanding the types and venues of human trafficking in Michigan or the United States.

(ii) Identifying victims of human trafficking in health care settings.

(iii) Identifying the warning signs of human trafficking in health care settings for adults and minors.

(iv) 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 task force~~ for initial licensure, or by a college or university.

(iv) Reading an article related to the identification of victims of human trafficking that ~~meets~~ **satisfies** the requirements of subdivision (1)(a) of this subrule and is published in a peer review journal, health care journal, or professional or scientific journal.

(c) Acceptable modalities of training may 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 a sample of individuals and request documentation of proof of completion of training. If audited by the department, an 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 an individual. The certification statement ~~shall~~ **must** include the individual's name and either of the following:

(i) For training completed ~~pursuant to~~ **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~~ **under** subrule (1)(b)(iv) of this rule, the title of article, author, publication name of peer review journal, health care journal, or professional or scientific journal, and date, volume, and issue of publication, as applicable.

(3) ~~Pursuant to~~ **Under** section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule apply for license renewals beginning with the 2016 renewal cycle and for initial licenses issued after April 22, 2021.

PART 2. ~~PHYSICIANS'~~ **PHYSICIAN'S** ASSISTANT PROGRAM APPROVAL

R 338.6201 Educational program standards; adoption by reference.

Rule 201. (1) The standards for accrediting educational programs for physician's assistants approved by the ~~accreditation review commission on education for the physician assistant~~ **Accreditation Review Commission on Education for the Physician Assistant** (ARC-PA) in the document entitled "Accreditation Standards for Physician Assistant Education, **4**~~th~~ **Fifth** Edition," effective September 1, ~~2010, updated March 8, 2018,~~ **2020,** are adopted by reference in these rules. The standards are available at no cost on the commission's website at http://www.arc-pa.org. Copies of the standards are also available for inspection and distribution at **a** cost **of 10 cents per page** from the Michigan Task Force on Physician's Assistants, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, ~~MI~~ **Michigan** 48909.

(2) Only educational programs for physician's assistants ~~that are~~ accredited by the ARC-PA are approved physician's assistant educational programs.

PART 3. PHYSICIAN'S ASSISTANT LICENSE

R 338.6301 Application for physician's assistant license; requirements.

Rule 301. An applicant for a physician's assistant license shall ~~submit~~ **provide** the required fee and a completed application on a form provided by the department. In addition to ~~meeting~~ **satisfying** the requirements of the code and these rules, an applicant shall ~~meet~~ **satisfy** both of the following requirements:

(a) Have graduated from an accredited educational program for physician's assistants that ~~meets~~ **satisfies** the standards in R 338.6201.

(b) Have passed the certifying examination conducted and scored by the ~~national commission on certification of physician assistants~~ **National Commission on Certification of Physician Assistants** (NCCPA).

R 338.6305 Licensure by endorsement; requirements.

Rule 305. (1) An applicant for a physician's assistant license by ~~endorsement, in addition to meeting~~ **endorsement who satisfies** the requirements of the code and ~~these rules, shall submit the required fee and a completed application on a form provided by the department. An applicant who satisfies the requirements of the code and this rule, is presumed to meet~~ **this rule satisfies** the requirements of section ~~16186,~~ **16186 of the code,** ~~MCL 333.16186, of the code.~~ **MCL 333.16186. The department shall issue a physician's assistant license to an applicant who satisfies all the following requirements:**

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

(b) Holds a current physician's assistant license in another state or in a province of Canada.

(c) Completed the educational requirements for a physician's assistant license in a province of Canada or another state to obtain licensure as a physician's assistant in a province of Canada or another state.

(d) Received a passing score on either of the following examinations for a physician's assistant license in a province of Canada or another state to obtain licensure as a physician's assistant in a province of Canada or another state:

(i) The certifying examination conducted and scored by the NCCPA.

(ii) The Physician Assistant Entry to Practice Certification Exam.

(2) ~~If the applicant was first licensed, certified, or registered to practice as a physician's assistant in another state before July 7, 1986, then the applicant shall submit evidence of having passed the certifying examination conducted and scored by the NCCPA.~~ **An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall 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. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.**

~~(3) If the applicant was first licensed, certified, or registered to practice as a physician's assistant in another state on or after July 7, 1986, the applicant shall meet both of the following requirements:~~

~~(a) Have graduated from an accredited educational program for physician's assistants that meets the standards in R 338.6201.~~

~~(b) Have passed the certifying examination conducted and scored by the NCCPA.~~

~~(4) An applicant shall have his or her license, certification, or registration verified by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or ever held a license, certification, or registration as a physician's assistant. If applicable, verification shall include the record of any disciplinary action taken or pending against the applicant.~~

R 338.6308 Requirements for relicensure.

Rule 308. (1) An applicant ~~for relicensure whose license has been lapsed for less than 3 years preceding the date of application~~ may be relicensed **within 3 years after the expiration date of the license** under section 16201(3) of the code, MCL 333.16201~~(3)~~, if the applicant satisfies all ~~of~~ the following requirements:

(a) ~~Submits~~ **Provides** the required fee and a completed application on a form provided by the department.

(b) Establishes ~~that he or she is of~~ good moral character.

~~(c) Has his or her license, certification, or registration verified, on a form provided by the department, by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or ever held a license, certification, or registration as a physician's assistant. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending against the applicant.~~

(2) An applicant ~~for relicensure whose license has been lapsed for 3 years or more preceding the date of application~~ may be relicensed **more than 3 years after the expiration date of the license** under section 16201(4) of the code, MCL 333.16201~~(4)~~, if the applicant satisfies all ~~of~~ the following requirements:

(a) ~~Submits~~ **Provides** the required fee and a completed application on a form provided by the department.

(b) Establishes ~~that he or she is of~~ good moral character.

(c) ~~Submits~~ **Provides** fingerprints as ~~set forth in~~ **required under** section 16174(3) of the code, MCL 333.16174~~(3)~~.

(d) Does either of the following:

(i) Presents ~~evidence~~ **proof** to the department ~~that he or she was licensed~~ **of licensure** as a physician's assistant in **a province of Canada or** another state ~~of the United States~~ during the 3-year period immediately preceding the date of the application for relicensure.

(ii) Establishes ~~that he or she passed~~ **a passing score on** either the certifying or recertifying examination conducted and scored by the NCCPA during the 10-year period immediately preceding the date of the application for relicensure.

~~(e) Has his or her license, certification, or registration verified, on a form provided by the department, by the licensing agency of any state of the United States in which the applicant holds a current license, certification, or registration or ever held a license, certification, or registration as a physician's assistant. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending against the applicant.~~

(3) An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall 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. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

R 338.6311 License renewal; requirements.

Rule 311. An applicant for license renewal who has been licensed for the 2-year period immediately preceding the application for renewal shall ~~submit~~ **provide** the required fee and a completed application on a form provided by the department.

~~PART 4. ADMINISTRATIVE HEARINGS~~

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
Administrative Rules for Physician's Assistants- General Rules
Rule Set 2020-116 LR

NOTICE OF PUBLIC HEARING
Thursday, September 9, 2021
09:00 AM

G. Mennen Williams Building Auditorium
525 W. Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Physician's Assistants- General Rules rule set.

The proposed revisions to the rules adopt updated educational standards; incorporate the recent legislative changes that allow licensure by endorsement for individuals licensed in another state or a province of Canada; and revise the requirements for verification of licenses held in other jurisdictions.

By authority conferred on the Department of Licensing and Regulatory Affairs under MCL 333.16145, MCL 333.16148, MCL 333.17060, and MCL 333.17068 and Executive Reorganization Nos. 1991-9, 1996 -2, 2003-1 and 2011-4, MCL 338.3501,445.2001,445.2011, and 445.2030. The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: BPL-BoardSupport@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/9/2021 at 05:00PM.

BPL-BoardSupport@michigan.gov

Email: BPL-BoardSupport@michigan.gov

Department of Licensing and Regulatory Affairs Bureau of Professional Licensing – Boards and Committees Section P.O. Box 30670 Lansing, MI 48909-8170 Attention: Policy Analyst

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-241-7500 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA DISCIPLINARY PROCEEDINGS

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a~~(6)~~**(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 marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.801, R 420.802, R 420.803, R 420.805, R 420.806, R 420.807, and R 420.808 of the Michigan Administrative Code are amended and R 420.808a is added, as follows:

R 420.801 Definitions.

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

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) "Administrative hold" means a status given to marihuana product by the agency during an investigation into alleged violations of the acts and these rules. This status includes no sale or transfer of the marihuana product until the hold is lifted.

(c) "Administrative procedures act" means the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(~~c~~**d**) "Agency" means the marijuana regulatory agency.

(e) "Another party" or "other party" means an individual or company with which a licensee contracts to use the individual or company's intellectual property or to utilize management or other services provided by the individual or company.

(f) "Bureau of fire services" or "BFS" means the bureau of fire services in the department of licensing and regulatory affairs.

(g) "Contested case hearing" means an administrative hearing conducted by an administrative law judge within the Michigan office of administrative hearings and rules on behalf of the agency pursuant to the acts and these rules.

(h) "Employee" means a person performing work or service for compensation. "Employee" does not include a person providing trade or professional services who is not normally engaged in the operation of a marihuana business.

(i) "Licensing agreement" means any understanding or contract concerning the licensing of intellectual property between a licensee and another party.

(j) "Management or other agreement" means any understanding or contract between a licensee and another party for the provision of management or other services that would allow the other party to exercise control over or participate in the management of the licensee or to receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year.

(~~d~~**k**) "Marihuana business" means both a marihuana facility under the medical marihuana facilities licensing act, or a marihuana establishment under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~e~~**l**) "Marihuana business location plan" means a marihuana facility plan under the medical marihuana facilities licensing act or a marihuana establishment plan under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~f~~**m**) "Marihuana license" means a state operating license issued under the medical marihuana facilities licensing act or a state license issued under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~g~~**n**) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(~~h~~**o**) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(~~i~~**p**) "Michigan ~~m~~**M**edical ~~m~~**M**arihuana ~~a~~**A**ct" means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(~~j~~**q**) "Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(r) "Parties" means a licensee and another party pursuant to a licensing agreement or management or other agreement.

(~~k~~**s**) "These rules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

R 420.802 Notification and reporting.

Rule 2. (1) Licensees have a continuing duty to provide the agency with up-to-date contact information and shall notify the agency in writing of any changes to the mailing addresses, phone numbers, electronic mail addresses, and other contact information they provide the agency.

(2) Licensees shall report to the agency any changes to the marihuana business operations that are required in the acts and these rules, as applicable.

(3) Licensees shall report to the agency any proposed material changes to the marihuana business before making a material change ~~that may require prior authorization by the agency~~. **A proposed material change is any action that would result in alterations or changes being made to the marihuana business to effectuate the desired outcome of a material change.** Material changes, include, but are not limited to, the following:

(a) Change in owners, officers, members, or managers.

(b) Change of processing machinery or equipment.

~~(c) A description of a violation of an ordinance or a zoning regulation adopted pursuant to section 205 of the medical marihuana facilities licensing act, MCL 333.27205, or section 6 of the Michigan regulation and taxation of marihuana act, MCL 333.27956, committed by the licensee, but only if the violation relates to activities licensed under the acts, the Michigan medical marihuana act, or these rules.~~

(~~d~~**c**) The addition or removal of a person named in the application or disclosed.

(~~e~~**d**) Change in entity name.

(~~f~~**e**) Any attempted transfer, sale, or other conveyance of an interest in a marihuana license.

(~~g~~**f**) Any change or modification to the marihuana business before or after licensure that was not preinspected, inspected, or part of the marihuana business location plan or final inspection, including, but not limited to, all of the following:

(i) Operational or method changes requiring inspection under these rules.

(ii) Additions or reductions in equipment or processes~~ at a marihuana business~~.

(iii) Increase or decrease in the size or capacity of the marihuana business.

(iv) Alterations of ingress or egress.

(v) Changes that impact security, fire safety, and building safety.

(g) The appointment of a court-appointed personal representative, guardian, conservator, receiver, or trustee of the licensee.

(4) A licensee shall notify the agency within 1 business day of becoming aware or within 1 business day of when the licensee should have been aware of any of the following**:**~~;~~

~~(a) Adverse reactions to a marihuana product sold or transferred by any licensee.~~

(~~b~~**a**) Criminal convictions, charges, or civil judgments against a licensee in this state or any other state, federal, or foreign jurisdiction.

(~~c~~**b**) Regulatory disciplinary action taken or determined against a licensee by this state or any other state, federal, or foreign jurisdiction, including any pending action.

(c) Action by another party in actual or alleged violation of the acts or these rules.

(5) The licensee shall notify the agency within 10 **business** days of the initiation or conclusion of any new judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, that involve the licensee.

(6) The licensee shall notify the agency within 10 business days of receiving notification of an alleged violation of an ordinance or a zoning regulation adopted pursuant to section 205 of the MMFLA, MCL 333.27205, or section 6 of the MRTMA, MCL 333.27956, committed by the licensee, but only if the violation relates to activities licensed under the acts, the Michigan Medical Marihuana Act, and these rules.

(7) The licensee shall notify the agency within 10 business days of terminating a licensing, management, or other agreement.

(~~6~~**8**) The licensee shall notify the agency when an employee has been disciplined or removed from his or her position for misconduct related to marihuana sales or transfers.

(9) The licensee shall notify the agency and the BFS within 1 business day following the occurrence of an unwanted fire.

(~~7~~**10**) Failure to timely provide notifications or reports to the agency pursuant to this rule may result in sanctions or fines, or both.

R 420.803 Changes to licensed marihuana business.

Rule 3. (1) Any change or modification to the marihuana business after licensure is governed by the standards and procedures set forth in these rules and any regulations adopted pursuant to the acts. Any material change or modification to the marihuana business must be approved by the agency before the change or modification is made.

(2) Any change of a location of a marihuana business after licensure requires notification to the agency prior to the change of location, must be approved by the agency, requires a new marihuana license application ~~under these rules~~, and may include, but is not limited to, ~~all of~~ the following:

(a) Additional applications fees.

(b) Additional inspections by the agency or BFS.

(c) Initial licensure fees or regulatory assessment, as applicable, or both.

~~(3) A licensee shall produce written documentation from the municipality approving the proposed new marihuana business location, and confirmation of compliance with any municipal ordinances the municipality adopted under the acts. For purposes of these rules, confirmation of compliance must be on an attestation form prepared by the agency that contains all of the information required in these rules.~~

R 420.805 Persons subject to penalty; violations.

Rule 5. (1) If the agency during a physical site inspection determines violations of the acts or these rules exist, the agency shall notify the person, applicant, or licensee of the violation during the physical site inspection or thereafter, and the person, applicant, or licensee may be subject to sanctions or fines, or both.

~~(2) The agency may issue a notice of violation, including, but not limited to, warnings, citations, formal complaints, or penalties, for any violations of the acts and applicable rules.~~

(~~3~~**2**) If the agency determines a violation of the acts or these rules exists, these violations must be documented in a format established by the agency. After a notice of violation or fine, or both, is issued to a person, applicant, or licensee, the agency may hold a compliance conference or a hearing if applicable as prescribed in the acts and these rules.

(**43**) The agency may forward information regarding violations of the acts or these rules or any other state or federal law to the department of state police, department of attorney general, and the prosecutor for the jurisdiction in which the alleged violation occurred.

(~~5~~**4**) The agency may take action for failure to pay any fine within the time written on the notice of violation pursuant to the acts or these rules.

(~~6~~**5**) The agency may take action against a licensee for selling or transferring marihuana product that has been placed on an administrative hold, recalled, or ordered **or otherwise required** to be destroyed.

(~~7~~**6**) A marihuana licensee may be subject to penalties if any person required to be disclosed as an applicant violates the acts or these rules.

(~~8~~**7**) The agency may take action against a licensee holding a license under the MRTMA, if notified of a violation of a municipal ordinance pursuant to section 6 of the MRTMA, MCL 333.27956.

(~~9~~**8**) The agency may take action against a licensee for knowingly making misrepresentations to the agency or its contractors during an investigation into the licensee.

(~~10~~**9**) The attempted transfer, sale, or other conveyance of an interest in a marihuana license without prior approval are grounds for suspension or revocation of the marihuana license or for other sanctions as provided in these rules.

(10) The agency may take action against a licensee for employing an individual who has been excluded from employment at a marihuana business under R 420.808a.

(11) The agency may take action against a licensee for failing to remove from, or attempting to add to, the ownership of a marihuana business an individual who has been excluded from participation in a marihuana business under R 420.808(a).

R 420.806 Penalties.

Rule 6. (1) A person, applicant, or licensee found in violation of the acts or these rules may be subject to sanctions, including, but not limited to, any of the following:

(a) Marihuana license denial.

(b) Limitations on a marihuana license.

(c) Fines.

(d) Revocation, suspension, nonrenewal of a license, or an administrative hold on a marihuana license.

(e) Orders to cease operations.

(f) Denial of a marihuana license renewal.

(2) A violation of the acts, the marihuana tracking act, or these rules may result in 1 or more of the following:

(a) Denial, revocation, or restriction of a marihuana license.

(b) Removal of a licensee or an employee of the licensee from the marihuana business.

(c) Civil fines up to $10,000.00 or an amount equal to the daily gross receipts, whichever is greater, against a licensee for each violation of the acts, a final order, or these rules.

(d) Civil fines may be assessed for each day the licensee is not in compliance with each violation of the acts or these rules. Assessment of a civil fine is not a bar to the investigation, arrest, charging, or prosecution of an individual for any other violation of the acts or these rules.

(e) Civil fines of up to $5,000.00 may be imposed against an individual licensed under the MMFLA.

(f) A violation of any ordinance adopted under section 205 of the MMFLA, MCL 333.27205, by a licensee holding a license under the ~~medical marihuana facilities licensing act~~ **MMFLA** may result in the possible sanctions listed in subdivisions (a) to (e) of this subrule.

(g) A violation of any ordinance adopted under section 6 of the MRTMA, MCL 333.27956, by a licensee holding a license under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** may result in the possible sanctions listed in subdivisions (a) to (d) of this subrule.

(3) A marihuana license may be suspended without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marihuana business' operation.

(4) A person operating without a marihuana license shall cease operation and may be subject to sanctions, including, but not limited to, the sanctions in subrules (1) and (2) of this rule, and may be referred to the department of state police and department of attorney general.

(5) The agency may impose any other remedies, sanctions, or penalties not inconsistent with the acts or these rules.

R 420.807 Warning.

Rule 7. (1) The agency may issue a warning to a licensee if the agency determines through an investigation that the licensee violated the acts, these rules, or an order.

(2) A warning must remain in the licensee's file for ~~one~~ **1** year from the date of service.

(3) A warning may be considered in future licensing actions. Continued or repeated non-compliance or repeated warnings for the same violation may result in ~~further action, including the imposition of fines or other sanctions against a licensee, or both~~ **issuance of a formal complaint**.

R 420.808 Formal complaint.

Rule 8. (1) ~~After an investigation has been conducted and violations have been determined, t~~**T**he agency **may issue a formal complaint alleging violations of the acts, these rules, or both against a licensee.**

(2) The agency shall serve the formal complaint on the licensee by certified mail, return receipt requested, or in person by a representative of the agency.

(~~2~~**3**) The licensee ~~must~~ **may** do either of the following:

(a) Meet with the agency to negotiate a settlement of the matter, or demonstrate compliance prior to holding a contested case hearing, as required by section 92 of the administrative procedures act ~~of 1969, 1969 PA 306~~, MCL 24.292.

(b) Proceed to a contested case hearing as set forth in these rules and section 71 of the administrative procedures act ~~of 1969, 1969 PA 306~~, MCL 24.271.

(~~3~~**4**) The licensee must request a compliance conference or contested case hearing, or both, within 21 **business** days of receipt of the formal complaint. If the licensee does not respond, the agency shall request a contested case hearing.

(~~4~~**5**) If the licensee agrees and accepts the terms negotiated at the compliance conference, the ~~licensee and the~~ agency shall **submit a proposed consent order and stipulation to the executive director of the agency for review and approval.** ~~execute a stipulation~~.

(~~5~~**6**) ~~An executed stipulation is subject to review and approval by the executive director of the agency.~~ If the **executive director approves the consent order and** stipulation ~~is approved~~, the agency shall issue a consent order. If the stipulation is not approved, a compliance conference or a contested case hearing ~~shall~~ **must** be scheduled. The consent order ~~shall~~ **must** be published.

(~~6~~**7**) If a licensee does not **timely** comply with the terms of a signed and fully executed ~~stipulation and~~ consent order ~~within the time frame listed in the consent order~~, the licensee's license is suspended until full compliance is demonstrated.

(~~7~~**8**) If a compliance conference is not held or does not result in a settlement of a compliance action, a contested case hearing ~~shall~~ **must** be held, pursuant to these rules and the administrative procedures act ~~of 1969, 1969 PA 306, MCL 24.201 to MCL 24.328~~.

R 420.808a Exclusion.

Rule 8a. (1) A person may be excluded from employment at, or participation in, a marihuana business upon a finding of any of the following:

(a) The person has a pattern of convictions in any jurisdiction involving theft, dishonesty, or fraud that indicates the person will not maintain employment with honesty and integrity.

(b) The person has engaged in conduct involving theft, dishonesty, or fraud that indicates the person will not maintain employment with honesty and integrity.

(c) The person has been found ineligible for licensure under the acts or these rules.

(d) The person has engaged in conduct that could negatively impact public health, safety, and welfare.

(e) The person is included on any valid and current exclusion list from another jurisdiction in the United States.

(f) The person has been convicted of distribution of a controlled substance to a minor in any jurisdiction.

(2) Upon a determination that a person comes under any of the criteria for exclusion, the person may be deemed a subject for exclusion and the agency shall file a notice of exclusion. The notice must include all of the following information:

(a) The identity of the subject.

(b) The nature and scope of the circumstances or reasons that the person should be placed on the exclusion list.

(c) A recommendation as to whether the exclusion or ejection is permanent.

(3) The notice shall also inform the person of the availability of a hearing in compliance with R 420.705.

(4) If a hearing is not requested, then the subject's name or excluded person's name must remain on the exclusion list.

(5) If the notice of exclusion provides for a temporary exclusion, then the agency shall set the term of the temporary exclusion.

(a) A temporary exclusion may not be less than 6 months.

(b) A temporary exclusion only applies to a person excluded for criteria related to conduct.

(c) All other exclusions are permanent.

(6) The exclusion list must be a public record made available to licensees by the agency and must include information deemed necessary by the agency to facilitate identification of the person placed on the exclusion list.

(7) A person who is placed on the exclusion list or served with a notice of exclusion is prohibited from being employed by or participating in a marihuana business until a determination by the agency or a court to the contrary.

(8) A marihuana business shall exclude a person from the business that it knows or reasonably should know is on the exclusion list.

(9) Failure by a marihuana business to exclude a person that it knows or reasonably should know is on the exclusion list may subject the marihuana business to disciplinary proceedings.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Marihuana Regulatory Agency
Administrative Rules for Marihuana Disciplinary Proceedings
Rule Set 2020-117 LR

NOTICE OF PUBLIC HEARING
Monday, September 27, 2021
09:30 AM

Williams Building, 1st Floor Auditorium
525 West Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Marihuana Disciplinary Proceedings rule set.

The rule changes are designed to update and refine the disciplinary proceeding process used by the agency when licensees are not in compliance with the statutes or the rules

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001). The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: MRA-Legal@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/27/2021 at 05:00PM.

Marijuana Regulatory Agency- ATTN: Legal Section

Email: MRA-Legal@michigan.gov

PO BOX 30205 or 2407 N Grand River Ave Lansing MI, 48906

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-284-8584 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA HEARINGS

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a~~(6)~~**(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 marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.701, R 420.702, R 420.703, R 420.704, and R 420.706 of the Michigan Administrative Code are amended, and R 420.704a is added, as follows:

R 420.701 Definitions.

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

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) "Administrative procedures act" means the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) "Agency" means the marijuana regulatory agency.

(d) "Contested case hearing" means an administrative hearing conducted by an administrative law judge within the Michigan office of administrative hearings and rules on behalf of the agency in accordance with the acts and these rules.

(e) "MAHS general hearing rules" means the administrative hearing rules ~~promulgated by the Michigan office of administrative hearings and rules~~ set forth in R 792.10101 to R 792.10137 of the Michigan administrative code.

(f) "Marihuana business" means a marihuana facility under the medical marihuana facilities licensing act or a marihuana establishment under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(g) "Marihuana establishment" means a location at which a licensee is licensed to operate a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, class A marihuana microbusiness, marihuana retailer, marihuana secure transporter, marihuana designated consumption establishment, or any other type of marihuana-related business licensed to operate by the agency under the Michigan Regulation and Taxation of Marihuana Act.

(h) "Marihuana facility" means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(~~g~~**i**) "Marihuana license" means a state operating license issued under the medical marihuana facilities licensing act or a state license issued under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(j) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(k) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(l) "Michigan Regulation and Taxation of Marihuana Act" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(~~h~~**m**) "MOAHR" means the Michigan office of administrative hearings and rules within the department of licensing and regulatory affairs.

(~~i~~**n**) "Public investigative hearing" means a hearing in which an applicant has an opportunity to present testimony and evidence to establish eligibility for a marihuana license.

(~~j~~**o**) "These rules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

R 420.702 Hearing procedures; scope and construction of rules.

Rule 2. (1) These rules apply to hearings under the jurisdiction of the agency involving 1 or more of the following:

(a) The denial of a marihuana license.

(b) ~~Licensing actions~~**Formal complaints against a license**.

(c) A complaint by a licensee.

(d) The denial of the renewal of a marihuana license.

(2) These rules are construed to secure a fair, efficient, and impartial determination of the issues presented in a manner consistent with due process.

(3) If the rules do not address a specific procedure, the MAHS general hearing rules, the Michigan court rules, and the contested case provisions of sections 71 to 87 of the administrative procedures act, MCL 24.271 to 24.287, apply.

R 420.703 Public investigative hearing.

Rule 3. (1) An applicant that is denied a marihuana license by the agency may request a public investigative hearing in writing within 21 days of service of notice of the denial.

(2) After the agency receives notice of an applicant's request for a public investigative hearing, the agency shall provide an opportunity for this hearing at which the applicant may present testimony and evidence to establish suitability for a marihuana license.

(3) The ~~parties~~ **applicant** ~~shall~~ **must** be given reasonable notice of the public investigative hearing in writing. ~~The notice must include all of the following information:~~

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

~~(b) A statement of the legal authority and jurisdiction under which the hearing is to be held.~~

~~(c) A short and plain statement of the issues involved, and reference to the pertinent sections of the act and rules involved.~~

~~(d) A short description of the order and manner of presentation for the hearing.~~

(4) Not less than 2 weeks before the hearing, the agency shall post notice of the public investigative hearing at its business office in a prominent place that is open and visible to the public.

(5) The agency, or 1 or more administrative law judges designated and authorized by the agency, shall conduct and preside over the public investigative hearing and ~~shall~~ do all of the following:

(a) Administer oaths or affirmations to witnesses called to testify at the hearing.

(b) Receive evidence in the form of testimony and exhibits.

(c) Establish and regulate the order of presentation and course of the public investigative hearing; set the time and place for continued hearings; and fix the time for filing written arguments, legal briefs, and other legal documents.

(d) Accept and consider relevant written and oral stipulations of fact and law that are made part of the hearing record.

(6) Upon timely request of the applicant or the agency in accordance with the Michigan court rules, the agency or the agency's designated administrative law judge may issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents and ~~administer oaths and affirmations to~~ **issue subpoenas for** witnesses **to appear and testify** as appropriate to exercise and discharge the powers and duties under the act.

(7) During the public investigative hearing, the applicant and the agency must be given a full opportunity to present witnesses, cross-examine witnesses, and present all relevant evidence regarding the applicant's eligibility and suitability for licensure.

(8) The applicant shall at all times have the burden of establishing, by clear and convincing evidence, its eligibility and suitability for licensure under the acts and these rules.

(9) The agency shall record the public investigative hearing stenographically or by other means, to ~~adequately~~ ensure preservation of an accurate record of the hearing.

(10) Following the public investigative hearing, the **executive director of the** agency shall affirm, reverse, or modify in whole or in part the denial of a marihuana license.

(11) The agency's decision to affirm, reverse, or modify in whole or in part the denial of a marihuana license must be based on the whole record before the agency and not be limited to testimony and evidence submitted at the public investigative hearing.

(12) The agency's decision to affirm, reverse, or modify in whole or in part the denial of a marihuana license must be reduced to writing and served upon the applicant and agency within a reasonable time.

R 420.704 Hearing on disciplinary ~~proceedings~~ actions.

Rule 4. (1) A licensee who has been notified of a marihuana license violation, or of the agency's intent to suspend, revoke, restrict, or refuse to renew a marihuana license or impose a fine, may be given an opportunity to show compliance with the requirements before the agency tak~~ing~~**es** action as prescribed by these rules.

(2) A licensee aggrieved by an action of the agency to suspend, revoke, restrict, or refuse to renew a marihuana license, or to impose a fine, may request a contested case hearing in writing within 21 days after service of notice of the intended action.

(3) Upon receipt of a timely request, the agency shall provide the licensee an opportunity for a contested case hearing in accordance with sections 71 to 87 of the administrative procedures act, MCL 24.271 to 24.287, and the MAHS general hearing rules.

(4) The contested case hearing must be conducted by an administrative law judge within the ~~Michigan office of administrative hearings and rules~~**MOAHR**.

(5) Upon timely request of the licensee or the agency in accordance with the Michigan court rules, an assigned administrative law judge may issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents, and

administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties under the acts and these rules.

(6) The agency has the burden of proving, by a preponderance of the evidence, that sufficient grounds exist for the intended action to suspend, revoke, restrict, or refuse to renew a ~~state~~ **marihuana** license, or to impose a fine~~, or summarily suspend a state license~~.

R 420.704a Hearing on exclusion of individuals or employees.

Rule 4a. (1) An individual who has been notified of the agency's intent to exclude him or her from being employed by or being a supplemental applicant of a marihuana business may request a hearing in writing within 21 days of service of the notice of intent to exclude.

(2) Upon receipt of a timely request, the agency shall provide the individual an opportunity for a contested case hearing pursuant to sections 71 to 87 of the administrative procedures act, MCL 24.271 to 24.287, and the MAHS general hearing rules.

(3) The contested case hearing must be conducted by an administrative law judge within the MOAHR.

(4) Upon timely request of the licensee or the agency pursuant to the Michigan court rules, an assigned administrative law judge may issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents, and issue subpoenas for witnesses to appear and testify as appropriate to exercise and discharge the powers and duties under the acts and these rules.

(5) The agency has the burden of proving, by a preponderance of the evidence, that sufficient grounds exist for the intended action to exclude an individual from being employed by or being a supplemental applicant of a marihuana business.

R 420.706 Complaint by licensee.

Rule 6. (1) ~~In accordance with~~ **Pursuant to** the ~~Michigan medical marihuana facilities licensing act,~~ **MMFLA** and these rules, a licensee may file a written complaint with the agency regarding any investigative procedures of this state that he or she believes to be unnecessarily disruptive of the marihuana facility operations, as provided in section 302 of the act, MCL 333.27302.

~~(2) The agency may delegate to a subcommittee of the agency the authority to hear, review, or rule on a licensee complaint.~~

(~~3~~**2**) The agency ~~or its subcommittee~~ may delegate authority to an administrative law judge to hear a licensee's complaint as a contested case in accordance with sections 71 to 79 of the ~~APA~~**administrative procedures act**, MCL 24.271 to 24.279, and the MAHS general hearing rules.

(**3**) As the complaining party, a licensee has the burden of proving by a preponderance of the evidence that the investigative procedures of the agency unnecessarily disrupted its marihuana facility operations.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Marihuana Regulatory Agency
Administrative Rules for Marihuana Hearings
Rule Set 2020-118 LR

NOTICE OF PUBLIC HEARING
Monday, September 27, 2021
09:30 AM

Williams Building, 1st Floor Auditorium
525 West Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Marihuana Hearings rule set.

The rule changes are designed to create greater consistency in the hearings that take place as a result of licensing action, and to cover hearings for excluded individuals.

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001). The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: MRA-Legal@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/27/2021 at 05:00PM.

Marijuana Regulatory Agency- ATTN: Legal Section

Email: MRA-Legal@michigan.gov

PO BOX 30205 or 2407 N Grand River Ave Lansing MI, 48906

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-284-8584 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA-INFUSED PRODUCTS AND EDIBLE MARIHUANA PRODUCT

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a~~(6)~~**(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 marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.401, R 420.402, and R 420.403 of the Michigan Administrative Code are amended, ~~to the Michigan Administrative Code~~ as follows:

R 420.401 Definitions**.**

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

(a) “Acts” refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) “Agency” means the marijuana regulatory agency.

(c) "Employee" means a person performing work or service for compensation. “Employee” does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana establishment.

(d) “Final ~~package~~**form**” means the form a marihuana product is in when it is available for sale by a marihuana sales location. **For marihuana products intended for inhalation, final form means the marihuana concentrate in the e-cigarette or vaping device.**

(e) “Inactive ingredients” means binding materials, dyes, preservatives, flavoring agents, and any other ingredient that is not derived from the plant *Cannabis* ~~*S*~~***s****ativa L*.

~~(f) “Marihuana business” refers to a marihuana facility under the medical marihuana facilities licensing act or a marihuana establishment under the Michigan regulation and taxation of marihuana act, or both.~~

~~(g) “Marihuana establishment” means a location at which a licensee is licensed to operate a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness**,** marihuana retailer, marihuana secure transporter, marihuana designated consumption establishment, or any other type of marihuana-related business licensed to operate by the agency under the Michigan regulation and taxation of marihuana act.~~

~~(h) “Marihuana facility” means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.~~

(~~i~~**f**) "Marihuana product" means marihuana or a marihuana-infused product, or both, as those terms are defined in the acts unless otherwise provided for in these rules.

(~~j~~**g**) "Marihuana sales location" refers to a provisioning center under the medical marihuana facilities licensing act or a marihuana retailer under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~k~~**h**) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(~~l~~**i**) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(~~m~~**j**) "Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(~~n~~**k**) "Producer" refers to both a processor under the medical marihuana facilities licensing act and a marihuana processor under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

~~(o) "Records of formulation" means the documentation that includes at a minimum: the ingredients, recipe, processing in order to be shelf stable, Certificates of Analysis for any ingredient used, and description of the process in which all ingredients are combined to produce a final package.~~

(~~p~~**l**) "These rules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(~~q~~**m**) "Tag" or "RFID tag" means the unique identification number or Radio Frequency Identification (RFID) issued to a licensee by the ~~agency~~ **statewide monitoring system** for tracking, identifying, and verifying marihuana plants, marihuana products, and packages of marihuana product in the statewide monitoring system.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

R 420.402 Adoption by reference.

Rule 2. (1) The following codes, standards, or regulations of nationally recognized organizations or associations are adopted by reference in these rules:

(a) National fire protection association (NFPA) standard 1, 20~~18~~**21** edition, entitled "Fire Code**,**" is adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02169, telephone number 1-800-344-3555, for the price of $~~106.00~~**114.50**.

(b) The International Organization for Standardization (ISO), ISO 22000 / ISO/TS 22002-1:2009**,** ~~–~~ ~~f~~**F**ood ~~s~~**S**afety ~~b~~**B**undle, available for purchase at:
https://webstore.ansi.org/Standards/ISO/ISO22000TS22002FoodSafety, for the price of $275.00.

(c) International Organization for Standardization (ISO), ISO/IEC 17025:2017, ~~g~~**G**eneral ~~r~~**R**equirements for the ~~c~~**C**ompetence of ~~t~~**T**esting and ~~c~~**C**alibration ~~l~~**L**aboratories**,** available at:
https://webstore.ansi.org/RecordDetail.aspx?sku=ISO%2fIEC+17025%3a2017, for the price of $162.00.

(2) The standards adopted in subrule (1)(a) to (c) of this rule are available for inspection and distribution at the agency, located at 2407 North Grand River Avenue, Lansing, **Michigan** ~~MI~~, 48906. Copies of these standards may be obtained from the agency at the cost indicated in subrule (1)(a) to (c) of this rule, plus shipping and handling.

R 420.403 Requirements and restrictions on marihuana-infused products; edible marihuana product.

Rule 3. (1) A producer shall package and properly label marihuana-infused products before sale or transfer.

(2) Marihuana-infused products processed under these rules must be homogenous. The allowable variation for weight and THC and CBD concentrations between the actual results and the intended serving is to be + or – 15%. The agency shall publish guidelines for a producer to follow to verify the marihuana-infused product is homogeneous.

(3) A producer of marihuana-infused products shall list and record the THC concentration and CBD concentration of marihuana-infused products, as provided in R 420.305 and ~~subrule (4)~~ **R 420.404** ~~of this rule~~, in the statewide monitoring system and indicate the THC concentration and CBD concentration on the label along with the tag identification as required under these rules.

(4) Marihuana-infused products that are part of a product recall ~~issued in the statewide monitoring system, or by the agency or other state agency, if applicable,~~ are subject to all of the following requirements:

(a) Must be immediately pulled from production by the producer of the marihuana-infused product.

(b) Must be immediately removed from the sales area of a marihuana sales location.

(c) Must not be sold or transferred.

(5) Marihuana-infused products must be stored and secured as prescribed under these rules.

(6) All non-marihuana inactive ingredients must be clearly listed on the product label. Inactive ingredients must be approved by the FDA for the intended use, and the concentration must be less than the maximum concentration listed in the FDA Inactive Ingredient database for the intended use.

(7) A producer shall label all marihuana-infused product with all of the following:

(a) The name of the marihuana-infused product. **The name of the product must be an appropriately descriptive phrase that accurately describes the basic nature of the product.**

(b) The ingredients**, including component ingredients,** of the marihuana-infused product, in descending order of predominance by weight.

(c) The net weight or net volume of the product.

(d) For an edible marihuana product, ~~the marihuana processor shall comply with subdivisions (a) to (c) of this subrule and all of the~~ **both of the** following **must be included**:

(i) Allergen labeling as specified by the Food and Drug Administration (FDA), Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA), 21 USC 343.

(ii) If any health or nutritional claim is made, appropriate labeling as specified by the federal regulations regarding Food Labeling, 21 CFR part 101.

(e) The date the marihuana product was produced.

(8) A producer of edible marihuana product shall comply with all the following ~~to ensure safe preparation~~:

(a) Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventative Controls for Human Food, 21 CFR part 117.- Any potentially hazardous ingredients used to process shelf-stable edible marihuana products must be stored at 40 degrees Fahrenheit, 4.4 degrees Celsius, or below.

~~(b) Current Good Manufacturing Practice in Manufacturing, Packaging, or Holding Human Food, 21 CFR part 110. A marihuana business shall ensure that any handling of marihuana product is compliant.~~

(~~c~~**b**) Keep formulation records for all marihuana products. These records at a minimum must include the recipe, any additional processing **documentation that demonstrates the product** ~~in order~~ to be shelf stable, and test results for ~~any~~ **all** ingredients used.

(~~d~~**c**) Provide annual employee training for all employees on safe food handling and demonstrate an employee's completion of this training by providing proof of food handler certification that includes documentation of employee food handler training, including, but not limited to, allergens and proper sanitation and safe food handling techniques. Any course taken pursuant to this rule must be conducted for not less than 2 hours and cover all of the following subjects:

(i) Causes of foodborne illness, highly susceptible populations, and worker illness.

(ii) Personal hygiene and food handling practices.

(iii) Approved sources of food.

(iv) Potentially hazardous foods and food temperatures.

(v) Sanitization and chemical use.

(vi) Emergency procedures, including, but not limited to, fire, flood, and sewer backup.

(~~e~~**d**) Have an employee **in charge** who is certified as a Food Protection Manager.

(~~f~~**e**) To ensure compliance with the safe preparation standards under this subrule, comply with 1 or more of the following:

(i) ~~The FDA food safety modernization act, 21 USC 2201 to 2252.~~ **Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventative Controls for Human Food, 21 CFR part 117.**

(ii) The International Organization for Standardization (ISO), ISO 22000/ISO/TS 22002-1 adopted by reference pursuant to R 420.402.

(~~g~~**f**) ~~-~~If requested as provided in this subdivision, provide to the agency documentation to verify certifications and compliance with these rules. The agency may request in writing documentation to verify certifications and compliance with these rules.

(9) A producer of edible marihuana product shall comply with all the following:

(a) ~~Edible marihuana product packages shall n~~**N**ot ~~be in~~ **produce an edible marihuana product in** a shape or **with a** label~~ed in a manner~~ that would appeal to minors aged 17 years or younger.~~-~~ ~~Edible marihuana products shall not be associated with or have cartoons, caricatures, toys, designs, shapes, labels, or packaging that would appeal to minors.~~

(b) Not produce an edible marihuana product that is associated with or has cartoons, caricatures, toys, designs, shapes, labels, or packaging that would appeal to minors.

(~~b~~**c**) **Not produce** ~~E~~**e**dible marihuana products ~~shall not be~~ **that can be** easily confused with **a** commercially ~~sold candy~~ **available food product**. The use of the word candy or candies on the packaging or labeling is prohibited. ~~Edible marihuana products shall not be in the distinct shape of a human, animal, or fruit, or a shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings. Edible marihuana products that are geometric shapes and simply fruit flavored are permissible.~~

(d) Not produce edible marihuana products in the distinct shape of a human, animal, or fruit, or a shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings. Edible marihuana products that are geometric shapes and fruit flavored are permissible.

(e) Not package an edible marihuana product in a package that bears the image, likeness, or contains the characteristics of commercially available food products.

(~~c~~**f**) An edible marihuana product must be in opaque, child-resistant packages or containers that meet the effectiveness specifications outlined in 16 CFR 1700.15. An edible marihuana product containing more than ~~one~~ **1** serving must be in a resealable package or container that meets the effectiveness specifications outlined in 16 CFR 1700.15.

(10) A producer shall not produce an edible marihuana product that requires time and temperature control for safety. The agency may publish validation guidance for shelf stable edible marihuana product. The agency may request to review the validation study for a shelf stable edible marihuana product. The end product must be a shelf stable edible marihuana product and state the following information:

(a) A product expiration date, upon which the marihuana product is no longer fit for consumption **and after which it must be destroyed**. Once a label with an expiration date has been affixed to a marihuana

product, a licensee shall not alter that expiration date or affix a new label with a later expiration date. **The expiration date must consider all the following:**

(i) The quality and characteristics of the edible marihuana product.

(ii) The packaging of the edible marihuana product.

(iii) The customary conditions encountered by the edible marihuana product from product to sale.

(b) Any other information requested by the agency that is not inconsistent with the acts and these rules.

(11) As used in this rule, the term "edible marihuana product" means any marihuana-infused product containing marihuana that is intended for human consumption in a manner other than smoke inhalation.

(12) This rule does not affect the application of any applicable local, state, or federal laws or regulations.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Marihuana Regulatory Agency
Administrative Rules for Marihuana Infused Products and Edible Marihuana Products
Rule Set 2020-119 LR

NOTICE OF PUBLIC HEARING
Monday, September 27, 2021
09:30 AM

Williams Building, 1st Floor Auditorium
525 West Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Marihuana Infused Products and Edible Marihuana PRoducts rule set.

The rule changes are designed to create greater consistency with updated standards in the production, handling, and labeling of marihuana product and to create continued cohesion between these practices in both medical and adult-use marihuana businesses.

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001). The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: MRA-Legal@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/27/2021 at 05:00PM.

Marijuana Regulatory Agency- ATTN: Legal Section

Email: MRA-Legal@michigan.gov

PO BOX 30205 or 2407 N Grand River Ave Lansing MI, 48906

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-284-8584 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA LICENSEES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a~~(6)~~**(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 marijuana regulatory agency by section 206 of the medical marihuana ~~facilitates~~ **facilities** licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.101, R 420.102, R 420.103, R 420.104, R 420.105, R 420.106, R 420.107, R 420.108, R 420.109, R 420.110, R 420.111, and R 420.112 of the Michigan Administrative Code are amended, and R 420.105a and R 420.112a are added, as follows:

R 420.101 Definitions.

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

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) "Agency" means the marijuana regulatory agency.

(c) "Another party" or "other party" means an individual or company with which a licensee contracts to use the individual's or company's intellectual property or to utilize management or other services provided by the individual or company.

(~~c~~**d**) "Applicant" means a person who applies for a marihuana license, subject to paragraphs (i) and (ii) **of this subrule**:

(i) For purposes of this definition, an applicant includes a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

(A) For an individual or sole proprietorship: the proprietor and spouse.

(B) For a partnership and limited liability partnership: all partners and their spouses.

(C) For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the partnership, and their spouses.

(D) For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the company, and their spouses.

(E) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(F) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(G) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(H) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(I) For a trust, any beneficiary who receives or has the right to receive more than 10% of the gross or net profit of the trust during any full or partial calendar or fiscal year and their spouses.

(ii) For purposes of this definition, an applicant does not include:

(A) A person who provides financing to an applicant or licensee under a bona fide financing agreement at a reasonable interest rate unless the person exercises control over or participates in the management of the marihuana business.

(B) A franchisor who grants a franchise to an applicant, if the franchisor does not have the right to receive royalties based upon the sale of marihuana or marihuana-infused products by the applicant who is a franchisee. Nothing in this subrule shall be construed to preclude a franchisor from charging an applicant who is a franchisee a fixed fee. As used in this definition, the terms "franchise," "franchisor," and "franchisee" have the meanings set forth in section 2 of the franchise investment law, 1974 PA 269, MCL 445.1502.

(C) A person receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation unless the person exercises control over or participates in the management of the marihuana business.

(D) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property including, but not limited to, brands and recipes.

(E) A person who receives a percentage of profits as an employee if the employee does not meet the definition of "managerial employee" and the employee does not receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year.

(F) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's pre-bonus annual compensation or if the bonus is based upon a written incentive/bonus program that is not out of the ordinary for the services rendered.

(~~d~~**e**) "Clone" means a replication of a single parent plant through vegetative propagation.

(~~e~~**f**) "Common ownership" means 2 or more state licenses or ~~two~~ **2** or more equivalent licenses held by ~~one~~ **1** person under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(~~f~~**g**) "Employee" means a person performing work or service for compensation.~~-~~ "Employee" does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana business.

(~~g~~**h**) "Immature plant" means a nonflowering marihuana plant that is no taller than 8 inches from the growing or cultivating medium and no wider than 8 inches, produced from a cutting, clipping, tissue culture, or seedling, and that is in a growing or cultivating medium or in a growing or cultivating container.

(~~h~~**i**) "Industrial hemp" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(~~i~~**j**) "Industrial hemp research and development act" means the industrial hemp research and development act, 2014 PA 547, MCL 286.841 to 286.859.

(k) "Intellectual property" means all original data, findings, or other products of the mind or intellect commonly associated with claims, interests, and rights that are protected under trade secret, patent, trademark, copyright, or unfair competition law and includes brands or recipes.

(l) "Licensing agreement" means any understanding or contract concerning the licensing of intellectual property between a licensee and another party.

(m) "Management or other agreement" means any understanding or contract between a licensee and another party for the provision of management or other services that would allow the other party to exercise control over or participate in the management of the licensee or to receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year.

(~~j~~**n**) "Managerial employee" means those employees who have the ability to control and direct the affairs of the marihuana business or have the ability to make policy concerning the marihuana business, or both.

(o) "Marihuana business" means a marihuana facility under the medical marihuana facilities licensing act, or a marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act, or both.

(~~k~~**p**) "Marihuana establishment" means a location at which a licensee is licensed to operate a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness**, class A marihuana microbusiness**, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed to operate by the agency under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(~~l~~**q**) "Marihuana facility" means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(~~m~~**r**) "Marihuana license" means a state operating license issued under the medical marihuana facilities licensing act, or a state license issued under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~n~~**s**) "Marihuana product" means marihuana or a marihuana-infused product, or both, as those terms are defined in the applicable act unless otherwise provided for in these rules.

(~~o~~**t**) "Mature plant" means a flowering or nonflowering marihuana plant that has taken root and is taller than 8 inches from the growing or cultivating medium or wider than 8 inches, produced from a cutting, clipping, tissue culture, or seedling, and that is in a growing or cultivating medium or in a growing or cultivating container.

(~~p~~**u**) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

~~(q) "Michigan medical marihuana act" means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.~~

(~~r~~**v**) "Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(~~s~~**w**) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(x) "Parties" means a licensee and another party pursuant to a licensing or management or other agreement.

(~~t~~**y**) "These rules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, and Executive Reorganization Order No. 2019-2, MCL ~~.~~333.27001.

(~~u~~**z**) "Same location" means separate marihuana licenses that are issued to multiple marihuana businesses that are authorized to operate at a single property but with separate business suites, partitions, or addresses.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

PART 1. LICENSEES UNDER THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT

R 420.102 Marihuana grower license.

Rule 2. (1) A marihuana grower license authorizes the marihuana grower to grow not more than the following number of marihuana plants under the indicated license class for each marihuana grower license the marihuana grower holds in that class:

(a) Class A – 100 marihuana plants.

(b) Class B – 500 marihuana plants.

(c) Class C – 2,000 marihuana plants.

(2) For the purposes of this rule, only mature marihuana plants are included in the plant count in subrule (1) of this rule.

(3) Except as otherwise provided in the MRTMA and these rules, a marihuana grower license authorizes sale of marihuana plants to a marihuana grower only by means of a marihuana secure transporter. A marihuana grower license authorizes the sale or transfer of seeds, seedlings, tissue cultures, or immature plants to a marihuana grower from another marihuana grower without using a marihuana secure transporter.

(4) A marihuana grower license authorizes a marihuana grower to transfer marihuana without using a marihuana secure transporter to a marihuana processor or marihuana retailer if both of the following are met:

(a) The marihuana processor or marihuana retailer occupies the same location as the marihuana grower and the marihuana is transferred using only private real property without accessing public roadways.

(b) The marihuana grower enters each transfer into the statewide monitoring system.

(5) A marihuana grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, immature plants, and cuttings, to a marihuana processor or marihuana retailer.

(6) Except as otherwise provided in the MRTMA, subrules (3) and (4) of this rule, and R 420.304, a marihuana grower license authorizes the marihuana grower to transfer marihuana only by means of a marihuana secure transporter.

(7) A marihuana grower must **accurately** enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(8) A marihuana grower license does not authorize the marihuana grower to operate in an area unless the area is zoned for industrial or agricultural uses or otherwise meets the requirements established in section ~~9.3.(c)~~ **9(3)(c)** of the MRTMA, MCL 333.27959~~(c).~~

(9) A marihuana grower may **purchase or** accept the transfer of marihuana seeds, tissue cultures, and clones that do not meet the definition of marihuana plant in these rules at any time from another grower licensed under the acts~~, these rules, or both~~.

(10) A class A marihuana grower may accept the transfer of marihuana plants only once upon licensure from a registered primary caregiver if the registered primary caregiver was an applicant for that class A marihuana grower license.

(11) A marihuana grower licensee is required to comply with the requirements of the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** and these rules.

(12) A marihuana grower may not purchase or accept the transfer of a mature plant from an individual, registered qualifying patient, or registered primary caregiver.

R 420.103 Marihuana processor license.

Rule 3. (1) A marihuana processor license authorizes **the marihuana processor to** purchase or transfer ~~of~~ marihuana or marihuana-infused products from only a licensed marihuana establishment and ~~sale~~ **sell** or transfer ~~of~~ marihuana-infused products or marihuana to only a licensed marihuana establishment.

(2) Except as otherwise provided in these rules and the MRTMA, a marihuana processor license authorizes a marihuana processor to transfer marihuana only by means of a marihuana secure transporter. A marihuana processor license authorizes a marihuana processor to transfer marihuana without using a marihuana secure transporter to a marihuana grower, marihuana processor, or marihuana retailer if both of the following are met:

(a) The marihuana grower, marihuana processor, or marihuana retailer occupies the same location as the marihuana processor and the marihuana is transferred using only private real property without accessing public roadways.

(b) The marihuana processor enters each transfer into the statewide monitoring system.

~~(3) A licensee who holds 2 or more marihuana processor licenses with common ownership at different establishments may transfer marihuana product inventory between the licensed marihuana processor establishments. The transferred marihuana product must be entered and tracked in the statewide monitoring system as required in these rules.~~

(**43**) A marihuana processor must **accurately** enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

R 420.104. Marihuana retailer license.

Rule 4. (1) A marihuana retailer license authorizes the **marihuana retailer to** purchase or transfer ~~of~~ marihuana or marihuana-infused products from only a licensed marihuana establishment and ~~sale~~ **sell** or transfer to only a licensed marihuana establishment or an individual 21 years of age or older. Except as otherwise provided in these rules, and the MRTMA, all transfers of marihuana to a marihuana retailer from a separate marihuana establishment must be by means of a marihuana secure transporter. A transfer of marihuana to a marihuana retailer from a marihuana establishment that occupies the same location as the marihuana retailer does not require a marihuana secure transporter if the marihuana is transferred to the marihuana retailer using only private real property without accessing public roadways.

(2) A marihuana retailer license authorizes the marihuana retailer to transfer marihuana to or from a marihuana safety compliance facility for testing by means of a marihuana secure transporter or as provided in these rules.

(3) A marihuana retailer shall comply with all of the following:

(a) Sell or transfer marihuana to an individual 21 years of age or older only after it has been tested in accordance with these rules and bears the label required for retail sale.

(b) **Accurately e**~~E~~nter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(c) Before selling or transferring marihuana to an individual 21 years of age or older, verify the individual appears to be 21 years of age or older by means of government-issued photographic identification containing a date of birth and that the sale or transfer will not exceed the single transaction limit in these rules.

~~(4) A licensee who holds 2 or more marihuana retailer licenses with common ownership at different establishments may transfer marihuana product inventory between the licensed marihuana retailer establishments. The transferred marihuana product must be entered and tracked in the statewide monitoring system as required in these rules and any requirements published by the agency.~~

R 420.105 Marihuana microbusiness license.

Rule 5. (1) A marihuana microbusiness license authorizes the **marihuana microbusiness to do all of the** following:

(a) ~~The cultivation of~~ **Cultivate** not more than 150 plants. Only mature marihuana plants are included in the plant count in this subdivision.

(b) ~~The p~~**P**rocess~~ing~~ and packag**e**~~ing of~~ marihuana.

(c) ~~The retail sale~~ **Sell** or transfer ~~of~~ marihuana to ~~only~~ an individual 21 years of age or older **only.**~~, but not to other marihuana establishment~~s.

(d) ~~The transfer of~~ **Transfer** marihuana to a marihuana safety compliance facility for testing.

(2) Except as otherwise provided in R 420.304, this rule, and the MRTMA, a marihuana microbusiness license authorizes a marihuana microbusiness to transfer marihuana from the marihuana grower area to the marihuana processor and marihuana retailer areas of the marihuana microbusiness and from the marihuana processor area to marihuana grower and marihuana retailer areas of the marihuana microbusiness without using a marihuana secure transporter if all areas of the marihuana microbusiness enter each transfer between different areas of the marihuana microbusiness into the statewide monitoring system.

(3) A marihuana microbusiness shall not operate at multiple locations.

(4) A marihuana microbusiness must **accurately** enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(5) A marihuana microbusiness may **purchase or** accept the transfer of marihuana seeds, tissue cultures, and clones that do not meet the definition of marihuana plant in these rules ~~at any time~~ from another grower licensed under the acts, these rules, or both. A marihuana microbusiness shall not sell or transfer marihuana seeds, tissue cultures, or clones received under this subrule.

(6) A marihuana microbusiness may accept the transfer of marihuana plants only once upon licensure from a registered primary caregiver if the registered primary caregiver was an applicant for that marihuana microbusiness license.

(7) A marihuana microbusiness license is subject to all applicable provisions in the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** and these rules related to a marihuana grower, marihuana retailer, and marihuana processor license except for R 420.102(8).

(8) A marihuana microbusiness may not purchase or accept a mature plant from an individual, registered qualifying patient, or registered primary caregiver.

R 420.105a Class A marihuana microbusiness license.

Rule 5a. (1) A class A marihuana microbusiness license authorizes the class A marihuana microbusiness to do all of the following:

(a) Cultivate not more than 300 plants. Only mature marihuana plants are included in the plant count in this subdivision.

(b) Package marihuana.

(c) Purchase marihuana concentrate and marihuana-infused products from a licensed marihuana processor.

(d) Sell or transfer marihuana and marihuana products to an individual 21 years of age or older only.

(e) Transfer marihuana to a marihuana safety compliance facility for testing.

(2) Except as otherwise provided in R 420.304, this rule, and the MRTMA, a class A marihuana microbusiness license authorizes a class A marihuana microbusiness to transfer marihuana from the marihuana grower area to the marihuana retailer area of the class A marihuana

microbusiness without using a marihuana secure transporter if all areas of the class A marihuana microbusiness enter each transfer between different areas of the class A marihuana microbusiness into the statewide monitoring system.

(3) A class A marihuana microbusiness shall not operate at multiple locations.

(4) A class A marihuana microbusiness shall accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(5) A class A marihuana microbusiness may purchase or accept the transfer of marihuana seeds, tissue cultures, clones, or marihuana plants at any time from another grower licensed under the acts, these rules, or both. A class A marihuana microbusiness shall not sell or transfer marihuana seeds, tissue cultures, or clones received under this subrule.

(6) A class A marihuana microbusiness shall not purchase or receive marihuana from a licensed marihuana processor.

(7) A class A marihuana microbusiness license is subject to all applicable provisions in the MRTMA and these rules related to a marihuana grower and marihuana retailer license except for R 420.102(8).

(8) A class A marihuana microbusiness may purchase or accept a mature plant from an individual, registered qualifying patient, or registered primary caregiver.

R 420.106 Marihuana secure transporter license.

Rule 6. (1) A marihuana secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana establishments for a fee upon request of a person with legal custody of that marihuana or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver. If a marihuana secure transporter has its primary place of business in a municipality that has not adopted an ordinance under section 6 of the MRTMA, MCL 333.27956, prohibiting marihuana establishments, the marihuana secure transporter may travel through any municipality.

(2) A marihuana secure transporter shall **accurately** enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(3) A marihuana secure transporter shall comply with all of the following:

(a) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(b) Each vehicle must be operated with a 2-person crew**,** with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(c) A route plan and manifest must be entered into the statewide monitoring system, and a copy must be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(d) The marihuana must be transported in 1 or more sealed containers and not be accessible while in transit.

(e) A secure transporting vehicle ~~must~~ **may** not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(f) A secure transport vehicle may be stored at a location that is not the primary place of business of the secure transporter if the vehicle does not contain marihuana products and the address of storage is reported to the agency in the licensee’s staffing plan.

(4) A marihuana secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the MRTMA and these rules.

R 420.107 Marihuana safety compliance facility license.

Rule 7. (1) A marihuana safety compliance facility license authorizes the marihuana safety compliance facility to do all of the following without using a marihuana secure transporter:

(a) Take marihuana from, test marihuana for, and return marihuana to only a licensed marihuana establishment.

(b) Collect a random sample of marihuana at the marihuana establishment of a marihuana grower, marihuana processor, marihuana retailer, ~~or~~ marihuana microbusiness**, or class A marihuana microbusiness** for testing.

(c) Receive marihuana from and test marihuana for an individual 21 years of age or older, if the marihuana was produced by the individual and not purchased or obtained from a licensed marihuana business. The marihuana safety compliance facility shall keep documentation for proof of age.

(2) A marihuana safety compliance facility must be accredited by an entity approved by the agency ~~by~~ **within** 1 year after the date the marihuana safety compliance facility license is issued or have previously provided drug testing services to this state**,** or this state's court system**,** and be a vendor in good standing in regard to those services. The agency may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

(3) A marihuana safety compliance facility that has not achieved accreditation as required under subrule (2) of this rule may not perform safety compliance testing or research and development testing for a licensed marihuana establishment and may not charge or collect any fee for testing performed until compliance with subrule (2) of this rule is demonstrated to the agency.

(~~3~~**4**) A marihuana safety compliance facility shall comply with all of the following:

(a) Perform safety tests to certify that marihuana is reasonably free of known contaminants in compliance with the standards established by the agency.

(b) Use validated test methods to perform all safety tests and to determine tetrahydrocannabinol (THC), tetrahydrocannabinol acid (THC-A), cannabidiol (CBD), and cannabidiol acid (CBD-A) concentrations.

(c) Perform other tests necessary to determine compliance with good manufacturing ~~processes~~**practices** as prescribed in these rules.

(d) **Accurately e**~~E~~nter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(e) Have a secured laboratory space that cannot be accessed by the general public.

(f) Retain and employ at least 1 laboratory manager with a relevant advanced degree in a medical or laboratory science. -A laboratory manager ~~shall be~~ **is** responsible for the following duties**,** including, but not limited to:

(i) Ensure tests are conducted in accordance with R 420.305.

(ii) Ensure test results are accurate and valid.

(iii) Oversee day-to-day operations.

(iv) Validate reporting requirements in the statewide monitoring system.

PART 2. LICENSEES UNDER THE MEDICAL MARIHUANA FACILITIES LICENSING ACT

R 420.108 Grower license.

Rule 8. (1) A grower license authorizes the grower to grow not more than the following number of marihuana plants under the indicated license class for each license the grower holds in that class:

(a) Class A – 500 marihuana plants.

(b) Class B – 1,000 marihuana plants.

(c) Class C – 1,500 marihuana plants.

(2) For the purposes of this rule, a marihuana plant that meets the definition of a plant in the MMFLA is included in the plant count in subrule (1) of this rule.

(~~2~~**3**) Except as otherwise provided in this subrule, a grower license authorizes sale of marihuana plants to a grower only by means of a secure transporter. A grower license authorizes the sale or transfer of seeds, seedlings, or tissue cultures to a grower from a registered primary caregiver or another grower without using a secure transporter.

(~~3~~**4**) A grower license authorizes a grower to transfer marihuana without using a secure transporter to a processor or provisioning center if both of the following are met:

(a) The processor or provisioning center occupies the same location as the grower and the marihuana is transferred using only private real property without accessing public roadways.

(b) The grower enters each transfer into the statewide monitoring system.

(~~4~~**5**) A grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, and cuttings, to a processor or a provisioning center.

(~~5~~**6**) Except as otherwise provided in subrules (2) and (3) **of this rule** and section 505 of the ~~medical marihuana facilities licensing act~~ **MMFLA**, MCL 333.27505, a grower license authorizes the grower to transfer marihuana only by means of a secure transporter.

(~~6~~**7**) To be eligible for a grower license, the applicant and each investor in the grower must not have an interest in a secure transporter or safety compliance facility.

(~~7~~**8**) A grower shall **accurately** enter all transactions, current inventory, and other information into the statewide monitoring system as required in the m~~edical marihuana facilities licensing act~~**MMFLA**, these rules, and the marihuana tracking act.

(~~8~~**9**) A grower license does not authorize the grower to operate in an area unless the area is zoned for industrial or agricultural uses or is unzoned and otherwise meets the requirements established in section 205(1) of the medical marihuana facilities licensing act, MCL 333.27205~~(1)~~.

(10) A grower may not purchase or accept a mature plant from an individual, registered qualifying patient, or registered primary caregiver.

R 420.109 Processor license.

Rule 9. (1) A processor license authorizes **the processor to** purchase ~~of~~ marihuana only from a grower and ~~sale of~~ **sell** marihuana-infused products or marihuana only to a provisioning center or another processor.

(2) Except as otherwise provided in section 505 of the medical marihuana facilities licensing act, MCL 333.27505, and this subrule, a processor license authorizes the processor to transfer marihuana only by means of a secure transporter. A processor license authorizes a processor to transfer marihuana without using a secure transporter to a grower or provisioning center if both of the following are met:

(a) The grower or provisioning center occupies the same location as the processor and the marihuana is transferred using only private real property without accessing public roadways.

(b) The processor **accurately** enters each transfer into the statewide monitoring system.

(3) To be eligible for a processor license, the applicant and each investor in the processor ~~must~~ **may** not have an interest in a secure transporter or safety compliance facility.

(4) A processor shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in the ~~medical marihuana facilities licensing act~~**MMFLA**, these rules, and the marihuana tracking act.

R 420.110 Secure transporter license.

Rule 10. (1) A secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money. ~~-~~It does not authorize transport of marihuana products to a registered qualifying patient or registered primary caregiver. If a secure transporter has its primary place of business in a municipality that has adopted an ordinance under section 205 of the ~~medical marihuana facilities licensing act~~**MMFLA**, MCL 333.27205, authorizing the marihuana facility, the secure transporter may travel through any municipality.

(2) To be eligible for a secure transporter license, the applicant and each investor with an interest in the secure transporter ~~must~~ **may** not have an interest in a grower, processor, provisioning center, or safety compliance facility and ~~must~~ **may** not be a registered qualifying patient or registered primary caregiver.

(3) A secure transporter shall **accurately** enter all transactions, current inventory, and other information into the statewide monitoring system as required in the ~~medical marihuana facilities licensing act~~**MMFLA**, these rules, and the marihuana tracking act.

(4) A secure transporter shall comply with all of the following:

(a) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(b) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

(c) Each vehicle must be operated with a 2-person crew with at least ~~one~~ **1** individual remaining with the vehicle at all times during the transportation of marihuana.

(d) A route plan and manifest must be entered into the statewide monitoring system, and a copy must be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(e) The marihuana must be transported in ~~one~~ **1** or more sealed containers and not be accessible while in transit.

(f) A secure transporting vehicle ~~must~~ **may** not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(g) A secure transport vehicle may be stored at a location that is not the primary place of business of the secure transporter if the vehicle does not contain marihuana products and the address of storage is reported to the agency in the licensee's staffing plan.

(5) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the ~~medical marihuana facilities licensing act~~**MMFLA**.

R 420.111 Provisioning center license.

Rule 11. (1) A provisioning center license authorizes the purchase or transfer of marihuana only from a grower or processor and sale or transfer to only a registered qualifying patient or registered primary caregiver. Except as otherwise provided in section 505 of the ~~medical marihuana facilities licensing act~~**MMFLA**, **MCL** 333.27505**,** and this subrule, all transfers of marihuana to a provisioning center from a separate marihuana facility must be by means of a secure transporter. A transfer of marihuana to a provisioning center from a marihuana facility that occupies the same location as the provisioning center does not require a secure transporter if the marihuana is transferred to the provisioning center using only private real property without accessing public roadways.

(2) A provisioning center license authorizes the provisioning center to transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter or as provided in section 505 of the ~~medical marihuana facilities licensing act~~**MMFLA**, MCL 333.27505.

(3) To be eligible for a provisioning center license, the applicant and each investor in the provisioning center ~~must~~ **may** not have an interest in a secure transporter or safety compliance facility.

(4) A provisioning center shall comply with all of the following:

(a) Sell or transfer marihuana to a registered qualifying patient or registered primary caregiver only after it has been tested and bears the label required for retail sale.

(b) **Accurately e**~~E~~nter all transactions, current inventory, and other information into the statewide monitoring system as required in the ~~medical marihuana facilities licensing act~~**MMFLA**, these rules, and the marihuana tracking act.

(c) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver**,** hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily and monthly purchasing limit established by the agency under the ~~medical marihuana facilities licensing act~~**MMFLA**.

R 420.112 Safety compliance facility license; exception for industrial hemp.

Rule 12. (1) In addition to transfer and testing as authorized in section 203 of the ~~medical marihuana facilities licensing act~~**MMFLA**, MCL 333.27203, a safety compliance facility license authorizes the safety compliance facility to do all of the following without using a secure transporter:

(a) Take marihuana from, test marihuana for, and return marihuana to only a marihuana facility.

(b) Collect a random sample of marihuana at the marihuana facility of a grower, processor, or provisioning center for testing.

(2) A safety compliance facility must be accredited by an entity approved by the agency by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The agency may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

(3) A safety compliance facility that has not achieved accreditation as required by subrule (2) of this rule may not perform safety compliance testing or research and development testing for a licensed marihuana facility and may not charge or collect any fee for testing performed until compliance with subrule (2) of this rule is demonstrated to the agency.

(~~3~~**4**) To be eligible for a safety compliance facility license, the applicant**,** and each investor with any interest in the safety compliance facility must not have an interest in a grower, secure transporter, processor, or provisioning center.

(~~4~~**5**) A safety compliance facility shall comply with all of the following:

(a) Perform tests to certify that marihuana is reasonably free from chemical residues such as fungicides and insecticides.

(b) Use validated methods for all testing required by the agency.

(c) Perform tests that determine whether marihuana complies with the standards the agency establishes.

(d) Perform additional tests necessary to determine compliance with any other good manufacturing ~~processes~~ **practices** as prescribed in these rules.

(e) **Accurately e**~~E~~nter all transactions, current inventory, and other information into the statewide monitoring system as required in the ~~medical marihuana facilities licensing act~~**MMFLA**, these rules, and the marihuana tracking act.

(f) Have a secured laboratory space that cannot be accessed by the general public.

(g) Retain and employ at least 1 laboratory manager with a relevant advanced degree in a medical or laboratory science. A laboratory manager ~~shall be~~ **is** responsible for the following duties**,** including, but not limited to:

(i) Ensure tests are conducted in accordance with R 420.305.

(ii) Ensure test results are accurate and valid.

(iii) Oversee day-to-day operations.

(iv) Validate reporting requirements in the statewide monitoring system.

(~~5~~**6**) A safety compliance facility is not prohibited from taking or receiving industrial hemp for testing purposes and testing the industrial hemp pursuant to the industrial hemp research and development act.

PART 3. AGREEMENTS

R 420.112a Licensing, management, or other agreements.

Rule 12a. (1) A licensee may contract with another party to use the other party's intellectual property or for the other party to provide management or other services necessary for the operation of the licensee pursuant to a licensing, management, or other agreement approved by the agency.

(2) A licensee shall submit a complete, unredacted, signed copy of the licensing, management, or other agreement to the agency for review and approval prior to performance under the agreement. Approval by the agency indicates an agency determination that it does not appear based upon the information provided that the other party meets the definition of applicant.

(3) The agreement must include, but is not limited to, all of the following:

(a) All payment terms between the parties. Licensing agreements must also include a requirement that all payments made to the other party pursuant to the licensing agreement must be made by the licensee and not by any other licensee purchasing the marihuana product.

(b) Terms specifically naming and clearly defining any service to be performed pursuant to the agreement.

(c) Terms specifically requiring all business operations related to the production, sales, invoicing, and payment for marihuana products sold pursuant to a licensing agreement must be performed by the licensee.

(d) A statement indicating that the agreement contains the entire agreement of the parties.

(4) Terms that may indicate the other party meets the definition of applicant and is thereby subject to application requirements, include, but are not limited to, the following:

(a) Any term or condition that would allow the other party to exercise control over or participate in the management of the licensee. This does not include control or terms specific to a licensing agreement such as production method or packaging requirements.

(b) Any term or condition that would allow the other party to receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year.

(c) Any term or condition that would result in the other party obtaining an ownership interest in the marihuana business or taking possession or ownership of marihuana product owned by the marihuana business.

(d) Any term or condition that would require the licensee to name the other party as a named insured on any insurance policy required to be maintained as a condition of a marihuana license.

(5) Any term or condition that would allow the licensee to use an assumed name or doing business as in the operation of the licensee is not operative unless the licensee has complied with the requirements of 1907 PA 101, MCL 445.1 to 445.5.

(6) The licensee shall provide any other information requested by the agency that is not inconsistent with the acts and these rules.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Marihuana Regulatory Agency
Administrative Rules for Marihuana Licensees
Rule Set 2020-120 LR

NOTICE OF PUBLIC HEARING
Monday, September 27, 2021
09:30 AM

Williams Building, 1st Floor Auditorium
525 West Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Marihuana Licensees rule set.

The rule changes are designed to create greater consistency in the licenses available to marihuana businesses and to create cohesion between license issuance for medical and adult-use marihuana businesses. These decisions are made daily by agency licensing staff. The rule changes are also intended to create clear and consistent operational standards for marihuana businesses. These rule changes are also intended to create new license types under MRTMA to assist the industry in growing, provide greater opportunity for small businesses, and provide greater opportunity for education and research at academic institutions.

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilitates facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001). The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: MRA-Legal@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/27/2021 at 05:00PM.

Marijuana Regulatory Agency- ATTN: Legal Section

Email: MRA-Legal@michigan.gov

PO BOX 30205 or 2407 N Grand River Ave Lansing MI, 48906

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-284-8584 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA LICENSES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a~~(6)~~**(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 marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.1, R 420.3, R 420.4, R 420.5, R 420.6, R 420.7, R 420.8, R 420.10, R 420.12, R 420.13, R 420.14, R 420.18, R 420.19, R 420.20, R 420.21, R 420.23, R 420.25, R 420.26, R 420.27, and R 420.28 of the Michigan Administrative Code are amended, R 420.11a, R 420.27a, and R 420.27b are added, and R 420.9 is rescinded, as follows:

R 420.1 Definitions.

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

(a) “Acts” refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) “Agency” means the marijuana regulatory agency.

(c) "Applicant" means a person who applies for a marihuana license, subject to paragraphs (i) and (ii) **of this subdivision**:

(i) For purposes of this definition, an applicant includes a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

(A) For an individual or sole proprietorship: the proprietor and spouse.

(B) For a partnership and limited liability partnership: all partners and their spouses.

(C) For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the partnership, and their spouses.

(D) For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the company, and their spouses.

(E) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(F) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(G) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(H) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(I) For a trust~~,~~**: trustees, any individual or body able to control and direct the affairs of the trust, and** any beneficiary who receives or has the right to receive more than 10% of the gross or net profit of the trust during any full or partial calendar or fiscal year and their spouses.

(ii) For purposes of this definition, an applicant does not include:

(A) A person who provides financing to an applicant or licensee under a bona fide financing agreement at a reasonable interest rate unless the person exercises control over or participates in the management of the marihuana business.

(B) A franchisor who grants a franchise to an applicant, if the franchisor does not have the right to receive royalties based upon the sale of marihuana or marihuana-infused products by the applicant who is a franchisee. Nothing in this subrule shall be construed to preclude a franchisor from charging an applicant who is a franchisee a fixed fee. As used in this definition, the terms "franchise," "franchisor," and "franchisee" have the meanings set forth in section 2 of the franchise investment law, 1974 PA 269, MCL 445.1502.

(C) A person receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation unless the person exercises control over or participates in the management of the marihuana business.

(D) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property including, but not limited to, brands and recipes.

(E) A person who receives a percentage of profits as an employee if the employee does not meet the definition of "managerial employee" and the employee does not receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year.

(F) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's pre-bonus annual compensation or if the bonus is based upon a written incentive/bonus program that is not out of the ordinary for the services rendered.

(d) "Building" means a combination of materials forming a structure affording facility, establishment, or shelter for use or occupancy by individuals or property. Building includes a part or parts of the building and all equipment in the building. A building does not include a building incidental to the use for agricultural purposes of the land on which the building is located.

(e) "Bureau of fire services" or "BFS" means the bureau of fire services in the department of licensing and regulatory affairs.

(f) "Common ownership" means 2 or more state licenses or 2 or more equivalent licenses held by one person under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(g) "Complete application" means an application that includes all of the information required in R 420.2 ~~through~~ **to** R 420.5 and R 420.7 ~~through~~ **to** R 420.1~~1~~**0**.

(h) "Department" means the department of licensing and regulatory affairs.

(i) "Designated consumption establishment" means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license issued under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(j) "Director" means the director of the department of licensing and regulatory affairs or his or her designee.

(k) "Employee" means a person performing work or service for compensation. "Employee" does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana business.

(l) "Equivalent licenses" means any of the following held by a person:

(i) A marihuana grower license of any class issued under the Michigan ~~ŧ~~**R**egulation and ~~ŧ~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct and a grower license, of any class, issued under the medical marihuana facilities licensing act.

(ii) A marihuana processor license issued under the Michigan ~~ŧ~~**R**egulation and ~~ŧ~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct and a processor license issued under the medical marihuana facilities licensing act.

(iii) A marihuana retailer license issued under the Michigan ~~ŧ~~**R**egulation and ~~ŧ~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct and a provisioning center license issued under the medical marihuana facilities licensing act.

(iv) A marihuana secure transporter license issued under the Michigan ~~ŧ~~**R**egulation and ~~ŧ~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct and a secure transporter license issued under the medical marihuana facilities licensing act.

(v) A marihuana safety compliance facility license issued under the Michigan ~~ŧ~~**R**egulation and ~~ŧ~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct and a safety compliance facility license issued under the medical marihuana facilities licensing act.

(m) "Excess marihuana grower" means a license issued to a person holding 5 class C marihuana grower licenses and licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

(n) "Immature plant" means a nonflowering marihuana plant that is no taller than 8 inches from the growing or cultivating medium and no wider than 8 inches produced from a cutting, clipping, tissue culture, or seedling that is in a growing or cultivating medium or in a growing or cultivating container.

(o) "Limited access area" means a building, room, or other contiguous area of a marihuana business where marihuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale and that is under the control of the licensee.

(~~o~~**p**) "Managerial employee" means those employees who have the ability to control and direct the affairs of the marihuana business or have the ability to make policy concerning the marihuana business, or both.

(~~p~~**q**) "Marihuana business" means a marihuana facility under the medical marihuana facilities licensing act, or a marihuana establishment under the Michigan ~~ŧ~~**R**egulation and ~~ŧ~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~q~~**r**) "Marihuana business location plan" means a marihuana facility plan under the medical marihuana facilities licensing act, or a marihuana establishment plan under the Michigan ~~ŧ~~**R**egulation and ~~ŧ~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~r~~**s**) "Marihuana establishment" means a location at which a licensee is licensed to operate a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, **class A marihuana microbusiness,** marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed to operate by the agency under the Michigan ~~ŧ~~**R**egulation and ~~ŧ~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(~~s~~**t**) "Marihuana event organizer" means a person licensed to apply for a temporary marihuana event license under these rules.

(~~t~~**u**) "Marihuana facility" means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(~~u~~**v**) “Marihuana license” means a state operating license issued under the medical marihuana facilities licensing act, or a state license issued under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~v~~**w**) “Marihuana product” means marihuana or a marihuana-infused product, or both, as those terms are defined in the acts unless otherwise provided for in these rules.

(~~w~~**x**) “Marihuana tracking act” means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(~~x~~**y**) “Marihuana transporter” means a secure transporter under the medical marihuana facilities licensing act or a marihuana secure transporter under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~y~~**z**) “Medical marihuana facilities licensing act” or “MMFLA” means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(~~z~~**aa**) “Michigan ~~m~~**M**edical ~~m~~**M**arihuana ~~a~~**A**ct” means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(~~aa~~**bb**) “Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct” or “MRTMA” means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(~~bb~~**cc**) “Proposed marihuana business” means a proposed marihuana establishment under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct or a proposed marihuana facility under the medical marihuana facilities licensing act, or both.

(dd) “Restricted access area” means a designated and secure area at a marihuana business where marihuana products are sold, possessed for sale, and displayed for sale.

(~~cc~~**ee**) “These rules” means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(~~dd~~**ff**) “Same location” means separate marihuana licenses that are issued to multiple marihuana businesses that are authorized to operate at a single property but with separate business suites, partitions, or addresses.

(~~ee~~**gg**) “Special license” means a state license as described under section 8 of the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, MCL 333.27958, and issued pursuant to section 9 of that act, MCL 333.27959.

(~~ff~~**hh**) “Stacked license” means more than 1 marihuana license issued to a single licensee to operate as a class C grower as specified in each license at a marihuana business under the medical marihuana facilities licensing act, or under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~gg~~**ii**) “Tag” or “RFID tag” means the unique identification number or Radio Frequency Identification (RFID) issued to a licensee by the ~~agency~~ **statewide monitoring system** for tracking, identifying, and verifying marihuana plants, marihuana products, and packages of marihuana product in the statewide monitoring system.

(~~hh~~**jj**) “Temporary marihuana event license” means a state license held by a marihuana event organizer under the Michigan regulation and taxation of marihuana act, for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

R 420.3 Application procedure; requirements.

Rule 3. (1) A person shall apply for a marihuana license on the form created by the agency **and pay a** ~~accompanied by the~~ nonrefundable application fee **at the time the application is submitted.** ~~as~~

~~prescribed in these rules.~~ **The applicant shall answer each** ~~Each~~ question on the application ~~must be answered by the applicant,~~ under oath, in its entirety**.** ~~and~~ ~~a~~**A**ll attestations, disclosures, and information requested and required by the agency, the acts, and these rules must be submitted in the application. Failure to comply with these rules and the application requirements in the acts is grounds for denial of the application.

(2) A person may submit a partial application under these rules on the condition that it is to prequalify to complete the remaining application requirements. This application has a pending status until all application requirements in these rules are completed, or the agency denies the partial or complete application. The agency shall not issue a marihuana license at this stage of the application process. The finding of prequalification status for a pending application is valid for 2 year**s** after the agency issues a notice of prequalification status. After 2 years has expired, the applicant may be required to submit a new application and pay a new nonrefundable application fee.

(3) A partial application filed to obtain prequalification status may be administratively withdrawn if the application was filed and has been pending for more than 1 year. After a partial application has been administratively withdrawn, the applicant may be required to submit a new application and pay a new nonrefundable application fee.

(4) An applicant who has been granted prequalification status may have that status revoked by the agency and a marihuana license denied should the agency determine that the applicant is no longer suitable or no longer qualifies for licensure under the acts and these rules. An applicant who has had its prequalification status revoked may request a hearing pursuant to R 420.703.

(~~3~~**5**) The agency may request additional disclosures and documentation ~~to be furnished to the agency~~**from an applicant**. The applicant shall submit the information requested by the agency within 5 days pursuant to R~~.~~ 420.5 or the application may be denied.

(6) The agency may administratively withdraw an application for a marihuana license that was submitted and has been pending for more than 1 year. After an application has been administratively withdrawn, the applicant may be required to submit a new application.

(7) The agency may administratively withdraw an amendment to any application or marihuana license if the applicant or licensee fails to respond or submit documentation to cure all deficiencies within 30 days after notice of the deficiency.

R 420.4 Application requirements; financial and criminal background.

Rule 4. (1) Each applicant shall disclose the identity of any other person who controls, either directly or indirectly, the applicant, including, but not limited to, date of birth, government issued identification, and any other documents required by the agency.

(2) Each applicant shall disclose the financial information required in the acts and these rules on a form created by the agency, including the following:

(a) For an applicant seeking licensure under the ~~medical marihuana facilities licensing act~~**MMFLA**, required information includes, but is not limited to, all of the following:

(i) Financial statements regarding all of the following:

(A) A pecuniary interest.

(B) Any deposit of value of the applicant or made directly or indirectly to the applicant, or both.

(C) Financial accounts including, but not limited to, all of the following: funds, savings, checking, or other accounts including all applicable account information, such as the name of the financial institution, names of the account holders, account type, account balances, and a list of all loan~~s~~ types specified by the agency, amounts, securities, or lender information.

(ii) Property ownership information, including, but not limited to, deeds, leases, rental agreements, real estate trusts, or purchase agreements.

(iii) Tax information, including, but not limited to, W-2 and 1099 forms, and any other information required by the agency.

(iv) Disclosure by the applicant of the identity of any other person who meets either of the following:

(A) Controls, directly or indirectly, the applicant.

(B) Is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant.

~~(v) Each applicant shall disclose all shareholders holding a direct or indirect interest of greater than 5%, officers, and directors in the proposed marihuana facility.~~

(v~~i~~) The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility in compliance with R 420.11.

(vi~~i~~) A financial statement attested by a certified public accountant (CPA), on a form created by the agency, including a foreign-attested CPA statement, or its equivalent if applicable on capitalization pursuant to R 420.11.

(vii~~i~~) Information on the financial ability of the applicant to purchase and maintain adequate liability and casualty insurance in compliance with R 420.10.

(~~ix~~**viii**) Any other documents, disclosures, or attestations created or requested by the agency that are not inconsistent with the acts or these rules.

(b) For an applicant seeking licensure under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** ~~required information includes, but is not limited to,~~ **all of** the following **is required**:

(i) Tax information, including, but not limited to:

(A) W-2 forms for the most recent tax year.

(B) 1099 forms for the most recent tax year.

(ii) Any other information required by the agency.

(3) ~~Each applicant shall disclose all shareholders holding a direct or indirect interest of greater than 5%, officers, and directors in the proposed marihuana establishment.~~ **Each applicant shall disclose the identity of every person having a 2.5% or greater ownership interest in the applicant with respect to which the license is sought.**

(a) If the disclosed entity is a trust, the applicant shall disclose the names and addresses of the beneficiaries.

(b) If the disclosed entity is a privately held corporation, the names and addresses of all shareholders, officers, and directors.

(c) If the disclosed entity is a publicly held corporation, the names and addresses of all shareholders holding a direct or indirect interest of greater than 5%, officers, and directors.

(d) If the disclosed entity is a partnership or limited liability partnership, the names and addresses of all partners.

(e) If the disclosed entity is a limited partnership or limited liability limited partnership, the names of all partners, both general and limited.

(f) If the disclosed entity is a limited liability company, the names and addresses of all members and managers.

(4) Each applicant shall disclose the applicant's business organizational documents filed with this state, any other state, local county, or foreign entity, if applicable, including proof of registration to do business in this state and certificate of good standing from this state, any other state, or foreign entity, if applicable.

(5) Each applicant shall disclose to the agency criminal and financial background information and regulatory compliance as provided under the acts and these rules on a form created by the agency.

(6) Each applicant shall provide written consent to a criminal and financial background investigation as authorized under the acts and these rules.

(7) Each applicant shall provide an attestation acknowledging that sanctions may be imposed for violations on a licensee while licensed or after the marihuana license has expired, as provided in the acts and these rules.

(8) Each applicant shall provide an attestation affirming a continuing duty to provide information requested by the agency and to cooperate in any investigation, inspection, inquiry, or hearing.

(9) Each applicant shall disclose any noncompliance with any regulatory requirements, all legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the applicant, that are related to business operations, including, but not limited to fraud, environmental, food safety, tobacco, alcohol, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this state or any other jurisdiction.

(10) Each applicant shall disclose any application or issuance of any commercial license or certificate issued in this state or any other jurisdiction that meets the requirements under the acts and these rules.

(11) Each applicant shall provide any other documents or attestations created by, or make any disclosures requested by, the agency that are not inconsistent with the acts or these rules.

(12) An applicant shall submit in the application any information requested and required by the acts and these rules.

(13) Each applicant seeking licensure under the ~~medical marihuana facilities licensing act~~**MMFLA** must submit one set of fingerprints to the department of state police in accordance with section 402 of the MMFLA, MCL 333.27402.

(14) Each applicant seeking licensure under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** shall provide an attestation acknowledging that the applicant must have a physical structure for the marihuana establishment and pass the prelicensure inspection within 60 **calendar** days of **submitting** a complete application ~~being submitted~~ to the agency. Failure to pass the prelicensure inspection within 60 **calendar** days of **submitting** the complete application ~~being submitted~~ to the agency may result in the application begin denied in accordance with R 420.12.

(15) An applicant shall provide an attestation signed by a representative of the department of treasury and the applicant, verifying that the applicant is not delinquent in the payment of sales, excise, or any other taxes.

(16) An applicant seeking licensure under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** shall provide a social equity plan detailing a plan to promote and encourage participation in the marihuana industry by people from communities that have been disproportionately impacted by marihuana prohibition and enforcement and to positively impact those communities.

R. 420.5 Application requirements; complete application.

Rule 5. (1) A complete application for a marihuana license must include all the information ~~specified in these rules~~ **required in R 420.2 to R 420.4, R 420.7 to R 420.10,** and all of the following:

(a) A description of the type of marihuana business that includes all of the following:

(i) An estimate or actual number of employees.

~~(ii) The projected or actual gross receipts.~~

(ii~~i~~) A business plan.

(**iii**i~~v~~) The proposed location of the marihuana business.

(**i**v) A security plan, as required under the acts and these rules.

(b) A copy of the proposed marihuana business location plan as required under R 420.8.

~~(c) An applicant shall pass the prelicensure inspection as determined by the agency and as required in R 420.9.~~

(c) The disclosure of both of the following persons:

(i) For an applicant seeking licensure under the MMFLA, persons that have a beneficial interest as required in section 303(1)(g) of the MMFLA, MCL 333.27303.

(ii) For an applicant seeking licensure under the MRTMA, persons who have a direct or indirect ownership interest in the marihuana establishment.

(d) **For an applicant seeking licensure under the MMFLA, c**~~C~~onfirmation of **municipal** compliance ~~with any municipal ordinances the municipality may have adopted under the medical marihuana facilities licensing act, or the Michigan regulation and taxation of marihuana act, whichever act is applicable. For purposes of these rules, confirmation of compliance must be~~ on an attestation form ~~prepared~~**provided** by the agency that ~~contains~~ **includes** all of the following:

(i) ~~For an applicant seeking licensure under the medical marihuana facilities licensing act, w~~**W**ritten affirmation that the municipality has adopted an ordinance under section 205 of the MMFLA, MCL 333.27205, including**,** if applicable, a description of any limitations on the number of each type of marihuana facility.

~~(ii) For an applicant seeking licensure under the Michigan regulation and taxation of marihuana act, verification that the municipality has not adopted an ordinance prohibiting marihuana establishments.~~

(ii~~i~~) ~~For an applicant seeking licensure under the medical marihuana facilities licensing act,~~ **A** description of any regulations within the municipality that apply to the proposed marihuana business.

(i**ii**~~v~~) The date and signature of the clerk of the municipality or his or her designee on the attestation form attesting that the information stated in the document is correct.

(**i**v) The date and signature of the applicant.

(v~~i~~) The **name and address of the proposed** marihuana ~~business~~ **facility** ~~name and address~~.

(vi) The license type of the proposed marihuana facility.

(vii) Attestation that **the applicant will report** any changes that occur with municipal **ordinances or zoning regulations that relate to the proposed marihuana facility, any municipal facility approvals, or any violations of a municipal or zoning regulation.** ~~approvals, the municipal ordinance, or any violations of a municipal or zoning ordinance will be reported to the agency~~.

(e) For an applicant seeking licensure under the MRTMA, confirmation of municipal compliance on an attestation form provided by the agency that includes all of the following:

(i) The name and address of the proposed marihuana establishment.

(ii) The license type or the proposed marihuana establishment.

(iii) The municipality where the proposed marihuana establishment is located.

(iv) The contact information for the municipality including the following at a minimum:

(A) The name of the clerk of the municipality or his or her designee.

(B) The telephone number of the clerk of the municipality or his or her designee.

(C) The email address of the clerk of the municipality or his or her designee.

(D) The mailing address of the clerk of the municipality or his or her designee.

(v) Confirmation that the municipality has not adopted an ordinance prohibiting the proposed marihuana establishment.

(vi) Confirmation that the applicant is in compliance with any ordinance the municipality has adopted relating to marihuana establishments within its jurisdiction, including zoning regulations.

(vii) Attestation that the applicant will report any changes that occur with municipal ordinances or zoning regulations that relate to the proposed marihuana establishment, any municipal establishment approvals, or any violations of a municipal or zoning regulation.

(viii) The date and signature of the applicant.

~~(e) The disclosure of the following persons:~~

~~(i) For an applicant seeking licensure under the medical marihuana facilities licensing act, persons that have a beneficial interest as required in section 303(1)(g) of the MMFLA, MCL 333.27303.~~

~~(ii) For an applicant seeking licensure under the Michigan regulation and taxation of marihuana act, persons who have a direct or indirect ownership interest in the marihuana establishment.~~

(2) Each applicant shall provide any additional information and documents requested by the agency not inconsistent with the acts and these rules.

(3) Each applicant shall provide any other documents, disclosures, or attestations created or requested by the agency that are not inconsistent with the acts and these rules.

(4) If the agency identifies a deficiency in an application, the agency shall notify the applicant and the applicant shall submit the missing information or proof that the deficiency has been corrected to the agency within 5 days of the date the applicant received the deficiency notice.

(5) The failure of an applicant to correct a deficiency within 5 days of notification by the agency may result in the denial of the application. An applicant denied under this subrule is not barred from reapplying by submitting a new application and application fee.

R 420.6 State license under the Michigan regulation and taxation of marihuana act; issuance; qualifications; ineligibility.

Rule 6. (1) The agency shall **not** issue a state license under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA until a complete application is submitted, the fees required under these rules are paid, and the agency determines that the applicant is qualified to receive a state license under the acts and these rules.** ~~to a qualified applicant whose application has been approved for issuance and who pays the required licensure or excess background investigation fees within 10 days of the state license being approved for issuance.~~ **An applicant under MRTMA must pay initial licensure fees within 10 calendar days of approval of the state license or within 90 calendar days of submitting a complete application, whichever date is first.** Failure to pay the fees required under R 420.7 may ~~result in~~ **be grounds for the** ~~a~~ denial of state license.

(2) An applicant is ineligible to receive a state license if any of the following circumstances exist:

(a) The applicant has a prior conviction that involved distribution of a controlled substance to a minor.

(b) The applicant has knowingly submitted an application for a state license under the ~~Michigan regulation and taxation act~~ **MRTMA** that contains false information.

(c) The applicant is an employee, advisor, or consultant of the agency involved in the implementation, administration, or enforcement of the M~~ichigan regulation and taxation of marihuana act~~ **MRTMA** or these rules pursuant to section 7 of the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, MCL 333.27957.

(d) The applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

~~(e) The applicant, if an individual, is not a resident of this state on the date of filing the application for a class A marihuana grower or for a marihuana microbusiness license. The requirements in this subdivision do not apply after December 6, 2021.~~

~~(f) The applicant does not hold a state operating license pursuant to the MMFLA and is applying for a marihuana retailer, marihuana processor, class B marihuana grower, class C marihuana grower, or a marihuana secure transporter license under the Michigan regulation and taxation of marihuana act and these rules. The requirements in this subdivision do not apply after December 6, 2021.~~

(g**e**) The agency determines the municipality in which the applicant's proposed marihuana establishment will operate has adopted an ordinance that prohibits marihuana establishments or that the proposed establishment is noncompliant with an ordinance ~~adopted by the municipality under~~

consistent with section 6 of the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, MCL 333.27956.

(~~h~~**f**) The applicant will hold an ownership interest in both a marihuana safety compliance facility or in a marihuana secure transporter and in a marihuana grower, a marihuana processor, a marihuana retailer, ~~or~~ a marihuana microbusiness, **or a class A marihuana microbusiness** in violation of section 9 of the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, MCL 333.27959.

(~~i~~**g**) The applicant will hold an ownership interest in both a marihuana microbusiness **or a class A marihuana microbusiness** and in a marihuana grower, a marihuana processor, a marihuana retailer, a marihuana safety compliance facility, or a marihuana secure transporter, in violation of section 9 of the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, MCL 333.27959.

(~~j~~**h**) The applicant will hold an ownership interest in more than 5 marihuana growers or in more than 1 marihuana microbusiness **or class A marihuana microbusiness**, in violation of section 9 of the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, MCL 333.27959.

(~~k~~**i**) The applicant fails to meet other criteria established in these rules.

(3) In determining whether to grant a state license to an applicant, the agency may also consider all of the following:

(a) Whether the applicant or anyone meeting the definition of applicant has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marihuana establishment is unlikely to be operated with honesty and integrity.

(b) Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state, or local law that has been delinquent for 1 or more years.

(c) Whether the applicant has a history of noncompliance with any regulatory requirements, all legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the applicant, that are related to business operations, including, but not limited to**,** fraud, environmental, food safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this state or any other jurisdiction.

(d) Whether the applicant meets other standards in rules applicable to the state license category.

(4) The agency shall review all applications for state licenses and ~~shall~~ inform each applicant of the agency's decision.

(5) An applicant or licensee has a continuing duty to provide information requested by the agency and to cooperate in any investigation, inquiry, or hearing conducted by the agency.

(6) A marihuana license is a revocable privilege granted by the agency and is not a property right. Granting a marihuana license does not create or vest any right, title, franchise, or other property interest. A licensee or any other person shall not lease, pledge, borrow, or loan money against a marihuana license.

R 420.7 Application; fees; assessment.

Rule 7. (1) At the beginning of each state fiscal year, the agency may increase the fees collected under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA** by 10% in order to pay for implementation, administration, and enforcement of that act and these rules.

(2) An applicant for a marihuana license shall submit an application that is accompanied by the nonrefundable application fee of $~~6~~**3**,000~~ upon initial application~~.

(3) If the costs of the investigation and processing the application exceed the application fee, the applicant shall pay the additional amount.

(4) Additional fees for state licenses under MRTMA are listed in table 1:

TABLE 1

State License Type	**Initial Licensure and Renewal Fees**	~~**Renewal Fee**~~
Class A Marihuana Grower	~~$4,000~~ **$1,200**	~~Bottom 33% $3,000 Middle 33% $4,000 Top 33% $5,000~~
Class B Marihuana Grower	~~$8,000~~ **$6,000**	~~Bottom 33% $6,000 Middle 33% $8,000 Top 33% $10,000~~
Class C Marihuana Grower	~~$40,000~~ **$24,000**	~~Bottom 33% $30,000 Middle 33% $40,000 Top 33% $50,000~~
Designated Consumption Establishment	$1,000	~~$1,000~~
Excess Marihuana Grower	~~$40,000~~ **$24,000**	~~Bottom 33% $30,000 Middle 33% $40,000 Top 33% $50,000~~
Marihuana Event Organizer	$1,000	~~$1,000~~
Marihuana Microbusiness	$8,~~0~~**3**00	~~Bottom 33% $6,000 Middle 33% $8,0~~**3**~~00 Top 33% $10,000~~
Class A Marihuana Microbusiness	**$18,600**	
Marihuana Processor	~~$40,000~~ **$24,000**	~~Bottom 33% $30,000 Middle 33% $40,000 Top 33% $50,000~~
Marihuana Retailer	$~~2~~**1**5,000	~~Bottom 33% $20,000 Middle 33% $25,000 Top 33% $30,000~~
Marihuana Safety Compliance Facility	$~~2~~**1**5,000	~~Bottom 33% $20,000 Middle 33% $25,000 Top 33% $30,000~~
Marihuana Secure Transporter	$~~2~~**1**5,000	~~Bottom 33% $20,000 Middle 33% $25,000 Top 33% $30,000~~
Temporary Marihuana Event	See R 420.26	~~N/A~~
Marihuana Educational Research	**N/A**	

(5) The agency shall establish and publish annually the regulatory assessment for licensees under the ~~medical marihuana facilities licensing act~~**MMFLA** pursuant to section 603 of the MMFLA, MCL 333.27603.

~~(6) The renewal fees for marihuana grower, excess marihuana grower, and marihuana processor licenses are determined by the gross weight transferred by the licensee. The agency shall determine whether the gross weight transferred by the licensee is in the top third, middle third, or bottom third for gross weight transferred in that fiscal year compared against all other licensees for the license held. The licensee shall then pay the corresponding fee outlined in subrule (4) of this rule.~~

~~(7) The renewal fees for marihuana retailers, and marihuana microbusiness licenses, are determined by the gross retail sales by the licensee. The agency shall determine whether the gross retail sales made by the licensee is in the top third, licensees for the license held. The licensee shall then pay the corresponding fee outlined in subrule (4) of this rule.~~

~~(8) The renewal fee for a marihuana secure transporter license is determined by the net weight transported by the licensee. The agency shall determine whether the net weight transported by the licensee is in the top third, middle third, or bottom third for net weight transported in that fiscal year~~

~~compared against all other marihuana secure transporter licensees. The licensee shall then pay the corresponding fee outlined in subrule (4) of this rule.~~

~~(9) The renewal fee for marihuana safety compliance facilities is determined by the number of tests completed by the licensee. The agency shall determine whether the number of tests completed by the licensee is in the top third, middle third, or bottom third for number of tests completed in that fiscal year compared against all other marihuana safety compliance facilities. The licensee shall then pay the corresponding fee outlined in subrule (4) of this rule.~~

(~~10~~**6**) An applicant shall pay the initial licensure fees or regulatory assessment, if applicable, on or before the date the licensee begins operating and the renewal fee annually thereafter, pursuant to these rules.

(~~11~~**7**) The agency shall not issue a marihuana license until a complete application is submitted, the fees required under these rules are paid, and the agency determines that the applicant is qualified to receive a marihuana license under the acts and these rules. An applicant under the MRTMA must pay initial licensure fees within 10 **calendar** days of approval of the marihuana license or within 90 **calendar** days of **submitting** a complete application ~~being submitted~~, whichever date is first. An applicant under the MMFLA must pay initial licensure fees within 10 calendar days of approval of the marihuana license. An applicant must pay renewal fees upon submission of the application for renewal. Failure to pay the required fee may be grounds for the denial of a marihuana license in accordance with R 420.12.

R 420.8 Marihuana business location plan.

Rule 8. (1) An applicant shall submit a marihuana business location plan for the proposed marihuana business as required in these rules and upon request by the agency. Upon the request of the agency, an applicant or licensee may be required to submit a revised marihuana business location plan.

(2) The marihuana business location plan must include, ~~but is not limited to,~~**at a minimum,** all of the following:

(a) The type of proposed marihuana business, the location of the marihuana business, a description of the municipality where the marihuana business will be located, and any of the following, if applicable:

(i) A statement ~~in the marihuana business location plan~~ that a combination of marihuana licenses will operate as separate marihuana businesses at the same location, as provided under these rules.

(ii) A statement in the marihuana business location plan that the applicant has or intends to apply to stack a marihuana license at the proposed marihuana business as provided under these rules.

(iii) ~~A marihuana business location plan submitted for~~ **For** an applicant seeking licensure under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA,** ~~and these rules must include~~ a statement ~~in the marihuana business location plan~~ that equivalent licenses will operate at the same location.

(b) A diagram of the marihuana business ~~including, but not limited to,~~ **that includes, at a minimum,** all of the following:

(i) The proposed marihuana business's size and dimensions.

(ii) Specifications of the marihuana business.

(iii) Physical address.

(iv) Location of common entryways, doorways, ~~or~~ **and** passageways.

(v) Public entries and exits.

(vi) Limited access areas and restricted access areas ~~within the marihuana business~~.

(vii) An indication of the distinct areas or structures for separate marihuana businesses at the same location as provided in these rules.

(viii) Areas designated for contactless and limited contact transactions.

(c) A detailed floor plan and layout that includes**, at a minimum,** all of the following:

(i) Dimensions of the marihuana business including interior and exterior rooms.

(ii) Maximum storage capabilities.
(iii) Number of rooms.
(iv) Dividing structures.
(v) Fire walls.
(vi) Entrances and exits.
(vii) Locations of hazardous material storage.
(viii) Quantities of hazardous materials, such as chemical, flammable/combustible liquids and gases, and the expected daily consumption of the hazardous materials.
(d) Means of egress, including, but not limited to, delivery and transfer points.
(e) Construction details for structures and fire-rated construction for required walls.
(f) Building structure information, including**,** but not limited to, new, pre-existing, freestanding, or fixed.
(g) Building type information, including, but not limited to, commercial, warehouse, industrial, retail, converted property, house, mercantile building, pole barn, greenhouse, laboratory, or center.
(h) Zoning classification and zoning information.
(i) If the proposed marihuana business is in a location that contains multiple tenants and any applicable occupancy restrictions.
(j) A proposed security plan that demonstrates the proposed marihuana business meets the security requirements specified in these rules.
(k) Any other information required by the agency if not inconsistent with the acts and these rules.
(3) Any changes or modifications to the marihuana business location plan under this rule must be reported to the agency and may require preapproval by the agency.
(4) The agency may provide a copy of the marihuana business location plan to the BFS, local fire department, Michigan state police, local law enforcement, and building officials for use in review and planning.
(5) The agency may reinspect the marihuana business to verify the plan at any time during the business's hours of operation and may require that the plan be resubmitted upon renewal.

R 420.9 ~~Prelicensure investigation; proposed marihuana establishment inspection.~~ **Rescinded.**
~~Rule 9. (1) An applicant for a marihuana license shall submit to a prelicensure physical inspection of a proposed marihuana business, as determined by the agency.~~
~~(2) The agency shall establish an inspection process to confirm that the applicants and proposed marihuana businesses meet the requirements of the acts and these rules.~~
~~(3) The agency shall investigate an applicant in accordance with the acts and these rules.~~
~~(4) The agency, through its investigators, agents, auditors, or the state police shall conduct inspections and examinations of an applicant and a proposed marihuana business in accordance with the acts and these rules.~~
~~(5) An applicant shall submit proof to the agency of both of the following:~~
~~(a) A certificate of use and occupancy as required pursuant to section 13 of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1513, and these rules. If this certificate is not available, the agency may accept alternative documentation from the building authority.~~
~~(b) If applicable, a fire safety inspection as specified in these rules.~~

R 420.10 Proof of financial responsibility; insurance.
Rule 10. (1) Before a marihuana license is issued or renewed, the licensee or renewal applicant shall file a proof of financial responsibility for liability for bodily injury to lawful users resulting from the manufacture, distribution, transportation, or sale of adulterated marihuana or adulterated marihuana-

infused products on the form prescribed by the agency, for an amount not less than $100,000.00. If the proof required in this subrule is a bond, the bond must be in a format acceptable to the agency.

(2) In addition to the requirements in subrule (1) of this rule, a marihuana transporter shall show proof of auto insurance, vehicle registration, and registration as a commercial motor vehicle, as applicable, for any vehicles used to transport marihuana product as required by the acts and these rules.

(3) For an applicant seeking licensure **for a marihuana event organizer license** under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, proof of financial responsibility for liability for bodily injury is not required ~~for a marihuana event organizer license~~. A marihuana event organizer licensee shall file a proof of financial responsibility **for liability for bodily injury when applying for a temporary marihuana event license or proof that each marihuana microbusiness, class A marihuana microbusiness, and marihuana retailer participating in the temporary marihuana event has coverage** for liability for bodily injury when applying for a temporary marihuana event license.

(4) In addition to the proof of financial responsibility requirements contained in subrule (1) of this rule, a renewal applicant or licensee holding a license under the ~~medical marihuana facilities licensing act~~ **MMFLA** shall also carry commercial general liability insurance covering premises liability for an amount not less than $100,000.00. An applicant shall provide proof of commercial general liability insurance covering the premises liability to the agency no later than 60 days after a state operating license is issued or renewed.

R 420.11a Prelicensure investigation; proposed marihuana establishment inspection.

Rule 11a. (1) An applicant for a marihuana license shall submit to and pass a prelicensure physical inspection of a proposed marihuana business, prior to licensure, as determined by the agency.

(2) The agency shall establish an inspection process to confirm that the applicants and proposed marihuana businesses meet the requirements of the acts and these rules.

(3) The agency shall investigate an applicant pursuant to the acts and these rules.

(4) The agency, through its investigators, agents, auditors, or the state police shall conduct inspections and examinations of an applicant and a proposed marihuana business pursuant to the acts and these rules.

(5) An applicant shall submit to the agency proof of both of the following:

(a) A certificate of use and occupancy as required pursuant to section 13 of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1513, and these rules. If this certificate is not available, the agency may accept alternative documentation from the building authority. The requirement of this subrule is not applicable to temporary marihuana event applicants.

(b) If applicable, a fire safety inspection as specified in these rules.

R 420.12 Denial of a marihuana license; additional reasons.

Rule 12. (1) **The agency may deny a license if** ~~If~~ an applicant fails to comply with the applicable act or these rules~~, a marihuana license may be denied by the agency as provided under the applicable act and these rules~~.

(2) In addition to the reasons for denial in the acts, **the agency may deny** a marihuana license ~~may be denied by the agency~~ for the following reasons:

(a) The applicant's marihuana business location plan does not fully comply with the acts or these rules.

(b) The applicant's proposed marihuana business or marihuana business is substantially different from the marihuana business location plan pursuant to R 420.8 and these rules.

(c) The agency is unable to access the proposed marihuana business for prelicensure agency inspection or the applicant denied the agency access to the proposed marihuana business.

(d) The applicant made a material misrepresentation on the application.

(e) The applicant failed to correct a deficiency within 5 days of notification by the agency in accordance with the acts and these rules.

(f) The applicant failed to ~~satisfy the~~ **provide** confirmation of **municipal** compliance ~~y a municipality in accordance with the acts and these rules~~ **as required under R 420.5(1)(d) or (e)**.

(g) The applicant's proposed marihuana establishment is in a municipality that has adopted an ordinance prohibiting marihuana establishments or the proposed marihuana establishment does not comply with an ordinance consistent with section 6 of the MRTMA, MCL 333.27956.

(~~g~~**h**) The applicant is operating or was operating a proposed marihuana business without a marihuana license.

(~~h~~**i**) The applicant has knowingly submitted an application containing false information.

(~~i~~**j**) The applicant has failed to pay required fees pursuant to these rules.

(~~j~~**k**) The applicant has failed to comply with these rules and the application requirements pursuant to these rules.

(~~k~~**l**) The applicant has been delinquent with the payment of taxes required under federal, state, or local law for 1 or more years.

(~~l~~**m**) The applicant fails to provide notifications or reports to the agency pursuant to these rules.

(~~m~~**n**) The applicant or anyone meeting the definition of applicant has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marihuana business is unlikely to be operated with honesty and integrity.

(~~n~~**o**) For an applicant seeking licensure under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, the applicant failed to ~~receive a~~ pass~~ing~~ **a** prelicensure inspection within 60 days of **submitting** a complete application ~~being submitted~~ to the agency.

(~~o~~**p**) For an applicant seeking licensure under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, the applicant or anyone meeting the definition of applicant has a conviction involving distribution of a controlled substance to a minor pursuant to section 8 of the MRTMA, MCL 333.27958.

(~~p~~**q**) For an applicant seeking licensure under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, the applicant holds a state operating license under the MMFLA and has failed to file or is delinquent in the payment of the sales tax required under the ~~g~~**G**eneral ~~s~~**S**ales ~~t~~**T**ax ~~a~~**A**ct, 1933 PA 167, MCL 205.51 to 205.78, or the excise tax required under section 601 of the MMFLA, MCL 333.27601.

(~~q~~**r**) For an applicant seeking licensure under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, the applicant holds a state license and has failed to file or is delinquent in the payment of the sales tax required under the ~~g~~**G**eneral ~~s~~**S**ales ~~t~~**T**ax ~~a~~**A**ct, 1933 PA 167, MCL 205.51 to 205.78, or the excise tax required under section 13 of the MRTMA, MCL 333.27963.

(s) The applicant failed to pass the prelicensure inspection required under R 420.11a.

(t) The applicant or licensee has filed an amendment to the application for a marihuana license seeking to add an individual or entity to the application or license that is not eligible or suitable for licensure, or the amendment is not eligible for licensures as it fails to comply with the acts and these rules.

(u) The applicant or licensee was previously required to file an annual financial statement under the MMFLA and these rules and failed to file the annual financial statement.

R 420.13 Renewal of marihuana license.

Rule 13. (1) A marihuana license is issued for a 1-year period and is renewable annually. A licensee shall apply to renew a marihuana license on a form established by the agency. The licensee shall pay the required fee upon submission of the application for renewal. The marihuana license may be renewed no more than 90 **calendar** days before the expiration of the marihuana license, if the licensee has submitted the renewal form required by the agency and, if applicable, the licensee has paid any additional background investigation charge assessed by the agency under these rules. The ~~agency~~ **applicant** shall include on the renewal form, a statement requesting renewal of the marihuana license and all of the following information:

(a) To the extent that information has changed or not been previously reported, updated personal, business, and financial information, as the agency may require, related to the eligibility of the licensee to continue to hold the marihuana license for which renewal is requested under the acts and these rules. For a licensee seeking renewal under the m~~edical marihuana facilities licensing act~~ **MMFLA,** required information may also be related to the suitability and general fitness of the licensee and include, without limitation, information regarding the identification, integrity, moral character, reputation, relevant business experience, ability, probity, ~~and~~ financial experience, ~~ability,~~ and responsibility of the licensee and each person required to be qualified for renewal of the license under the MMFLA. To the extent that the information has changed or has not been previously reported, updated information on the marihuana business **is required**.

(b) A statement under oath by the licensee that the information provided in the licensee's annual renewal form is current, complete, true, and accurate, and that the licensee has fulfilled its obligation under the acts and these rules to notify the agency of any change in information provided in its original marihuana license application and subsequent annual renewal form or forms previously filed, if applicable.

(c) **For an applicant seeking renewal of a license under the MMFLA, confirmation of municipal compliance on an attestation form provided by the agency that includes all of the following** ~~A~~**a**~~ttestation by the municipality on a form created by the agency regarding a licensee who submits an application for marihuana license renewal which shall include, but not be limited to, both of the following~~:

(i) A description of any violation~~, if applicable,~~ of an ordinance or a zoning regulation adopted pursuant to section 205 of the ~~medical marihuana facilities licensing act~~**MMFLA**, MCL 333.27205~~, or section 6 of the Michigan regulation and taxation of marihuana act, MCL 333.27956,~~ committed by the licensee, but only if the violation relates to activities licensed under the act~~s~~ or these rules.

(ii) Whether there has been a change to an ordinance or a zoning regulation adopted pursuant to section 205 of the ~~medical marihuana facilities licensing act~~**MMFLA**, MCL 333.27205~~, or section 6 of the Michigan regulation and taxation of marihuana act, MCL 333.27956,~~ since the marihuana license was issued to the licensee and a description of the change.

(iii) The date and signature of the clerk of the municipality or his or her designee.

(iv) The date and signature of the applicant.

(v) The name and address of the marihuana facility.

(vi) The license type of the marihuana facility.

(d) For an applicant seeking renewal of a license under the MRTMA, confirmation of municipal compliance on an attestation form provided by the agency that includes all of the following:

(i) A description of any violation, if applicable, of an ordinance or a zoning regulation consistent with section 6 of the MRTMA, MCL 333.27956, committed by the licensee, but only if the violation relates to activities licensed under the act or these rules.

(ii) Whether there has been a change to an ordinance or a zoning regulation consistent with section 6 of the MRTMA, MCL 333.27956, since the marihuana license was issued to the licensee and a description of the change.

(iii) The following information for the municipality where the marihuana establishment is located, including, at a minimum, all of the following:

(A) The name and address of the marihuana establishment.

(B) The license type of the marihuana establishment.

(C) The municipality where the marihuana establishment is located.

(D) The contact information for the municipality, including, at a minimum, all of the following:

(I) The name of the clerk of the municipality or his or her designee.

(II) The telephone number of the clerk of the municipality or his or her designee.

(III) The email address of the clerk of the municipality or his or her designee.

(IV) The mailing address of the clerk of the municipality or his or her designee.

(iv) Confirmation that the municipality has not adopted an ordinance prohibiting the proposed marihuana establishment.

(v) Confirmation that the applicant is in compliance with any ordinance the municipality has adopted relating to marihuana establishments within its jurisdiction, including zoning regulations.

(vi) Attestation that the applicant will report any changes that occur with municipal ordinances or zoning regulations that relate to the marihuana establishment, any municipal establishment approvals, or any violations of a municipal or zoning regulation.

(vii) The date and signature of the applicant.

(~~d~~**e**) An attestation by the licensee that the licensee's annual renewal form provides all information and documentation required by the agency to establish that the licensee is eligible, qualified, and suitable to have its marihuana license renewed and is ready and able to continue conducting its marihuana business in compliance with the acts and these rules throughout the new 1-year time period for which the license is to be renewed.

(~~e~~**f**) Other relevant information and documentation that the agency may require to determine the licensee's eligibility to have its marihuana license renewed under the licensing standards of the acts and these rules.

(2) Failure to comply with any of the provisions of the acts and these rules may result in the nonrenewal of a marihuana license. The agency shall not renew a marihuana license unless the agency determines, as part of the license renewal, that each person required by the acts and these rules to meet licensing standards is eligible, qualified, and suitable under the relevant licensing standards.

(3) The licensee shall meet the requirements of the acts and any other renewal requirements set forth in these rules.

(4) The agency may refuse to renew a marihuana license and issue a notice of nonrenewal if the licensee fails to apply for renewal in accordance with section 402 of the ~~medical marihuana facilities licensing act~~**MMFLA**, MCL 333.27402, as applicable, and this rule. In addition, the agency may refuse to renew a marihuana license and issue a notice of nonrenewal if the agency determines, after reviewing the licensee's annual renewal form, that the marihuana license should not be renewed because the licensee's annual renewal form does not provide the information and documentation required by the agency to determine that the licensee is eligible, qualified, and suitable to continue to be licensed and ready and able to continue conducting its marihuana business in compliance with the acts and these rules.

(5) The agency may refuse to renew a marihuana license and issue a notice of nonrenewal if the licensee has failed to submit an annual financial statement required under the acts and these rules for the marihuana license it is renewing or for a previously held marihuana license.

(~~5~~**6**) If a license renewal application for a license under the ~~medical marihuana facilities licensing act~~ **MMFLA** is not submitted by the license expiration date, the license may be renewed within 60 days after its expiration date upon submission of the required application, payment of the required fees, and satisfaction of any renewal requirements. The licensee may continue to operate during the 60 **calendar**

days after the license expiration date if the licensee submits the renewal application to the agency and complies with the other requirements for renewal.

(~~6~~**7**) The agency shall send a renewal notice to the last known address of a licensee on file with the agency. The failure of a licensee to notify the agency of a change of address does not extend the expiration date of a license and may result in disciplinary action.

(~~7~~**8**) A marihuana licensee who is served with a notice of nonrenewal may request a hearing pursuant to these rules.

(~~8~~**9**) If the licensee does not request a hearing in writing within 21 **calendar** days after service of the notice of nonrenewal, the notice of nonrenewal becomes the final order of the agency.

(~~9~~**10**) A person who has not applied for marihuana license renewal for any and all licenses that are due for renewal shall cease and desist operation and is subject to any sanctions or fines, or both, ~~in accordance with~~ **pursuant to** the acts and these rules.

R 420.14 Notification and reporting.

Rule 14. (1) Applicants have a continuing duty to provide the agency with up-to-date contact information and shall notify the agency in writing of any changes to the mailing addresses, phone numbers, electronic mail addresses, and other contact information they provide the agency.

(2) Applicants shall report to the agency any changes to the marihuana business operations that are required in the acts and these rules, as applicable.

(3) Applicants shall report to the agency any proposed material changes to the marihuana business before making a material change ~~that may require prior authorization by the agency~~. Material changes include, ~~but are not limited to~~**at a minimum**, the following:

(a) Change in owners, officers, members, or managers.

(b) Change of processing machinery or equipment.

~~(c) A description of a violation of an ordinance or a zoning regulation adopted pursuant to section 205 of the medical marihuana facilities licensing act, MCL 333.27205, or section 6 of the Michigan regulation and taxation of marihuana act, MCL 333.27956, committed by the licensee, but only if the violation relates to activities licensed under the acts, the Michigan medical marihuana act, and these rules.~~

(~~d~~**c**) The addition or removal of persons named in the application or disclosed.

(~~e~~**d**) Change in entity name.

(~~f~~**e**) Any attempted transfer, sale, or conveyance of an interest in a marihuana license.

(~~g~~**f**) Any change or modification to the marihuana business before or after licensure that was not preinspected, inspected, or part of the marihuana business location plan or final inspection including, ~~but not limited to,~~ **at a minimum,** all of the following:

(i) Operational or method changes requiring inspection under these rules.

(ii) Additions or reductions in equipment or processes at a marihuana business.

(iii) Increase or decrease in the size or capacity of the marihuana business.

(iv) Alterations of ingress or egress.

(v) Changes that impact security, fire safety, and building safety.

(g) The appointment of a court-appointed personal representative, guardian, conservator, receiver, or trustee of the applicant.

(4) An applicant shall notify the agency within 1 business day of becoming aware of or within 1 business day of when the applicant should have been aware of any of the following:

(a) Adverse reactions to a marihuana product sold or transferred by any licensee.

(b) Criminal convictions, charges, or civil judgments against an applicant in this state or any other state, federal, or foreign jurisdiction.

(c) ~~Regulatory d~~**D**isciplinary action taken against an applicant by this state or any other state, federal, or foreign jurisdiction, including any pending action.

(5) The applicant shall notify the agency within 10 **calendar** days of the initiation or conclusion of any new judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, that involve the applicant.

(6) The applicant shall notify the agency within 10 calendar days of receiving notification of an alleged violation of an ordinance or a zoning regulation adopted pursuant to section 205 of the MMFLA, MCL 333.27205, or section 6 of the MRTMA, MCL 333.27956, committed by the applicant, but only if the violation relates to activities licensed under the acts, the Michigan Medical Marihuana Act, and these rules.

(7) The applicant shall notify the agency and the BFS within 1 business day following the occurrence of an unwanted fire.

(~~6~~**8**) Failure to provide notifications or reports to the agency pursuant to this rule may result in sanctions or fines, or both.

R 420.18 Changes to licensed marihuana business.

Rule 18. (1) Any change or modification to the marihuana business after licensure is governed by the standards and procedures set forth in these rules and any regulations adopted pursuant to the acts. Any material change or modification to the marihuana business must be approved by the agency before the change or modification is made.

(2) Any change of a location of a marihuana business after licensure requires notification to the agency prior to the change of location, must be approved by the agency, requires a new marihuana license application under these rules, and may include, but is not limited to, all of the following:

(a) Additional application fees.

(b) Additional inspections by the agency or BFS.

(c) Initial licensure fees or regulatory assessment, as applicable, or both.

~~(3) A licensee shall produce written documentation from the municipality approving the proposed new marihuana business location, and confirmation of compliance with any municipal ordinances the municipality adopted under the acts. For purposes of these rules, confirmation of compliance must be on an attestation form prepared by the agency that contains all of the information required in these rules.~~

R 420.19 Communities disproportionately impacted by marihuana prohibition.

Rule 19. (1) Pursuant to section 8 of the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, MCL 333.27958, the agency shall establish a plan that promotes and encourages participation in the marihuana industry by people from communities that have been disproportionately impacted by marihuana prohibition and enforcement and to positively impact those communities.

(2) The agency shall publish **all of the following** information about the plan ~~which must include, but not be limited to, all of the following~~:

(a) The criteria used to select communities that have been disproportionately impacted by marihuana prohibition and enforcement.

(b) Based on the selection criteria, a list of the communities that have been disproportionately impacted by marihuana prohibition and enforcement.

(c) The requirements persons in those communities **must** meet to utilize services and resources offered through the plan.

(d) The services and resources that are available to those communities and qualifying persons residing in and planning to operate a marihuana establishment in those communities selected in subdivision (b) of this subrule.

(e) Specific goals and objectives for the plan.

(3) The agency shall collect data to measure its progress towards achieving the specific goals and objectives outlined in subrule (2)(e) of this rule.

(4) The agency shall publish a list of services and resources offered through the plan, which must include, but not be limited to, all of the following:

(a) Education and outreach to the communities and potential applicants from the community.

(b) ~~Waiving or reducing~~ **The waiver or reduction of** fees for qualified applicants from the communities.

(c) Increased assistance with the application process for applicants from these communities.

(d) ~~Coordinating~~ **Coordination of** communities', applicants', and licensees' utilization of resources that will allow participation in the marihuana industry.

R 420.20 Financial ~~Statements~~ **statements.**

Rule 20. **(1)** Each licensee under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** shall transmit to the agency financial statements of the licensee's total operations. The financial statements shall be reviewed by a certified public accountant in a manner and form prescribed by the agency. The certified public accountant must be licensed in this state under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736. The compensation for the certified public accountant ~~shall~~ **must** be paid directly by the licensee to the certified public accountant. The agency shall issue an advisory bulletin to instruct licensees on the time and manner in which to submit the financial statements. **Financial statements must be prepared so they include all required information for each license held by the licensee.**

(2) A marihuana educational research licensee is not required to file an annual financial statement.

PART 2. SPECIAL LICENSES UNDER THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT

R 420.21 Special licenses; eligibility.

Rule 21. (1) A person may apply to the agency for a special license as described under section 8 of the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, MCL 333.27958, and issued pursuant to section 9 of the act, MCL 333.27959, and these rules. A person may apply to the agency for a special license in **any of** the following categories:

(a) Designated consumption establishment license. A designated consumption establishment license is valid for 1 year.

(b) Excess marihuana grower license. An excess marihuana grower license is valid for 1 year.

(c) Marihuana event organizer license. A marihuana event organizer license is valid for 1 year.

(d) Temporary marihuana event license. A temporary marihuana event license is valid for a minimum of 1 day and ends on the date specified on the state license.

(e) Marihuana educational research license. A marihuana educational research license is valid for 1 year.

(f) A class A marihuana microbusiness license. A class A marihuana microbusiness license is valid for 1 year.

(2) An applicant shall meet the requirements of the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** and these rules to be eligible for a special license.

(3) A person ~~that~~ **who** allows consumption of marihuana products on the premises of a non-residential location and charges a fee for entry, sells goods or services while individuals are consuming on the premises, or requires membership for entry shall acquire a designated consumption establishment or temporary marihuana event license.

R 420.23 Excess marihuana grower license.

Rule 23. (1) An applicant for an excess marihuana grower license is subject to and shall meet the requirements of the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** and these rules.

(2) An excess marihuana grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, immature plants, and cuttings, to a marihuana processor or marihuana retailer.

(3) An excess marihuana grower license ~~shall~~ **may**~~only~~ be issued **only** to a person who holds 5 stacked class C marihuana grower licenses issued by the agency under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** and at least 2 grower class C licenses issued by the agency under the MMFLA.

(4) A person may apply for an excess marihuana grower license on the form created by the agency accompanied by the nonrefundable application fee as prescribed in these rules. An application for an excess marihuana grower license must be made under oath on a form provided by the agency and must contain information as prescribed by the agency.

(5) An applicant for an excess marihuana grower license shall pay applicable fees required under these rules.

(6) The agency may determine an applicant is ineligible or deny an application for the reasons specified in these rules~~, as applicable~~.

(7) The agency shall set the total marihuana plant count for an excess marihuana grower license in increments of 2,000 marihuana plants not in excess of the total marihuana plants permitted under grower class C licenses held under the MMFLA.

(8) Payment of the initial licensure fee must be received prior to issuance of the state license. In determining the initial licensure fee for an excess marihuana grower license, the initial licensure fee of a class C marihuana grower license is assessed on the excess marihuana grower license at every 2,000 marihuana plant increment authorized by the state license.

(9) An excess marihuana grower licensee is subject to all requirements for a marihuana grower as provided for in the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** and these rules, as applicable.

(10) An applicant shall pay the initial licensure fee for an excess grower license within 10 **calendar** days of approval or within 90 **calendar** days of **submitting** a complete application ~~being submitted~~, whichever date is first.

(11) **An applicant for an excess grower license is not required to pay the application fee under these rules.** ~~A marihuana grower's application for an excess grower license is exempt from the application fee of $6,000 under these rules~~.

R 420.25 Temporary marihuana event license; application; operations.

Rule 25. (1) A temporary marihuana event license ~~shall~~ **may**~~only~~ be issued **only** to a person who holds a marihuana event organizer license issued by the agency.

(2) Violations of the requirements applicable to temporary marihuana events may result in disciplinary action against the marihuana event organizer license or any other licenses held by a licensee

participating in the temporary marihuana event and responsible for a violation of the MRTMA or these rules.

(3) A temporary marihuana event license ~~must~~ **may**~~only~~ be issued **only** for a single day or up to 7 consecutive days. A temporary marihuana event license ~~must~~ **may** not be issued for more than 7 days.

(4) An application for a temporary marihuana event license must be submitted to the agency not less than 90 calendar days before the first day of the temporary marihuana event.

(5) A temporary marihuana event may ~~only~~ be held **only** at a venue expressly approved by a municipality for the purpose of holding a temporary marihuana event.

(6) A temporary marihuana event may be held only if the applicant is expressly approved by a municipality to hold a temporary marihuana event where sales to, and consumption of marihuana by, persons 21 years of age or older will occur.

(~~6~~**7**) An application for a temporary marihuana event license must be made under oath on a form provided by the agency and must contain information as prescribed by the agency, including, ~~but not limited to~~ **at a minimum**, all of the following:

(a) The name of the applicant. Applicants who are individuals shall provide both the first and last name of the individual. Applicants that are business entities shall provide the legal business name of the applicant.

(b) The marihuana event organizer license number and **license number of any other** ~~each~~ marihuana establishment license held by the applicant.

(c) The address of the location where the temporary marihuana event will be held.

(d) The name of the temporary marihuana event.

(e) A diagram of the physical layout of the temporary marihuana event~~. The diagram~~ **that** ~~must~~ clearly indicate**s** ~~all~~ **each** of the following:

(i) Where the temporary marihuana event will ~~be taking~~ **take** place on the location grounds.

(ii) All entrances and exits that will be used by participants during the event.

(iii) All marihuana consumption areas.

(iv) All marihuana retail areas where marihuana products will be sold.

(v) **All areas where** ~~Where~~ marihuana waste will be stored.

(vi) All areas where marihuana products will be stored.

(vii) The specific location of each marihuana retailer or marihuana microbusiness **or class A marihuana microbusiness** licensee who will be participating in the event. Each marihuana retailer or marihuana microbusiness **or class A marihuana microbusiness** licensee participating in the event must be identified with an assigned temporary marihuana event location number.

(f) The dates and hours of operation for ~~which~~ the **proposed** temporary marihuana event ~~license is being sought~~. A temporary marihuana event license is required for any date in which the applicant engages in onsite marihuana product sales or allows onsite marihuana product consumption.

(g) Contact information for the ~~applicant's~~ designated primary contact person ~~regarding~~ **for** the temporary marihuana event license, including the **individual's** name, title, address, phone number, and email address~~ of the individual~~.

(h) Contact information for ~~a~~ **the** designated contact person or persons who ~~shall~~ **must** be onsite at the event, and reachable by telephone at all times that the event is occurring.

(i) ~~Written attestation on a form provided by the agency from the municipality authorizing the applicant to engage in onsite marihuana sales to, and onsite consumption by, persons 21 years of age or older at the temporary marihuana event at the proposed location~~. **For an applicant seeking licensure for a temporary marihuana event, confirmation of municipal compliance on an attestation form provided by the agency that includes all of the following:**

(i) The name and address of the proposed temporary marihuana event.

(ii) The municipality where the proposed temporary marihuana event is located.

(iii) The contact information for the municipality including, at a minimum, all of the following:

(A) The name of the clerk of the municipality or his or her designee.

(B) The telephone number of the clerk of the municipality or his or her designee.

(C) The email address of the clerk of the municipality or his or her designee.

(D) The mailing address of the clerk of the municipality or his or her designee.

(iv) Confirmation that the municipality has not adopted an ordinance prohibiting the proposed temporary marihuana event.

(v) Confirmation that the applicant is in compliance with any ordinance the municipality has adopted relating to marihuana establishments within its jurisdiction, including zoning regulations.

(vi) Attestation that the applicant will report any changes that occur with municipal ordinances or zoning regulations that relate to the proposed temporary marihuana event, any municipal approvals, or any violations of a municipal or zoning regulation.

(vii) Attestation by the applicant describing if the applicant will engage in onsite marihuana sales to, and allow onsite consumption by, person 21 years of age or older at the temporary marihuana event.

(viii) The date and signature of the applicant.

(j) A list of all licensees and employees ~~that~~ **who** will be providing onsite sales of marihuana products at the temporary marihuana event. If the list of licensees and employees participating in the temporary marihuana event changes after the application is submitted or after the temporary marihuana event license is issued, the applicant shall submit an updated list and an updated diagram to the agency not less than 72 hours before the event. Licensees not on the list submitted to the agency ~~shall~~ **may** not participate in the temporary marihuana event.

(k) A responsible operations plan that includes a detailed explanation of how employees will monitor and prevent over-intoxication, underage access to the designated consumption establishment, the illegal sale or distribution of marihuana or marihuana products within the consumption establishment, and any other potential criminal activity on the premises.

(~~7~~**8**) An applicant for a temporary marihuana event shall pay all required fees before the agency issues a temporary marihuana event license.

(~~8~~**9**) The licensed marihuana event organizer shall hire or contract for licensed security personnel to provide security services at the licensed temporary marihuana event. All security personnel hired or contracted for by the licensee shall be at least 21 years of age, and **be** present on the licensed event premises at all times marihuana products are available for sale or marihuana consumption is allowed on the licensed event premises. The security personnel shall not engage in the consumption of marihuana products before or during the event.

(~~9~~**10**) A licensed marihuana event organizer shall maintain a clearly legible sign, not less than ~~7" x 11"~~ **7 by 11 inches** in size reading, "No Persons Under 21 Allowed" at or near each public entrance to any area where the sale or consumption of marihuana products is allowed. The lettering of the sign shall be not less than 1 inch in height.

(1~~0~~**1**) The marihuana event organizer licensee shall ensure that access to the event is restricted to persons 21 years of age or older and ensure that marihuana sales or consumption is not visible from any public place or non-age-restricted area.

(1~~1~~**2**) The marihuana event organizer licensee, who holds the temporary marihuana event license, is responsible for ensuring that all rules and requirements for the onsite consumption of marihuana products are followed.

(1~~2~~**3**) The marihuana event organizer licensee shall ensure that all marihuana waste generated at a temporary marihuana event is collected and disposed of in accordance with the requirements of these rules, as applicable.

(1~~3~~**4**) A licensed marihuana event organizer and all other licensees participating in a temporary marihuana event are required to comply with all other applicable requirements in the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** and these rules and any municipal ordinances.

(1~~4~~**5**) The agency may require the marihuana event organizer and all participants to cease operations without delay if in the opinion of the agency or law enforcement it is necessary to protect the immediate public health and safety of the people of this state. Upon notification from the agency that the event is to cease operations, the marihuana event organizer shall immediately stop the event and all participants ~~shall~~ **must** be removed from the premises within the time frame provided by the agency.

(1~~5~~**6**) Upon notification from the agency, the marihuana event organizer shall immediately expel from the event any person selling marihuana products without a marihuana retailer**,** ~~or~~ marihuana microbusiness**, or class A marihuana microbusiness** license issued by the agency. The marihuana event organizer or ~~their~~ **his or her** representative shall remain with the person being expelled from the premises at all times until he or she vacates the premises. If the person does not vacate the premises, the agency may inform the marihuana event organizer that the event must cease operations. Upon notification from the agency that the event is to cease operations, the marihuana event organizer shall immediately stop the event and all participants ~~shall~~ **must** be removed from the premises within the time frame provided by the agency.

R 420.26 Temporary marihuana event fee.

Rule 26. (1) Each marihuana event organizer licensed to hold a temporary marihuana event in this state shall pay an initial licensure fee that consists of **both of** the following:

(a) For temporary marihuana events that do not include the sale of marihuana products, a $500.00 fee for each day of the scheduled event to cover the agency's enforcement and compliance costs.

(b) For temporary marihuana events that include the sale of marihuana products:

(i) A $500.00 fee for each licensee authorized to sell marihuana product at the event to cover the agency's enforcement and compliance costs.

(ii) A $500.00 fee for each day of the temporary marihuana event to cover the agency's enforcement and compliance costs.

(2) If a licensee scheduled to attend an event withdraws from the event prior to the first day of the event, the marihuana event organizer may request a refund for that portion of the fees paid to the agency to cover the enforcement and compliance costs for that licensee.

(3) A marihuana event organizer~~'s application for a temporary marihuana event license is exempt from the~~ **applicant is not required to pay an** application fee~~ of $6,000 under these rules~~.

R 420.27 Temporary marihuana event sales.

Rule 27. (1) A marihuana event organizer licensee shall ensure that access to the area where marihuana sales are allowed is restricted to persons 21 years of age or older.

(2) Only persons ~~age~~ 21 **years of age** or older may purchase and consume marihuana products at a temporary marihuana event. Prior to selling marihuana products to a customer, the licensee making the sale shall confirm, using valid identification as specified in the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** and these rules, the age and identity of the customer.

(3) All sales of marihuana products at a temporary marihuana event ~~must~~ **shall** occur in a retail area as designated in the premises diagram required in these rules.

(4) Each sale at a temporary marihuana event must be performed by a licensed marihuana retailer**,** ~~or~~ **a** marihuana microbusiness**, or a class A marihuana microbusiness** that is authorized to sell marihuana products to customers. The marihuana event organizer may also sell marihuana products at the

temporary marihuana event if the marihuana event organizer ~~separately~~ holds a **separate** state license as a marihuana retailer**,** ~~or~~ **a** marihuana microbusiness**, or a class A marihuana microbusiness**.

(5) Licensed marihuana retailers**,** ~~or~~ marihuana microbusinesses**, or class A marihuana microbusinesses** shall ~~only~~ conduct sales activities **only** within their specifically assigned area, identified in the diagram of the physical layout of the temporary marihuana event.

(6) Mobile sales activities via wagon, cart, or similar means are prohibited at the temporary marihuana event site.

(7) Licensed marihuana retailers**,** ~~or~~ marihuana microbusinesses**, or class A marihuana microbusinesses** ~~must~~ **shall** prominently display their temporary marihuana event location number and state license **number** within plain sight of the public.

(8) All sales at a temporary marihuana event must occur on the dates stated on the state license and must occur at the location stated on the state license. All onsite sales of marihuana products must comply with the hours of operation requirements in these rules.

(9) The marihuana products sold onsite at a temporary marihuana event must be transported to the site of the temporary marihuana event by a licensed secure transporter in compliance with the Michigan regulation and taxation of marihuana act and these rules. A licensed transporter is not required if less than 15 ounces of marihuana or 60 grams of concentrate is ~~being~~ transported at ~~one~~ **1** time.

(10) Except small amounts of products used for display, all marihuana products for sale at a temporary marihuana event must be stored in a secure, locked container that is not accessible to the public. Marihuana products ~~being~~ stored by a licensee at a temporary marihuana event must not be left unattended.

(11) All marihuana products made available for sale at a temporary marihuana event by a licensee must comply with all requirements of the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** and these rules for the sale and tracking of marihuana products. This includes, ~~but is not limited to~~ **at a minimum**, all of the following:

(a) Identifying marihuana product from licensees' inventory at the marihuana establishment that will be transported for sale at the event using a marihuana secure transporter or an agent of the licensee to the temporary marihuana event.

(b) Tracking in the statewide monitoring system any sales of marihuana product at the event in accordance with the requirements of these rules.

(c) Tracking in the statewide monitoring system any marihuana product that is not sold at the event and is ~~being~~ returned to the marihuana establishment's inventory at its permanent location. If more than 15 ounces of marihuana or 60 grams of concentrate is ~~being~~ transported at ~~one~~ **1**. time, it must be transported using a marihuana secure transporter.

R 420.27a Marihuana educational research license.

Rule 27a. (1) A marihuana educational research license authorizes a licensee to do all of the following:

(a) Obtain marihuana from a marihuana establishment.

(b) Produce marihuana products.

(c) Perform research on marihuana and marihuana products.

(d) Dispose of marihuana and marihuana products.

(2) A licensee holding a marihuana educational research license shall apply for and obtain the necessary registration from the United States Drug Enforcement Administration (DEA) within 90 calendar days of the issuance of a license and provide proof of registration to the agency.

(3) An application for a marihuana educational research license must be made under oath on a form provided by the agency. A complete application for a marihuana educational research license must contain the information required in these rules and information regarding the marihuana educational research license including, at a minimum, all of the following:

(a) A research plan including, at a minimum, all of the following:

(i) A written plan for documenting all individuals who will have access to the location and marihuana or marihuana products.

(ii) Detailed description or documentation of affiliation with an institute of higher education.

(iii) A brief description of the research that will be conducted.

(iv) A written plan to ensure secure delivery and receipt of marihuana at the licensed location.

(v) A written plan to ensure the safe storage of marihuana at the licensed location.

(vi) A written plan for the tracking of marihuana quantities at the licensed location.

(vii) A written plan for the disposal of marihuana after research.

(viii) A floor plan of the location.

(b) For an applicant seeking licensure for a marihuana educational research license, confirmation of municipal compliance on an attestation form provided by the agency that includes all of the following:

(i) The name and address of the proposed marihuana educational research license.

(ii) The municipality where the proposed marihuana educational research license is located.

(iii) The contact information for the municipality including, at a minimum, all of the following:

(A) The name of the clerk of the municipality or his or her designee.

(B) The telephone number of the clerk of the municipality or his or her designee.

(C) The email address of the clerk of the municipality or his or her designee.

(D) The mailing address of the clerk of the municipality or his or her designee.

(iv) Confirmation that the municipality has not adopted an ordinance prohibiting the proposed marihuana educational research license.

(v) Confirmation that the applicant is in compliance with any ordinance the municipality has adopted relating to marihuana establishments within its jurisdiction, including zoning regulations.

(vi) Attestation that the applicant will report any changes that occur with municipal ordinances or zoning regulations that relate to the proposed marihuana educational research license, any municipal approvals, or any violations of a municipal or zoning regulation.

(vii) The date and signature of the applicant.

(c) A certificate of use and occupancy pursuant to R 420.208 in which the authorized activities of the marihuana educational research license are to be conducted.

(d) Any other documents required by the agency that are not inconsistent with the acts and these rules.

(4) An applicant for a marihuana educational research license shall provide notification and report to the agency in writing within 24 hours when he or she became aware of or should have become aware of all of the following:

(a) Loss of institutional affiliation.

(b) Loss or restriction of DEA registration.

(c) Theft, loss, diversion, or criminal activity at the licensed location.

(5) A marihuana educational research licensee shall maintain and provide upon request of the agency a written schedule for disposal of marihuana and marihuana products after it has concluded research on that item.

(6) A marihuana educational research licensee shall accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required by the agency.

(7) A marihuana educational research licensee shall not sell or transfer marihuana or marihuana products to a marihuana establishment or to a marihuana customer.

(8) A marihuana educational research licensee shall designate and enter into the statewide monitoring system administrative users pursuant to R 420.602(2)(b) and (c) as required by the agency.

(9) A marihuana educational research licensee shall prohibit marihuana or marihuana products to be consumed or sampled on the licensed premises.

R 420.27b Class A marihuana microbusiness.

Rule 27b. (1) An applicant for a class A marihuana microbusiness license is subject to and shall meet the requirements of the MRTMA and these rules.

(2) An application for a class A marihuana microbusiness license must be made under oath on a form provided by the agency and must contain information as prescribed by the agency.

(3) An applicant for a class A marihuana microbusiness license shall pay applicable fees as required under these rules.

(4) The agency may determine that an applicant is ineligible for a license or may deny an application for the reasons specified in these rules, as applicable.

(5) Payment of the initial licensure fee must be received prior to issuance of the state license.

(6) A class A marihuana microbusiness licensee is subject to all requirements for a marihuana microbusiness as provided for in the MRTMA and these rules, unless modified in these rules.

(7) An applicant shall pay the initial licensure fee for a class A marihuana microbusiness license within 10 calendar days of approval or within 90 calendar days of submitting a complete application, whichever date is first.

R 420.28 Renewal; notifications; inspections and investigations; penalties; sanctions; fines; sale or transfer.

Rule 28. (1) A designated consumption establishment**, class A marihuana microbusiness, marihuana educational research license,** and marihuana event organizer license are issued for a 1-year period and may be renewed. An applicant for renewal must meet the requirements, as applicable, and apply in the manner prescribed in these rules.

(2) A designated consumption establishment**, class A marihuana microbusiness, marihuana educational research license,** and marihuana event organizer applicant or licensee are subject to the notification and reporting requirements specified in these rules**,** as applicable.

(3) A designated consumption establishment**, class A marihuana microbusiness, marihuana educational research license,** or marihuana event organizer licensee or licensee participating in a temporary marihuana event shall comply with the notification requirements for theft, loss, or criminal activity pertaining to marihuana product under these rules, as applicable.

(4) An applicant for or a licensed designated consumption establishment**, class A marihuana microbusiness, marihuana educational research license,** or marihuana event organizer are subject to the inspections and investigations specified in these rules, as applicable.

(5) An applicant for or a licensed designated consumption establishment**, class A marihuana microbusiness, marihuana educational research license,** or marihuana event organizer are subject to these rules regarding violations, sanctions, and fines.

(6) A licensee selling marihuana products at a temporary marihuana event shall comply with the requirements of these rules regarding the sale or transfer of marihuana.

(7) A licensee selling marihuana products at a temporary marihuana event shall comply with the requirements of these rules regarding purchasing limits in a single transaction.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Marihuana Regulatory Agency
Administrative Rules for Marihuana Licenses
Rule Set 2020-121 LR

NOTICE OF PUBLIC HEARING
Monday, September 27, 2021
09:30 AM

Williams Building, 1st Floor Auditorium
525 West Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Marihuana Licenses rule set.

The rule changes are designed to create greater consistency in the licensing process for marihuana businesses and to create cohesion between license issuance for medical and adult-use marihuana businesses. These decisions are made daily by agency licensing staff. The rule changes are also intended to create clear and consistent operational standards for marihuana businesses.

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001). The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: MRA-Legal@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/27/2021 at 05:00PM.

Marijuana Regulatory Agency- ATTN: Legal Section

Email: MRA-Legal@michigan.gov

PO BOX 30205 or 2407 N Grand River Ave Lansing MI, 48906

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-284-8584 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA OPERATIONS

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a~~(6)~~**(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 marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.201, R 420.202, R 420.203, R 420.204, R 420.205, R 420.206, R 420.207, R 420.208, R 420.209, R 420.210, R 420.211, R 420.212, R 420.213, and R 420.214 of the Michigan Administrative Code are amended, and R 420.206a, R 420.207a, R 420.214a, R 420.214b, and R 420.214c are added, as follows:

R 420.201 Definitions.

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

(a) “Acts” refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) “Administrative hold” means a status given to marihuana product by the agency during an investigation into alleged violations of the acts and these rules.- This status includes no sale or transfer of the marihuana product until the hold is lifted.

(c) “Agency” means the marijuana regulatory agency.

(d) "Applicant" means a person who applies for a marihuana license, subject to paragraphs (i) and (ii) **of this subdivision**:

(i) For purposes of this definition, an applicant includes a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

(A) For an individual or sole proprietorship: the proprietor and spouse.

(B) For a partnership and limited liability partnership: all partners and their spouses.

(C) For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the partnership, and their spouses.

(D) For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the company, and their spouses.

(E) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(F) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(G) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(H) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(I) For a trust, any beneficiary who receives or has the right to receive more than 10% of the gross or net profit of the trust during any full or partial calendar or fiscal year and their spouses.

(ii) For purposes of this definition, an applicant does not include:

(A) A person who provides financing to an applicant or licensee under a bona fide financing agreement at a reasonable interest rate.

(B) A franchisor who grants a franchise to an applicant, if the franchisor does not have the right to receive royalties based upon the sale of marihuana or marihuana-infused products by the applicant who is a franchisee. Nothing in this subrule shall be construed to preclude a franchisor from charging an applicant who is a franchisee a fixed fee. As used in this definition, the terms "franchise," "franchisor," and "franchisee" have the meanings set forth in section 2 of the franchise investment law, 1974 PA 269, MCL 445.1502.

(C) A person receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation.

(D) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property including, but not limited to, brands and recipes.

(e) "Batch" means all marihuana product of the same variety that has been processed together and exposed to substantially similar conditions throughout processing.

(f) "Building" means a combination of materials forming a structure affording a facility, an establishment, or shelter for use or occupancy by individuals or property. Building includes a part or parts of the building and all equipment in the building. A building does not include a building incidental to the use for agricultural purposes of the land on which the building is located.

(g) "Bureau of fire services" or "BFS" means the bureau of fire services in the department of licensing and regulatory affairs.

(h) "Common ownership" means 2 or more state licenses or 2 or more equivalent licenses held by ~~one~~ **1** person under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(i) "Cultivator" refers to both a grower under the medical marihuana facilities licensing act and a marihuana grower under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(j) "Designated consumption establishment" means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.

(k) "Employee" means a person performing work or service for compensation. "Employee" does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana business.

(l) "Equivalent licenses" means any of the following held by a person:

(i) A marihuana grower license of any class issued under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct and a grower license, of any class, issued under the medical marihuana facilities licensing act.

(ii) A marihuana processor license issued under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct and a processor license issued under the medical marihuana facilities licensing act.

(iii) A marihuana retailer license issued under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct and a provisioning center license issued under the medical marihuana facilities licensing act.

(iv) A marihuana secure transporter license issued under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct and a secure transporter license issued under the medical marihuana facilities licensing act.

(v) A marihuana safety compliance facility license issued under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct and a safety compliance facility license issued under the medical marihuana facilities licensing act.

(m) "Final form" means the form a marihuana product is in when it is available for sale by a marihuana sales location. For marihuana products intended for inhalation, the marihuana concentrate in the e-cigarette or vaping device.

(n) "Immature plant" means a nonflowering marihuana plant that is no taller than 8 inches from the growing or cultivating medium and no wider than 8 inches produced from a cutting, clipping, tissue culture, or seedling that is in a growing or cultivating medium or in a growing or cultivating container.

(o) "Inactive ingredients" means binding materials, dyes, preservatives, flavoring agents, and any other ingredient that is not derived from the plant *Cannabis ~~S~~sativa L*.

(p) "Laboratory" refers to both a safety compliance facility under the medical marihuana facilities licensing act and a marihuana safety compliance facility under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(q) "Limited access area" means a building, room, or other contiguous area of a marihuana business where marihuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale and that is under the control of the licensee.

(r) "Marihuana business" refers to both a marihuana facility under the medical marihuana facilities licensing act and a marihuana establishment under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(s) "Marihuana business location plan" means a marihuana facility plan under the medical marihuana facilities licensing act, or a marihuana establishment plan under the Michigan Regulation and Taxation of Marihuana Act, or both.

(t) "Marihuana customer" refers to a registered qualifying patient or registered primary caregiver under the medical marihuana facilities licensing act, or an individual 21 years of age or older under the Michigan Regulation and Taxation of Marihuana Act, or both.

(~~s~~**u**) "Marihuana establishment" means a location at which a licensee is licensed to operate a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, **class A marihuana microbusiness,** marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed to operate by the agency under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(~~t~~**v**) "Marihuana event organizer" means a person licensed to apply for a temporary marihuana event **license** under these rules.

(~~u~~**w**) "Marihuana facility" means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(~~v~~**x**) "Marihuana license" means a state operating license issued under the medical marihuana facilities licensing act, or a state license issued under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~w~~**y**) "Marihuana product" means marihuana or a marihuana-infused product, or both, as those terms are defined in the acts unless otherwise provided for in these rules.

(~~x~~**z**) "Marihuana sales location" refers to a provisioning center under the medical marihuana facilities licensing act or a marihuana retailer**,** ~~or~~ marihuana microbusiness**, or class A marihuana microbusiness** under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~y~~**aa**) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(~~z~~**bb**) "Marihuana transporter" means a secure transporter under the medical marihuana facilities licensing act or a marihuana secure transporter under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~aa~~**cc**) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(~~bb~~**dd**) "Michigan ~~m~~**M**edical ~~m~~**M**arihuana ~~a~~**A**ct" means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(~~cc~~**ee**) "Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(~~dd~~**ff**) "Producer" refers to both a processor under the medical marihuana facilities licensing act and a marihuana processor under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(~~ee~~**gg**) "Proposed marihuana business" means a proposed marihuana establishment under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct or a proposed marihuana facility under the medical marihuana facilities licensing act, or both.

(~~ff~~**hh**) "Records of formulation" means the documentation that includes at a minimum: the ingredients, recipe, processing in order to be shelf stable, Certificates of Analysis for any ingredient used, and description of the process in which all ingredients are combined to produce a final form.

(~~gg~~**ii**) "Restricted access area" means a designated and secure area at a marihuana business where marihuana products are sold, possessed for sale, and displayed for sale.

(~~hh~~**jj**) "These rules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(~~ii~~**kk**) "Same location" means separate marihuana licenses that are issued to multiple marihuana businesses that are authorized to operate at a single property but with separate business suites, partitions, or addresses.

(ll) "Source documentation" means an original document that contains the details of a marihuana business transaction.

(~~jj~~**mm**) "Stacked license" means more than 1 marihuana license issued to a single licensee to operate as a Class C grower as specified in each license at a marihuana business under the medical marihuana facilities licensing act, or under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~kk~~**nn**) "Tag" or "RFID tag" means the unique identification number or Radio Frequency Identification (RFID) issued to a licensee by the ~~agency~~ **statewide monitoring system** for tracking, identifying**,** and verifying marihuana plants, marihuana products, and packages of marihuana product in the statewide monitoring system.

(~~ll~~**oo**) "Temporary marihuana event license" means a state license held by a marihuana event organizer under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

R 420.202 Adoption by reference.

Rule 2. (1) The following codes, standards, or regulations of nationally recognized organizations or associations are adopted by reference in these rules:

(a) National fire protection association (NFPA) standard 1, 20~~18~~**21** edition, entitled "Fire Code**,**" is adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02169, telephone number 1-800-344-3555, for the price of $~~106.00~~**114.50**.

(b) National fire protection association (NFPA) standard 58, 2020 edition, entitled "Liquified Petroleum Gas Code**,**" is adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02169, telephone number 1-800-344-3555, for the price of $70.50.

(2) The standards adopted in subrule (1) of this rule are available for inspection and distribution at the agency, located at 2407 North Grand River Avenue, Lansing, M**ichigan**, 48906. Copies of these standards may be obtained from the agency at the cost indicated in subrule (1)(a) and (b) of this rule, plus shipping and handling.

R 420.203 Marihuana licenses; licensees; operations; general.

Rule 3. (1) A marihuana license and a stacked license as described in these rules are limited to the scope of the marihuana license issued for that type of marihuana business that is located within the municipal boundaries connected with the marihuana license.

(2) A licensee shall comply with all of the following:

(a) Except as provided in R 420.204 and R 420.205, a marihuana business ~~shall~~ **must** be partitioned from any other marihuana business or activity, any other business, or any dwelling.

(b) A marihuana business shall not allow onsite or as part of the marihuana business any of the following:

(i) Sale, consumption, or serving of food except as provided in these rules unless the business is a designated consumption establishment or a temporary marihuana event that has obtained ~~the appropriate~~ **any required** authorizations from other federal, state, or local agencies~~ as applicable~~.

(ii) Consumption, use, or inhalation of a marihuana product unless the licensee has been granted a designated consumption establishment or temporary marihuana event license under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, and these rules.

(c) A marihuana business ~~shall~~ **must** have distinct and identifiable areas with designated structures that are contiguous and specific to the marihuana license.

(d) A marihuana business ~~shall~~**must** have separate entrances and exits, inventory, record keeping, and point of sale operations, if applicable.

(e) Access to a marihuana business's restricted and limited access areas is restricted to the licensee, employees of the licensee, escorted visitors, and the agency. A marihuana sales location**,** ~~or~~ a marihuana microbusiness**, or a class A marihuana microbusiness** may grant access as provided in R 420.206(9) to customers to a dedicated point of sale area.

(f) Licensee records must be maintained as follows and made available to the agency upon request:

(i) A licensee shall maintain accurate and comprehensive financial records for each license that clearly documents the licensee's income and expenses. Applicable supporting source documentation must be maintained, including, but not limited to, all of the following:

(A) Cash logs.

(B) Sales records.

(C) Purchase of inventory.

(D) Invoices.
(E) Receipts.
(F) Deposit slips.
(G) Cancelled checks.
(H) Employee compensation records.
(I) Tax records.

(ii) Bulk financial deposits or transactions must be traceable to the individual transactions that comprise the bulk deposit or transaction.

(g) The marihuana business must be at a fixed location. Mobile marihuana businesses ~~and drive through operations~~ are prohibited. Any sales or transfers of marihuana product by mail order or on consignment are prohibited.

(h) A marihuana license ~~issued under the acts, after it has been received by the licensee,~~ must be framed under a transparent material and prominently displayed in the marihuana business.

(3) A marihuana business shall comply with all of the following:

(a) The natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106. The agency may publish guidance in cooperation with the department of environment, great lakes, and energy.

(b) Any other operational measures requested by the agency that are not inconsistent with the acts and these rules.

R 420.204 Operation at same location.

Rule 4. (1) A licensee that has any combination of marihuana licenses may operate separate marihuana businesses at the same location. -For purposes of this rule, a stacked license is considered a single marihuana business.

(2) To operate at the same location subject to subrule (1) of this rule, a licensee shall meet all of the following requirements:

(a) The agency has authorized the proposed operation at the same location.

(b) The operation at the same location is not in violation of any local ordinances or regulations.

(c) The operation at the same location does not circumvent a municipal ordinance or zoning regulation that limits the marihuana businesses under the acts.

(d) The licensee of each marihuana business operating at the same location under this rule shall do all the following:

(i) Apply for and be granted separate marihuana licenses and pay the required fees for each marihuana license.

(ii) Have distinct and identifiable areas with designated structures that are on the same parcel or a contiguous parcel and specific to the marihuana license.

(iii) Have separate inventory, record keeping, and point of sale operations.

(iv) Post each marihuana license on the wall in its distinct area and as provided in these rules.

(v) Obtain any additional inspections and permits required for local or state building inspection, fire services, and public health standards.

(vi) Comply with the provisions in the acts and these rules.

(3) Operation of a marihuana license at the same location that includes a licensed marihuana sales location ~~shall~~ **must** have the entrance and exit to the licensed marihuana sales location and entire inventory physically separated from any of the other licensed marihuana businesses so that individuals can clearly identify the sales entrance and exit.

(4) Operation of marihuana licenses at the same location may include a combined space for the purposes of complying with R 420.214a.

(**45**) A laboratory may be co-located with an existing accredited laboratory that is not licensed by the MRA, with agency approval, if the following criteria are met:

(a) The existing laboratory performs analytical scientific testing in a laboratory environment, and the testing methods are recognized by an accrediting body.

(b) Testing of marihuana product is performed separately from other materials.

(c) All marihuana product is stored separately from any other materials located at the site for testing.

R 420.205 Equivalent licenses; operation at same location.

Rule 5. (1) A person that holds equivalent licenses with common ownership under the acts may operate those equivalent licenses at the same location.

(2) To operate equivalent licenses at the same location, all of the following requirements must be met:

(a) The agency has authorized the proposed operation at the same location.

(b) The operation at the same location is not in violation of any local ordinances or regulations.

(c) The operation at the same location does not circumvent a municipal ordinance or zoning regulation that limits the marihuana businesses under the acts.

(d) The person operating the equivalent licenses at the same location under this rule shall do all the following:

(i) Apply for and be granted a separate state license and a state operating license and pay the required fees for each license.

(ii) Post each state license and state operating license on the wall in its distinct area and as provided in these rules.

(iii) Obtain any additional inspections and permits required for local or state building inspection, fire services, and public health standards, if applicable.

(iv) Comply with the provisions in the acts and these rules.

(3) A licensee with common ownership of a marihuana retailer and a provisioning center and operating equivalent licenses at the same location shall physically separate the entire inventories and the items on display for sale so that individuals may clearly identify medical marihuana products from adult-use marihuana products.

(4) A licensee with common ownership of a marihuana retailer and a provisioning center and operating the equivalent licenses at the same location shall not bundle a product subject to the excise tax in section 13 of the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, MCL 333.27963, in a single transaction with a product or service that is not subject to the tax imposed by that section.

(5) A person who holds equivalent licenses with common ownership under the acts and operates at the same location is not required to have any of the following:

(a) Separate business suites, partitions, or addresses.

(b) Separate entrances and exits.

(c) Distinct and identifiable areas with designated structures that are contiguous and specific to the state license and the state operating license.

(d) Separate point of sale area and operations.

R 420.206 Marihuana business; general requirements.

Rule 6. (1) A cultivator shall not operate a marihuana business unless either of the following conditions is met:

(a) The cultivator operations are within a building that meets the security requirements and passes the inspections in these rules and has a building permit pursuant to R 420.208 and these rules.

(b) The cultivator operations are within a building, except that cultivation may occur in an outdoor area, if all of the following conditions are met:

(i) The outdoor area containing the cultivation of marihuana plants is contiguous with the building, fully enclosed by fences or barriers that ensure that the plants are not visible from a public place without the use of binoculars, aircraft, or other optical aids, and the fences are secured and comply with the applicable security measures in these rules, including, but not limited to, locked entries only accessible to authorized persons or emergency personnel.

(ii) After the marihuana is harvested, all drying, trimming, curing, or packaging of marihuana occurs inside the building meeting all the requirements under these rules.

(iii) The building meets the security requirements and passes the inspections in these rules and has a building permit pursuant to R 420.208 and these rules.

(2) A cultivator who has obtained good agricultural collection processes certification may sell immature plants to a marihuana sales location under the allowances published by the agency.

(3) The agency shall publish a list of approved chemical residue active ingredients for cultivators to use in the cultivation and production of marihuana plants and marihuana products to be sold or transferred in accordance with the acts or these rules.

(4) The agency shall publish a list of banned chemical residue active ingredients that are prohibited from use in the cultivation and production of marihuana plants and marihuana products to be sold or transferred in accordance with the acts or these rules.

(5) A marihuana secure transporter under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** shall have a primary place of business as its marihuana business that operates in a municipality that has not adopted an ordinance prohibiting marihuana businesses from operating within its boundaries under section 6 of the MRTMA, MCL 333.27956, and these rules, and its marihuana business must comply with the requirements prescribed by the MRTMA, these rules, and any municipal ordinances that meet the requirements of section 6 of the act, MCL 333.27956.

(6) A secure transporter under the ~~medical marihuana facilities licensing act~~ **MMFLA** shall have a primary place of business as its marihuana facility that operates in a municipality that has adopted an ordinance that meets the requirements of section 205 of the act, MCL 333.27205, and the rules, and its marihuana facility must comply with the requirements prescribed by the MMFLA and these rules.

(7) A marihuana transporter shall hold a separate license for every marihuana transporter location. A marihuana transporter may travel through any municipality to transport a marihuana product. A marihuana transporter shall comply with all of the following:

(a) The marihuana transporter may take physical custody of the marihuana or money, but legal custody belongs to the transferor or transferee.

(b) A marihuana transporter shall not sell or purchase marihuana products.

(c) A marihuana transporter shall transport any marihuana product in a locked, secured, and sealed container that is not accessible while in transit. The container must be secured by a locked closed lid or door. A marihuana transporter of marihuana product from separate marihuana businesses shall not comingle the marihuana product. All marihuana products must be labeled in accordance with these rules and kept in separate compartments or containers within the main locked, secured, and sealed container. If the marihuana transporter transports money associated with the purchase or sale of marihuana product between businesses, the marihuana transporter shall lock the money in a sealed container kept separate from the marihuana product and only accessible to the licensee and its employees.

(d) A marihuana transporter shall log and track all handling of money associated with the purchase or sale of marihuana between marihuana businesses. These records must be maintained and made available to the agency upon request.

(e) A marihuana transporter shall have a route plan and manifest available for inspection by the agency to determine compliance with the acts and these rules. A copy of the route plan and manifest must be

carried with the marihuana transporter during transport between marihuana businesses. A marihuana transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana product pursuant to these rules. A marihuana transporter shall carry a copy of a route plan and manifest in the transporting vehicle and shall present them to a law enforcement officer upon request.

(f) A marihuana transporter shall not possess marihuana product that is not on a manifest.

(g) A marihuana transporter shall follow the manifest.

(h) A marihuana transporter shall store vehicles at its primary place of business. If a marihuana transporter stores a vehicle that does not contain marihuana or marihuana product at a location that is not its primary place of business, it shall indicate that in its business plan.

(i) A marihuana transporter transferring marihuana product to a marihuana business shall remain onsite until the marihuana product is weighed and accepted or rejected before leaving the marihuana business.

(j) A marihuana transporter shall not maintain custody of the marihuana product for more than 96 hours unless permission is otherwise sought and granted by the agency, which will be reviewed on a case-by case basis.

(k) A marihuana transporter shall identify and record all vehicles with the agency and have the required vehicle registration with the secretary of state as required under state law.- A marihuana transporter's vehicles are subject to inspection at any time by the agency to determine compliance with the acts or these rules.

(8) A laboratory shall comply with all of the following:

(a) Provide written notice to the agency within ~~seven~~**7** days of a laboratory manager no longer being employed at the facility.

(b) Designate an interim laboratory manager within ~~seven~~ **7** days of the laboratory manager's departure. At a minimum, the interim laboratory manager must meet the qualifications of a supervisory analyst. The interim laboratory manager must meet either of the following requirements:

(i) The interim laboratory manager must meet at least ~~one~~**1** of the qualifications for a laboratory manager.

(ii) The interim laboratory manager must have, at minimum, a bachelor's degree in ~~one~~ **1** of the natural sciences and ~~three~~ **3** years of full-time laboratory experience in a regulated laboratory environment, performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the ~~three~~ **3** years of full-time laboratory experience.

(c) Hire a permanent laboratory manager within 60 **calendar** days from the date of the previous laboratory manager's departure, unless the laboratory receives a written waiver from the agency. A laboratory may submit a waiver request to the agency to receive an additional 60 **calendar** days to hire a permanent laboratory manager if the laboratory submits a detailed oversight plan along with the waiver request.

(9) A marihuana sales location ~~shall~~ **must** have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana product as provided in the acts and these rules. -The marihuana sales location shall keep marihuana products behind a counter or other barrier to ensure that a customer does not have direct access to the marihuana products. **A marihuana sales location may also have a designated area for contactless or limited contact transactions.**

(10) A marihuana business shall label all marihuana products with the ingredients of the product, in descending order of predominance by weight.

(11) All non-marihuana inactive ingredients must be clearly listed on the product label. Inactive ingredients**,** other than botanically derived terpenes that are chemically identical to the terpenes derived from the plant Cannabis ~~S~~**s**ativa L., must be approved by the FDA for the intended use, and the

concentration must be less than the maximum concentration listed in the FDA Inactive Ingredient database for the intended use.

(12) A marihuana business producing marihuana products shall maintain records of formulation and make them available to the agency upon request.

(13) All ingredients containing cannabinoids, whether naturally occurring or synthetically derived, that are added to marihuana or marihuana products must be from a source licensed to grow, handle, and produce cannabinoids under a license issued by a governmental authority and entered into the statewide monitoring system.

(14) When combining more than 1 form of marihuana or marihuana product into a single marihuana product, each form of marihuana or marihuana product must have passing safety compliance test results in the statewide monitoring system prior to the creation of the new combined product.

(13~~5~~) A marihuana business shall comply with random ~~quality assurance~~ compliance checks upon the request of the agency. The agency or its authorized agents may collect a random sample of a marihuana product from a marihuana business or designate a laboratory to collect a random sample of a marihuana product in a secure manner to test that sample for compliance.

(14~~6~~) The agency may update or issue new standards as necessary to protect the health, safety, and welfare of consumers and the public. -A marihuana business shall comply with all new or updated standards issued by the agency within 6 months of their adoption by the agency unless there is an identifiable public health or safety risk.

(15~~7~~) A marihuana business transferring marihuana product to or receiving marihuana product from a marihuana transporter shall initiate the procedures to transfer or receive the marihuana product within 30 minutes of the marihuana transporter's arrival at the marihuana business.

R 420.206a Standard operating procedures.

Rule 6a. (1) A marihuana business must have up-to-date written standard operating procedures on site at all times.

(2) Standard operating procedures must be made available to the agency upon request.

(3) Standard operating procedures must detail the marihuana business operations and activities necessary for the marihuana business to comply with the acts and these rules.

(4) Standard operating procedures must comply with any guidance issued by the agency.

(5) If the agency determines that any standard operating procedure contains inaccurate information or does not comply with these rules and safe food management guidelines, as applicable, the licensee may be required to correct and update the standard operating procedures immediately.

R 420.207 Marihuana delivery; limited circumstances.

Rule 7. (1) A marihuana sales location licensee may engage in the delivery of a marihuana product for sale or transfer to marihuana customers upon approval by the agency of the licensee's delivery procedures.

(2) A marihuana sales location licensed under the ~~medical marihuana facilities licensing act~~ **MMFLA** that engages in delivery shall establish procedures as specified in this rule to allow an employee of the marihuana sales location to deliver a marihuana product to a patient at the patient's residential address.

(3) A marihuana sales location licensed under the M~~ichigan regulation and taxation of marihuana act~~**MRTMA** that engages in delivery shall establish procedures as specified in this rule to allow an

employee of the marihuana sales location to deliver a marihuana product to an individual 21 years of age or older at a residential address or at the address of a designated consumption establishment provided at the time the order was placed.

(4) All of the following apply to the marihuana delivery procedures established by a marihuana sales location:

(a) For the purposes of this rule only, a marihuana sales location may accept an online order request of a marihuana product and payment for the order that will be delivered only to the physical residence of the registered qualifying patient as provided in this rule, or to a residential address or the address of a designated consumption establishment provided by an individual 21 years of age or older as provided in this rule.

(b) The marihuana sales location shall create a marihuana delivery procedure that is subject to inspection and examination including, but not limited to, record keeping and tracking requirements. The agency may publish guidelines on the required procedure.

(c) All marihuana delivery employees shall meet the requirements in R 420.602 and are employees**,** as defined in R 420.601(1)(d), of the marihuana sales location.

(5) A marihuana sales location that has received authorization under subrule (1) of this rule shall comply with all of the following:

(a) The marihuana sales location shall verify that the sale or transfer to marihuana customers is in accordance with these rules.

(b) The marihuana delivery employee may take payment upon delivery and shall deliver the marihuana product.

(c) The amount of marihuana product that may be delivered is limited to the daily and monthly purchase limits of the registered qualifying patient as provided in these rules; or to the single transaction purchase limits for individuals 21 years of age or older as provided in these rules.

(d) The marihuana sales location shall record all transactions in the statewide monitoring system as required in the acts and these rules.

(e) An employee of the marihuana sales location shall make marihuana deliveries only to 1 of the following:

(i) Subject to paragraph (ii) **of this subdivision**, a registered qualifying patient.

(ii) A registered primary caregiver if the registered qualifying patient is a minor. If the registered qualifying patient is a minor, delivery must be made only to his or her registered primary caregiver.

(iii) An individual 21 years of age or older.

(f) A marihuana delivery employee shall verify that the person taking delivery is the registered qualifying patient or the registered primary caregiver of a registered qualifying patient who is a minor, who has been recorded in the statewide monitoring system, or the individual 21 years of age or older who placed the order.

(g) The authorization granted to a marihuana sales location pursuant to subrule (1) of this rule may be denied, suspended, or withdrawn by the agency. The marihuana sales location may be subject to other sanctions and fines as provided in the acts and these rules.

(6) A marihuana sales location shall maintain records of all of the following that must be made available to the agency upon request:

(a) For a marihuana sales location licensed under the ~~medical marihuana facilities licensing act~~**MMFLA**, confirmation that the marihuana customer presented his or her valid driver's license or government issued identification bearing a photographic image of the marihuana customer along with his or her marihuana registry card, or temporary marihuana registry card, to verify that he or she is the patient or, if the registered qualifying patient is a minor, the registered primary caregiver.

(b) For a marihuana sales location licensed under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, confirmation that the marihuana customer presented his or her valid driver's license or

government issued identification bearing a photographic image of the marihuana customer to verify that the marihuana customer is 21 years of age or older at the time of delivery.

(c) Validation that the address for marihuana delivery of a marihuana product is the residential address of the registered qualifying patient, or the residential address or address of a designated consumption establishment provided by the customer at the time the order for the marihuana product was placed.

(d) Maintenance of the following records for any motor vehicle used for marihuana delivery and the making of the records available to the agency upon request:

(i) Vehicle make.

(ii) Vehicle model.

(iii) Vehicle color.

(iv) Vehicle identification number.

(v) License plate number.

(vi) Vehicle registration.

(vii) Proof of vehicle insurance.

(e) Documentation that the marihuana customer has consented to the marihuana delivery of the marihuana product. The consent must include an acknowledgement by the marihuana customer for the release of information necessary in fulfilling the home delivery.

(f) Verification, by a licensee under the ~~medical marihuana facilities licensing act~~**MMFLA**, in the statewide monitoring system that the registered qualifying patient holds a valid, current, unexpired, and unrevoked registry identification card as required in these rules.

(7) A marihuana delivery employee shall carry a physical or electronic copy of all of the following information and shall make these records available to the agency upon request:

(a) The employee identification number required under these rules.

(b) The marihuana sales location licensee license number.

(c) The address of the marihuana sales location licensee.

(d) Contact information of the marihuana sales location licensee.

(e) A copy of the marihuana sales location marihuana delivery log as required in subrule (1~~0~~**3**) of this rule.

(8) A marihuana delivery employee shall have access to a secure form of communication with the marihuana sales location licensee, such as a cellular telephone, at all times in the vehicle or on his or her person.

(9) ~~To ensure the integrity of the marihuana sales location operation, a~~ **A** marihuana delivery employee shall comply with all the following:

(a) During marihuana delivery, the marihuana delivery employee shall maintain a physical or electronic copy of each marihuana delivery request and shall make the marihuana delivery request available to the agency upon request.

(b) A marihuana delivery employee shall not leave a marihuana product in an unattended motor vehicle unless the motor vehicle is locked and equipped with an active vehicle alarm system.

(c) A marihuana delivery employee's vehicle must contain a global positioning system (GPS) device for identifying the geographic location of the delivery vehicle.- The device must be either permanently or temporarily affixed to the delivery vehicle while the delivery vehicle is in operation, and the device must remain active and in the possession of the delivery employee at all times during delivery. At all times, the marihuana sales location must be able to identify the geographic location of all marihuana delivery vehicles and marihuana delivery employees who are making marihuana deliveries for the marihuana sales location and shall provide that information to the agency upon request.

(d) A marihuana delivery employee shall not carry marihuana product in the delivery vehicle with a value in excess of $5,000.00 at any time. The value of marihuana products carried in the delivery vehicle for which a delivery order was not received and processed by the licensed retailer prior to the

delivery employee departing from the marihuana sales location may not exceed $3,000.00. For the purposes of this subrule, the value of marihuana products must be determined using the current retail price of all marihuana products carried by, or within the delivery vehicle of, the marihuana delivery employee.

(e) A marihuana delivery employee of a marihuana sales location ~~shall~~ **may** not be employed as a marihuana delivery employee for more than ~~one~~ **1** marihuana sales location.

(f) A marihuana delivery employee shall not leave the marihuana sales location with marihuana products without at least ~~one~~ **1** delivery order that has already been received and processed by the marihuana sales location.

(g) Before leaving the marihuana sales location, the marihuana delivery employee must have a delivery inventory ledger, which may be maintained electronically, of all marihuana products provided to him or her. For each marihuana product, the delivery inventory ledger must include the following:

(i) The type of marihuana product.

(ii) The brand name.

(iii) The retail value.

(iv) The tag number associated with the product in the statewide monitoring system.

(v) The weight, volume, or other accurate measure of the marihuana product.

(h) All marihuana product prepared for an order that was received and processed by the marihuana sales location prior to the marihuana delivery driver departing from the marihuana sales location must be clearly identified on the inventory ledger.

(i) After each delivery, the delivery inventory ledger must be updated to reflect the current inventory in possession of the marihuana delivery employee.

(j) The marihuana delivery employee shall maintain a log that includes all stops from the time he or she leaves the marihuana sales location to the time that he or she returns to the marihuana sales location, and the reason for each stop. The log must be turned in to the marihuana sales location when the marihuana delivery employee returns to the marihuana sales location. The marihuana sales location must maintain the log **for a minimum of 1 year from the date of delivery** and make it available upon request by the agency. The log may be maintained electronically.

(k) Immediately upon request by the agency the marihuana delivery employee shall provide all of the following:

(i) All delivery inventory ledgers from the time the marihuana delivery employee left the marihuana sales location up to the time of the request.

(ii) All delivery request receipts for marihuana product carried by the driver, in the delivery vehicle, or any deliveries that have already been made to customers.

(iii) The log of all stops from the time the marihuana delivery employee left the marihuana sales location up to the time of the request.

(l) If a marihuana delivery employee does not have any delivery request to be performed for a 30-minute period, the marihuana delivery employee shall not make any additional deliveries and shall return to the marihuana sales location. Upon returning to the marihuana sales location, all undelivered marihuana products must be returned to inventory and all necessary inventory and statewide monitoring system records must be updated as appropriate.

(10) A marihuana retailer licensed under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, in making deliveries, shall not transport more than 15 ounces of marihuana or more than 60 grams of marihuana concentrate at ~~one~~ **1** time pursuant to section 11 of the MRTMA, MCL 333.27961.

(11) A marihuana sales location shall ensure that marihuana deliveries are completed in a timely and efficient manner as provided on the marihuana delivery request and log. All marihuana deliveries must occur within the business hours of the marihuana sales location. Marihuana product for marihuana

delivery must be stored within a secured compartment that is clearly marked and latched or locked in a manner to keep all contents secured within.

(12) The process of marihuana delivery begins when the marihuana delivery employee leaves the marihuana sales location's licensed marihuana business with the marihuana product for delivery. The process of marihuana delivery ends when the delivery employee returns to the marihuana sales location's licensed marihuana business after delivering the marihuana product to the marihuana customer.

(13) A marihuana sales location shall maintain a record of each delivery of a marihuana product in a marihuana delivery log, which may be a hard copy or electronic format, and make the marihuana delivery log available to the agency upon request. For each delivery, the marihuana delivery log must record all of the following:

(a) The date and time that the delivery began and ended.

(b) The name of the marihuana delivery employee.

(c) The amount of marihuana product allowed to be possessed for delivery.

(d) The tag number of the marihuana product and the name of the strain of that marihuana product.

(e) The signature of the individual who accepted delivery.

(14) A marihuana sales location shall notify the agency, state police, or local law enforcement of any theft, loss of marihuana product, or criminal activity as provided in these rules. A marihuana sales location shall report to the agency and law enforcement, if applicable, any other event occurring during marihuana delivery that violates the marihuana delivery procedure as provided in this rule, including marihuana delivery vehicle accidents and diversion of marihuana product.

R 420.207a Contactless and limited contact transactions.

Rule 7a. (1) A marihuana sales location may designate an area for contactless or limited contact transactions unless prohibited by an ordinance adopted by the municipality where the marihuana sales location is located.

(2) A marihuana sales location may accept online orders for marihuana product and payment for the order that will be picked up at the marihuana sales location.

(3) The designated area for contactless or limited contact transactions must be identified in the marihuana business location plan.

(4) A marihuana sales location operating a contactless or limited contact transaction must have a written standard operating procedure in place and be made available to the agency upon request.

(5) Contactless or limited contact transactions must be completed during normal business hours.

(6) A marihuana sales location using a designated area for contactless or limited contact transactions must have in place an anti-theft policy, procedure, or automatic capability.

(7) The designated area for contactless or limited contact transactions must comply with R 420.209.

(8) The contactless and limited contact transaction must comply with R 420.505 and R 420.506.

(9) Marihuana being transferred during a contactless or limited contact transaction must be in an opaque bag and the contents must not be visible to the general public upon pick up.

R 420.208 Building and fire safety.

Rule 8. (1) An applicant's proposed marihuana business and a licensee's marihuana business are subject to inspection by a state building code official, state fire official, or code enforcement official to confirm that no health or safety concerns are present.

(2) A state building code official, or **his or her** authorized designee, may conduct prelicensure and post-licensure inspections to ensure that applicants and licensees comply with the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531; the skilled trades regulation act, 2016 PA 407, MCL 339.5101 to 339.6133; 1967 PA 227, MCL 408.801 to 408.824; and 1976 PA 333, MCL 338.2151 to 338.2160.

(3) An applicant or licensee shall not operate a marihuana business unless a permanent certificate of occupancy has been issued by the appropriate enforcing agency. A temporary certificate of occupancy may be accepted, at the discretion of the agency. Before a certificate of occupancy is issued, work must be completed in accordance with the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. An applicant or licensee shall comply with both of the following:

(a) An applicant or licensee shall obtain a building permit for any building utilized as a proposed marihuana business or marihuana business as provided in the acts and these rules. The issuance, enforcement, and inspection of building permits under the acts remains with the governmental entity having jurisdiction under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(b) An applicant or licensee shall obtain a building permit for a change of occupancy for an existing building to be utilized as a proposed marihuana business or marihuana business as provided in the acts and these rules.

(4) An applicant or licensee shall not operate a marihuana business unless the proposed marihuana business or marihuana business has passed the prelicensure fire safety inspection by the BFS. The state fire marshal, or **his or her** authorized designee, may conduct prelicensure and post-licensure inspections of a marihuana business. An applicant or licensee shall comply with ~~the~~ all of the following:

(a) A BFS inspection may be conducted at any reasonable time to ensure fire safety compliance ~~as provided in this rule and subrule (5) of this rule~~. A BFS inspection may be annual or biannual and may result in the required installation of fire suppression devices or other means necessary for adequate fire safety pursuant to state standards.

(b) The BFS may require a marihuana business to obtain operational permits, including, but not limited to, any of the following:

(i) Carbon dioxide systems used in beverage dispensing applications, amended for cultivation use and extraction.

(ii) Compressed gases.

(iii) Combustible fibers.

(iv) Flammable and combustible liquids.

(v) Fumigation and insecticidal fogging.

(vi) Hazardous materials.

(vii) High piled storage (high rack system cultivation).

(viii) Liquefied petroleum (LP) gas.

(c) For specific installation or systems, BFS may require marihuana businesses to obtain construction permits, including, but not limited to, any of the following:

(i) Building construction.

(ii) Electrical, mechanical, plumbing, boiler, and elevator.

(iii) Compressed gases.

(iv) Flammable and combustible liquids.

(v) Hazardous materials.

(vi) Liquified petroleum (LP) gas.

(vii) Automatic fire extinguishing/suppression systems.

(viii) Fire alarm and detections systems.

(ix) Related equipment found during fire safety inspections.

(5) The state fire marshal, or ~~his or her~~ **their** authorized designee, may conduct a BFS fire safety inspection of a marihuana business, at any reasonable time to ensure compliance with the ~~national fire protection association (~~NFPA~~) standard~~ 1, 20~~18~~ **21** edition, entitled "~~fire code~~**Fire Code**," which is adopted by reference in R 420.202. A licensee shall comply with the NFPA 1 as adopted and the following additional requirements:

(a) Ductwork must be installed ~~with~~ **in** accordance with the Michigan mechanical code, R 408.30901 to R 408.30998.

(b) Suppression systems outlined in NFPA 1 and the Michigan mechanical code, R 408.30901 to R 408.30998, must be installed if required to meet the suppression needs within a marihuana establishment.

(c) Producers, cultivators, laboratories, ~~and~~ marihuana microbusinesses**, and class A marihuana microbusinesses** shall implement appropriate exhaust ventilation systems to mitigate noxious gasses or other fumes used or created as part of any production process or operations. Exhaust and ventilation equipment must be appropriate for the hazard involved and must comply with NFPA 1 and Michigan mechanical code, R 408.30901 to R 408.30998.

(6) In addition to meeting all the requirements in subrules (1) to (5) of this rule, cultivators, producers, ~~and~~ marihuana microbusinesses**, class A marihuana microbusinesses, and designated consumption establishments** shall also comply with all of the following:

(a) Permit the agency or its authorized agents, or state fire marshal or his or her authorized designee, to enter and inspect a cultivator, producer, ~~and~~ marihuana microbusiness**, class A marihuana microbusiness, and designated consumption establishments** at any reasonable time.

(b) ~~Have conducted, in addition to any inspections required under the acts and these rules,~~ **Have a** fire safety inspection~~s that are required~~ **conducted, in addition to any inspections required under the acts and these rules,** if any of the following occur:

(i) Modifications to the grow areas, rooms and storage, extraction equipment and process rooms, or marihuana-infused product processing equipment within a marihuana business.

(ii) Changes in occupancy.

(iii) Material changes to a new or existing cultivator, producer,~~ or~~ marihuana microbusiness**, class A marihuana microbusiness, or designated consumption** establishment including changes made prelicensure and post-licensure.

(iv) Changes in extraction methods and processing or grow areas and building structures.

(c) Ensure that extractions using compressed gases of varying materials including, but not limited to, butane, propane, and carbon dioxide that are used in multiple processes in cultivation or extraction meet all of the following:

(i) Flammable gases of varying materials may be used in multiple processes in cultivation or extraction and must meet the requirements in NFPA 58 and the international fuel gas code.

(ii) Processes that extract oil from marihuana plants and marihuana products using flammable gas or flammable liquid must have leak or gas detection measures, or both. All extraction equipment used in the marihuana business and equipment used in the detection of flammable or toxic gases, or both, must be approved by the BFS and may require construction permits.

(iii) Marihuana businesses that have exhaust systems must comply with the NFPA 1 and the Michigan mechanical code, R 408.30901 to R 408.30998.

(7) The requirements of this rule do not apply to **a marihuana event organizer applicant or licensee**~~the following license types~~ under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA.**~~:~~

~~(a) A marihuana event organizer applicant or licensee.~~

~~(b) A temporary marihuana event applicant or licensee.~~

(8) An applicant for a temporary marihuana event is subject to review and inspection, if applicable, by BFS, which includes, but is not limited to, all of the following:

(a) A site plan must be provided. BFS shall review the site plan in accordance with the NFPA 1.

(b) The temporary marihuana event location may be subject to a physical inspection, as determined by the agency.

R 420.209 Security measures; required plan; video surveillance system.

Rule 9. (1) An applicant for a marihuana license to operate a proposed marihuana business shall submit a security plan that demonstrates, at a minimum, the ability to meet the requirements of this rule.

(2) A licensee shall ensure that any person at the marihuana business, except for employees of the licensee, are escorted at all times by the licensee or an employee of the licensee when in the limited access areas and restricted access areas at the marihuana business.

(3) A licensee shall securely lock the marihuana business, including interior rooms as required by the agency, windows, and points of entry and exits, with commercial-grade, nonresidential door locks or other electronic or keypad access. Locks on doors that are required for egress must meet the requirements of NFPA 1, local fire codes, and the Michigan building code, R 408.30401 to R 408.30499.

(4) A licensee shall maintain an alarm system at the marihuana business. Upon request, a licensee shall make available to the agency all information related to the alarm system, monitoring, and alarm activity.

(5) A licensee shall have a video surveillance system that, at a minimum, consists of digital or network video recorders, cameras capable of meeting the recording requirements in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

(6) A licensee shall ensure the video surveillance system does all the following:

(a) Records, at a minimum, the following areas:

(i) Any areas where marihuana products are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the marihuana business.

(ii) Limited access areas and security rooms. Transfers between rooms must be recorded.

(iii) Areas storing a surveillance system storage device with not less than 1 camera recording the access points to the secured surveillance recording area.

(iv) The entrances and exits to the building, which must be recorded from both indoor and outdoor vantage points.

(v) The areas of entrance and exit between marihuana businesses at the same location if applicable, including any transfers between marihuana businesses.

(vi) Point of sale areas where marihuana products are sold and displayed for sale.

(vii) ~~Anywhere~~ **Areas where** marihuana or marihuana products are destroyed.

(b) Records ~~at all times~~ images effectively and efficiently of the area under surveillance with a minimum of 720p resolution.

(7) A licensee shall ~~install~~ **ensure that** each camera ~~so that it~~ is permanently mounted and in a fixed location. Each camera must be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the marihuana business and allows for the clear and certain identification of any person, including facial features, and activities, including sales or transfers, in all areas required to be recorded under these rules.

(8) A licensee shall have sufficient lighting to meet the video surveillance system requirements of this rule.

(9) A licensee shall have cameras that record when motion is detected at the marihuana business and record images that clearly and accurately display the time and date.

(10) A licensee shall secure the physical media or storage device on which surveillance recordings are stored in a manner to protect the recording from tampering or theft.

(11) A licensee shall keep surveillance recordings for a minimum of 30 **calendar** days, except in instances of investigation or inspection by the agency in which case the licensee shall retain the recordings until the time as the agency notifies the licensee that the recordings may be destroyed.

(12) Surveillance recordings of the licensee are subject to inspection by the agency and must be kept in a manner that allows the agency to view and obtain copies of the recordings at the marihuana business immediately upon request. The licensee shall also send or otherwise provide copies of the recordings to the agency upon request within the time specified by the agency.

(13) A licensee shall maintain a video surveillance system equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the video surveillance system or video surveillance system storage device.

(14) A licensee shall maintain a log of the recordings, which includes all of the following:

(a) The identi~~ies~~**y** of the employee or employees responsible for monitoring the video surveillance system.

(b) The identity of the employee who removed ~~the~~ **any** recording from the video surveillance system storage device and the time and date removed.

(c) The identity of the employee who destroyed any recording.

(15) The requirements of this rule do not apply to the following license types under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**:

(a) A designated consumption establishment applicant or licensee.

(b) A marihuana event organizer applicant or licensee.

(c) A temporary marihuana event applicant or licensee.

R 420.210 Prohibitions.

Rule 10. (1) Except for designated consumption establishments or temporary marihuana events licensed under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, a marihuana business must not have marihuana products that are not identified and recorded in the statewide monitoring system pursuant to these rules. A licensee shall not transfer or sell a marihuana product that is not identified in the statewide monitoring system pursuant to these rules.

(2) Except for a designated consumption establishment or temporary marihuana event licensed under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, a marihuana business must not have any marihuana product without a batch number or identification tag or label pursuant to these rules. A licensee shall immediately tag, identify, or record as part of a batch in the statewide monitoring system any marihuana product as provided in these rules.

(3) A licensee shall not reassign or subsequently assign a tag to another package that has been associated with a package in the statewide monitoring system.

(4) A licensee shall not allow a physician to conduct a medical examination or issue a medical certification document at a marihuana business for the purpose of obtaining a registry identification card.

(5) A violation of these rules may result in sanctions or fines, or both, in accordance with the acts and these rules.

R 420.211 Marihuana product destruction and waste management.

Rule 11. (1) A marihuana product that is to be destroyed or is considered waste must be rendered into an unusable and unrecognizable form through grinding or another method as determined by the agency

that incorporates the marihuana product waste with **1 or more of** the **following types of** non-consumable solid waste ~~specified in subdivisions (a) to (h) of this subrule~~ so that the resulting mixture is not less than 50% non-marihuana product waste:

(a) Paper waste.

(b) Plastic waste.

(c) Cardboard waste.

(d) Food waste.

(e) Grease or other compostable oil waste.

(f) Fermented organic matter or other compost activators.

(g) Soil.

(h) Other waste approved in writing by the agency ~~that will render the marihuana product waste unusable and unrecognizable~~.

(2) Marihuana plant waste, including roots, stalks, leaves, and stems that have not been processed with a solvent must be rendered into an unusable and unrecognizable form through grinding or another method as determined by the agency that incorporates the marihuana plant waste with **1 or more of the following types of** compostable waste ~~specified in subdivisions (a) to (d) of this subrule~~ so that the resulting mixture is not less than 50% non-marihuana plant waste:

(a) Food waste.

(b) Yard waste.

(c) Vegetable based grease or oils.

(d) Other compostable wastes approved by the agency.

(3) A licensee shall manage all waste that is hazardous waste pursuant to part 111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11153.

(4) A marihuana product rendered unusable and unrecognizable and, therefore, considered waste, and marihuana plant waste must be recorded in the statewide monitoring system.

(5) A licensee shall not sell marihuana waste, marihuana plant waste, or marihuana products that are to be destroyed, or that the agency orders destroyed.

(6) A licensee shall dispose of marihuana product waste and marihuana plant waste in a secured waste receptacle using 1 or more of the following methods that complies with applicable state and local laws and regulations:

(a) A licensed municipal solid waste landfill.

(b) A registered composting facility that has specific approval under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11554, to accept the material.

(c) An anaerobic digester that has specific approval under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11554, to accept the material.

(d) An in-state municipal solid waste or hazardous waste incinerator that has been permitted under part 55 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5501 to 324.5542.

(7) A licensee shall dispose of wastewater generated during the cultivation of marihuana and the processing of marihuana products in a manner that complies with applicable state and local laws and regulations.

(8) A licensee shall maintain accurate and comprehensive records regarding marihuana product waste, and marihuana plant waste that accounts for, reconciles, and evidences all waste activity related to the disposal. The agency may publish guidance on marihuana product waste management.

(9) ~~"~~As used in this rule, “unrecognizable” means marihuana product rendered indistinguishable from any other plant material.

(10) Under the ~~Michigan regulation and taxation of marihuana act~~**MRMTA**, a licensed marihuana microbusiness**, class A marihuana microbusiness,** or marihuana retailer who participates in a temporary marihuana event shall destroy and dispose of any marihuana product that is considered waste,

and any marihuana plant waste, resulting from the licensee's activities during the event according to the applicable provisions in this rule.

(11) Except for the marihuana product waste specified in subrule (10) of this rule, a marihuana event organizer who holds a temporary marihuana event under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** is responsible for destroying and disposing of any marihuana product waste and marihuana plant waste that results from the event. All marihuana waste must be rendered unusable and unrecognizable and disposed of in accordance with this rule and in compliance with all applicable state and local laws and regulations.

(12) Under the ~~Michigan regulation and taxation of marihuana act~~**MRMTA**, a licensed designated consumption establishment shall destroy and dispose of any marihuana product left at the establishment that is considered waste and any marihuana plant waste, in accordance with this rule and in compliance with all applicable state and local laws and regulations. The designated consumption establishment shall maintain a log of any marihuana product that is considered waste, and marihuana plant waste, which must include a description of the waste and the amount and the manner in which it was disposed. The designated consumption establishment licensee shall make the log available to the agency upon request.

(13) Nothing in these rules prohibits a grower, with agency approval, from disposing of marihuana plant waste as compost feedstock or in another organic waste method at their marihuana business in compliance with part 111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11153.

R 420.212 Storage of marihuana product.

Rule 12. (1) All marihuana products must be stored at a marihuana business in a secured limited access area or restricted access area and must be identified and tracked consistently in the statewide monitoring system under these rules.

(2) All containers used to store marihuana products for transfer or sale between marihuana businesses must be clearly marked, labeled, or tagged, if applicable, and enclosed on all sides in secured containers. The secured containers must be latched or locked in a manner to keep all contents secured within. Each secured container must be identified and tracked in accordance with the acts and these rules.

(3) All chemicals or solvents must be stored separately from marihuana products and kept **with a closed lid** in locked storage areas.

(4) Marihuana-infused products, edible marihuana products, or materials used in direct contact with the marihuana-infused products or edible marihuana products, must have separate storage areas from toxic or flammable materials.

(5) Marihuana products not in final packaging must be stored separately from other types of marihuana product in compliance with these rules.

(6) A marihuana sales location shall store all marihuana products for transfer or sale behind a counter or other barrier separated from stock rooms.

(7) A laboratory shall establish an adequate chain of custody and instructions for sample and storage requirements.

(8) A licensee shall ensure that any stock or storage room meets the security requirements of these rules and any other applicable requirements in the acts and these rules.

R 420.213 Marihuana microbusiness **and class A marihuana microbusiness** operation.

Rule 13. As applicable, a marihuana microbusiness **and class A marihuana microbusiness** licensee shall operate the corresponding areas of a marihuana microbusiness **or class A marihuana microbusiness** in compliance with the operation requirements of a marihuana retailer, a marihuana

grower, or a marihuana processor as provided for in ~~the Michigan regulation and taxation of marihuana act~~ **MRTMA** and these rules. A marihuana microbusiness **and class A marihuana microbusiness**, if engaging in delivery, shall operate in accordance with R 420.207.

R 420.214 Transfer of marihuana between equivalent licenses.

Rule 1**4**. (1) ~~To ensure marihuana product is available for customers the~~ **The** agency may authorize licensees who hold equivalent licenses under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** with common ownership to transfer marihuana product between the inventory of their marihuana facility and the inventory of their marihuana establishment.

(2) The following licensees who hold the following equivalent licenses with common ownership may accept the transfer of medical marihuana product under subrule (1) of this rule:

(a) Class A marihuana growers~~;~~**.**

(b) Class B marihuana growers~~;~~**.**

(c) Class C marihuana growers~~;~~**.**

(d) Marihuana processors~~;~~**.**

(e) Marihuana retailers.

(3) The agency shall publish a specific start date, end date, and other requirements for the transfer of marihuana product between equivalent licenses.

(4) A licensee shall transfer marihuana product between equivalent licenses with common ownership in accordance with these rules and any requirements published by the agency.

(5) A licensee shall track the transfer of product between equivalent licenses with common ownership in the statewide monitoring system in accordance with these rules and any requirements published by the agency. Marihuana plants transferred pursuant to this rule count towards the authorized total amount of marihuana plants for a licensed cultivator.

(6) Marihuana product transferred to an equivalent license with common ownership may only be sold or transferred in accordance with the acts and these rules.

(7) A licensee in receipt of transferred marihuana product shall track the marihuana product sold or transferred in accordance with these rules.

R 420.214a Internal analytical testing.

Rule 14a. (1) A licensee may designate a space to perform internal analytical testing on marihuana or a marihuana product grown or produced by the marihuana business, if all of the following are met:

(a) The designated internal analytical testing space is fully partitioned from all other licensed activities at the marihuana business.

(b) The designated internal analytical testing space complies with all of the requirements of R 420.209.

(c) If a licensee with a designated space for internal analytical testing is co-located with another licensee, product from only 1 license may be in the designated space at a time.

(d) Internal analytical testing may be performed only on a product grown, harvested, or processed by licensees under common ownership.

(2) All marihuana or a marihuana product used for internal analytical testing must be identified, recorded, and tracked consistently in the statewide monitoring system.

(3) All marihuana or a marihuana product used for internal analytical testing must have a batch number or an identification tag or label as assigned by the statewide monitoring system affixed to it.

(4) No marihuana or marihuana product may be stored in the internal analytical testing space.
(5) Marihuana or a marihuana product that has undergone internal analytical testing must be disposed of in compliance with R 420.211.
(6) Results of internal analytical testing may not be entered into the statewide monitoring system.
(7) Any batch of marihuana or a marihuana product that has undergone internal analytical testing must undergo full safety compliance testing, with passing test results entered into the statewide monitoring system, prior to being sold or transferred.
(8) Any batch of marihuana or a marihuana product that has undergone internal analytical testing must undergo full safety compliance testing, with failing test results entered into the statewide monitoring system, prior to making a request for remediation.
(9) The results of internal analytical testing may not be used to label a product under R 420.504.

R 420.214b Adverse reactions.
Rule 14b. (1) A licensee shall notify the agency within 1 business day of becoming aware or within 1 business day of when the licensee should have been aware of any adverse reactions to a marihuana product sold or transferred by any licensee.
(2) A licensee shall enter into the statewide monitoring system within 1 business day of becoming aware of or within 1 business day of when the licensee should have been aware of any adverse reactions to a marihuana product sold or transferred by any licensee.

R 420.214c Product returns.
Rule 14c. (1) A marihuana sales location may accept the return of marihuana product that is reported to have caused an adverse reaction or is determined to be defective.
(2) A marihuana sales location must have a written policy for the return of marihuana product that contains, at a minimum, the following:
(a) Product returned to a marihuana sales location must be tracked consistently in the statewide monitoring system as waste in compliance with R 420.211.
(b) Product returned to a marihuana sales location must be destroyed in compliance with R 420.211 within 90 calendar days of when the marihuana business became aware of the fact that the product must be destroyed.
(c) Product returned to a marihuana sales location cannot be re-sold, re-packaged, or otherwise transferred to a customer or another marihuana business.
(d) Product returned to a marihuana sales location shall be returned by the customer who purchased the product.
(e) Product returned to a marihuana sales location is prohibited from being returned to the marihuana sales location by way of a delivery driver.
(f) A marihuana sales location that does not comply with these rules may be subject to disciplinary proceedings.
(g) A marihuana retailer may return a marihuana product that is past its expiration date to the marihuana processor who produced the marihuana product for destruction instead of destroying the marihuana product.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Marihuana Regulatory Agency
Administrative Rules for Marihuana Operations
Rule Set 2020-122 LR

NOTICE OF PUBLIC HEARING
Monday, September 27, 2021
09:30 AM

Williams Building, 1st Floor Auditorium
525 West Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Marihuana Operations rule set.

The rule changes are designed to create greater consistency in the operation of marihuana businesses and to create cohesion between operations of medical and adult-use marihuana businesses. The rule changes are also designed to allow for limited contact and/or contactless transactions.

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001). The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: MRA-Legal@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/27/2021 at 05:00PM.

Marijuana Regulatory Agency- ATTN: Legal Section

Email: MRA-Legal@michigan.gov

PO BOX 30205 or 2407 N Grand River Ave Lansing MI, 48906

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-284-8584 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA SALE OR TRANSFER

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a~~(6)~~**(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 mari~~h~~**j**uana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.501, R 420.502, R 420.503, R 420.504, R 420.505, R 420.506, R 420.507, R 420.508, R 420.509, and R 420.510 of the Michigan Administrative Code are amended, and R 420.503a is added, as follows:

R 420.501 Definitions.

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

(a) “Acts” refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967**,** when applicable.

(b) “Administrative hold” means a status given to marihuana product by the agency during an investigation into alleged violations of the acts and these rules. This status includes no sale or transfer of the marihuana product until the hold is lifted.

(c) “Agency” means the marijuana regulatory agency.

~~(d) “Batch” means all marihuana product of the same variety that has been processed together and exposed to substantially similar conditions throughout processing.~~

(~~e~~**d**) “Cultivator” means a grower under the medical marihuana facilities licensing act or a marihuana grower under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~f~~**e**) “Designated consumption establishment” means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.

(~~g~~**f**) “Employee” means a person performing work or service for compensation. “Employee” does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana business.

(g) “Final form” means the form a marihuana product is in when it is available for sale by a marihuana sales location. For marihuana products intended for inhalation, final form means the marihuana concentrate in an e-cigarette or a vaping device.

(h)"Immature plant” means a nonflowering marihuana plant that is no taller than 8 inches from the growing or cultivating medium and no wider than 8 inches produced from a cutting, clipping, tissue culture, or seedling that is in a growing or cultivating medium or in a growing or cultivating container.

(i) "Internal product sample" means a sample of **marijuana** products ~~possessed by~~ **that** a cultivator, producer, or marihuana sales location ~~that is provided~~ **transfers** directly to an employee for the purpose of ensuring product quality and making determinations about whether to sell **or transfer** the marihuana product.

(j) "Laboratory" refers to a safety compliance facility under the medical marihuana facilities licensing act or a marihuana safety compliance facility under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(k) "Marihuana business" refers to a marihuana facility under the medical marihuana facilities licensing act or a marihuana establishment under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(l) "Marihuana customer" refers to a registered qualifying patient or registered primary caregiver under the medical marihuana facilities licensing act, or an individual 21 years of age or older under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(m) "Marihuana equivalent" means usable marihuana equivalent as that term is defined in section 3(o) of the Michigan ~~m~~**M**edical ~~m~~**M**arihuana ~~a~~**A**ct, MCL 333.26424**3**.

(n) "Marihuana establishment" means a location at which a licensee is licensed to operate a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, **class A marihuana microbusiness,** marihuana retailer, marihuana secure transporter, or any other type of marihuana related business licensed to operate by the agency under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana act.

(o) "Marihuana facility" means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(p) "Marihuana license" means a state operating license issued under the medical marihuana facilities licensing act, or a state license issued under the Michigan Regulation and Taxation of Marihuana Act, or both.

(~~p~~**q**) "Marihuana product" means marihuana or a marihuana-infused product, or both, as those terms are defined in the acts unless otherwise provided for in these rules.

(~~q~~**r**) "Marihuana sales location" refers to a provisioning center under the medical marihuana facilities licensing act, or a marihuana retailer**,** ~~or~~ marihuana microbusiness**, or class A marihuana microbusiness** under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~r~~**s**) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(~~s~~**t**) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(~~t~~**u**) "Michigan ~~m~~**M**edical ~~m~~**M**arihuana ~~a~~**A**ct" means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(~~u~~**v**) "Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(~~v~~**w**) "Package tag" means an RFID tag supplied through the statewide monitoring system for the purpose of identifying a package containing a marihuana product.

(~~w~~**x**) "Plant" means that term as defined in section 102 of the MMFLA, MCL 333.27102, unless otherwise defined in these rules.

(~~x~~**y**) "Producer" means a processor under the medical marihuana facilities licensing act or a marihuana processor under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~y~~**z**) "These rules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(~~z~~**aa**) "Tag" or "RFID tag" means the unique identification number or Radio Frequency Identification (RFID) issued to a licensee by the ~~agency~~ **statewide monitoring system** for tracking, identifying, and verifying marihuana plants, marihuana products, and packages of marihuana products in the statewide monitoring system.

(~~aa~~**bb**) "Trade sample" means a sample of marihuana products ~~provided to licensees by~~ **that** a cultivator or producer **provides to licensees** for the purpose of **the licensee** determining whether to purchase the marihuana product.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

R 420.502 Tracking identification; labeling requirements; general.

Rule 2. (1) ~~All~~ **Each** marihuana product~~s~~ sold or transferred ~~between marihuana businesses~~ must **be clearly labeled with** ~~have~~ the tracking identification numbers ~~that are~~ assigned by the statewide monitoring system affixed, tagged, or labeled and recorded, and any other information required by the agency, the acts, and these rules.

(2) ~~To ensure access to safe sources of marihuana products, the agency, if alerted in the statewide monitoring system,~~ **The agency** may place an administrative hold on marihuana products, recall marihuana products, issue safety warnings, and require a marihuana business to provide **material** information ~~material~~ or notifications to a marihuana customer at the point of sale.

(3) A marihuana business shall not sell or transfer **a** marihuana product that has been placed on administrative hold, recalled, or ordered **or otherwise required** to be destroyed.

(4) A marihuana business shall not sell or a transfer marihuana product after the printed expiration date on the package. An expired marihuana product must be destroyed.

(4**5**) **Prior to selling or transferring a marihuana product, a**~~A~~ marihuana business must verify in the statewide monitoring system~~, prior to any sale or transfer~~, that the marihuana product has not been placed on an administrative hold, recalled, or ordered to be destroyed.

(6) A marihuana business shall destroy all product required to be destroyed for any reason within 90 calendar days of when the marihuana business became aware of the fact that the product must be destroyed.

R 420.503 Marihuana plant; tracking requirements**.**

Rule 3. Before a marihuana plant is sold or transferred, a package tag must be affixed to the plant or plant container and enclosed ~~with~~ **in** a tamper proof seal that includes all of the following information:

(a) Business or trade name, licensee number, and the RFID package tag assigned by the statewide monitoring system that is visible.

(b) Name of the strain.

(c) Date of harvest~~, if applicable~~.

(d) Seed strain~~, if applicable~~.

(e) Universal symbol~~, if applicable~~.

R 420.503a Sale or transfer of immature plant batches from a cultivator to a marihuana sales location.

Rule 3a. (1) A cultivator approved by the agency to sell or transfer immature plant batches to a marihuana sales location is not required to transfer the immature plant batches using a marihuana transporter.

(2) Immature plant batches transferred from a cultivator to a marihuana sales location are not required to undergo the testing required by R 420.304 and R 420.305.

R 420.504 Marihuana product sale or transfer; labeling and packaging requirements.

Rule 4. (1) Before a marihuana product is sold or transferred to or by a marihuana sales location, the container, bag, or product holding the marihuana product must be sealed and labeled with all of the following information:

(a) The name and the state license number of the producer, including business or trade name, and tag and source number as assigned by the statewide monitoring system.

(b)The name and the marihuana license number of the licensee that packaged the product, including business or trade name, if different from the producer of the marihuana product.

(c) The unique identification number for the package or the harvest, if applicable.

(d) Date of harvest, if applicable.

(e) Name of strain, if applicable.

(f) Net weight in ~~United States customary and~~ metric units.

(g) Concentration of Tetrahydrocannabinol (THC) and cannabidiol (CBD) as reported by the laboratory after potency testing along with a statement that the actual value m**a**y vary from the reported value by 10%.

(h) Activation time expressed in words or through a pictogram.

(i) Name of the laboratory that performed ~~any~~ **passing compliance** ~~test~~ **testing on the product in final form** and any test analysis date.

(j) The universal symbol for marihuana product published on the agency's website.

(k) A warning that ~~states~~ **includes** all the following **statements**:

(i) "It is illegal to drive a motor vehicle while under the influence of marihuana."

(ii) "National Poison Control Center 1-800-222-1222."

(iii) For products being sold by a ~~licensee under the medical marihuana facilities licensing act~~ **marihuana facility** that exceed the maximum THC levels allowed for products sold under MRTMA, "For use by registered qualifying patients only. Keep out of reach of children."

(iv) For all other products**,** ~~being sold by a licensee~~ "For use by individuals 21 years of age or older or registered qualifying patients only. Keep out of reach of children."

(v) In clearly legible type and surrounded by a continuous heavy line: "WARNING: USE BY PREGNANT OR BREASTFEEDING WOMEN, OR BY WOMEN PLANNING TO BECOME PREGNANT, MAY RESULT IN FETAL INJURY, PRETERM BIRTH, LOW BIRTH WEIGHT, OR DEVELOPMENTAL PROBLEMS FOR THE CHILD."

(2) An edible marihuana product sold by a marihuana sales location ~~shall~~ **must** comply with R 420.403(7) **to (10)**.

(3) An infused marihuana product sold by a marihuana sales location must comply with R 420.403(7).

(4) Before a marihuana product is sold or transferred by a marihuana sales location, the sales location shall make available to each customer a pamphlet measuring at least 3.5 inches by 5 inches, that includes safety information related to marihuana use by minors and the poison control hotline number. The pamphlet must substantially conform to the design published on the agency's website.

R 420.505 Sale or transfer; marihuana sales location.

Rule 5. (1) A marihuana sales location **shall verify all of the following prior to** ~~may~~ sell**ing** or transfer**ing** marihuana or a marihuana product to a marihuana customer ~~if all of the following are met:~~

(a) The marihuana product has not been placed on administrative hold, recalled, or ordered **or otherwise required** to be destroyed.

(b) The marihuana product is not past its expiration date.

(~~b~~**c**) The ~~licensee confirms that the~~ marihuana customer presented his or her valid driver's license or government-issued identification card that bears a photographic image of the qualifying patient or primary caregiver, under the ~~medical marihuana facilities licensing act~~**MMFLA**; or bears a photographic image and proof that the individual is 21 years of age or older, under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**.

(~~c~~**d**) The ~~licensee determines the~~ completed transfer or sale will not exceed the purchasing limit prescribed in R 420.506.

(~~d~~**e**) ~~Any~~ **The** marihuana product ~~that is sold or transferred under this rule~~ has been tested in accordance with R 420.305**.**

(f) The marihuana product ~~and~~ is labeled and packaged for sale or transfer in accordance with R 420.504.

(~~e~~**g**) ~~A licensee selling marihuana product pursuant to the medical marihuana facilities licensing act verifies with the statewide monitoring system that the~~ **The** registered qualifying patient or registered primary caregiver holds a valid, current, unexpired, and unrevoked registry identification card.

(2) A marihuana sales location shall enter all transactions, current inventory, and other information required by these rules in the statewide monitoring system ~~in compliance with the acts and these rules~~. The marihuana sales location shall maintain appropriate records of all sales or transfers under the acts and these rules and make them available to the agency upon request.

(3) A provisioning center licensed under the ~~medical marihuana facilities licensing act~~ **MMFLA shall verify all of the following prior to** ~~may~~ sell**ing** or transfer**ing** a marihuana product to a visiting qualifying patient ~~if all of the following are met~~:

(a) The ~~licensee verifies that the~~ visiting qualifying patient has a valid unexpired medical marihuana registry card, or its equivalent issued in another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana.

(b) The ~~licensee confirms that the~~ visiting qualifying patient presented his or her valid driver license or government-issued identification card that bears a photographic image of the visiting qualifying patient.

(c) The ~~licensee determines, if completed, that any~~ transfer or sale**, if completed,** will not exceed the purchasing limit prescribed in R 420.506.

(d) ~~Any~~ **The** marihuana product that is sold or transferred under this rule has been tested in accordance with R 420.305.

(e) The marihuana product is labeled and packaged for sale or transfer in accordance with R 420.50**4**.

(~~e~~**f**) As used in this subrule, "visiting qualifying patient" means that term as defined in section 3 of the Michigan ~~m~~**M**edical ~~m~~**M**arihuana ~~a~~**A**ct, MCL 333.26423.

(4) A marihuana retailer**,** ~~or~~ **marihuana** microbusiness**, or class A marihuana microbusiness** licensed under the ~~Michigan regulation and taxation of marihuana ac~~t **MRTMA** is not required to retain information from customers other than the following:

(a) Payment method.

(b) Amount of payment.

(c) Time of sale.

(d) Product quantity.

(e) Other product descriptors.

R 420.506 Purchasing limits; transactions; marihuana sales location**.**

Rule 6. (1) Before the sale or transfer of marihuana product to a registered qualifying patient or registered primary caregiver, under the ~~medical marihuana facilities licensing act~~**MMFLA**, the licensee shall verify in the statewide monitoring system that the sale or transfer does not exceed either of the daily purchasing limits as follows:

(a) For a registered qualifying patient, an amount of marihuana product that does not, in total, exceed 2.5 ounces of marihuana or marihuana equivalent per day.

(b) For a registered primary caregiver, an amount of marihuana product that does not, in total, exceed 2.5 ounces of marihuana or marihuana equivalent per day for each registered qualifying patient with whom he or she is connected through the agency's registration process.

(2) Before the sale or transfer of marihuana product to a registered qualifying patient or registered primary caregiver, under the ~~medical marihuana facilities licensing act~~**MMFLA**, the licensee shall verify in the statewide monitoring system that the sale or transfer does not exceed the monthly purchasing limit of 10 ounces of marihuana product per month to a qualifying patient, either directly or through the qualifying patient's registered primary caregiver.

(3) A marihuana retailer, under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**, is prohibited from making a sale or transferring marihuana to an adult 21 years of age or older in a single transaction that exceeds 2.5 ounces**.**~~, except that n~~**N**ot more than 15 grams of marihuana may be in the form of marihuana concentrate.

(4) A marihuana sales location may sell no more than 3 immature plants to a marihuana customer per transaction.

R 420.507 Marketing and advertising restrictions.

Rule 7. (1) A marihuana product may only be advertised or marketed in ~~a way that complies~~ **compliance** with all **applicable** municipal ordinances, state law, and these rules that regulate signs and advertising.

(2) **A licensee may not advertise a marihuana** ~~Marihuana~~ product ~~must not be advertised~~ in a way that is deceptive, false, or misleading**, or**~~. A person shall not~~ make any deceptive, false, or misleading assertions or statements on any marihuana product, sign, or document provided.

(3) Marihuana product marketing, advertising, packaging, and labeling must not contain any claim related to health or health benefits, unless a qualified health claim has received and complies with a Letter of Enforcement Discretion issued by the United States Food and Drug Administration (FDA), or the health claim has been approved under the significant scientific agreement standard by the FDA.

(4) **A marihuana** product must not be advertised or marketed to members of the public unless the person advertising the product has reliable evidence that no more than 30**%** ~~percent~~ of the audience or readership for the television program, radio program, internet website, or print publication, is reasonably expected to be under the age listed in subrules (7) and (8) of this rule. Any marihuana product advertised or marketed ~~under this rule~~ must include the warnings listed in R 420.504(1)(k).

(5) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property, including, but not limited to, brands and recipes, is responsible for any marketing or advertising undertaken by either party to the agreement.

(6) A marihuana product **marketed or advertised** under the ~~medical marihuana facilities licensing act~~ **MMFLA** must be marketed or advertised as "medical marihuana" for use only by registered qualifying patients or registered primary caregivers~~.~~

(7) A marihuana product **marketed or advertised** under the ~~medical marihuana facilities licensing act~~ **MMFLA** must not be marketed or advertised to minors aged 17 years or younger. Sponsorships targeting individuals aged 17 years or younger are prohibited.

(8) A marihuana product **marketed or advertised** under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** must be marketed or advertised as "marihuana" for use only by individuals 21 years of age or older.

(9) A marihuana product **marketed or advertised** under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** must not be marketed or advertised to individuals under 21 years of age. Sponsorships targeting individuals under 21 years of age are prohibited.

R 420.508 Trade samples.

Rule 8. (1) The following licensees may provide trade samples:

(a) A cultivator may ~~provide~~ **transfer trade** samples of marihuana products to a producer or a marihuana sales location.

(b) A producer may ~~provide~~ **transfer trade** samples of marihuana products to a producer or marihuana sales location.

(2) The transfer of trade samples does not require the use of a secure transporter under the MMFLA or a marihuana secure transporter under the MRTMA if the amount of trade samples does not exceed **either of the following**:

(a) 15 ounces of marihuana.

(b) 60 grams of marihuana concentrate.

(3) Trade samples must not be sold **or transferred by the receiving producer or marihuana sales location** to ~~another licensee~~ **another producer or marihuana sales location** or **to a** consumer.

(4) Any **trade** sample ~~provided~~ **transferred** to ~~another licensee~~ **a producer or marihuana sales location** or received by a ~~licensee~~ **producer or a marihuana sales location** must be recorded in the statewide monitoring system.

(5) Any trade samples ~~provided~~ **transferred** under this rule must be tested in accordance with these rules prior to being transferred to ~~another licensee~~ **a producer or marihuana sales location**.

(6) A ~~licensee~~ **cultivator and producer** ~~is~~ **are** limited to ~~providing~~ **transferring** the following aggregate amounts of trade samples to ~~another licensee~~ **a producer or a marihuana sales location** in a 30-day period:

(a) 2.5 ounces of marihuana.

(b) 15 grams of marihuana concentrate.

(7) ~~Any~~ **In addition to the information required in R 420.403, a trade** sample ~~given to a licensee~~ must have a label containing the ~~following in a legible font:~~

~~(a) A~~ statement ~~that reads~~: "TRADE SAMPLE NOT FOR RESALE" in bold, capital letters attached to the trade sample.

~~(b) All other information required in R 420.403.~~

(8) A ~~licensee~~ **producer or marihuana sales location that** ~~who~~ receives a trade sample may distribute the trade sample to its employees to determine whether to purchase the marihuana product**. A producer or marihuana sales location is limited to transferring a total of 1 ounce of marihuana, a total of 2 grams of marihuana concentrate, and marihuana infused products with a total THC content of 2000 mgs of internal product samples to each of its employees in a 30-day period.**

R 420.509 Internal product samples.

Rule 9. (1) A cultivator, producer, marihuana sales location, ~~or~~ marihuana microbusiness**, or class A marihuana microbusiness** may ~~provide~~ **transfer** internal product samples directly to its employees for the purpose of ensuring product quality and making determinations about whether to sell the marihuana product.

(2) Internal product samples may not be transferred or sold to another licensee or consumer.

(3) **A licensee shall record the transfer of an** ~~Any~~ internal product sample ~~provided under this rule must be recorded~~ in the statewide monitoring system.

(4) A cultivator is limited to ~~providing~~ **transferring** a total of 1 ounce of internal product samples to each of ~~their~~ **its** employees in a 30-day period.

(5) A producer is limited to ~~providing~~ **transferring** a total of 2 grams of marihuana concentrate and marihuana infused products with a total THC content of 2000 mgs of internal product samples to each of ~~their~~**its** employees in a 30-day period.

(6) A marihuana sales location, marihuana microbusiness, and class A marihuana microbusiness are limited to transferring a total of 1 ounce of marihuana, a total of 2 grams of marihuana concentrate, and marihuana infused products with a total THC content of 2000 mgs of internal product samples to each of its employees in a 30-day period.

(7) A licensee shall have internal product samples tested pursuant to R 420.304 and R 420.305 before transfer to its employees.

R 420.510 Product development.

Rule 10. (1) A cultivator or producer may engage in product development. No other marihuana business may engage in product development.

(2) A cultivator may designate marihuana plants for product development. Any marihuana plants designated for product development count ~~towards~~ **toward** the authorized total amount of marihuana plants for a cultivator and must be tracked in the statewide monitoring system.

(3) A producer may designate marihuana concentrate for product development. Any marihuana concentrates designated for product development must be tracked in the statewide monitoring system.

(4) A licensee engaged in product development may submit ~~their~~ **his or her** product development inventory to a laboratory for research and development testing in accordance with these rules.

(5) Disciplinary action ~~shall~~ **may** not be taken against a licensee for failed research and development test results on ~~their~~ **his or her** product development inventory.

(6) A ~~licensee authorized under this rule to engage in product development~~ **cultivator or producer** may transfer its product development inventory to its employees for consumption. A licensee shall have product development inventory tested pursuant to R 420.30**4**~~5~~ and R 420.30~~5~~**6** before transfer**ring it** to ~~its~~ **an** employee~~s. The licensee shall not transfer or sell product development inventory to a marihuana sales location until after test results in the statewide monitoring system indicate a passed test.~~ Any product development inventory that is not properly transferred to an employee must be destroyed pursuant to these rules. **All product development inventory transferred to an employee counts toward the limitations in R 420.509(4) and R 420.509(5), as applicable.**

(7) A licensee shall record the transfer of product development inventory in the statewide monitoring system.

(~~7~~**8**) ~~The inventory designated for p~~**P**roduct development **inventory** may not be consumed or used on the premises of the licensee.

(~~8~~**9**) A licensee shall not transfer or sell inventory designated for product development to a marihuana sales location, or to a marihuana customer, until after **the inventory is tested pursuant to R 420.304 and R 420.305, and the** test results in the statewide monitoring system indicate a passed **full compliance** test**ing**.

(10) Any product development inventory that is transferred to a marihuana sales location must be labeled in accordance with R 420.504.

(9**11**) A ~~licensee authorized under this rule to engage in product development~~ **cultivator or producer** may also engage in a research study with a**n** ~~college, university, or hospital approved by the United States Food and Drug Administration and sponsored by a non-profit organization or researcher within an academic institution researching~~ **entity duly authorized by the Drug Enforcement Administration to handle** marihuana. A licensee's participation in a research study must be approved by the agency.

(1~~0~~**2**) A licensee participating in an approved research study shall track all marihuana product involved in the research study in the statewide monitoring system.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Marihuana Regulatory Agency
Administrative Rules for Marihuana Sale or Transfer
Rule Set 2020-123 LR

NOTICE OF PUBLIC HEARING
Monday, September 27, 2021
09:30 AM

Williams Building, 1st Floor Auditorium
525 West Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Marihuana Sale or Transfer rule set.

The rule changes are designed to create greater consistency in the marketing and sale of marihuana products and include provisions required by updates to the MMFLA and MRTMA. The rule changes are also designed to update requirements for trade samples, internal samples, and to participate in approved research and development programs.

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001). The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: MRA-Legal@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/27/2021 at 05:00PM.

Marijuana Regulatory Agency- ATTN: Legal Section

Email: MRA-Legal@michigan.gov

PO BOX 30205 or 2407 N Grand River Ave Lansing MI, 48906

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-284-8584 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA SAMPLING AND TESTING

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a~~(6)~~**(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 ~~marihuana~~ **marijuana** regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.301, R 420.302, R 420.303, R 420.304, R 420.305, R 420.306, and R 420.307 of the Michigan Administrative Code are amended, and R 420.303a, R 420.305a, and R 420.305b are added, as follows:

R 420.301 Definitions.

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

(a) "Action limit" means the maximum permissible level of a contaminant in marihuana product allowable by the agency.

(b) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(c) "Agency" means the marijuana regulatory agency.

(d) "Batch" means all marihuana product of the same variety that has been processed together and exposed to substantially similar conditions throughout processing.

~~(e) "Bureau of fire services" or "BFS" means the bureau of fire services in the department of licensing and regulatory affairs.~~

(~~f~~**e**) "Cultivator" refers to a grower under the medical marihuana facilities licensing act or a marihuana grower under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(f) "Employee" means, except as otherwise provided in these rules, a person performing work or service for compensation. "Employee" does not include an individual providing trade or professional services who is not normally engaged in the operation of a marihuana establishment.

(g) "Final form" means the form a marihuana product is in when it is available for sale by a marihuana sales location. For marihuana products intended for inhalation, **"final form" means** the marihuana concentrate in ~~the~~ **an** e-cigarette or **a** vaping device.

(h) "Good agricultural collection practices" or "GACP-GMP" means the World Health ~~Organizations~~ **Organization's** or **the** American Herbal Products ~~Associations~~ **Association's** guidelines regarding the safety, efficacy**,** and sustainability of medicinal plant material being used in herbal medicines.

(i) "Good manufacturing practices" or "GMP" means the Food and Drug Administration's formal regulations regarding the design, monitoring, control, and maintenance of manufacturing processes and

facilities. They are designed to ensure that products manufactured are to specific requirements including identity, strength, quality, and purity.

(j) “Harvest batch” means a designated quantity of harvested marihuana, all of which is identical in strain and has been grown and harvested together and exposed to substantially similar conditions throughout cultivation.

(k) "Immature plant” means a nonflowering marihuana plant that is no taller than 8 inches from the growing or cultivating medium and no wider than 8 inches produced from a cutting, clipping, tissue culture, or seedling that is in a growing or cultivating medium or in a growing or cultivating container.

(l) “Inactive ingredients” means binding materials, dyes, preservatives, flavoring agents, and any other ingredient that is not derived from the plant *Cannabis ~~S~~sativa L*.

(m) “Laboratory” refers to both a safety compliance facility under the medical marihuana facilities licensing act and a marihuana safety compliance facility under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(n) “Limit of quantitation” or “LOQ” means the minimum concentration or mass of an analyte in a given matrix that can be reported as a quantitative result.

(o) “Marihuana business” refers to a marihuana facility under the medical marihuana facilities licensing act or a marihuana establishment under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(p) “Marihuana establishment” means a location at which a licensee is licensed to operate a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, **class A marihuana microbusiness,** marihuana retailer, marihuana secure transporter, marihuana designated consumption establishment, or any other type of marihuana-related business licensed to operate by the agency under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(q) “Marihuana facility” means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(r) “Marihuana product” means marihuana or a marihuana-infused product, or both, as those terms are defined in the act unless otherwise provided for in these rules.

(s) “Marihuana sales location” refers to a provisioning center under the medical marihuana facilities licensing act or a marihuana retailer under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(t) “Marihuana tracking act” means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(u) “Medical marihuana facilities licensing act” or “MMFLA” means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(v) “Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct” or “MRTMA” means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(w) “Package tag” means an RFID tag supplied through the statewide monitoring system for the purpose of identifying a package containing a marihuana product.

(x) “Plant tag” means an RFID tag supplied through the statewide monitoring system for the purpose of identifying an individual marihuana plant.

(y) “Pre-test~~ing~~” means **to** perform~~ing~~ full compliance testing on samples, ~~then not~~ **without** reporting the results to the agency, and reporting results of subsequent testing to the agency.

(z) “Proficiency test~~ing~~” **means a test that** determines the performance of individual laboratories for specific tests or measurements and is used to monitor laboratories’ ~~continuing~~ performance.

(aa) “Producer” refers to both a processor under the medical marihuana facilities licensing act and a marihuana processor under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(bb) "These rules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(cc) "Tag" or "RFID tag" means the unique identification number or Radio Frequency Identification (RFID) issued to a licensee by the ~~agency~~ **statewide monitoring system** for tracking, identifying, and verifying marihuana plants, marihuana products, and packages of marihuana product in the statewide monitoring system.

(dd) "Target analyte" means a non-marihuana inactive ingredient designated for analysis.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

R 420.302 Adoption by reference.

Rule 2. (1) The following codes, standards, or regulations of nationally recognized organizations or associations are adopted by reference in these rules:

(a) AOAC International Official Methods of Analysis, 21st edition. Copies of the adopted provisions are available for inspection and distribution from **the Association of Official Analytical Collaboration (AOAC) International** ~~AOAC International~~, 2275 Research Boulevard, Suite 300, Rockville, Maryland, 20850, telephone number 1-800-379-2622, for the price of $870.00.

(b) National fire protection association (NFPA) standard 1, 20~~18~~**21** edition, entitled "Fire Code**,**" is adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02169, telephone number 1-800-344-3555, for the price of $~~106.00~~**114.50**.

(c) The International Organization for Standardization (ISO), ISO 22000 / ISO/TS 22002-1:2009**,** ~~-~~ ~~f~~**F**ood ~~s~~**S**afety ~~b~~**B**undle, available for purchase at: https://webstore.ansi.org/Standards/ISO/ISO22000TS22002FoodSafety, for the price of $275.00.

(d) International Organization for Standardization (ISO), ISO/IEC 17025:2017, ~~g~~**G**eneral ~~r~~**R**equirements for the ~~c~~**C**ompetence of ~~t~~**T**esting and ~~c~~**C**alibration ~~l~~**L**aboratories**,** available at: https://webstore.ansi.org/RecordDetail.aspx?sku=ISO%2fIEC+17025%3a2017, for the price of $162.00.

(2) The standards adopted in subrule (1)(a) to (d) of this rule are available for inspection and distribution at the agency, located at 2407 North Grand River Avenue, Lansing, ~~MI~~**Michigan**, 48906. Copies of these standards may be obtained from the agency at the cost indicated in subrule (1)(a) to (d) of this rule, plus shipping and handling.

R 420.303 Batch; identification and testing.

Rule 3. (1) A cultivator shall uniquely identify each immature plant batch with a single ~~plant tag~~ **batch name** and record the information in the statewide monitoring system. Each immature plant batch must consist of no more than 100 immature plants.

(2) A cultivator shall tag each individual plant that is greater than 8 inches in height from the growing or cultivating medium or more than 8 inches in width with an individual plant tag and record the identification information in the statewide monitoring system.

(3) A cultivator shall separate the plants as the plants go through different growth stages and ensure that the plant tag is always identified with the plant throughout the ~~growth span~~ **growing cycle** so that all plants can be easily identified and inspected. A cultivator shall ensure that identification information is recorded in the statewide monitoring system in accordance with the acts, the marihuana tracking act, and these rules.

(4) ~~After~~ **A cultivator shall immediately destroy the individual plant tag once** a tagged plant is harvested~~, it~~ **and** is part of a harvest batch so that a sample of the harvest batch can be tested by a licensed laboratory as provided in R 420.304 and R 420.305. A cultivator shall **separate the harvest batch by product type and** quarantine ~~a harvest batch~~ **the harvested batch** from **all** other ~~plants or batches~~ **marihuana and marihuana products when the marihuana batch has** ~~that have~~ test results pending. A harvest batch must be easily distinguishable from other harvest batches until the batch is broken down into packages. **A cultivator may not combine harvest batches.**

(5) Before the **cultivator transfers or sells the** marihuana product ~~leaves the cultivator~~, except as provided in subrule (6) of this rule, a sample of the harvest batch must be tested **for all required safety tests** by a licensed laboratory as provided in R 420.304 and R 420.305. All test results must indicate passed in the statewide monitoring system before the marihuana is packaged **for sale**. A marihuana product from harvest batches ~~must~~**may** not be transferred or sold until tested, packaged, and tagged as required under subrule (4) of this rule. A marihuana product from a harvest batch that fails safety testing may only be sold or transferred under the remediation protocol as provided in R 420.306.

(6) A cultivator may transfer or sell **fresh frozen** marihuana to a producer without first being tested by a laboratory in order to produce ~~fresh frozen~~ **live resin,** or if the marihuana product will be ~~refined to a concentrate~~ **extracted**, with agency approval. **A cultivator may not transfer or sell marihuana to a producer under this rule if the package contains more than 1 harvest batch. This does not prohibit a cultivator from transferring multiple harvest batches for extraction.** After the producer has ~~processed~~ **extracted** the material, the producer shall have the sample tested **for all required safety tests** pursuant to R 420.304 and R 420.305. **A producer that received a package under this rule that has not been processed may transfer that package to another producer without having the package first tested by a laboratory to produce live resin or concentrate with agency approval.** The agency may publish guidance **f**or fresh frozen and concentrate production, transfer, and sale.

(7) After test results ~~show~~ **indicate** ~~a~~ passed test **for all required safety tests** and the harvest batch is packaged, ~~the cultivator shall destroy the individual plant tags. E~~**e**ach package must have a package tag attached. A cultivator shall ensure this information is placed in the statewide monitoring system in accordance with the acts, the marihuana tracking act, and these rules.

(8) A cultivator shall not transfer or sell any marihuana product that ~~has not been packaged with~~ **does not have** a package tag attached and **is not** recorded in the statewide monitoring system in accordance with the acts, the marihuana tracking act, and these rules.

~~(9) After a producer receives or purchases a package in the statewide monitoring system, and the producer proceeds to process the marihuana product in accordance with the scope of a producer license, the acts, and these rules, the producer shall give the marihuana product a new package tag anytime the marihuana product changes form or is incorporated into something else.~~

~~(10) After a package is created by a producer of the marihuana product in its final form, the producer shall have the sample tested pursuant to R 420.304 and R 420.305. The producer shall not transfer or sell a marihuana product to a marihuana sales location until after test results entered into the statewide monitoring system indicate a passed test. Nothing in this subsection prohibits a producer from transferring or selling a package in accordance with the remediation protocol provided by the agency and these rules.~~

~~(11) A marihuana sales location may sell or transfer marihuana product only to a marihuana customer under both of the following conditions:~~

~~(a) The marihuana product has received passing test results in the statewide monitoring system.~~

~~(b) The marihuana product bears the label required for retail sale, under the acts and these rules.~~

R 420.303a Producer and sales location packaging and testing requirements.

Rule 3a. (1) A producer shall give a marihuana product a new package tag anytime the marihuana product changes form or is incorporated into a different product.

(2) A producer of a marihuana product in its final form shall have the sample tested pursuant to R 420.304 and R 420.305. The producer shall quarantine products from all other products when the product has test results pending. The producer shall not transfer or sell a marihuana product to a marihuana sales location until after test results entered into the statewide monitoring system indicate a passed result for all required safety tests. Nothing in this subsection prohibits a producer from transferring or selling a package in accordance with the remediation protocol provided by the agency and these rules.

(3) A marihuana sales location may sell or transfer a marihuana product only to a marihuana customer under both of the following conditions:

(a) The marihuana product has received passing results for all required safety tests in the statewide monitoring system.

(b) The marihuana product bears the label required under the acts and these rules for retail sale.

R. 420.304 Sampling; testing.

Rule 4. (1) A laboratory shall test samples as provided in the acts and these rules.

(2) A laboratory shall collect samples of a marihuana product from another marihuana business, and that marihuana business shall ~~allow the collection of samples for testing, according to~~ **not interfere or prevent the laboratory from complying with all of** the following requirements:

(a) The laboratory shall physically **collect the** sample the marihuana product from another marihuana business to be tested at the laboratory. A laboratory shall comply with all the following:

(i) The laboratory shall ensure that samples of the marihuana product are identified in the statewide monitoring system and placed in secured, sealed containers that bear the labeling required under these rules.

(ii) The route plan and manifest must be entered into the statewide monitoring system, and a copy must be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(iii) The marihuana must be transported in 1 or more sealed containers and not be accessible while in transit.

(iv) The vehicle a laboratory is using to transport samples of marihuana product must not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(b) Except otherwise required by the agency, the laboratory shall collect a sample size that is sufficient to complete all required analyses, and not less than 0.5% of the weight of the harvest batch. ~~Prior to September 1, 2020, the maximum harvest batch size is 15 pounds. From September 1, 2020, through December 31, 2020, the maximum harvest batch size is 20 pounds. From January 1, 2021 through March 31, 2021, the maximum harvest batch is 25 pounds. After March 31, 2021, t~~**T**~~he maximum harvest batch is 50 pounds. At least 50% of the sample taken must be homogenized for testing. The agency may publish sample sizes for other marihuana products being tested. The laboratory must develop a statistically valid sampling method to collect a representative sample from each batch of marijuana product. The laboratory must have access to the entire batch for the purposes of sampling.~~

(c) The maximum harvest batch is 50 pounds. At least 50% of the sample taken must be homogenized for testing. The agency may publish sample sizes for marihuana products being tested.

(d) The laboratory shall develop a statistically valid sampling method and have it approved by the agency to collect a representative sample from each batch of marihuana product. The laboratory shall have access to the entire batch for the purposes of sampling.

(~~c~~**e**) An employee of the marihuana business from which marihuana product test samples are ~~being taken~~ **collected** shall be physically present to observe the laboratory employee collect the sample of marihuana product for testing and ~~shall~~ ensure that the sample increments are taken from throughout the batch.

(~~d~~f) An employee of a marihuana business shall neither assist the laboratory employee nor touch the marihuana product or the sampling equipment while the laboratory employee is obtaining the sample.

(~~e~~**g**) After samples have been selected, both the employee of the marihuana business **that had the samples collected** and the employee from the laboratory shall sign and date the chain of custody form, attesting to the **following** sample information ~~below~~:

(i) Marihuana product name.

(ii) Weight of marihuana product.

(iii) All marihuana products and samples are correctly identified in the statewide monitoring system.

(iv) If the product test sample is obtained for a retest, the laboratory confirms that it is not accepting a product test sample that is prohibited from being retested.

(~~f~~**h**) ~~The~~ **A** marihuana business shall enter in the statewide monitoring system the marihuana product test sample that is collected by a licensed laboratory, including the date and time the marihuana product is collected and transferred. The laboratory shall enter into the statewide monitoring system the test results within 3 business days of test completion.

(~~g~~**i**) If a testing sample is collected from a marihuana business for testing in the statewide monitoring system, that marihuana business shall quarantine the marihuana product that is undergoing the testing from any other marihuana product at the marihuana business. The quarantined marihuana product ~~must~~ **may** not be packaged, transferred, or sold until passing test results are entered into the statewide monitoring system.

(~~h~~**j**) Any marihuana product that a laboratory collects for testing from a licensee under this rule ~~must~~ **may** not be transferred or sold to any other marihuana business other than the licensee from whom the sample was collected. This provision does not apply to a laboratory ~~who~~ **that** engages another laboratory to perform certain safety tests on a subcontracted basis.

(~~i~~**k**) A laboratory may collect additional sample material from the same licensee from which the original sample was collected for the purposes of completing the required safety tests as long as the requirements of this rule are met.

(~~j~~**l**) The agency may publish guidance that ~~shall~~ **must** be followed by marihuana businesses for chain of custody documentation.

R. 420.305 Testing; laboratory requirements.

Rule 5. (1) A laboratory shall ~~do all of the following:~~

~~(a) B~~**b**ecome ~~fully~~ accredited **for all required safety tests in at least 1 required matrix** to the International Organization for Standardization (ISO), ISO/IEC 17025:2017**,** by an International Laboratory Accreditation Cooperation (ILAC) recognized accreditation body or by an entity approved by the agency within 1 year after the date the laboratory license is issued and agree to have the inspections**,** ~~and~~ reports**, and all scope documents** ~~of the International Organization for Standardization made available~~ **sent directly** to the agency **from the accrediting body**.

~~(b) Maintain internal standard operating procedures for the required safety tests in subrule (3) of this rule and for sampling of marihuana and marihuana products that conform to ISO/IEC 17025:2017 standards and have been approved by the agency.~~

~~(c) Maintain a quality control and quality assurance program that conforms to ISO/IEC 17025:2017 standards and meets the requirements established by the agency.~~

(2) A laboratory shall use analytical testing methodologies for the required safety tests in subrule (3) of this rule that are validated by an independent third party and may be monitored on an ongoing basis by the agency ~~or a third party~~. In the absence of ~~reference to compendia or~~ published**, peer reviewed, validated cannabis** methods, Appendix **J or** K of Official Methods of Analysis authored by the Association of Official ~~Analytical Chemists~~ **Analytical Collaboration (AOAC) International** must be published in full **with guidance from published cannabis standard method performance requirements where available**. The **laboratory shall obtain approval from the agency of its validated methodology, including confirmation that it produces scientifically accurate results for each safety test, prior to conducting any safety testing.** ~~agency shall approve the validated methodology used by the laboratory and confirm that it produces scientifically accurate results for each safety test it conducts.~~

(3) A laboratory shall conduct the required safety tests specified in subdivisions (a) to (i) of this subrule on marihuana product that is part of the harvest batch as specified in R 420.303, except as provided in subrule (4) **of this rule**. **The agency may publish minimum testing portions to be used in compliance testing.** ~~After the testing on the harvest batch is completed, t~~**T**he agency may publish a guide indicating which of the following safety tests are required based on product type when the marihuana product has changed form:

(a) **Potency analysis. All of the following apply to a potency analysis under this subdivision:** ~~Potency analysis performed just as the marihuana product is without any corrective factor taken for moisture content that includes concentrations of the following:~~

~~(i) Tetrahydrocannabinol (THC).~~

~~(ii) Tetrahydrocannabinol acid (THC-A).~~

~~(iii) Cannabidiol (CBD).~~

~~(iv) Cannabidiol acid (CBD-A).~~

~~(v) Additional cannabinoids, which may be tested with approval from the agency.~~

(i) In the preparation of samples intended for potency analysis, the laboratory may not adulterate or attempt to manipulate the total potency of the sample by adding trichomes that were removed during the grinding and homogenization process.

(ii) All flower material used for potency testing must be representative of the product used by the end consumer and homogenized in such a way that it is representative of the way a consumer would be using the product. Kief must not be reintroduced to the flower sample during the homogenization process.

(iii) Potency analysis performed just as the marihuana product is without any corrective factor taken for moisture content that includes concentrations of the following:

(A) Total Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinol acid (THC-A).

(C) Total Cannabidiol (CBD).

(D) Cannabidiol acid (CBD-A).

(E) Additional cannabinoids, which may be tested with approval from the agency.

(b) **Inspection for** ~~F~~**f**oreign matter ~~inspection~~ **including powdery mildew, organic, and inorganic material**.

(c) Microbial screening **including an optimized incubation period for all non-molecular automated systems methods and all plating-based methods used to report quantitative total yeast and mold results.**

(d) Chemical residue testing ~~that includes all of the following~~ **performed on the list of banned chemical residues and the required LOQs published by the agency.**

~~(i) Pesticides.~~

~~(ii) Fungicides.~~

~~(iii) Insecticides.~~

(e) Heavy metals testing as required in this rule.

(f) Residual solvents. The agency shall publish a list of required residual solvents to be tested for and their action limits.

(g) Water activity.

(h) ~~Under the medical marihuana facilities licensing act, m~~**M**ycotoxin screening if requested by the agency. **The agency shall publish a list of required mycotoxins to be tested.**

(i) Target analytes if requested by the agency. The agency shall publish a list of required target analytes to be tested for and their LOQs.

(4) All marihuana producers may become certified to GMP by an ISO 17065 accreditation body. This accreditation may enable the licensee certain allowances with testing. The agency will publish those allowances and information on how to obtain approval for allowances. The standard used for certification for GMP must be American National Standards Institute (ANSI) accredited or equivalent.

(5) All marihuana cultivators may become certified to GACP-GMP by an accrediting body. This accreditation may enable the licensee certain allowances with testing. The agency will publish these allowances and information on how to obtain approval for allowances. The standard used for certification for GACP-GMP must be World Health Organization and American Herbal Products Association or equivalent.

(6) Except as otherwise provided in **R** 420.306, if a sample collected pursuant to R 420.30**4** or provided to a laboratory pursuant to these rules does not pass the required safety tests, the marihuana business that provided the sample shall ~~dispose of~~ **destroy** the entire batch from which the sample was taken and document the ~~disposal~~ **destruction** of the sample using the statewide monitoring system pursuant to the acts and these rules **within 90 calendar days**.

(7) A laboratory shall conduct residual solvent testing on batches of marihuana concentrates and marihuana-infused products. The agency shall publish a list of required residual solvents to be tested for and their action limits.

(8) A laboratory shall maintain any marihuana samples for at least 30 **calendar** days after test completion and ~~dispose of~~ **destroy** the resulting waste in accordance with R 420.209.

(9) Potency shall include the following cannabinoid concentrations listed in subdivisions (a) to (f) **of this subrule**, subject to subdivisions (g) and (h) **of this subrule**:

(a) **Total** THC concentration.

(b) THC-A concentration.

(c) Total THC**, which includes Delta 7, Delta 8, Delta 9, Delta 10, and Delta 11 THC and THC-A**. The following calculation must be used for calculating Total THC, where M is the mass or mass fraction of delta-9 THC or delta-9 THC-A:

~~M total delta-9 THC = M delta-9 THC + 0.877 x M delta-9 THC-A.~~ **Σ Delta 7-11 THC + Σ ((Delta 7-11 THCA) x 0.877)=Total THC**

(d) **Total** CBD concentration.

(e) CBD-A concentration.

(f) Total CBD. The following calculation must be used for calculating Total CBD, where M is the mass or mass fraction of CBD and CBD-A:

M total CBD = M CBD + 0.877 x M CBD-A.

(g) For marihuana and marihuana concentrates**,** total THC and total CBD must be reported in percentages.

(h) For marihuana infused products**,** potency must be reported as **milligrams of** Delta-9-THC and CBD ~~in milligrams (mg) per serving under MRTMA and in milligrams (mg) per dose under MMFLA~~.

(10) The agency shall publish a list of action limits for the required safety tests in subrule (3) of this rule, except for potency. A marihuana sample with a value that exceeds the published action limit is ~~considered to be~~ a failed sample. A marihuana sample that is at or below the action limit is ~~considered to be~~ a passing sample.

(11) For t~~he purposes of~~ chemical residue ~~testing~~ and target analyte testing, the agency shall publish a list of quantification levels. Any result that exceeds the action limit is a failed sample.

(12) If a sample provided to a laboratory pursuant to this rule and R 420.304 passes the safety tests required under subrule (3) of this rule, the laboratory shall enter the information in the statewide monitoring system of passed test results within 3 business days of test completion. Passed test results must be in the statewide monitoring system for a batch to be released for immediate processing, packaging, and labeling for transfer or sale in accordance with the acts and these rules.

(13) A laboratory shall enter the results into the statewide monitoring system and file with the agency within 3 business days of test completion.

(14) ~~The agency shall establish a proficiency testing program and designate laboratory participation.~~ All laboratories ~~must~~ **shall** participate in the **proficiency testing** program **established by the agency**. A laboratory shall analyze proficiency test samples **from any ISO 17043 accredited vendor on an annual basis unless the agency requests additional testing. All testing must use** ~~using~~ the same procedures with the same number of replicate**s** ~~analyses~~, standards, testing analysts, and equipment as used for marihuana product testing. A laboratory shall successfully analyze ~~a~~ **1** set of proficiency testing samples **for all required analytes** not less than annually. A laboratory shall have ~~annual~~ **all** proficiency testing **results** submitted directly to the agency from the ~~proficiency testing~~ vendor for review. ~~The agency will not accept copies.~~ All failed proficiency tests must include corrective action documentation and **must be repeated until the laboratory obtains** an ~~additional~~ acceptable **result for all analytes** proficiency test. Proficiency test**s must be externally graded and** results must be **reported** ~~conveyed as~~ numerical**ly and not as pass or fail results for all quantitative methods.** ~~accuracy percentages, not simply as PASS/FAIL results. Actual PASS/FAIL results must be calculated based on accuracy thresholds generated by reproducibility studies specific to each assay.~~

(15) The agency shall take immediate disciplinary action against any laboratory that falsifies records or does not comply with the provisions of this rule, including sanctions or fines, or both.

(16) A laboratory shall not do any of the following:

(a) Desiccate samples.

(b) Pre-test samples.

(c) Cherry pick, which means testing specific material from a batch. All sample increments must have the same chances of being selected.

(d) Manipulate samples in any way that would decrease or otherwise mask the amount of contaminant in the product.

(17) A laboratory shall comply with random ~~quality assurance~~ compliance checks ~~upon~~ **at** the request of the agency. The agency or its authorized agents may collect a random sample of a marihuana product from a laboratory or designate another laboratory to collect a random sample of a marihuana product in a secure manner to test that sample for compliance pursuant to these rules.

(18) A laboratory may perform terpene analysis on a marihuana product by a method approved by the agency**, and the method must be accredited on the same frequency as all required safety tests**. There are no established safety standards for this analysis.

(19) A laboratory shall comply with investigations to ensure the health and safety of the public. At the request of the agency, a laboratory may be requested to perform testing as part of an investigation.

(20) ~~Under the medical marihuana facilities licensing act, t~~**T**he agency may request mycotoxin testing. A marihuana sample with a value that exceeds the published acceptable level is ~~considered to be~~ a failed sample. A marihuana sample that is below the acceptable value is ~~considered to be~~ a passing sample.

(21) A laboratory shall have a policy or procedure in place for handling and reporting any potentially hazardous contaminants that may be encountered during routine testing. A laboratory shall notify the agency if a test batch is found to contain levels of a contaminant that could be injurious to human health.

(22) Marihuana-infused products found to contain Salmonella spp. or Shiga toxin producing E. coli (STEC) must be reported to the agency immediately.

R 420.305a Validations.

Rule 5a. (1) All validations must be submitted to the agency for approval with an acceptable proficiency test that meets the standards in R 420.305(14), where all required analytes are shown to have passed.

(2) Laboratories shall use microbial testing methodologies for the required safety tests in R 420.305 that are validated by an independent third party and may be monitored on an ongoing basis by the agency. In the absence of published, peer reviewed, validated cannabis methods, Appendix J of Official Methods of Analysis authored by the Association of Official Analytical Collaboration must be published in full with guidance from the cannabis standard method performance requirements where available. The agency shall approve the validated methodology used by the laboratory and confirm that it produces scientifically accurate results for each safety test it conducts. All of the following apply to validated methodologies under this rule:

(a) All validations must be submitted to the agency for approval with an acceptable and graded external proficiency test by a third party, where all required analytes are shown to have passed.

(b) Validation protocols should perform inoculation of marihuana matrices with live organisms where feasible to ensure that both extraction and detection for the assay are tested. To further test the accuracy of the assay, probability of detection (POD) analyses, inclusivity, exclusivity, lot-to-lot stability, and robustness studies must be included in the validation studies.

(c) Methods adopted from a matrix specific standard method, inclusivity and exclusivity do not require a comprehensive reassessment, provided that there were no modifications to the methods, including, but not limited to, all of the following:

(i) Referenced media.

(ii) Primers.

(iii) Probes.

(iv) Antibodies.

(v) Critical chemistries that were not modified.

(d) Microbial methods must include environmental monitoring and quality control of all buffers, media, primers, and incubators.

R 420.305b Quality assurance and quality control.

Rule 5b. (1) A laboratory must have a procedure for monitoring the validity of results.

(2) This monitoring must occur on an ongoing basis and be reviewed by the laboratory manager. The monitoring must include all of the following:

(a) Use of reference materials or quality control materials.

(b) A functional check or checks of measuring and testing equipment.

(c) Use of working standards and verification with control charts, where applicable.

(d) Intermediate checks on measuring equipment.

(e) Review of reported results.

(f) Intra-laboratory comparisons, which involve proficiency testing.

(3) A laboratory shall adhere to all required quality control procedures specified in the reference method or methods to ensure that routinely generated analytical data is scientifically valid and defensible and is of known and acceptable precision and accuracy.

(4) A laboratory shall have a written quality assurance manual that includes, but is not limited to, all of the following items:

(a) Laboratory organization and responsibilities.

(c) Field sampling procedures.

(d) Instrument and equipment preventative maintenance and calibration procedures.

(e) Data reduction, validation, reporting, and verification.

(f) Identification of laboratory errors, customer complaints, and corrective actions.

(5) A laboratory shall prepare a written description of its quality control activities, included as part of a quality control manual. All of the following items must be addressed in the quality control manual:

(a) Daily, weekly, monthly, and annual requirements.

(b) An analytical testing batch, which is defined as not more than 20 samples.

(c) All analytical testing runs must be bracketed with quality controls.

(6) Quality control acceptance criteria must be published by the agency and be followed. If the method acceptance criteria are more stringent, then the method acceptance criteria is required.

(7) A laboratory shall have standard operating procedures for all sampling and testing performed.

(8) All standard operating procedures for the required safety tests in R 420.305 and for sampling and testing of marihuana and marihuana products that conform to ISO/IEC 17025:2017 standards, Good Laboratory Practices, shall be approved by the agency prior to the performance of any safety tests.

(9) A laboratory shall maintain a quality control and quality assurance program that conforms to Good Laboratory Practices and ISO/IEC 17025:2017 standards and meets the requirements established by the agency.

R 420.306 Testing marihuana product after failed initial safety testing and remediation.

Rule 6. (1) A laboratory may test marihuana product that has failed initial safety testing, except as indicated under subrule (3) of this rule.

(2) A failed marihuana product must pass 2 separate tests with new samples consecutively to be eligible to proceed to sale or transfer.

(3) Products that failed testing for Aspergillus are ineligible for remediation.

(~~3~~**4**) The agency may publish a remediation protocol including, but not limited to, the sale or transfer of marihuana product after a failed safety test as provided in these rules.

(**45**) The marihuana business that provided the sample is responsible for all costs involved in a retest.

R 420.307 Research and development testing.

Rule 7. (1) As used in this rule, "research and development testing" means optional testing performed before final compliance testing.

(2) Except for R 420.304(2)(b), when performing research and development testing, the laboratory must comply with these rules.

(3) Punitive action shall not be taken against a marihuana business for conducting research and development testing **when permitted**.

(4) The agency may publish guidance for research and development testing that must be followed by all marihuana businesses.

(5) All research and development testing must be entered into the statewide monitoring system.

(6) Marihuana that has undergone only research and development testing is not eligible for transfer by a cultivator to a producer under the allowances listed in R 420.303(6).

(7) Research and development testing is prohibited after compliance testing has been completed.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Marihuana Regulatory Agency
Administrative Rules for Marihuana Sampling and Testing
Rule Set 2020-124 LR

NOTICE OF PUBLIC HEARING
Monday, September 27, 2021
09:30 AM

Williams Building, 1st Floor Auditorium
525 West Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Marihuana Sampling and Testing rule set.

The rule changes are designed to create greater consistency in the testing of marihuana product and to create cohesion between testing requirements, procedures, etc., in both medical and adult-use marihuana businesses. The rule changes are also meant to create greater consistency in laboratory operations. The rule changes will also require testing for cannabinoids other than delta-9 THC.

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001). The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: MRA-Legal@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/27/2021 at 05:00PM.

Marijuana Regulatory Agency- ATTN: Legal Section

Email: MRA-Legal@michigan.gov

PO BOX 30205 or 2407 N Grand River Ave Lansing MI, 48906

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-284-8584 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

PSYCHOLOGY - GENERAL RULES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(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, 18201, 18223, and 18233 of the public health code, 1978 PA 368, MCL 333.16145, 333.16148, 333.18201, 333.18223, and 333.18233, 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 338.2525, R 338.2529, R 338.2541, R 338.2543, R 338.2545, R 338.2547, R 338.2549, R 338.2551, R 338.2553, R 338.2555, R 338.2561, R 338.2563, R 338.2565, R 338.2567, R 338.2569, R 338.2571, R 338.2573, R 338.2581, R 338.2583, and R 338.2585 of the Michigan Administrative Code are amended, R 338.2526 is added, and R 338.2523 is rescinded, as follows:

PART 1. GENERAL PROVISIONS

R 338.2523 ~~English language requirement.~~ **Rescinded.**

~~Rule 23. An applicant for a psychologist license or psychologist limited license whose educational program was taught in a language other than English shall satisfy the requirements of the code and these rules and shall demonstrate a working knowledge of the English language. To demonstrate a working knowledge of the English language, the applicant shall establish that he or she has obtained a total score of not less than 80 on the test of English as a foreign language internet-based test (TOEFL-IBT) administered by the Educational Testing Service.~~

R 338.2525 Training standards for identifying victims of human trafficking; requirements.

Rule 25. (1) ~~Pursuant to~~ **Under** section 16148 of the code, MCL 333.16148, an individual seeking licensure or licensed shall complete training in identifying victims of human trafficking that ~~meets~~ **satisfies** the following standards:

(a) Training content must cover all ~~of~~ the following:

(i) Understanding the types and venues of human trafficking in the United States.

(ii) Identifying victims of human trafficking in health care settings.

(iii) Identifying the warning signs of human trafficking in health care settings for adults and minors.

(iv) 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~~ **satisfies** the requirements of subdivision (a) of this subrule and is published in a peer review journal, health care 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 a sample of individuals and request documentation of proof of completion of training. If audited by the department, an 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 an individual. The certification statement must include the individual's name and either of the following:

(i) For training completed ~~pursuant to~~ **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~~ **under** subrule (1)(b)(iv) of this rule, the title of article, author, publication name of peer review journal, health care journal, or professional or scientific journal, and date, volume, and issue of publication, as applicable.

(3) ~~Pursuant to~~ **Under** section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule apply for license renewals beginning with the 2017 renewal cycle after the promulgation of this rule and for initial licenses issued after March 30, 2022.

R 338.2526 Telehealth.

Rule 26. (1) A licensee shall obtain consent for treatment before providing a telehealth service under section 16284 of the code, MCL 333.16284.

(2) A licensee shall keep proof of consent in the patient's up-to-date medical record and follow section 16213 of the code, MCL 333.16213.

(3) A licensee providing any telehealth service shall do both 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 health care service.

R 338.2529 Accreditation; standards; adoption by reference.

Rule 29. (1) A higher education institution is considered approved ~~by the board~~ if it is accredited by the accrediting body of the region in which the institution is located**,** and the accrediting body satisfies either the recognition standards and criteria of the Council for Higher Education Accreditation (CHEA) or the recognition procedures and criteria of the United States Department of Education.

(2) The procedures and criteria for recognizing accrediting agencies of the United States Department of Education, effective July 1, 2010, as contained in 34 CFR part 602 and the policies and procedures for recognition of accrediting organizations of CHEA, effective ~~June 28, 2010,~~ **September 28, 2018,** are

adopted by reference in these rules. The CHEA recognition standards may be obtained at no cost from the council's website at http://www.chea.org. The federal recognition criteria may also be obtained at no cost from the website for the United States Department of Education, Office of Postsecondary Education at http://www.ed.gov/about/offices/list/OPE/index.html.

(3) ~~The board has determined that a~~ **A** provincially or territorially chartered Canadian university that is acceptable to the Canadian Psychological Association for the purpose of accrediting a doctoral educational program is substantially equivalent to an accredited educational institution that satisfies the standards adopted in subrule (2) of this rule. Any provincially or territorially chartered Canadian university that satisfies these requirements satisfies the qualifications for an approved educational program.

(4) Copies of the standards and criteria adopted by reference in subrules (1) and (2) of this rule are available for inspection and distribution at **a** cost **of 10 cents per page** from the Board of Psychology, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa Street, P.O. Box 30670, Lansing, ~~MI~~ **Michigan** 48909.

PART 2. PSYCHOLOGISTS

R 338.2541 Program accreditation standards; psychologists; adoption of standards by reference; approved programs.

Rule 41. (1) The following criteria and standards for doctoral level psychology programs are adopted by reference in these rules:

(a) The designation criteria of the ~~National Register of Health Service Psychologists and the~~ Association of State and Provincial Psychology Boards (ASPPB) **and the National Register of Health Service Psychologists (National Register)** set forth in the publication entitled "~~Guidelines for Defining a Doctoral Degree in Psychology,~~ **National Register Doctoral Degree Guidelines,**" which is available at no cost from the ~~national register's~~ **National Register's** website at ~~www.nationalregister.org, or from the association's website at www.asppb.org.~~ **https://www.nationalregister.org/apply/credentialing-requirements/national-register-doctoral-degree-guidelines/.**

(b) The accreditation guidelines and principles of the American Psychological Association (APA) as set forth in the publication entitled "Standards of Accreditation for Health Service Psychology," **approved** February, 2015, which is available at no cost from the association's website at ~~http://www.apa.org/ed/accreditation/index.aspx.~~ **https://accreditation.apa.org/policies.**

(c) The accreditation standards of the Canadian Psychological Association (CPA) as set forth in the publication entitled "Accreditation Standards and Procedures for Doctoral Programmes and Internships in Professional Psychology**,**"~~, Fifth~~ **5th** revision, 2011, which is available at no cost from the association's website at ~~http://www.cpa.ca/education/accreditation/.~~ **https://cpa.ca/accreditation/resources/.**

(d) The accreditation standards of the Psychological Clinical Science Accreditation System (PCSAS) as set forth in the publication entitled "Psychological Clinical Science Accreditation System Purpose, Organization, Policies, and Procedures," ~~November, 2017,~~ **May 2020,** which is available at no cost from the association's website at ~~http://www.pcsas.org/about/publications-and-links/.~~ **https://www.pcsas.org/about/publications-and-links/.**

(2) A doctoral program in psychology, or a closely related field, ~~that~~ **which** has obtained the National Register's and ASPPB's designation or that is accredited by either the APA, the CPA, or the PCSAS is approved**.** ~~by the board.~~

(3) Copies of the standards and criteria adopted by reference in subrule (1) of this rule are available for inspection and distribution at **a** cost **of 10 cents per page** from the Board of Psychology, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa Street, P.O. Box 30670, Lansing, ~~MI~~ **Michigan** 48909.

~~(4) Under section 18223(1)(a) of the code, MCL 333.18223(1)(a), a doctoral program that is in the process of obtaining the National Register's and ASPPB's designation or becoming accredited by either the APA, the CPA, or the PCSAS before August 1, 2011, and obtains the designation or accreditation on or before August 31, 2020, is approved. by the board.~~

R 338.2543 Application for licensure; psychologist; requirements.

Rule 43. Except as provided in R 338.2549, an applicant for a psychologist license under section 18223(1) of the code, MCL 333.18223~~(1)~~, shall ~~submit~~ **provide** the required fee and a completed application on a form provided by the department. In addition to satisfying the requirements of the code, an applicant shall satisfy all ~~of~~ the following requirements:

(a) Education: The applicant shall possess either a doctoral degree in psychology or a doctoral degree in a closely related field. Either degree must satisfy both of the following requirements:

(i) The degree must be from a regionally accredited college, university, or institution that satisfies the standards in R 338.2529(2).

(ii) The degree must be from a designated or accredited educational program that satisfies the standards in R 338.2541(1)(a), (b), (c), or (d).

(b) Training: The applicant shall have successfully completed an internship that was an integrated part of a doctoral degree that satisfies the requirements in subdivision (a)(i) and ~~(a)~~(ii) of this rule, or an equivalent postdoctoral internship as determined by the board. A request to the board for approval of a postdoctoral internship must include, at a minimum, the following information:

(i) An explanation of the reason the internship was not an integrated part of a doctoral degree.

(ii) How the postdoctoral internship follows standards ~~similar~~ **substantially equivalent** to those required by the Association of Psychology Postdoctoral and Internship Centers ~~(APPIC).~~ **(APPIC) at https://www.appic.org/Internships/Internship-Membership-Criteria.**

(c) Experience: The applicant shall have acquired 1 year of postdoctoral degree experience in the practice of psychology that satisfies the requirements of R 338.2553(3).

(d) Licensure examination: The applicant shall have passed the licensure examination for psychologists approved ~~by the board~~ under R 338.2545(1).

R 338.2545 Examination; psychologist; **approval and adoption;** passing scores.

Rule 45. (1) An applicant for a psychologist license shall pass the **approved and adopted** ~~examination for professional practice in psychology that was~~ **Examination for Professional Practice in Psychology (EPPP) (Part 1-Knowledge)** developed by **the** ASPPB. The passing score for the examination is the score recommended by the ASPPB for psychologists in independent practice. **The EPPP (Part 2-Skills) is optional, and a passing score is not required.**

(2) A limited licensed psychologist who took the examination required in subrule (1) of this rule and achieved a passing score at or above the score required for licensure as a psychologist satisfies the examination requirement in R 338.2543(d).

R 338.2547 Psychologist examination; eligibility.

Rule 47. Except as provided in R 338.2549, to establish eligibility for the psychologist licensure examination, an applicant shall satisfy both of the following requirements:

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

(b) Have documentation provided directly to the department from an accredited educational institution verifying the applicant satisfies the educational requirements in R 338.2543(a).

R 338.2549 Foreign graduate of non-accredited postsecondary institution; psychologist examination; eligibility.

Rule 49. To establish eligibility for the psychologist licensure examination, an applicant who graduated from a foreign, non-accredited postsecondary institution shall satisfy all ~~of~~ the following requirements:

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

(b) Possess either a doctoral degree in psychology or a doctoral degree in a closely related field from an educational program that is substantially equivalent to an accredited educational program that satisfies the standards in R 338.2541(1)(a), (b), (c), or (d). In addition, the degree must be from an educational institution that is substantially equivalent to an accredited educational institution that satisfies the standards in R 338.2529(2). ~~Evidence~~ **Proof** of satisfying these requirements must include an evaluation of the applicant's non-accredited education by a credential evaluation agency that is a member of the National Association of Credential Evaluation Services (NACES).

(c) ~~Demonstrate a working knowledge of the English language if the applicant's educational program was taught in a language other than English. To demonstrate a working knowledge of the English language, the applicant shall establish that he or she satisfies the requirements in R 338.2523.~~ **Comply with all other requirements of the code.**

R 338.2551 Licensure by endorsement.

Rule 51. (1) An applicant for a psychologist license by endorsement shall ~~submit~~ **provide** the required fee and a completed application on a form provided by the department. An applicant who satisfies the requirements of the code and this rule is presumed to satisfy the requirements of section 16186 of the code, MCL 333.16186.

(2) An applicant for a psychologist license by endorsement shall satisfy ~~both of~~ **all** the following requirements:

(a) ~~Have been first licensed in another state to engage in the independent practice of psychology for a minimum of 10 years before the date of filing the application for a Michigan license.~~ **Hold a license to practice psychology independently in another state or in a province of Canada.**

(b) ~~Hold a current license in the independent practice of psychology issued by the licensing agency of any state.~~ **Have completed the educational requirements for a license to practice psychology independently in a province of Canada or another state to obtain licensure as an independent practicing psychologist in a province of Canada or another state.**

(c) Have passed the licensure examination for psychologists approved under R 338.2545(1).

(3) ~~An applicant's license must be verified by the licensing agency of any state in which the applicant holds a current license or ever held a license as a psychologist. Verification includes, but is not limited to, showing proof that the applicant's license is in good standing and, if applicable, any disciplinary action taken or pending against the applicant.~~ **An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the**

federal government, or another country shall disclose that fact on the application form. The applicant shall 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. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.

R 338.2553 Application for educational limited license; postdoctoral experience; requirements; supervision.

Rule 53. (1) An individual shall obtain an educational limited license before engaging in the postdoctoral experience required under section 18223(1)(b) of the code, MCL 333.18223~~(1)(b)~~, and R 338.2543(c).

(2) An applicant for an educational limited license, in addition to satisfying the requirements of the code, shall satisfy both of the following requirements:

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

(b) Have documentation provided directly to the department from an educational program verifying the applicant satisfies the educational requirements in R 338.2543(a).

(3) The postdoctoral experience must satisfy all ~~of~~ the following requirements:

(a) The experience must consist of not less than 2,000 clock hours completed under the supervision of a licensed psychologist during a period of not more than 2 consecutive years.

(b) The supervisee shall meet individually and in-person **or via 2-way real-time audiovisual technology that allows direct, contemporaneous interaction by sight and sound between the supervisor and the supervisee** ~~with his or her supervisor~~ weekly for a minimum of 4 hours a month, during which all active work functions and records of the supervisee are reviewed.

(c) The supervisee shall function as a psychologist using generally accepted applications of psychological knowledge and techniques acquired during the supervisee's education and training.

(d) The experience must be acquired in an organized health care setting, as defined in R 338.2521(1)(e).

(e) In cases of extreme hardship, a supervisee may request an alternative to the supervision arrangement specified in this subrule. The alternative supervision arrangement must not be implemented before the board has approved it. In deciding whether to approve the proposed alternative supervision arrangement, the board shall consider the nature of the extreme hardship and the reasonableness of the proposed alternative supervision arrangement. A request to the board for approval of an alternative to the supervision arrangement must include, at a minimum, the following information:

(i) The amount of clock hours currently completed.

(ii) The amount of clock hours left to complete.

(iii) Whether a previous hardship request was made and, if so, the decision on such request.

(iv) The cause for the hardship.

(v) Measures taken to remedy the hardship.

(vi) Whether the hardship still exists.

(vii) The names and addresses of all fully licensed psychologists the licensee contacted or attempted to contact, including number of times, or attempts, or both.

(viii) The responses received from the fully licensed psychologists contacted.

(ix) The qualifications and experience of the proposed alternative supervisor.

(4) An educational limited license must be issued for 1 year and ~~must~~ **may** not be renewed more than 5 times.

R 338.2555 Relicensure; psychologist; educational limited license; requirements.

Rule 55. (1) An applicant whose psychologist license has lapsed for less than 3 years preceding the date of application for relicensure may be relicensed under section 16201(3) of the code, MCL 333.16201~~(3)~~, if the applicant satisfies all ~~of~~ the following requirements:

(a) ~~Submits~~ **Provides** the required fee and a completed application on a form provided by the department.

(b) Establishes ~~that he or she is of~~ good moral character as defined under 1974 PA 381, MCL 338.41 to 338.47.

(c) ~~Submits~~ **Provides** proof to the department of accumulating not less than 30 hours of continuing education that satisfies the requirements of R 338.2581 and R 338.2583 during the 2 years immediately preceding relicensure.

(2) An applicant whose psychologist license has lapsed for 3 years or more preceding the date of application for relicensure may be relicensed under section 16201(4) of the code, MCL 333.16201~~(4)~~, if the applicant satisfies all ~~of~~ the following requirements:

(a) ~~Submits~~ **Provides** the required fee and a completed application on a form provided by the department.

(b) Establishes ~~that he or she is of~~ good moral character as defined under section**s** ~~(~~1~~)~~ to ~~(~~7~~)~~ of 1974 PA 381, MCL 338.41 to 338.47.

(c) ~~Submits~~ **Provides** fingerprints as required under section 16174(3) of the code, MCL 333.16174~~(3)~~.

(d) ~~Meets~~ **Satisfies** either of the following requirements:

(i) Passes ~~an~~ **the** examination required under R 338.2545(1).

(ii) Presents ~~evidence~~ **proof** to the department ~~that he or she was licensed~~ **of licensure** as a psychologist at the doctoral level in **a province of Canada or** another state at any time during the 3-year period immediately preceding the application for relicensure.

(3) An applicant whose educational limited license has lapsed may be relicensed under section 16201(3) or (4) of the code, MCL 333.16201~~(3) or (4)~~, if the applicant satisfies subrule (1)(a) and (b) of this rule.

(4) ~~An applicant shall have his or her license verified by the licensing agency of any state in which the applicant holds or has ever held a license, as a psychologist. If applicable, verification shall include the record of any disciplinary action taken or pending against the applicant.~~ **An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall satisfy the requirements of section 16174(2) of the code, MCL 333.16174, which include 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. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.**

PART 3. LIMITED LICENSED PSYCHOLOGISTS

R 338.2561 Application for licensure; limited licensed psychologist; requirements.

Rule 61. (1) Except as provided in R 338.2567, an applicant for a limited license under section 18223(2) of the code, MCL 333.18223~~(2)~~, shall ~~submit~~ **provide** the required fee and a completed application on a form provided by the department. In addition to satisfying the requirements of the code, the applicant shall satisfy all ~~of~~ the following requirements:

(a) Education: The applicant for a limited license shall have earned a master's degree in psychology from an accredited educational institution that satisfies the standards in R 338.2529(2). The degree required under this subdivision must satisfy all ~~of~~ the following requirements:

(i) The degree must be an integrated, organized sequence of study that includes at least 1 course in assessment, 1 course in treatment, and 1 course in scientific and professional ethics and standards. Effective June 30, 2009, the 1 course in scientific and professional ethics and standards must be at least 3 semester hours or 15 hours of classroom instruction per semester hour. If an applicant graduated prior to June 30, 2009, and ~~his or her~~ **the** master's degree included a graduate course in scientific and professional ethics of at least 1 credit hour, the applicant has complied with this paragraph.

(ii) Seventy-five percent of the hours of the required course work must be primarily psychological in content. The thesis and practicum are excluded from what is considered course work. The board may require the applicant to provide such material as it deems necessary to demonstrate the psychological content of a course. To be deemed psychological in content, a course must satisfy at least 1 of the following requirements:

(A) Course work: The subject of the material taught is psychological.

(B) Psychology department: The course is taught in a psychology department.

(b) Training: The applicant shall have completed a practicum that satisfies all ~~of~~ the following requirements:

(i) The practicum must be an integrated part of the master's degree program in any setting approved by the degree granting program. A post-degree practicum may be approved by the board if the practicum is through an accredited institution that satisfies the standards adopted in R 338.2529(2) and was completed for academic graduate credit. A request to the board for approval of a post-degree practicum must include, at a minimum, the following information:

(A) The name and address of the accredited institution offering the proposed practicum.

(B) Why a practicum is being pursued post-degree instead of as an integrated part of the master’s degree program.

(C) The responsibilities the practicum will require.

(D) When the practicum will take place and the hourly time commitment.

(E) How the practicum will be supervised and by whom.

(F) The demographic makeup of the geographic area where the practicum will take place.

(G) Whether others have utilized the practicum provider.

(ii) The practicum must require not less than 500 clock hours of psychological work.

(iii) The applicant shall be supervised by a psychologist who is licensed in this state, eligible for licensure in this state, or licensed or certified at the independent practice level in the state where the practicum takes place.

(iv) The applicant must meet in-person **or via 2-way real-time audiovisual technology that allows direct, contemporaneous interaction by sight and sound between the supervisor and the supervisee** ~~with his or her supervisor~~ for a minimum of 2 hours a week during the practicum.

(c) Experience: The applicant shall have acquired 1 year of post-master’s degree experience in the practice of psychology that satisfies the requirements of R 338.2569(4).

(d) Examination: The applicant shall have passed the examination approved ~~by the board~~ under R 338.2563.

(2) An applicant satisfies the requirements of subrule (1) of this rule if ~~he or she was~~ certified as a psychological examiner or eligible for certification as a psychological examiner under former 1959 PA 257 on or before September 30, 1978.

(3) An applicant who satisfies the requirements of R 338.2567 satisfies the requirements of subrule (1)(a) and (b) of this rule.

R 338.2563 Examination; limited licensed psychologist; approval and adoption; passing scores.

Rule 63. ~~The board approves and adopts for applicants~~ **An applicant** for a limited license under section 18223(2) of the code, MCL 333.18223~~(2)~~, **shall pass** the **approved and adopted** ~~examination for professional practice in psychology that was~~ **EPPP (Part 1-Knowledge)** developed by the ~~Association of State and Provincial Psychology Boards (ASPPB).~~ **ASPPB.** The ~~board adopts the~~ passing score ~~on~~ **for** the examination **is the score** recommended by the ASPPB for supervised practice. **The EPPP (Part 2-Skills) is optional, and a passing score is not required.**

R 338.2565 Limited licensed psychologist examination; eligibility.

Rule 65. Except as provided in R 338.2567, to establish eligibility for the examination required under R 338.2563, an applicant for a limited license under section 18223(2) of the code, MCL 333.18223~~(2)~~, shall ~~submit~~ **provide** the required fee and a completed application on a form provided by the department. In addition, the applicant shall satisfy either of the following requirements:

(a) Have documentation provided directly to the department from an educational institution verifying the applicant satisfies the education and training requirements for a limited license specified in R 338.2561(1)(a) and (b).

(b) ~~Submit~~ **Provide** acceptable documentation to the department that verifies the applicant satisfies the requirements of R 338.2561(2).

R 338.2567 Foreign graduate of non-accredited postsecondary institution; limited licensed psychologist examination; eligibility.

Rule 67. To establish eligibility for the examination required under R 338.2563, an applicant who graduated from a foreign, non-accredited postsecondary institution shall satisfy both of the following requirements:

(a) Have documentation provided directly to the department from an educational institution verifying the applicant's possession of a master's degree that is substantially equivalent to the requirements in R 338.2561(1)(a) and (b). In addition, the applicant's master's degree ~~shall~~ **must** be from an educational institution that is substantially equivalent to an accredited educational institution that satisfies the standards in R 338.2529(2). ~~Evidence~~ **Proof** of satisfying these requirements ~~shall~~ **must** include an evaluation of the applicant's non-accredited education by a credential evaluation agency that is a member of the ~~National Association of Credential Evaluation Services~~ ~~(~~NACES~~)~~.

(b) ~~Demonstrate a working knowledge of the English language if the applicant's educational program was taught in a language other than English. To demonstrate a working knowledge of the English language, the applicant shall establish that he or she satisfies the requirements of R 338.2523.~~ **Comply with all other requirements of the code.**

R 338.2569 Application for temporary limited license for post-master's degree

experience; requirements; supervision**.**

Rule 69. (1) ~~The board shall grant a~~ **A** temporary limited license **must be granted** to either of the following applicants:

(a) An individual described in section 18223(2) of the code, MCL 333.18223~~(2)~~, for the purpose of obtaining the 1 year of postgraduate experience described in that section and R 338.2561(1)(c).

(b) An individual who is enrolled in a doctoral degree program that satisfies the requirements of section 18223(1) of the code, MCL 333.18223~~(1)~~, which includes both of the following requirements:

(i) The program is offered in a regionally accredited college, university, or institution that satisfies the standards in R 338.2529(2).

(ii) The program is a designated or accredited educational program that satisfies the standards in R 338.2541(1)(a), (b), (c), or (d).

(2) An applicant for a temporary limited license, in addition to satisfying the requirements of the code, shall satisfy both of the following requirements:

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

(b) Have documentation provided directly to the department from an educational institution verifying the applicant satisfies the following requirements, as applicable:

(i) If applying under subrule (1)(a) of this rule, verification that the applicant's educational program satisfies the requirements in R 338.2561(1)(a) and (b) or R 338.2567.

(ii) If applying under subrule (1)(b) of this rule, verification that the applicant's educational program satisfies the requirements in R 338.2529(2) and R 338.2541(1)(a), (b), (c), or (d).

(3) An applicant who is granted a temporary limited license to complete the post-master's degree experience may take the examination approved ~~by the board~~ under R 338.2563.

(4) The post-master's degree experience must satisfy all ~~of~~ the following requirements:

(a) The experience must consist of not less than 2,000 clock hours completed under the supervision of a licensed psychologist.

(b) The supervisee shall meet individually and in-person **or via 2-way real-time audiovisual technology that allows direct, contemporaneous interaction by sight and sound between the supervisor and the supervisee** ~~with his or her supervisor~~ weekly for a minimum of 4 hours a month, during which all active work functions and records of the supervisee are reviewed.

(c) The supervisee shall function as a psychologist using generally accepted applications of psychological knowledge and techniques acquired during the supervisee's education and training.

(d) The experience must be acquired in an organized health care setting, as defined in R 338.2521(1)(e).

(e) In cases of extreme hardship, a supervisee may request an alternative to the supervision arrangement specified in this subrule. The alternative supervision arrangement must not be implemented before the board has approved it. In deciding whether to approve the proposed alternative supervision arrangement, the board shall consider the nature of the extreme hardship and the reasonableness of the proposed alternative supervision agreement. A request to the board for approval of an alternative to the supervision arrangement must include, at a minimum, the following information:

(i) The amount of clock hours currently completed.

(ii) The amount of clock hours left to complete.

(iii) Whether a hardship request was made and, if so, the decision on the previous request.

(iv) The cause for the hardship.

(v) Measures taken to remedy the hardship.

(vi) Whether the hardship still exists.

(vii) The names and addresses of all fully licensed psychologists the licensee contacted or attempted to contact, including number of times, or attempts, or both.

(viii) The responses received from the fully licensed psychologists contacted.

(ix) The qualifications and experience of the proposed alternative supervisor.

R 338.2571 Supervision requirements; reporting of supervision.

Rule 71. An individual who is granted a limited license under section 18223(2) of the code, MCL 333.18223~~(2)~~, and is required to be supervised by a licensed psychologist shall satisfy all ~~of~~ the following requirements:

(a) A licensee who has less than 10 years of experience as a limited licensed psychologist, excluding experience as a temporary limited licensed psychologist, shall meet individually and in-person **or via 2-way real-time audiovisual technology that allows direct, contemporaneous interaction by sight and sound between the supervisor and the supervisee** ~~with his or her supervisor~~ for a minimum of 2 hours a month.

(b) A licensee who has 10 or more years of experience as a limited licensed psychologist, excluding experience as a temporary limited licensed psychologist, shall meet individually and in-person **or via 2-way real-time audiovisual technology that allows direct, contemporaneous interaction by sight and sound between the supervisor and the supervisee** ~~with his or her supervisor~~ for a minimum of 1 hour a month.

(c) A licensee who seeks a variance from the supervision requirement described in subrule (a) or subrule (b) of this rule, as provided under section 18223(2) of the code, MCL 333.18223~~(2)~~, shall ~~submit~~ **provide** a request for a variance to the board for consideration. Reasons for a possible variance include, but are not limited to**,**~~:~~ issues regarding physical disability, extended absence from practice, or geographical hardships. A variance must not be implemented without the written permission of the board. A request to the board for approval of an alternative to the supervision arrangement must include, at a minimum, the following information:

(i) The details of the variance, and the reason the variance is being requested.

(ii) The underlying cause of the need for a variance.

(iii) Whether a previous variance request was made and, if so, the previous decision.

(iv) The demographic makeup of the surrounding geographic area.

(v) The number of fully licensed psychologists within a 50-mile radius from home and work.

(vi) The names and addresses of all fully licensed psychologists the licensee contacted or attempted to contact, including number of times, or attempts, or both.

(vii) The responses received from the fully licensed psychologists contacted.

R 338.2573 Relicensure; limited licensed psychologist; requirements**.**

Rule 73. (1) An applicant whose limited license has lapsed for less than 3 years preceding the date of application for relicensure may be relicensed under section 16201(3) of the code, MCL 333.16201~~(3)~~, if the applicant satisfies all ~~of~~ the following requirements:

(a) ~~Submits~~ **Provides** the required fee and a completed application on a form provided by the department.

(b) Establishes ~~that he or she is of~~ good moral character as defined under 1974 PA 381, MCL 338.41 to MCL 338.47.

(c) ~~Submits~~ **Provides** proof to the department of accumulating not less than 30 hours of continuing education that satisfies the requirements of R 338.2581 and R 338.2583 during the 2 years immediately preceding relicensure.

(2) An applicant whose limited license has lapsed for 3 years or more preceding the date of application for relicensure may be relicensed under section 16201(4) of the code, MCL 333.16201~~(4)~~, if the applicant satisfies all ~~of~~ the following requirements:

(a) ~~Submits~~ **Provides** the required fee and a completed application on a form provided by the department.

(b) Establishes ~~that he or she is of~~ good moral character as defined under 1974 PA 381, MCL 338.41 to 338.47.

(c) ~~Submits~~ **Provides** fingerprints as required under section 16174(3) of the code, MCL 333.16174~~(3)~~.

(d) ~~Meets~~ **Satisfies** either of the following requirements:

(i) Passes the examination approved ~~by the board~~ under R 338.2563.

(ii) Presents ~~evidence~~ **proof** to the department ~~that he or she was licensed~~ **of licensure** as a psychologist in another state at any time during the 3-year period immediately preceding the application for relicensure.

(3) ~~An applicant shall have his or her license verified by the licensing agency of any state in which the applicant holds or ever held a license as a psychologist. If applicable, verification shall include the record of any disciplinary action taken or pending against the applicant.~~ **An applicant who is or has been licensed, registered, or certified in a health profession or specialty by any other state, the United States military, the federal government, or another country shall disclose that fact on the application form. The applicant shall 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. If licensure is granted and it is determined that sanctions have been imposed, the disciplinary subcommittee may impose appropriate sanctions under section 16174(5) of the code, MCL 333.16174.**

PART 4. CONTINUING EDUCATION

R 338.2581 License renewals; psychologist; limited licensed psychologist; requirements; applicability.

Rule 81. (1) This part applies to applications for renewal of a psychologist license and a psychologist limited license under sections 16201 and 18233(1) of the code, MCL 333.16201 and MCL 333.18233~~(1)~~, that are filed for the renewal cycle beginning 1 year or more after September 15, 2015.

(2) An applicant for license renewal who has been licensed for the 2-year period immediately preceding the application date for renewal shall accumulate not less than 30 hours of continuing education in activities approved ~~by the board~~ under these rules during the 2 years immediately preceding the application for renewal.

(3) Submission of an application for renewal constitutes the applicant's certification of compliance with the requirements of this rule. The licensee shall retain documentation of satisfying the requirements of this rule for a period of 4 years from the date of applying for license renewal. Failure to satisfy this rule is a violation of section 16221(h) of the code, MCL 333.16221~~(h)~~.

(4) The requirements of this rule do not apply to a licensee during ~~his or her~~ **the** initial licensure cycle.

R 338.2583 Acceptable continuing education; requirements; limitations.

Rule 83. (1) The 30 hours of continuing education required under R 338.2581(2) for the renewal of a psychologist license and a psychologist limited license must satisfy the following requirements, as applicable:

(a) No more than 12 hours of continuing education ~~must~~ **may** be earned during one 24-hour period.

(b) There is no limitation to the number of continuing education credit hours that may be earned online.

(c) Credit for a continuing education program or activity that is identical or substantially identical to a program or activity for which the licensee has already earned credit during that renewal period must not be granted.

(d) Under section 18233(2) of the code, MCL 333.18233~~(2)~~, at least 2 hours of continuing education must be earned in the area of 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 interventions as they relate to professional practice.

(e) At least 3 hours of continuing education must be earned in the area of ethics.

(2) ~~The board shall consider any~~ **Any** of the following activities **are considered** ~~as~~ acceptable continuing education:

ACCEPTABLE CONTINUING EDUCATION ACTIVITIES

Activity Code	Activity and Proof Required	Number of continuing education hours granted/permitted for activity
(a**)**	Attendance at or participation in a continuing education program or activity related to the practice of psychology, or any non-clinical subject relevant to psychological practice, education, administration, management, or science, which includes, but is not limited to: live, in-person programs; interactive or monitored teleconference, audio-conference, or web-based programs; online programs; and journal articles or other self-study programs approved or offered by any of the following organizations: • A statewide bar association. • A statewide psychological association affiliated with the American Psychological Association. • The American Association of Group Psychotherapy. • The American Association of Marriage and Family Therapists. • The American Association of Pastoral Counselors. • The American Association of Psychotherapy. • The American Association of Sex Educators, Counselors, and Therapists. • The American Bar Association. • The American Board of Professional Neuropsychology.	The number of continuing education hours for a specific program or activity ~~shall be~~ **are** the number of hours approved by the sponsor or the approving organization for the specific program or activity. A maximum of 30 hours of continuing education may be earned for this activity in each renewal period.

	• The American Board of Professional Psychologists. • The American Counseling Association. • The American Medical Association. • The American Mental Health Counselor Association. • The American Nurses Association. • The American Psychiatric Association. • The American Psychological Association. • The American Psychotherapy Association. • The American Society of Addiction Medicine. • Another state or provincial board of psychology. • The Association for Psychological science. • The Association of State and Provincial Psychology Boards. • The Canadian Psychological Association. • The Michigan Certification Board for Addiction Professionals. • The Michigan Psychoanalytic Institute. • The Michigan Psychological Association. • The Michigan Society for Psychoanalytic Psychology. • The National Association of School Psychologists. • The National Association of Social Workers. • The National Board of Certified Counselors. • The National Register of Health Service Providers in Psychology. • Nationally or regionally accredited academic institutions. • Nationally or regionally accredited hospitals or mental health treatment centers. • State, provincial, and territorial psychological associations. If audited, the licensee shall ~~submit~~ **provide** a program description~~,~~ **and** 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 on which the program was held**,** or activity completed.	
(b**)**	Passing a postgraduate academic course related to the practice of psychology offered in a regionally	Five hours of continuing education ~~shall be~~ **are** granted for each

	accredited educational program. If audited, the licensee shall ~~submit~~ **provide** an official transcript documenting successful completion of the course.	academic credit hour passed. A maximum of 20 hours of continuing education may be earned for this activity in each renewal period.
(c**)**	Initial presentation of a continuing education program related to the practice of psychology provided to a state, regional, national, or international psychological organization. To receive credit, the presentation must not be a part of the licensee's regular job description and must be approved or offered for continuing education credit by any of the organizations listed under activity code **(**a**)** of this subrule. If audited, the licensee shall ~~submit~~ **provide** a program description, a copy of the presentation notice or advertisement showing the date of the presentation, the licensee's name listed as a presenter, and the name of the organization that approved or offered the presentation for continuing education credit.	Two hours of continuing education ~~shall be~~ **are** granted for each 50 to 60 minutes of presentation. No additional credit ~~shall be~~ **is** granted for preparation of a presentation. A maximum of 20 hours of continuing education may be earned for this activity in each renewal period.
(d**)**	Initial presentation of a scientific exhibit, poster, scientific paper, or clinical demonstration to a psychological organization. To receive credit, the presentation shall not be part of the licensee's regular job description or performed in the normal course of the licensee's employment. If audited, the licensee shall ~~submit~~ **provide** a copy of the document presented with ~~evidence~~ **proof** of presentation or a letter from the program sponsor verifying the length and date of the presentation.	Two hours of continuing education ~~shall be~~ **are** granted for each 50 to 60 minutes of presentation. No additional credit ~~shall be~~ **is** granted for preparation of the presentation. A maximum of 20 hours of continuing education may be earned for this activity in each renewal period.
(e**)**	Initial publication of an article related to the practice of psychology in a peer-reviewed journal. If audited, the licensee shall ~~submit~~ **provide** a copy of the publication that identifies the licensee as the author or a publication acceptance letter.	Five hours of continuing education ~~shall be~~ **are** granted for serving as the primary author. Two hours of continuing education ~~shall be~~ **are** granted for serving as the secondary author. A maximum of 20 hours of continuing education may be earned for this activity in each renewal period.
(f**)**	Initial publication of an article related to the practice of psychology in a non-peer reviewed journal, newsletter, or magazine. If audited, the licensee shall ~~submit~~ **provide** a copy of	One hour of continuing education ~~shall be~~ **is** granted for each article. A maximum of 3 hours of continuing education may be earned for this activity in each

	the publication that identifies the licensee as the author or a publication acceptance letter.	renewal period.
(g**)**	Initial publication of a chapter related to the practice of psychology in either of the following textbooks: • A professional or health care textbook. • A peer-reviewed textbook. If audited, the licensee shall ~~submit~~ **provide** a copy of the publication that identifies the licensee as the author or a publication acceptance letter.	Five hours of continuing education ~~shall be~~ **are** granted for serving as the primary author. Two hours of continuing education ~~shall be~~ **are** granted for serving as the secondary author. A maximum of 20 hours of continuing education may be earned for this activity in each renewal period.
(h**)**	Initial publication of a book related to the practice of psychology. If audited, the licensee shall ~~submit~~ **provide** proof of publication that identifies the licensee as the author or a publication acceptance letter.	A maximum of 20 hours of continuing education may be earned for this activity in each renewal period for all non-self-published books. A maximum of 10 hours of continuing education may be earned for this activity in each renewal period for all self-published books.
(i**)**	Identifying, researching, and resolving an event or issue related to clinical or professional practice. If audited, the licensee shall ~~submit~~ **provide** a summary of activities, including hours spent, references if relevant, ~~as well as~~ **and** a description of event or issue involved in identifying, researching, and resolving the event or issue.	One hour of continuing education ~~shall be~~ **is** granted for each 50 to 60 minutes spent identifying, researching, and resolving the issue or event. A maximum of 5 hours of continuing education may be earned for this activity in each renewal period.
(j**)**	Participating on a state or national committee, board, council, or association related to the field of psychology. A committee, board, council, or association is considered acceptable by the board if it enhances the participant's knowledge and understanding of the field of psychology. If audited, the licensee shall ~~submit~~ **provide** documentation verifying the licensee's participation in at least 50% of the regularly scheduled meetings of the committee, board, council, or association.	Ten hours of continuing education ~~shall be~~ **are** granted for each committee, board, council, or association. A maximum of 20 hours of continuing education may be earned for this activity in each renewal period.
(k**)**	Participating as a student in a postdoctoral clinical training program related to the practice of psychology provided through an accredited educational program for psychologists that satisfies the standards adopted ~~by the board~~ under R 338.2529(2). If audited, the licensee shall ~~submit~~ **provide** a letter from the program director verifying the licensee participated in the program.	Ten hours of continuing education ~~shall be~~ **are** granted for participating in the program. A maximum of 10 hours of continuing education may be earned for this activity in each renewal period.

(l**)**	Participating as a surveyor in the accreditation, certification, or inspection of an educational, clinical**,** or service delivery program for psychologists with any of the following organizations: • The Commission on Accreditation (COA). • The Joint Commission. • The Commission on Accreditation of Rehabilitation Facilities (CARF) International. • The American Psychological Association. • The Psychological Clinical Science Accreditation System (PCSAS). If audited, the licensee shall ~~submit~~ **provide** a letter from the accreditation, certification**,** or inspection program verifying the licensee's participation and the location of the inspections or examinations.	Ten hours of continuing education ~~shall be~~ **are** granted for participating as a surveyor. A maximum of 10 hours of continuing education may be earned for this activity in each renewal period.
(m**)**	Participating on any of the following committees: • A peer review committee dealing with quality patient care as it relates to the practice of psychology. • A committee dealing with utilization review as it relates to the practice of psychology. • A health care organization committee dealing with patient care issues related to the practice of psychology. If audited, the licensee shall ~~submit~~ **provide** a letter from an organization official verifying the licensee's participation in at least 50% of the regularly scheduled meetings of the committee.	Ten hours of continuing education ~~shall be~~ **are** granted for participating on a committee. A maximum of 10 hours of continuing education may be earned for this activity in each renewal period.
(n**)**	Serving as an instructor for the first time for any of the following programs: • Students, staff, or other licensees at a postdoctoral clinical training program related to the practice of psychology provided at an accredited educational program for psychologists that satisfies the standards adopted ~~by the board~~ under R 338.2529(2). • Students, interns, residents, or staff in an accredited educational or training program in the area of psychology that satisfies the standards adopted ~~by the board~~ under R 338.2529(2). If audited, the licensee shall ~~submit~~ **provide** a letter from the program director verifying the licensee's role, length of the lecture or lectures, and the date on	Two hours of continuing education ~~shall be~~ **are** granted for each **50-to-60-minute** lecture per subject. Additional credit for preparation of the lecture ~~shall~~**may** not be granted. A maximum of 10 hours of continuing education may be earned for this activity in each renewal period.

	which the lecture or lectures was held.	
(o**)**	Providing clinical supervision for master's, doctoral, or postdoctoral level students. To receive credit, this activity must not be part of the licensee's regular job description. If audited, the licensee shall ~~submit~~ **provide** a letter from an authorized official at the agency employing the licensee verifying the licensee's role and the number of supervision hours the licensee provided.	One hour of continuing education ~~shall be~~ **is** granted for each 50 to 60 minutes of supervision provided. A maximum of 10 hours of continuing education may be earned for this activity in each renewal period.
(p**)**	Participating in peer supervision or consultation with professional colleagues. If audited, the licensee shall ~~submit~~ **provide** an affidavit from the colleague that ~~was involved~~ **took part** in the peer supervision or consultation. The affidavit must attest to the licensee's role and the number of hours the licensee spent participating in these activities.	One hour of continuing education ~~shall be~~ **is** granted for each 50 to 60 minutes of participation. A maximum of 10 hours of continuing education may be earned for this activity in each renewal period.
(q**)**	Participating in case conferences, including hospital grand rounds, multidisciplinary conferences, for training purposes. If audited, the licensee shall ~~submit~~ **provide** a letter from the administrative or clinical supervisor verifying the types of conferences and the number of hours the licensee spent participating in the conferences.	One hour of continuing education ~~shall be~~ **is** granted for each 50 to 60 minutes of participation. A maximum of 5 hours of continuing education may be earned for this activity in each renewal period.
(r**)**	Providing individual supervision for a limited licensed psychologist beyond the hours of supervision required under R 338.2571(a) or (b). Supervision provided as part of a disciplinary sanction may be included under this activity. If audited, the licensee shall ~~submit~~ **provide** an affidavit from the limited licensed psychologist who received the supervision. The affidavit must attest to the licensee's role as a supervisor and the number of hours the licensee spent providing supervision to the limited licensed psychologist.	One hour of continuing education ~~shall be~~ **is** granted for each 50 to 60 minutes of supervision provided beyond the hours of supervision required per month. A maximum of 10 hours of continuing education may be earned for this activity in each renewal period.
(s**)**	Receiving individual supervision from a licensed psychologist beyond the hours of supervision required under R 338.2571(a) or (b). Supervision received as part of a disciplinary sanction ~~must~~ **may** not be included under this activity. If audited, the licensee shall ~~submit~~ **provide** an	One hour of continuing education ~~shall be~~ **is** granted for each 50 to 60 minutes of supervision received beyond the hours of supervision required per month. A maximum of 10 hours of continuing education may be earned for this

	affidavit from the licensed psychologist who provided the supervision. The affidavit must attest to the licensee's role as a supervisee and the number of hours the licensee spent receiving supervision from the licensed psychologist.	activity in each renewal period.
(t**)**	Participation in a panel discussion relevant to the practice of psychology in an approved continuing education program or an organized health care setting as defined in R 338.2521(1)(e). If audited, the licensee shall ~~submit~~ **provide** documentation from the organizer of the panel discussion verifying the topic of the panel discussion and the number of hours the licensee spent participating in the discussion.	One hour of continuing education ~~shall be~~**is** granted for each 50 to 60 minutes spent participating in the panel discussion. A maximum of 5 hours of continuing education may be earned for this activity in each renewal period.
(u**)**	Obtaining initial certification in a specialty area by 1 of the following organizations: • The American Board of Professional Psychology. • The Michigan Certification Board for Addiction Professionals. If audited, the licensee shall ~~submit~~ **provide** proof of certification.	Twenty hours of continuing education ~~shall be~~**are** granted for obtaining initial certification. A maximum of 20 hours of continuing education may be earned for this activity in each renewal period.
(v**)**	Participation in the development of a national examination for psychologists. If audited, the licensee shall ~~submit~~ **provide** documentation from the sponsor of the examination verifying the licensee's role and participation in the development of the examination.	Five hours of continuing education ~~shall be~~ **are** granted for participation. A maximum of 5 hours of continuing education may be earned for this activity in each renewal period.

R 338.2585 Continuing education providers; standards for approval.

Rule 85. (1) A continuing education provider that is not pre-approved under R 338.2583 may be approved by the board. To be approved by the board, the provider must complete an application provided by the department, file the application with the department for review no later than 90 days before the program date, and satisfy subrule (2) of this rule. The application and supporting documentation must include all ~~of~~ the following information:

(a) A program schedule, including date of the program, topics, the name of the presenter or presenters, and break times.

(b) An explanation of how the program is being designed to further educate psychologists, including a short narrative describing the program content and the criteria for the selection of the content.

(c) Copies of instructional objectives that have been developed.

(d) Copies of all promotional and advertising materials for the program.

(e) The name, title, and address of the program director and a description of ~~his or her~~ qualifications to direct the program.

(f) A description of how the amount of continuing education credit to be awarded for this program was determined.

(g) A description of how participants will be notified that continuing education credit has been earned.

(h) A copy of the curriculum vitae for each presenter.

(i) A description of the delivery method or methods to be used during the presentation.

(j) A copy of the assessment instrument, if any, that will be used for participant evaluation.

(k) A description of how the assessment, if any, will be administered, corrected, and returned to participants.

(l) A description of how attendance will be monitored.

(2) A program provider or sponsor approved under subrule (1) of this rule shall issue certificates or letters of attendance that include all ~~of~~ the following information:

(a) The name of the sponsor.

(b) The name of the program, including the name of the presenter or presenters.

(c) The name of the attendee.

(d) The date of the program.

(e) The Michigan approval number, if assigned by the department.

(f) The signature of the person responsible for attendance monitoring and ~~his or her~~ title.

(g) The number of hours attended**,** and the amount of continuing education credits earned.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
Administrative Rules for Psychology- General Rules
Rule Set 2020-127 LR

NOTICE OF PUBLIC HEARING
Thursday, September 9, 2021
09:00 AM

G. Mennen Williams Building Auditorium
525 W. Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Psychology- General Rules rule set.

The proposed revisions to the rules rescind the minimum English standards, supply conditions related to consent, scope of practice, and standard of care for telehealth services, update educational standards, supply information about postdoctoral internship standards, clarify the examination and needed passing score for licensure, incorporate the recent legislative changes that allow licensure by endorsement for individuals licensed in another state or a province of Canada, revise the requirements for verification of licenses held in other jurisdictions, clarify that supervision may take place via in-person or two-way real-time interaction between the supervisor and supervisee, and allow proof of licensure in a province of Canada for purposes of relicensure.

By authority conferred on the Department of Licensing and Regulatory Affairs under MCL 333.16145, MCL 333.16148, MCL 333.18201, MCL 333.18223, and MCL 333.18233 and Executive Reorganization Nos. 1991-9, 1996-2, 2003-1 and 2011-4, MCL 338.3501, 445.2001,445.2011, and 445.2030. The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: BPL-BoardSupport@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/9/2021 at 05:00PM.

BPL-BoardSupport@michigan.gov

Email: BPL-BoardSupport@michigan.gov

Department of Licensing and Regulatory Affairs Bureau of Professional Licensing – Boards and Committees Section P.O. Box 30670 Lansing, MI 48909-8170 Attention: Policy Analyst

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-241-7500 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA EMPLOYEES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a~~(6)~~**(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 marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.601 and R 420.602 of the Michigan Administrative Code are amended, and R 420.602a is added, as follows:

R 420.601 Definitions.

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

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) "Agency" means the marijuana regulatory agency.

(c) "Cultivator" means both a grower under the medical marihuana facilities licensing act and a marihuana grower under the Michigan Regulation and Taxation of Marihuana Act.

(~~c~~**d**) "Designated consumption establishment" means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.

(~~d~~**e**) "Employee" means, except as otherwise provided in these rules, a person performing work or service for compensation. "Employee" does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana establishment.

(f) "Laboratory" means both a safety compliance facility under the medical marihuana facilities licensing act and a marihuana safety compliance facility under the Michigan Regulation and Taxation of Marihuana Act.

(~~e~~**g**) "Limited access area" means a building, room, or other contiguous area of a marihuana business where marihuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale and that is under the control of the licensee.

(~~f~~**h**) "Marihuana business" ~~refers to~~ **means** a marihuana facility under the medical marihuana facilities licensing act or a marihuana establishment under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(~~g~~**i**) "Marihuana customer" ~~refers to~~ **means** a registered qualifying patient under the medical marihuana facilities licensing act, a registered primary caregiver under the medical marihuana facilities

licensing act, or an individual 21 years of age or older under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or all 3.

(~~h~~**j**) "Marihuana establishment" means a location at which a licensee is licensed to operate a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, **class A marihuana microbusiness,** marihuana retailer, marihuana secure transporter, marihuana designated consumption establishment, or any other type of marihuana related business licensed to operate by the agency under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct.

(~~i~~**k**) "Marihuana event organizer" means a person licensed to apply for a temporary marihuana event license under these rules.

(~~j~~**l**) "Marihuana facility" means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(~~k~~**m**) "Marihuana product" means marihuana or a marihuana-infused product, or both, as those terms are defined in the acts unless otherwise provided for in these rules.

(~~l~~**n**) "Marihuana sales location" ~~refers to~~ **means** a provisioning center under the medical marihuana facilities licensing act or a marihuana retailer**,** ~~or~~ marihuana microbusiness¸ **or class A marihuana microbusiness** under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, or both.

(o) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(p) "Marihuana transporter" means a secure transporter under the medical marihuana facilities licensing act or a marihuana secure transporter under the Michigan Regulation and Taxation of Marihuana Act, or both.

(~~m~~**q**) "Medical marihuana facilities ~~license~~ **licensing** act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(~~n~~**r**) "Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(s) "Producer" means both a processor under the medical marihuana facilities licensing act and a marihuana processor under the Michigan Regulation and Taxation of Marihuana Act.

(~~o~~**t**) "These rules" means the administrative rules promulgated by the ~~Marijuana Regulatory~~ ~~Agency~~ **marijuana regulatory agency** under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, and Executive Reorganization Order No. 2019-2**, MCL 333.27001**.

(~~p~~**u**) "Temporary marihuana event license" means a state license held by a marihuana event organizer under the Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct, for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

R 420.602 Employees; requirements.

Rule 2. (1) A licensee shall conduct a criminal history background check on any prospective employee before hiring that individual. A licensee shall keep records of the results of the criminal history background checks for the duration of the employee's employment with the licensee. A licensee shall record confirmation of criminal history background checks and make the confirmation available for inspection upon request by the agency.

(2) A licensee shall comply with all of the following:

(a) Have a policy in place that requires employees to report any new or pending criminal charges or convictions. If an employee is charged with or convicted of a controlled substance-related felony or any

other felony, the licensee shall immediately report the charge or conviction to the agency. If an employee of a licensee under the ~~Michigan regulation and taxation of marihuana act~~ **MRTMA** is convicted of an offense involving distribution of a controlled substance to a minor, the licensee shall immediately report the conviction to the agency. ~~The agency shall maintain a list of excluded employees.~~

(b) Enter in the statewide monitoring system an employee's information and level of statewide monitoring system access within 7 business days of hiring for the system to assign an employee identification number. The licensee shall update in the statewide monitoring system employee information and changes in status or access within 7 business days.

(c) Remove an employee's access and permissions to the marihuana business and the statewide monitoring system within 7 business days after the employee's employment with the licensee is terminated.

(d) ~~Train employees and have an employee training manual that includes, but is not limited to, employee safety procedures, employee guidelines, security protocol, and educational training, including, but not limited to, marihuana product information, dosage and purchasing limits if applicable, and educational materials. Copies of these items must be maintained and made available to the agency upon request.~~ **Train employees in accordance with an employee training manual. Copies of this manual must be maintained and be made available to the agency upon request. The employee training manual must include, but is not limited to, all of the following:**

(i) Employee safety procedures.

(ii) Employee guidelines.

(iii) Security protocol.

(iv) Educational training, including, but not limited to, marihuana product information; dosage and purchasing limits, if applicable; and educational materials.

(e) ~~A licensee under the Michigan regulation and taxation of marihuana act shall, if applicable, include in the employee training manual a responsible operations plan. A responsible operations plan must include a detailed explanation of how employees will monitor and prevent over-intoxication, underage access to the establishment, the illegal sale or distribution of marihuana or marihuana products within the establishment, and any other potential criminal activity on the premises, as applicable. Copies of these items must be maintained and made available to the agency upon request.~~ **A licensee under the MRTMA shall include in the employee training manual a responsible operations plan. Copies of this plan must be maintained and be available to the agency upon request. A responsible operations plan must include a detailed explanation of how employees will monitor and prevent all of the following:**

(i) Over-intoxication.

(ii) Underage access to the establishment.

(iii) The illegal sale or distribution of marihuana or marihuana products within the establishment.

(iv) Any potential criminal activity on the premises, as applicable.

(f) ~~Establish point of sale or transfer procedures for employees at marihuana sales locations performing any transfers or sales to marihuana customers. The point of sale or transfer procedures must include, but are not limited to, training in dosage, marihuana product information, health or educational materials, point of sale training, purchasing limits, cannabidiol (CBD) and tetrahydrocannabinol (THC) information, serving size, and consumption information, including any warnings. Copies of these items must be maintained and made available to the agency upon request.~~ **Establish point of sale or transfer procedures for employees at marihuana sales locations performing any transfers or sales to marihuana customers. Copies of these procedures must be maintained and be made available to**

the agency upon request. The point of sale or transfer procedures must include, but are not limited to, all of the following:

(i) Training in dosage.

(ii) Marihuana product information.

(iii) Health or educational materials.

(iv) Point of sale training.

(v) Purchasing limits.

(vi) Cannabidiol (CBD) and tetrahydrocannabinol (THC) information.

(vii) Serving size.

(viii) Consumption information, including any warnings.

(g) Screen prospective employees against a list of excluded employees ~~based on a report or investigation~~ maintained by the agency in accordance with **R 420.808a(6)**~~subdivision (a) of this subrule~~.

(h) Ensure that employees handle marihuana product in compliance with ~~c~~**C**urrent ~~g~~**G**ood ~~m~~**M**anufacturing ~~p~~**P**ractice**, Hazard Analysis, and Risk Based Preventative Controls for** ~~in manufacturing, packing, or holding~~ ~~h~~**H**uman ~~f~~**F**ood, 21 CFR part 11~~0~~**7**, as specified in these rules.

(i) When a registered primary caregiver is hired as an employee of a grower, processor, or secure transporter licensed under the ~~medical marihuana facilities licensing act~~**MMFLA**, ~~withdraw, or~~ ensure the individual withdraws~~,~~ the individual's registration as a registered primary caregiver in a manner established by the agency.

(j) ~~If a~~ **A** licensee under the ~~Michigan regulation and taxation of marihuana act~~**MRMTA**~~,~~ **shall** not allow a person under 21 years of age to volunteer or work for the marihuana establishment pursuant to section 11 of the MRTMA, MCL 333.27961.

(k) ~~If a~~ **A** licensee under the ~~Michigan regulation and taxation of marihuana act~~**MRTMA**~~,~~ **shall** not employ any individual who has been convicted of an offense involving distribution of a controlled substance to a minor.

(3) If an individual is present at a marihuana business or in a marihuana transporter vehicle who is not identified as a licensee or an employee of the licensee in the statewide monitoring system or is in violation of the acts or these rules, the agency may take any action permitted under the acts and these rules. This subrule does not apply to authorized escorted visitors at a marihuana business.

(4) Employee records are subject to inspection or examination by the agency to determine compliance with the acts and these rules.

(5) Consumption of food and beverages by employees or visitors is prohibited where marihuana product is stored, processed, or packaged or where hazardous materials are used, handled, or stored. The marihuana business may have a designated area for the consumption of food and beverages that includes, but is not limited to, a room with floor to ceiling walls and a door that separates the room from any marihuana product storage, processing, or packaging.

(6) As used in this rule, "employee" includes, but is not limited to, hourly employees, contract employees, trainees, or any other person given any type of employee credentials or authorized access to the marihuana business. Trade or professional service~~s~~ **providers** ~~provided by individuals~~ not normally engaged in the operation of a marihuana business, except for those individuals required to have employee credentials under this rule, must be reasonably monitored, logged in as a visitor**,** and escorted through any limited access areas.

(7) Nothing in this rule prohibits a licensee from allowing visitors into the marihuana business**.**~~,~~ **A licensee shall ensure that** ~~if the~~ visitors are reasonably monitored, logged in as a visitor, and escorted through any limited access areas. Visitors that are not employees or individuals providing trade or professional services are prohibited where hazardous materials are used, handled, or stored in the marihuana business.

R 420.602a Prohibitions.

Rule 2a. (1) An employee of a cultivator may not also be employed by a marihuana transporter or a laboratory.

(2) An employee of a producer may not also be employed by a marihuana transporter or a laboratory.

(3) An employee of a marihuana sales location may not also be employed by a marihuana transporter or a laboratory.

(4) An employee of a marihuana transporter may not also be employed by a cultivator, producer, marihuana sales location, or laboratory.

(5) An employee of a laboratory may not also be employed by a cultivator, producer, marihuana sales location, or marihuana transporter.

(6) An employee of a marihuana microbusiness or a class A marihuana microbusiness may not also be employed by a laboratory or a marihuana transporter.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Marihuana Regulatory Agency
Administrative Rules for Marihuana Employees
Rule Set 2021-10 LR

NOTICE OF PUBLIC HEARING
Monday, September 27, 2021
09:30 AM

Williams Building, 1st Floor Auditorium
525 West Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Marihuana Employees rule set.

The rule changes are designed to create consistency in the hiring and employment practices of marihuana businesses, specifically as it relates to an employee being employed by more than one marihuana business.

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001). The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: MRA-Legal@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/27/2021 at 05:00PM.

Marijuana Regulatory Agency- ATTN: Legal Section

Email: MRA-Legal@michigan.gov

PO BOX 30205 or 2407 N Grand River Ave Lansing MI, 48906

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-284-8584 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA DECLARATORY RULINGS

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(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 marijuana regulatory agency by section 5 of the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26425, section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.821, R 420.822, and R 420.823 are added to the Michigan Administrative Code, as follows:

R 420.821 Definitions.

Rule 21. (1) As used in these rules:

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430, and the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904, when applicable.

(b) "Agency" means the marijuana regulatory agency.

(c) "Contested case hearing" means an administrative hearing conducted by an administrative law judge within the Michigan office of administrative hearings and rules on behalf of the agency in accordance with the acts and these rules.

(d) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(e) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(f) "Michigan Regulation and Taxation of Marihuana Act" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(g) "These rules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan Regulation and Taxation of Marihuana Act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

R 420.822 Declaratory rulings.

Rule 22. (1) Any interested person may request a declaratory ruling as to the applicability to an actual state of facts of a statute, rule, final order, or decision administered, promulgated, or issued by the agency. A request may not relate to a hypothetical fact situation.

(2) The request must be on a form provided by the agency and contain all of the following information:

(a) The interested person's name, mailing address, email address, and telephone number.

(b) The interested person's interest in the matter, including assertions regarding the person's legal standing to request a declaratory ruling.

(c) The statute, rule, or order to which the request applies.

(d) A complete, accurate, and concise statement of the facts to which the statute, rule, or order may apply.

(e) An analysis, legal brief, or memorandum of the issues presented, including reference to any legal authority relied upon, and the interested person's conclusions.

(3) Within 60 calendar days of receipt of the request, the agency shall issue a written notification stating whether or not a declaratory ruling will be issued.

(4) If the agency has determined that it will issue a declaratory ruling, then it shall do so within 90 calendar days of the notification date specified in subrule (3) of this rule, unless the agency notifies the interested person in writing of the need for additional time, and the reasons for the additional time.

(5) Before the issuance of the declaratory ruling, the agency, in its discretion, may choose to do 1 or more of the following:

(a) Seek consultation, comments, or advice from legal counsel, experts within or outside the agency, local, state, or federal governmental agencies, or any other source.

(b) Request information or clarification from other interested parties.

(c) Advise the person requesting the ruling that further clarification of the facts must be provided, or that the agency requires additional time to conduct a review.

(6) If subrule (5)(c) of this rule is invoked, the agency shall either deny or grant the request within 60 calendar days after receiving satisfactory clarification of facts from the requesting person or from the date the agency notifies the requesting person of the need for additional time.

(7) The agency shall issue a declaratory ruling only in matters where all the relevant facts are stipulated to by the requesting party and the agency. If relevant facts necessary to issue a declaratory ruling are contested, then a declaratory ruling shall not be issued.

(8) A denial or adverse decision of a declaratory ruling does not entitle a person to a contested case hearing.

(9) Requests regarding enforcement issues are not a proper subject for a declaratory ruling.

(10) The agency may require that a contested case hearing take place instead of issuing a declaratory ruling.

(11) In the discretion of the agency, a request for declaratory ruling may be denied if the interested person fails to follow the procedure for submission set forth in this rule, if the state of facts is incomplete or inaccurate, if the facts or circumstances relate to a changing situation, if the ruling would not be in the public interest or in furtherance of statutory objectives, or for any other stated reason. The agency shall set forth the reasons for denial of the request in its written notification to the interested person.

(12) If a declaratory ruling is issued by the agency, it must be in writing, and contain all of the following:

(a) The specific facts upon which it is based.

(b) The legal authority upon which it is based.

(c) The ruling itself.

(d) A statement that the ruling is limited to the specific facts presented and to the statute, rule, final decision, or order identified by the interested person or other statute, rule, final decision, or order identified by the agency.

(e) A statement that the ruling is binding on the agency and the interested person unless it is altered or set aside by any court.

(f) A statement that the agency may not retroactively change the ruling but may prospectively do so in its discretion.

R 420.823 Severability.

Rule 23. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Marihuana Regulatory Agency
Administrative Rules for Marihuana Declaratory Rulings
Rule Set 2021-29 LR

NOTICE OF PUBLIC HEARING
Monday, September 27, 2021
09:30 AM

Williams Building, 1st Floor Auditorium
525 West Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Marihuana Declaratory Rulings rule set.

The rules are designed to create consistency in the receipt and processing of declaratory ruling requests made under the acts to the Agency. These requests come in on a routine basis.

(By authority conferred on the executive director of the marijuana regulatory agency by section 5 of the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26425, section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001). The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan web site at http://www.michigan.gov/ARD and in the Michigan Register in the 9/1/2021 issue. Copies of these proposed rules may also be obtained by mail or electronic transmission at the following address: MRA-Legal@michigan.gov.

Comments on these proposed rules may be made at the hearing or by mail or electronic mail at the following address until 9/27/2021 at 05:00PM.

Marijuana Regulatory Agency- ATTN: Legal Section

Email: MRA-Legal@michigan.gov

PO BOX 30205 or 2407 N Grand River Ave Lansing MI, 48906

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 517-284-8584 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

DIRECTOR'S OFFICE

GENERAL INDUSTRY AND CONSTRUCTION SAFETY AND HEALTH STANDARD

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(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 labor and economic opportunity by sections 14, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998)

R 408.1 and R 408.2 of the Michigan Administrative Code are added, as follows:

PART 505. CORONAVIRUS DISEASE 2019 (COVID-19) FOR HEALTHCARE

R 408.1 Scope, application, and adoption by reference.

Rule 1. (1) These rules apply to all healthcare employers covered in the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094, for SARS-CoV-2 coronavirus and COVID-19.

(2) The following federal Occupational Safety and Health Administration (OSHA) regulations are adopted by reference in these rules:

(a) 29 CFR 1910, Subpart U, "COVID-19 Emergency Temporary Standard."

(b) 29 CFR 1910.502, "Healthcare," effective June 21, 2021.

(c) 29 CFR 1910.504, "Mini Respiratory Protection Program," effective June 21, 2021.

(d) 29 CFR 1910.505, "Severability," effective June 21, 2021.

(e) 29 CFR 1910.509, "Incorporation by Reference," effective June 21, 2021.

(3) The OSHA regulations adopted in these rules are available from the United States Department of Labor, Occupational Safety and Health Administration website, www.osha.gov, at no charge, as of the time of adoption of these rules.

(4) The regulations adopted in these rules are available for inspection at the Department of Labor and Economic Opportunity, MIOSHA Standards and FOIA Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(5) The regulations adopted in these rules may be obtained from the Department of Labor and Economic Opportunity, MIOSHA Standards and FOIA Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143. Up to 5 copies of these standards may be obtained at no charge. For quantities greater than 5, the cost is 4 cents per page, plus $20.00 for shipping and handling.

R 408.2 Sunset.

Rule 2. These rules remain in full force and effect until such time as the United States Department of Labor, Occupational Safety and Health Administration standards adopted by reference in R 408.1 are withdrawn, repealed, or rescinded.

OPINIONS OF THE ATTORNEY GENERAL

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. "

OPINIONS OF THE ATTORNEY GENERAL

STATE OF MICHIGAN

DANA NESSEL, ATTORNEY GENERAL

CONST 1963, ART 2, § 4:

CONST 1963, ART 4, § 53:

CONSTITUTIONAL LAW:

ELECTIONS:

Auditor General's authority to audit post-election processes and access election records and equipment

While the Auditor General may subject the Michigan Bureau of Elections to a performance audit concerning the Bureau's procedures for conducting post-election audits under MCL 168.31a, article 4, § 53 of Michigan's Constitution does not authorize the Auditor General to audit county clerks or other local units of government to facilitate his audit of the Bureau of Elections.

The Secretary of State, in her role as the Chief Elections Officer, may exercise supervisory authority over local elections officials responding to a request for election records by the Auditor General by issuing directions for the review of such records in order to protect the physical integrity and security of the records consistent with state and federal law.

The Secretary of State, in her role as the Chief Elections Officer, may exercise supervisory authority over local elections officials responding to a request for access to voting equipment by the Auditor General by issuing directions that access to voting equipment should not be permitted, given the need to protect the physical integrity and security of the equipment consistent with state and federal law.

Opinion No. 7316 August 6, 2021

The Honorable Jocelyn Benson
Secretary of State
Richard H. Austin Building
430 W. Allegan Street
Lansing, MI 48909

You have asked two questions concerning the State Auditor General's intent to conduct a performance audit of the Department of State, Bureau of Elections' post-election audit procedures related to the November 3, 2020, general election.

BACKGROUND

A. The November 3, 2020, general election

On November 3, 2020, the State of Michigan held state and federal elections, including, most notably, elections for president and vice president of the United States. The results of that election, as certified by the Board of State Canvassers, revealed that President-elect Joseph R. Biden defeated former President Donald J. Trump by 154,188 votes.[1]

But the presidential election was contentious. Almost immediately after the polls closed on election night, challenges began to emerge, including over procedures used by City of Detroit elections officials to count absent voter ballots, and the early tabulation of votes in Antrim County, Michigan.[2] Many of these disputes then surfaced in multiple lawsuits attempting to challenge the results of Michigan's presidential election, none of which met with any success. See, e.g., *King v Whitmer*, 505 F Supp 3d 720 (ED Mich, 2020). Among the other issues raised in post-election litigation was Michigan's new constitutional requirement for the conducting of post-election audits. See Const 1963, art 2, § 4(1)(h). Indeed, the Department of Attorney General received hundreds of communications from Michigan citizens requesting that the constitutionally required audits be performed.

B. Post-election audits

In 2018, voters amended the Michigan Constitution to, among other things, provide for the audit of statewide elections. As amended, article 2, § 4(1)(h) of the Constitution now provides:

> (1) Every citizen of the United States who is an elector qualified to vote in Michigan shall have the following rights:

[1] See November 2020 General Election Results, available at 2020 Michigan Official General Election Results - 11/03/2020 (mielections.us)

[2] These events are discussed in the Michigan Senate Oversight Committee's report regarding the November 3, 2020, general election, available at Oversight Committee Report | Michigan Senate Republicans (misenategop.com), (accessed August 5, 2021).

***

> (h) The right to have the results of statewide elections audited, *in such a manner as prescribed by law*, to ensure the accuracy and integrity of elections. [Emphasis added.]

Thus, the people now have a right to have the Legislature provide for an audit of the results of statewide elections.

Michigan's Legislature has conferred the task of conducting proper elections on the Secretary of State, an elected Executive-branch officer, and the head of the Department of State. Const 1963, art 5, §§ 3, 9. Section 21 of the Michigan Election Law makes the Secretary the "chief election officer" with "supervisory control over local election officials in the performance of their duties[.]" MCL 168.21.

The Legislature amended the Michigan Election Law, specifically MCL 168.31a, following the 2018 adoption of the constitutional amendment. As amended, § 31a requires the Secretary of State to provide procedures for conducting audits and to supervise the local clerks in the conducting of audits, including statewide audits:

> (1) In order to ensure compliance with the provisions of this act, after each election the secretary of state may audit election precincts.
>
> (2) *The secretary of state shall prescribe the procedures for election audits that include reviewing the documents, ballots, and procedures used during an election as required in section 4 of article II of the state constitution of 1963. The secretary of state and county clerks shall conduct election audits, including statewide election audits, as set forth in the prescribed procedures. The secretary of state shall train and certify county clerks and their staffs for the purpose of conducting election audits of precincts randomly selected by the secretary of state in their counties.* An election audit must include an audit of the results of at least 1 race in each precinct selected for an audit. A statewide election audit must include an audit of the results of at least 1 statewide race or statewide ballot question in a precinct selected for an audit. An audit conducted under this section is not a recount and does not change any certified election results. *The secretary of state shall supervise each county clerk in the performance of election audits conducted under this section.*
>
> (3) Each county clerk who conducts an election audit under this section shall provide the results of the election audit to the secretary of state within 20 days after the election audit. [MCL 168.31a(1)-(3) (emphasis added).]

In keeping with the requirements of § 31a, the Secretary of State's Bureau of Elections (Bureau) has prescribed specific, detailed procedures for conducting election audits in a Post-Election Audit

Manual and accompanying worksheets.[1] Under § 31a and the Manual, county clerks perform these post-election audits, although the Bureau may select additional jurisdictions to be audited by the Bureau itself. The audits provided for in the Manual are often described as precinct procedural audits.

With respect to the November 2020 general election, the Secretary of State announced in December 2020 that the Bureau would be conducting a statewide risk-limiting audit[2] of the presidential election as well as audits of several absent voter counting boards.[3] The Secretary also identified over 200 jurisdictions, spanning all 83 counties in Michigan, in which county clerks would be performing precinct procedural audits.[4]

In February 2021, the Secretary announced the result of the Bureau's statewide risk-limiting audit, which confirmed the accuracy of the presidential election results[5] and followed up with the release of an official report of all audits in April 2021. (Appendix A, Audit Report of the November 3, 2020,

[1] See Post-Election Audit Manual, available at Post_Election_Audit_Manual_418482_7.pdf (michigan.gov), and worksheet, available at Post-Election Audit Checklist (michigan.gov), (accessed August 5, 2021.)

[2] A risk-limiting audit involves the random selection of a number of ballots cast across the State, which are then hand-reviewed by the local clerk for accuracy. See Statewide risk-limiting election audit process to begin at 11 a.m., January 11, 2021, available at SOS - Statewide risk-limiting election audit process to begin at 11 a.m. (michigan.gov), (accessed August 5, 2021.)

[3] See Bureau of Elections announces most comprehensive post-election audits in state history, December 9, 2020, available at SOS - Bureau of Elections announces most comprehensive post-election audits in state history (michigan.gov), (accessed August 5, 2021.)

[4] *Id.*

[5] See Statewide election audit process affirms presidential election outcome, February 12, 2021, available at SOS - Statewide election audit process affirms presidential election outcome (michigan.gov), (accessed August 5, 2021.)

General Election.)[1] The Audit Report explains in detail the purpose and scope of precinct procedural audits, which are "primarily the responsibility of county clerks." (Appendix A, p 5.) The purpose of procedural precinct audits is to "ensure that election officials and poll workers followed the correct procedures in conducting elections in these precincts, that required pre-election requirements were fulfilled, and that required records were maintained." (*Id.*, p 4.) As stated in the Report, "[p]rocedural audits provide an opportunity to conduct an in-depth review of the proper procedures for preparing and using election day equipment and materials," and include "a 100 percent hand count of all the paper ballots cast in one statewide race in each audited precinct, which ensures that the tabulators used in the precinct calculated ballots accurately." (*Id.*) For this election cycle, the U.S. Senate race was selected for the hand count. (*Id.*, p 7.)

C. The Auditor General's proposed audit

As explained in your request, the Office of the Auditor General is currently conducting an audit of the Bureau, apparently as an extension of an audit the Auditor General staff conducted in 2019.[2] However, discussions with staff for the Auditor General indicated that the audit includes a new objective relating to the Bureau's procedures for conducting and supervising post-election audits. The Auditor General's published "objectives" for the current audit include "[t]o assess the sufficiency of selected

[1] See Post-election audit report confirms accuracy and integrity of Michigan's election, April 22, 2021, available at SOS - Post-election audit report confirms accuracy and integrity of Michigan's election, (accessed August 5, 2021.)

[2] See Audit Report, Bureau of Elections, available at https://audgen.michigan.gov/wp-content/uploads/2019/12/rs231023519.pdf, (accessed August 5, 2021.)

[Bureau of Elections] post-election review procedures to help ensure the integrity of elections."[1] The Bureau provided the Auditor's staff with relevant information, including the Post-Election Audit Manual, and Auditor General staff attended several post-election audits, including precinct procedural audits.

Additional discussions with Auditor General staff have led the Bureau to believe that the Auditor General seeks to review the audits that were conducted by the county clerks, or essentially, to re-create or re-perform the audits conducted by the county clerks. The purpose of this review would be for Auditor General staff to verify that records were accurately reviewed or to make their own determination that precincts were audited. Doing so would require manual review of a significant volume of local election records and would include another hand count of ballots for the U.S. Senate race. According to your request, the Auditor General's intent to conduct such an audit has raised several concerns, including security concerns regarding elections records, which are subject to federal retention requirements; the Auditor General's ability to accurately re-create the precinct procedural audits; and whether the proposed audit even falls within the scope of the Auditor General's authority.

Although the Bureau of Elections shared its concerns regarding the proposed audit with the Auditor General, (Appendix B, July 6, 2021, Brater Letter), and the Auditor General has acknowledged those concerns, (Appendix C, July 15, 2021, Ringler Letter), the issues regarding the scope of the audit and the Auditor General's access to elections records remain unresolved, resulting in the instant request for an opinion.

ANALYSIS

[1] See Auditor General, Work in Progress, Bureau of Elections – 231-0235-21, available at Bureau of Elections - Michigan Office of the Auditor General, (accessed August 5, 2021.)

In your request you ask whether the proposed audit of the counties' precinct procedural audits exceeds the scope of the Auditor General's authority and whether staff of the Auditor General may be restricted from handling election records should the proposed audits proceed.

A. The Constitution does not authorize the Auditor General to audit local units of government.

The office of the Auditor General was created pursuant to article 4, § 53 of Michigan's 1963 Constitution, which provides, in part:

> The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. . . . The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

Under the prior constitution, the Auditor General was an elected official of the executive branch, and the Legislature was given complete authority to establish the scope of the Auditor General's powers. Const 1908, art 6, § 1. The 1963 Constitution eliminated the office of Auditor General as it had existed and created the new legislative Auditor General, an official appointed by the Legislature with only the specific powers listed in the constitutional provision. Section 53 expressly provides that the Auditor General "shall be assigned no duties other than those specified in" that section. Const 1963, art 4, § 53. Thus, the Legislature cannot confer any additional duties upon the Auditor General. OAG, 1963–1964, No. 4284, pp 278, 279 (February 18, 1964).

The question then is, what is the scope of the Auditor General's authority in relation to the Bureau of Elections' post-election audit process?

First, it should be clarified that the Auditor General is not authorized to conduct post-election audits. Consistent with article 2, § 4(1)(h) of the Constitution, the Legislature conferred the authority to conduct post-election audits solely on the Secretary of State and the county clerks. MCL 168.31a. With

respect to the November 2020 general election, the Secretary of State and the county clerks have completed their audits, and those audits, and the results of those audits, are the only audits that constitute those required by article 2, § 4(1)(h) of the Constitution. Further, the Legislature could not re-assign this function to the Auditor General since conducting post-election audits is not a duty accorded the Auditor General by § 53.

Second, it must be understood who may be audited. Pursuant to § 53, the Auditor General has authority to conduct "financial" or "performance" audits "of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state[.]" Const 1963, art 4, § 53. The Bureau is an agency within the Michigan Department of State and is, therefore, subject to the Auditor General's audit authority. As noted in your request, the Bureau does not dispute that it may be subject to an audit. However, in interpreting § 53, the Attorney General's office has repeatedly concluded that the Auditor General does not have authority to audit local units of government. See, e.g., OAG, 2003–2004, No. 7158, p 141, (June 29, 2004); OAG, 1997–1998, No. 6970, p 108 (January 28, 1998); OAG, 1983–1984, No 6225, p 303 (May 7, 1984); Letter Opinion of the Attorney General to Auditor General Albert Lee, dated December 17, 1975; Letter Opinion of the Attorney General to Auditor General Albert Lee, February 6, 1975.

This conclusion is supported by the following exchange found in the Official Record of the 1961 Constitutional Convention, discussing the elimination of the office of Auditor General, as it then existed, and the creation of the new office of legislative Auditor General:

> MR. AUSTIN: Mr. Chairman--thank you, Mr. Downs--I would like to ask one question of Mr. Martin, too, in regard to the elimination of the auditor general, whom, I presume, will be replaced by the legislative auditor. We have indicated on page 1, line 12, of the substitute proposal that
>
> > The legislative auditor general shall conduct comprehensive fiscal postaudits of all transactions and accounts kept by or for all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state….

> Now am I to assume this would exclude local units of government, Mr. Martin?
>
> MR. MARTIN: Yes, Mr. Austin, that is correct. It is not intended that the legislative auditor general should do anything more than handle state agencies, departments and institutions. These other units would, of course, continue to be subject to such audit as the legislature required. At the present time the counties are audited. The townships are not audited, generally, unless there are special problems. The school districts are not audited except that the legislature requires that they themselves have an independent audit made. So there are different provisions and it is to be presumed that the legislature would make such provision for them. They would not be audited by the legislative auditor general. [1 Official Record, Constitutional Convention 1961, pp 1681–1682 (emphasis added).][1]

Accordingly, county clerks, as members of local units of government, are not subject to the Auditor General's audit authority.

Third, it is necessary to understand what it is that may be audited. The Office of the Auditor General describes performance audits in the following manner:

> Performance audits provide findings or conclusions based on an evaluation of sufficient, appropriate evidence against criteria. Performance audits provide objective analysis to assist management and those charged with governance and oversight in using the information to improve program performance and operations, reduce costs, facilitate decision making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability. . . .[2]

While a performance audit may include a number of objectives, in general, a performance audit is conducted to examine how effectively, efficiently, and economically a government entity performs a function or operates a program.[3] See also OAG, 1963–1964, No. 4284, pp 278, 280 (February 18, 1964) ("A performance postaudit is an examination of the effectiveness of administration, its efficiency and its adequacy in terms of the program of the departments or agencies as previously approved by the

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[1] Constitutional Convention debates are considered a useful resource in interpreting constitutional provisions. *House Speaker v Governor*, 443 Mich 560, 580–581 (1993).

[2] The Auditor General performs audits in accordance with generally accepted auditing standards by the American Institute of Certified Public Accountants, the Comptroller General of the United States, and the federal Single Audit Act. See Audit Details - Michigan Office of the Auditor General, (accessed August 5, 2021.)

[3] See Government Auditing Standards, 2018 Revision, Performance Audits 1.21, available at GAO-21-368G, Government Auditing Standards: 2018 Revision Technical Update April 2021, (accessed August 5, 2021.)

legislature"), quoting Report by the Joint Committee on Legislative Powers and Executive Branch, Official Record, Constitutional Convention of 1961, March 15, 1962, pp 1672–1673.

As noted above, the Auditor General's "objectives" for the Bureau audit include "[t]o assess the sufficiency of selected [Bureau of Elections] post-election review procedures[.]"[1] The Bureau understands the reference to "post-election review procedures" to mean the post-election audit process. Post-election audits are principally governed by § 31a of the Michigan Election Law, pursuant to which the Secretary of State is required to: (1) prescribe procedures for election audits that include reviewing various election-related documents and processes used during an election; (2) ensure that the Secretary and the county clerks conduct election audits, including statewide audits; (3) train and certify county clerks and their staff to conduct election audits in their counties; (4) ensure that audits include auditing at least one race, local and/or statewide, in each randomly selected precinct; and (5) supervise the county clerks in the performance of the required election audits. MCL 168.31a(2).

Generally speaking then, a performance audit of the post-election audit process would involve examination by Auditor General staff of how effectively, efficiently, and economically the Bureau of Elections performed its functions that are prescribed by the Legislature in § 31a with respect to the audits of the November 2020 general election.

The Bureau does not disagree that its post-election audit process may be audited. But the manner in which the Auditor General proposes to conduct the audit does not appear to be confined to auditing the Bureau. The Auditor General stated in his response to the Bureau that "[t]o assess the sufficiency, clarity, and other attributes of the [Bureau's] provided procedures and training," staff "intend to retrace some of the county and local election officials' steps to determine whether consistent application of post-election review procedures occurred." (Appendix C, July 15, 2021, Ringler Letter.)

As it has been explained to the Bureau,[2] Auditor General staff intend to select a number of jurisdictions that conducted procedural audits regarding the November election, go to those jurisdictions and obtain access to relevant election records in the possession of the local clerks, and then staff will conduct precinct procedural audits by reviewing election records in accordance with the Bureau's audit procedures. Presumably, Auditor General staff will then compare the results of their "procedural audits" with the procedural audits performed previously by the county clerks for the jurisdictions, and then potentially compare results amongst the other audited jurisdictions.

The proposed re-creation of the procedural audits by Auditor General staff would, for all intents and purposes, be an audit of the local clerks' performance of their post-election procedural audits. But, as noted above, the Auditor General has no authority to audit local units of government either directly or in connection with an audit of a state agency, such as the Bureau of Elections.

In OAG, No. 6970, the Attorney General examined a provision in the fiscal year 1996—1997 appropriations act for the Michigan Department of Transportation (MDOT) that required the Auditor General to "perform audits and make investigations of the disposition of all state funds received by county road commissions . . . and cities and villages for transportation purposes to determine compliance with the terms and conditions" of the applicable law by MDOT. The appropriations act directed the local units of government to make the pertinent records available to the Auditor General for this review. The opinion observes that the Auditor General interpreted this provision to merely allow an examination of records of local governmental units in conjunction with a performance audit of a state department and not as authorization to audit the local governmental unit. But the Attorney General rejected this interpretation of the provision, reasoning that the plain language of the appropriations act did not

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[1] See Auditor General, Work in Progress, Bureau of Elections – 231-0235-21, available at Bureau of Elections - Michigan Office of the Auditor General, (accessed August 5, 2021.)

[2] To date, staff for the Auditor General have not provided any written correspondence to the Bureau specifically describing how staff intend to conduct audits in the local jurisdictions.

"merely allow the Auditor General to access a local governmental unit's records in the course of auditing state agencies; it affirmatively requires that the Auditor General audit local governmental units." OAG, No. 6970, p 111. The Attorney General concluded:

> County road commissions and other local governmental units are not entities "of the state" as that term is used in Const 1963, art 4, § 53, even when they are using state funds allocated under 1951 PA 51. Accordingly, legislation requiring the Auditor General to audit such local governmental units is unconstitutional. [*Id.*]

Thus, the Attorney General opined that the provision in the appropriations act violated article 4, § 53, to the extent it required the Auditor General to audit local units of government.

In OAG, No. 7158, the Attorney General addressed whether the State Board of Education or the Superintendent of Public Instruction could delegate their authority to examine or audit local school records to the Auditor General to enable the Auditor General to review those records to conduct a performance audit of the Center for Educational Performance and Information (CEPI), a state agency within the Department of Management and Budget. OAG, No. 7158, pp 141—142. In order to receive state school aid, schools must allow their records to be audited by the Department of Education, over which the Superintendent presides as chief executive officer. (*Id.*, p 142.) The Auditor General wanted to review the local records "in order to audit the accuracy and completeness of computer-stored data maintained by CEPI." (*Id.*)

The Attorney General concluded that neither the Board nor the Superintendent were statutorily authorized to delegate their authority to examine or audit school records to the Auditor General, and that doing so would violate separation-of-powers principles since the Auditor General is a member of the legislative branch and "the legislative branch may not exercise, a power conferred by the Legislature on these officers and this agency of the executive branch." (*Id.*, citing Const 1963, art 3, § 2.)

As discussed below in Part B, both opinions further concluded that the Auditor General could request access to records directly from the local units of government.

Both OAG, No. 6970 and OAG, No. 7518 generally confirm that the Auditor General cannot audit local units of government in connection with auditing a state agency simply because the local unit receives funding from the state agency related to the audit, or because a local unit is itself subject to audits by a state agency.

The same rationale applies here. The Auditor General cannot audit the work of the county clerks or other local elections officials as part of conducting an audit of the Bureau. The fact that the local clerks perform post-election audits and perform them under the general supervision of the Secretary of State does not render them subject to the Auditor General's audit authority.

While the Auditor General states that the purpose of the re-creations is to "assess" the "sufficiency" and "clarity" of the Bureau's election audit procedures and training, such an assessment can, and must, be accomplished by means other than an audit of local clerks' performances.

For instance, Auditor General staff could seek to interview local clerks regarding any concerns they have with respect to the Bureau's training or instructions for conducting post-election audits. Staff can review, and have already been provided with, the county clerks' completed audit data that was provided electronically to the Bureau. Staff can examine training records to determine whether clerks appropriately participated in trainings or staff can participate in a training themselves. And, to the extent Auditor General staff wish to re-create a precinct procedural audit, the Bureau has informed Auditor General staff that it is willing to re-perform, to the extent possible, one of the five procedural audits Bureau staff conducted. There may be additional ways to assess the Bureau's procedures, but these come readily to mind.

The Auditor General's proposal to re-create county procedural audits raises other concerns as well. As noted above, the Legislature has entrusted the post-election audit process to the Secretary of State and county clerks. MCL 168.31a. They are the only persons with the authority and sufficient expertise and training to conduct post-election audits. Purported "post-election audits" conducted by Auditor General staff would constitute a usurpation of this process.[1]

It is my opinion, therefore, that while the Auditor General may subject the Michigan Bureau of Elections to a performance audit concerning the Bureau's procedures for conducting post-election audits under MCL 168.31a, article 4, § 53 of the Michigan Constitution does not authorize the Auditor General to audit county clerks or other local units of government to facilitate his audit of the Bureau of Elections.

B. The Auditor General and his staff may be subject to restrictions regarding the handling of election records.

You also ask whether the Auditor General and his staff may be subject to restrictions concerning the custody and handling of election records. Because the Auditor General is authorized to subject the Bureau of Elections to a performance audit concerning the Bureau's procedures for post-election audits, and conducting the audit might involve review of election records, it is necessary to address this question.

[1] Further, even if it was permissible, it may be difficult for Auditor General staff, who are not experienced election officials, to accurately re-create a county's procedural audit. As noted in the request, in performing an audit, clerks break seals on containers and remove election records from those containers, and then handle those records to conduct the audit. Once an audit has been completed, election records may be stored in different containers, combined, or possibly even inadvertently damaged or misplaced. And in any of those cases, the result of the Auditor General's audit may differ from the county's audit for reasons completely unrelated to the sufficiency or clarity of the Bureau's audit procedures and training.

The Legislature has enacted legislation expressly providing for the Auditor General's access to records. See MCL 13.101. However, these statutes are principally directed at the Auditor General's authority to acquire records from those entities he is authorized to audit—the state and all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state. Const 1963, art 4, § 53. For example, subsection 1(3) provides that "[u]pon demand of the auditor general . . . the officers and employees of all branches, departments, offices, boards, commissions, agencies, authorities, and institutions *of this state* shall produce or provide for access and examination all books, accounts, documents, records, and electronically stored information . . . of their respective branch, department, office, board, commission, agency, authority, and institution and truthfully answer all questions relating to their books, accounts, documents, records, and electronically stored information . . . of their respective activities and affairs." MCL 13.101(3) (emphasis added).

Certain election records that might be relevant to the audit may be in the possession of local clerks, not the Bureau. If that is the case, the Auditor General may simply request information from the relevant local units of government, to which request the local units may respond, or request information from those units pursuant to the Michigan Freedom of Information Act (FOIA), MCL 15.231 *et seq*. See OAG, No. 6970, p 111; OAG, No. 7158, p 144 n 3. The Auditor General also has the authority to compel the production of records by subpoena if the information sought is in connection with an audit of a state agency:

> In connection with audits and examinations described in this act, the auditor general, deputy auditor general, or any individual appointed to make audits and examinations may issue subpoenas, direct the service of the subpoena by any police officer, and compel the attendance and testimony of witnesses; may administer oaths and examine any individual as may be necessary; and may compel the production of books, accounts, papers, documents, records, and electronically stored information, including, but not limited to, confidential information. The orders and subpoenas issued by the auditor general, deputy auditor general, or any individual appointed with the duty of making the examinations provided in this subsection may be enforced upon application to any circuit court as provided by law. [MCL 13.101(5).]

The Attorney General has noted that this statute is not limited to state entities, but also applies to local units of government. OAG, No. 7158, p 144 ("The subpoena power . . . . is not limited to records maintained by state agencies.") However, in OAG, No. 7158, the Attorney General further observed that the obligation to produce records "may be affected by state or federal laws restricting or prohibiting the disclosure of certain records." (*Id.*, citing the Family Educational Rights and Privacy Act of 1974, 20 USC 1232g.)

As noted in your request, federal law, specifically the Civil Rights Act of 1960, 52 USC 20701 *et seq.*, requires the retention of election records and necessarily limits access to election-related materials.[1] The Civil Rights Act requires "every officer of election" to retain, for twenty-two months from the date of an election for federal office, "all records and papers which come into [the officer's] possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election[.]" 52 USC 20701. The Department of Justice has clarified that the term "records" as used in § 20701 includes records created in "digital or electronic form."[2] A failure to comply with the retention requirements may result in a fine or imprisonment, *id.*, and the destruction or alteration of an election record may likewise result in a fine or imprisonment, 52 USC 20702.

The duty to retain records includes the duty to safeguard those records as well. An issue recently arose in the State of Arizona, in connection with the presidential election "audit" being performed by a third-party firm at the direction of the Arizona Senate. The Department of Justice sent a letter to the Arizona Senate raising concerns over the handling of election records by the firm conducting the audit. (Appendix D, August 4, 2021, Memorandum to Municipal and County Election Officials, Attachment –

[1] Michigan Election Law also imposes retention requirements for various election records. See, e.g., MCL 168.615c, 168.765a(7), 168.811, 168.767, 168.798(2), 168.799a(4). A complete retention schedule is available at Document Retention Schedule (michigan.gov) (accessed August 5, 2021.) Michigan law also punishes the tampering with or destruction of election records or voting equipment. See MCL 168.932(b), (c).

[2] See U.S. Department of Justice, Federal Law Constraints on Post-Election "Audits," July 28, 2021, available at Federal Law Constraints on Post-Election "Audits" (justice.gov), (accessed August 5, 2021.)

May 5, 2021, Letter From U.S. Department of Justice, Civil Rights Division, to Arizona State Senator Karen Fann.) The letter observes that federal law creates a duty to safeguard and preserve federal election records:

> The purpose of these federal preservation and retention requirements for elections records is to "secure a more effective protection of the right to vote." *State of Ala ex rel Gallion v Rogers*, 187 F Supp 848, 853 (MD Ala 1960*)*, aff'd sub nom *Dinkens v Attorney General*, 285 F2d 430 (CA 5, 1961)(per curiam), citing H.R. Rep. 956, 86thCong., 1st Sess. 7 (1959); see also Federal Prosecution of Election Offenses, Eighth Edition 2017 at 75 (noting that "[t]he detection, investigation, and proof of election crimes–and in many instances Voting Rights Act violations–often depend[s] on documentation generated during the voter registration, voting, tabulation, and election certification processes"). [*Id*., pp 1—2.]

The letter goes on to note that if a state designates a custodian for such election records, then the "duty to retain and preserve any record or paper so deposited shall devolve upon such custodian." (*Id.*, quoting 52 USC 20701.) The Department of Justice states that it interprets the Civil Rights Act to require:

> [T]hat "covered election documentation be retained either physically by election officials themselves, or under their direct administrative supervision." See Federal Prosecution of Election Offenses at 79. In addition, if the state places such records in the custody of other officials, then the Department views the Act as requiring that "administrative procedures be in place giving election officers ultimate management authority over the retention and security of those election records, including the right to physically access" such records. *Id*. [*Id*., p 2.]

And in a very recent publication, the Department of Justice noted the dangers attendant to providing access to election records:

> Where election records leave the control of elections officials, the systems for maintaining the security, integrity and chain of custody of those records can easily be broken. Moreover, where elections records are no longer under the control of elections

> officials, this can lead to a significant risk of the records being lost, stolen, altered, compromised, or destroyed.[1]

This office has previously discussed access to election records and the federal Civil Rights Act. OAG, 2009–2010, No. 7247, p 134 (May 13, 2010), addressed whether voted ballots are subject to Michigan's FOIA. OAG, No. 7247 concluded that voted ballots are subject to FOIA but that the Secretary of State, pursuant to her supervisory authority under MCL 168.21, could issue directions to local clerks for the processing of FOIA requests that included directions that only clerks or their staff could handle and photocopy voted ballots in order to ensure the physical integrity and security of the ballots as required by law, including the federal Civil Rights Act. (*Id*., pp 139—140.)

Here, while the Auditor General is a constitutional officer and member of the legislative branch of government, Const 1963, art 4, § 53, he is not a state or local election official or an "officer of election" as that term is defined in 52 USC 20706. The federal statute speaks only of the U.S. Attorney General as being able to demand access to protected election records. 52 USC 20703. And as discussed in OAG, No. 6970 and OAG, No. 7158, the Auditor General is not entitled to access or demand local government records through the state agency being audited, here the Bureau. Thus, the Auditor General has no right or authority to access local election records for purposes of conducting an audit of a state agency in a manner that would be inconsistent with or potentially violate federal law, thereby placing himself, his staff, or local election officials at risk of prosecution or other action.

As noted in OAG, No. 7247, the Secretary of State is the chief election officer of the state and shall have supervisory control over local election officials in the performance of their duties under the provisions of Michigan Election Law. MCL 168.21. Further, under § 31 of the Michigan Election Law, she is required to "[a]dvise and direct local election officials as to the proper methods of conducting elections." MCL 168.31(1)(b). Under these statutes, the Secretary has a duty to ensure that the local

[1] See U.S. Department of Justice, Federal Law Constraints on Post-Election "Audits," July 28, 2021, available at Federal

election officials she supervises maintain the physical integrity and security of all paper, electronic, or digital election records consistent with requirements of state and federal law.

Accordingly, consistent with her statutory authority and the analysis provided in OAG, No. 7247, the Secretary may direct that any local election official subjected to a request for election records by the Auditor General should treat the request in the same manner as a FOIA request. In other words, Auditor General staff cannot take possession or control of election records or be in the presence of election records outside the presence of local election officials or Bureau of Elections staff, and Auditor General staff may not handle or physically touch election records. Auditor General staff will still be able to review and inspect records with the assistance of local election officials. And, of course, the Auditor General could formally request copies of election records pursuant to the FOIA. These methods would protect both Auditor General staff and local election officials from potential unintentional violations of the law.[1]

It is my opinion, therefore, that the Secretary of State, in her role as the Chief Elections Officer, may exercise supervisory authority over local elections officials responding to a request for election records by the Auditor General by issuing directions for the review of such records in order to protect the physical integrity and security of the records consistent with state and federal law.

Although not mentioned in your request, staff at the Bureau subsequently advised that Auditor General staff may have an interest in accessing voting equipment. For purposes of this opinion, it is assumed that accessing voting equipment means physically examining, handling, or operating the

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Law Constraints on Post-Election "Audits" (justice.gov), (accessed August 5, 2021.)

[1] In the event the Auditor General subpoenas election records pursuant to his authority in MCL 13.101(5), the affected city, township, or county clerk should contact the Bureau of Elections and consult with local legal counsel for assistance in responding.

equipment.[1] According to the Bureau, voting equipment includes tabulators (the machines that count the paper ballots cast by voters), voter assist terminals (the machines that assist voters with print disabilities mark a paper ballot), and election management system machines (the computers loaded with the relevant election management system software that are used to program the tabulators). This equipment is in the possession of the local clerks.[2]

To the extent any of this equipment constitutes or contains an electronic or digital election record, it would be subject to § 20701 and the requirements of the federal Civil Rights Act. Outside of that, the Bureau, pursuant to the Secretary's authority in MCL 168.31(1), has instructed or directed local clerks that only certain individuals should be allowed access to voting equipment, including local clerks and their staff, Bureau of Elections staff, staff for election management system vendors and their licensed staff and contractors, and voting system test laboratories that have been accredited by the federal Election Assistance Commission. (Appendix D.) The Bureau notes that providing unauthorized individuals access to voting equipment may terminate the chain of custody for the equipment, which would render it impossible for the Bureau to verify that the equipment remains in the configuration in which it was certified for use in Michigan. (*Id.*, p 5.)[3]

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[1] It is unclear why Auditor General staff would seek to access voting equipment in the context of auditing the Bureau's post-election audit process as the voting equipment is not used by the clerks in conducting their procedural audits. These audits involved a hand-count of the race selected for auditing, which was the U.S. Senate race with respect to the November 2020 general election.

[2] The Michigan Election Law provides that "a county clerk, in consultation with the clerk of each city and township located in that county" will "determine which electronic voting system will be used in the county[.]" MCL 168.37a. The governing bodies for the local units of government are responsible for purchasing voting equipment. MCL 168.794a, 168.794b. All vote-tabulation equipment used in Michigan must meet certain requirements, see MCL 168.795, and be certified by the Board of State Canvassers following the Bureau of Elections' staff review and recommendation, see MCL 168.37, 168.795a. Information about Michigan voting systems and certification is available at https://www.michigan.gov/sos/0,4670,7-127-1633_11976---,00.html.

[3] In that situation, the Bureau may determine that the equipment in question is no longer certified for use in Michigan, or that other remedial procedures must be performed before the equipment can be used. (Appendix D, p 6.) The cost of new equipment or remedial procedures would be borne by the affected local unit of government. Notably, the Secretaries of State for Arizona and Pennsylvania recently determined that voting equipment in their respective states could no longer be used following access of that equipment by third party firms. (Appendix D, Attachments.)

As discussed above, the Auditor General and his staff do not have a constitutional right under article 4, § 53 to demand or compel access to local government records. And the Bureau has not instructed local clerks that the Auditor General or his staff are individuals who can access voting equipment. Further, voting equipment does not fall within the definition of a "public record" subject to Michigan's FOIA requirements, see MCL 15.232(i), (l), nor does computer software, see MCL 15.232(i), (j). In addition, the Auditor General's subpoena power is limited to compelling the appearances and testimony of witnesses and "the production of books, accounts, papers, documents, records, and electronically stored information, including, but not limited to, confidential information." MCL 13.101(5). Voting equipment does not fall within these categories.

The only remaining avenue for the Auditor General or his staff would be simply requesting that a local clerk permit access to voting equipment. But again, the Bureau has directed that only authorized individuals be allowed access to voting equipment, and local elections officials are expected to follow the Secretary's instructions issued through the Bureau. See, e.g., *Hare v Berrien County Bd or Election Commissioners*, 373 Mich 526, 530 (1964); MCL 168.931(h) ("A person shall not willfully . . . disobey a lawful instruction or order of the secretary of state as chief state election officer. . . .")

It is my opinion, therefore, that the Secretary of State, in her role as the Chief Elections Officer, may exercise supervisory authority over local elections officials responding to a request for access to voting equipment by the Auditor General by issuing directions that access to voting equipment should not be permitted in order to protect the physical integrity and security of the equipment consistent with state and federal law.

Dana Nessel

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MICHIGAN ADMINISTRATIVE CODE TABLE
(2021 SESSION)

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 2021 and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).

MICHIGAN ADMINISTRATIVE CODE TABLE
(2020 RULE FILINGS)

R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue
Rule 1	E	4	285.637.11	*	10	325.62995	*	11
Rule 2	E	4	325.34001	*	6	325.62996	*	11
Rule 1	E	4	325.34005	R	6	325.64001	*	6
Rule 2	E	4	325.34010	R	6	325.77101	*	8
Rule 3	E	4	325.47201	*	6	325.70001	*	8
Rule 4	E	4	325.50051	*	6	325.70001a	R	8
Rule 5	E	4	325.50091	*	9	325.70015	*	8
Rule 6	E	4	325.50092	R	9	325.51401	*	8
Rule 7	E	4	325.50093	R	9	338.1	*	8
Rule 8	E	4	325.50100	*	7	338.1a	*	8
Rule 9	E	4	325.50141	*	7	338.2	*	8
Rule 10	E	4	325.50142	R	7	338.3	*	8
Rule1	E	4	325.50143	R	7	338.4	*	8
Rule 2	E	4	325.51151	*	6	338.5	*	8
Rule 3	E	4	325.51301	*	6	338.6	*	8
Rule 4	E	4	325.51302	R	6	338.7	*	8
Rule 5	E	4	325.51451	*	6	338.8	*	8
Rule 1	E	10	325.51501	*	6	338.9	*	8
Rule 2	E	10	325.51601	*	6	338.10	*	8
Rule 3	E	10	325.51651	*	6	338.11	*	8
Rule 4	E	10	325.51652	R	6	338.12	*	8
Rule 5	E	10	325.51653	R	6	338.111	*	8
Rule 6	E	10	325.51851	*	7	338.113	R	8
Rule 7	E	10	325.51901	*	7	338.114	A	8
Rule 8	E	10	325.51937	*	7	338.115	*	8
Rule 1	E	12	325.51983	*	6	338.117	*	8
Rule 2	E	12	325.51984	R	6	338.119	*	8
28.5101	*	5	325.51958	R	6	338.120	*	8
28.5102	A	5	325.51995	*	6	338.121	*	8
28.5201	*	5	325.51996	R	6	338.123	*	8
28.5202	*	5	325.51997	R	6	338.125	*	8
28.5208	*	5	325.59001	*	6	338.127	*	8
28.5209	*	5	325.60051	*	8	338.129	*	8
28.5210	A	5	325.60052	R	8	338.131	R	8
28.5211	A	5	325.60501	*	4	338.133	*	8
28.5401	*	5	325.60901	*	4	338.141	*	8
28.5402	*	5	325.62991	*	11	338.143	*	8
28.5404	R	5	325.62992	*	11	338.601	*	8
28.5414	*	5	325.62994	*	11	338.602	R	8

(***** Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue
338.603	*	8	338.1225	*	9	338.1607a	A	8
338.604	*	8	338.1226	*	9	338.1608	*	8
338.605	*	8	338.1227	*	9	338.1609	R	8
338.607	R	8	338.1228	*	9	338.1612	R	8
338.611	*	8	338.1229	*	9	338.1615	R	8
338.613	*	8	338.1229a	*	9	338.1630	*	8
338.615	*	8	338.1232	*	9	338.1631	*	8
338.617	*	8	338.1233	*	9	338.1632	*	8
338.619	*	8	338.1233a	*	9	338.1632a	A	8
338.621	*	8	338.1234	*	9	338.1751	*	9
338.623	*	8	338.1234a	A	9	338.1751a	R	9
338.627	*	8	338.1235	*	9	338.1752	R	9
338.629	*	8	338.1236	*	9	338.1752a	R	9
338.641	*	8	338.1237	*	9	338.1753	R	9
338.645	*	8	338.1251	*	9	338.1753a	R	9
338.647	*	8	338.1252	*	9	338.1753b	R	9
338.649	*	8	338.1301	*	11	338.1754	R	9
338.701	*	7	338.1302	A	11	338.1755	R	9
338.702	A	7	338.1303	*	11	338.1757	R	9
338.722	*	7	338.1309	*	11	338.1761	A	9
338.722a	A	7	338.1317	*	11	338.1763	A	9
338.724	*	7	338.1321	*	11	338.1765	A	9
338.726	*	7	338.1321a	R	11	338.1771	A	9
338.732	*	7	338.1325	*	11	338.1772	A	9
338.734	*	7	338.1345	*	11	338.1773	A	9
338.735	A	7	338.1349	*	11	338.1774	A	9
338.736	*	7	338.1354	*	11	338.1775	A	9
338.737	A	7	338.1355	*	11	338.1776	A	9
338.738	*	7	338.1357	*	11	338.1781	A	9
338.739	*	7	338.1369	*	11	338.2401	*	8
338.741	*	7	338.1378	*	11	338.2403	R	8
338.751	*	7	338.1601a	A	8	338.2405	R	8
338.752	R	7	338.1601b	A	8	338.2407	A	8
338.1211	*	9	338.1602a	A	8	338.2409	*	8
338.1212	*	9	338.1603	*	8	338.2411	*	8
338.1213	R	9	338.1604	*	8	338.2413	*	8
338.1222	*	9	338.1605	R	8	338.2421	*	8
338.1223	*	9	338.1606	R	8	338.2423	*	8
338.1223a	*	9	338.1607	R	8	338.2425	*	8

(***** Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue
338.2427	*	8	338.4901a	A	8	338.13003	A	7
338.2429	*	8	338.4902	R	8	338.13004	*	7
338.2431	*	8	338.4903	*	8	338.13005	*	7
338.2433	R	8	338.4904	*	8	338.13006	A	7
338.2435	*	8	338.4905	*	8	338.13007	A	7
338.2437	*	8	338.4906	*	8	338.13008	A	7
338.2441	*	8	338.4907	*	8	338.13010	*	7
338.2443	*	8	338.4907a	A	8	338.13015	R	7
338.2451	A	8	338.4907b	A	8	338.13020	R	7
338.2455	A	8	338.4907c	A	8	338.13025	*	7
338.2457	A	8	338.4908	R	8	338.13026	*	7
338.2461	A	8	338.4909	*	8	338.13028	A	7
338.2463	A	8	338.4910	*	8	338.13030	R	7
338.2465	A	8	338.4911	*	8	338.11101	*	8
338.2471	A	8	338.4913	R	8	338.11103	*	8
338.2473	A	8	338.4914	R	8	338.11120	*	8
338.2481	A	8	338.4914a	R	8	338.11121	*	8
338.2921	*	6	338.4915	R	8	338.11201	*	8
338.2923	*	6	338.4920	R	8	338.11202	*	8
338.2925	*	6	338.4921	*	8	338.11203	*	8
338.2929	*	6	338.4931	*	8	338.11221	*	8
338.2930	A	6	338.4933	*	8	338.11223	*	8
338.2931	*	6	338.5101	*	9	338.11233	*	8
338.2933	*	6	338.5102	*	9	338.11235	*	8
338.2935	*	6	338.5110	R	9	338.11239	*	8
338.2939	*	6	338.5110a	*	9	338.11247	*	8
338.2941	*	6	338.5112	R	9	338.11253	*	8
338.2943	*	6	338.5115	*	9	338.11255	*	8
338.2945	*	6	338.5116	*	9	338.11259	*	8
338.2947	*	6	338.5210	*	9	338.11261	*	8
338.2949	*	6	338.5215	*	9	338.11267	*	8
338.2951	*	6	338.5230	*	9	338.11301	*	8
338.2953	*	6	338.7001	*	11	338.11303	*	8
338.2955	*	6	338.7001a	*	11	338.11307	*	8
338.2957	*	6	338.7002	*	11	338.11401	*	8
338.2961	*	6	338.7002b	*	11	338.11501	*	8
338.2963	*	6	338.7004	A	11	338.11512	*	8
338.2965	R	6	338.13001	*	7	338.11513	*	8
338.4901	*	8	338.13002	*	7	338.11515	*	8

(***** Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue
338.11517	*	8	338.11222	R	8	339.14026a	*	8
338.11519	*	8	338.11241	R	8	339.19002	A	8
338.11521	*	8	338.11245	R	8	339.19004	A	8
338.11523	*	8	338.11402	R	8	339.19006	A	8
338.11525	*	8	338.11403	R	8	339.19008	A	8
338.11527	*	8	338.11404	R	8	339.19010	A	8
338.11601	*	8	338.11404a	R	8	339.19012	A	8
338.11602	*	8	338.11405	R	8	339.19014	A	8
338.11603	*	8	338.11405a	R	8	339.19016	A	8
338.11605	*	8	338.11405b	R	8	339.19018	A	8
338.11701	*	8	338.11405c	R	8	339.19023	R	8
338.11703	*	8	338.11406	R	8	339.19025	R	8
338.11704	*	8	338.11408	R	8	339.19041	*	8
338.11704a	*	8	338.11409	R	8	339.22101	*	6
338.11705	*	8	338.11410	R	8	339.22203	*	6
338.11801	*	8	338.11505	R	8	339.22217	*	6
338.11811	*	8	338.11604	R	8	339.22219	*	6
338.11813	*	8	338.11704b	R	8	339.22221	*	6
338.11815	*	8	338.11704c	R	8	339.22305	*	6
338.11817	*	8	339.1702	A	9	339.22307	*	6
338.11819	*	8	339.1703	R	9	339.22313	*	6
338.11821	*	8	339.1706	*	9	339.22321	*	6
338.11209	A	8	339.1708	A	9	339.22618	*	6
338.11213	A	8	339.1710	A	9	339.22619	*	6
338.11218	A	8	339.1712	A	9	339.22620	*	6
338.11257	A	8	339.1714	A	9	339.22621	*	6
338.11263	A	8	339.1716	A	9	339.22624	*	6
338.11265	A	8	339.1726	R	9	339.22625	*	6
338.11269	A	8	339.1731	*	9	339.22626	*	6
338.11271	A	8	339.14003	A	8	339.22629	*	6
338.11302	A	8	339.14005	*	8	339.22630	*	6
338.11302a	A	8	339.14008	*	8	339.22632	*	6
338.11411	A	8	339.14012	*	8	339.23101	*	10
338.11415	A	8	339.14013	R	8	339.23104	*	10
338.11417	A	8	339.14020	*	8	339.23203	*	10
338.11419	A	8	339.14020a	*	8	339.23203a	A	10
338.11107	R	8	339.14022	*	8	339.23205	*	10
338.11117	R	8	339.14024	*	8	339.23209	A	10
338.11123	R	8	339.14026	*	8	339.23301	*	10

(***** Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue
339.23303	*	10	408.30501c	A	11	408.42110	*	6
339.23307	*	10	408.30504	*	11	408.42149	*	6
339.23309	*	10	408.30505	*	11	408.42150	*	6
339.23311	*	10	408.30506	*	11	408.42154	*	6
339.23313	*	10	408.30512	R	11	408.42155	R	6
339.23315	*	10	408.30513	*	11	408.42156	*	6
339.23316	*	10	408.30514	R	11	408.42157	*	6
339.23317	*	10	408.30701	*	10	408.42201	*	6
339.23319	*	10	408.30711	*	10	408.42223	*	6
339.23320	*	10	408.30715	*	10	408.42209	R	6
339.23321	*	10	408.30717	*	10	431.1001	*	6
339.23323	*	10	408.30718	*	10	431.1005	*	6
339.23325	*	10	408.30719	R	10	431.1010	*	6
339.23326	*	10	408.30720	R	10	431.1015	*	6
339.23401	*	10	408.30726	A	10	431.1020	*	6
339.23403	*	10	408.30727	A	10	431.1025	*	6
339.23405	*	10	408.30729	A	10	431.1030	*	6
340.1708	*	12	408.30741c	*	10	431.1035	*	6
340.1721e	*	12	408.30755	A	10	431.1045	*	6
400.1101	R	8	408.30757	*	10	431.1047	A	6
400.1102	R	8	408.30791	*	10	431.1050	R	6
400.1103	R	8	408.40105	*	4	431.1052	A	6
400.1104	R	8	408.40132	*	4	431.1055	R	6
400.1105	R	8	408.40601	*	5	431.1060	*	6
400.1106	R	8	408.40615	*	5	431.1061	A	6
400.1107	R	8	408.40616	*	5	431.1065	*	6
408.14901	*	9	408.40617a	*	5	431.1070	*	6
408.14902	R	9	408.40624a	R	5	431.1075	R	6
408.14923	*	9	408.40636	*	5	431.1080	R	6
408.16202	*	6	408.40801	R	6	431.1085	*	6
408.16207	*	6	408.40810	*	6	431.1090	R	6
408.16211	*	6	408.40818	*	6	431.1095	*	6
408.16223	R	6	408.41301	*	11	431.1101	*	6
408.16226	*	6	408.41410	*	4	431.1105	*	6
408.16227	R	6	408.41461	*	4	431.1110	*	6
408.16234	*	6	408.41467	*	4	431.1115	*	6
408.16251	R	6	408.41475a	*	4	431.1120	*	6
408.30500	*	11	408.41477	*	4	431.1125	*	6
408.30501b	A	11	408.41478	*	4	431.1130	*	6

(***** Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue
431.1135	R	6	431.1340	*	6	431.3045	*	6
431.1140	*	6	431.2001	*	6	431.3050	R	6
431.1145	*	6	431.2005	R	6	431.3055	*	6
431.1150	*	6	431.2010	*	6	431.3060	*	6
431.1155	*	6	431.2015	*	6	431.3065	*	6
431.1160	*	6	431.2020	*	6	431.3070	*	6
431.1165	*	6	431.2025	*	6	431.3075	*	6
431.1175	*	6	431.2030	*	6	431.3080	*	6
431.1180	R	6	431.2035	*	6	431.3085	R	6
431.1185	R	6	431.2036	A	6	431.3090	*	6
431.1190	R	6	431.2040	R	6	431.3095	*	6
431.1195	R	6	431.2045	R	6	431.3101	*	6
431.1200	*	6	431.2050	*	6	431.3105	*	6
431.1205	*	6	431.2055	*	6	431.3110	*	6
431.1210	*	6	431.2060	*	6	431.3115	*	6
431.1215	*	6	431.2061	R	6	431.3120	*	6
431.1220	*	6	431.2070	*	6	431.3125	*	6
431.1230	*	6	431.2061	R	6	431.3130	*	6
431.1235	*	6	431.2070	*	6	431.3140	*	6
431.1240	*	6	431.2075	*	6	431.3145	*	6
431.1245	*	6	431.2080	R	6	431.3155	*	6
431.1250	*	6	431.2090	*	6	431.3160	*	6
431.1255	*	6	431.2094	A	6	431.3165	*	6
431.1260	*	6	431.2095	R	6	431.3170	*	6
431.1261	A	6	431.2096	A	6	431.3175	*	6
431.1265	*	6	431.2100	R	6	431.3180	*	6
431.1270	*	6	431.2105	R	6	431.3201	*	6
431.1275	*	6	431.2110	R	6	431.3205	*	6
431.1280	*	6	431.2115	R	6	431.3210	*	6
431.1285	R	6	431.2120	*	6	431.3215	*	6
431.1290	R	6	431.3001	*	6	431.3220	*	6
431.1295	*	6	431.3005	*	6	431.3225	*	6
431.1301	*	6	431.3010	*	6	431.3230	*	6
431.1302	A	6	431.3015	R	6	431.3235	*	6
431.1303	A	6	431.3020	*	6	431.3240	R	6
431.1304	A	6	431.3025	*	6	431.3245	*	6
431.1325	*	6	431.3030	*	6	431.3250	*	6
431.1330	*	6	431.3035	*	6	431.3255	*	6
431.1335	*	6	431.3040	*	6	431.3260	*	6

(***** Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue	R Number	Action	2021 MR Issue
431.3265	*	6	431.4160	*	6	500.1122	*	10
431.3270	*	6	431.4165	R	6	500.1123	*	10
431.3275	*	6	431.4170	*	6	500.1124	*	10
431.3290	*	6	431.4175	*	6	500.1125	*	10
431.3295	*	6	431.4180	*	6	500.1127	*	10
431.3300	R	6	431.4185	*	6	500.1128	*	10
431.3301	*	6	431.4190	*	6	500.1130	*	10
431.3305	*	6	431.4195	*	6	500.1131	*	10
431.3310	*	6	431.4200	*	6	500.1132	*	10
431.4001	*	6	431.4205	R	6	500.1133	*	10
431.4005	*	6	431.4210	*	6	500.1134	A	10
431.4010	*	6	431.4215	*	6	500.1501	*	6
431.4015	*	6	431.4220	*	6	500.1502	*	6
431.4020	*	6	431.4225	*	6	500.1503	*	6
431.4025	*	6	431.4230	*	6	500.1501	*	6
431.4030	*	6	431.4240	*	6	500.1502	*	6
431.4035	*	6	431.4255	*	6	500.1503	*	6
431.4040	*	6	431.4260	*	6	500.1504	*	6
431.4045	*	6	431.4265	*	6	500.1505	*	6
431.4050	*	6	431.4270	*	6	500.1506	*	6
431.4055	*	6	431.4275	*	6	500.1507	*	6
431.4060	*	6	431.4280	*	6	500.1508	*	6
431.4070	*	6	431.4285	*	6	500.1509	*	6
431.4075	*	6	431.4290	*	6	500.1510	*	6
431.4080	*	6	431.5001	A	6	500.1511	*	6
431.4085	*	6	431.5005	A	6	500.1512	*	6
431.4090	*	6	431.5010	A	6	500.1513	*	6
431.4095	*	6	431.5015	A	6	500.1514	*	6
431.4100	*	6	431.5020	A	6	500.1515	*	6
431.4105	*	6	431.5025	A	6	500.1516	*	6
431.4110	*	6	431.5030	A	6	500.1517	*	6
431.4115	*	6	431.5035	A	6	500.1518	*	6
431.4125	*	6	431.5040	A	6	500.1519	*	6
431.4130	*	6	436.1319	R	3	500.1520	*	6
431.4135	*	6	500.241	A	12	500.1521	*	6
431.4140	*	6	500.242	A	12			
431.4145	*	6	500.243	A	12			
431.4150	*	6	500.244	A	12			
431.4155	*	6	500.245	A	12			

(***** 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
(2021 SESSION)

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."

2021 Michigan
Public Acts Table

Legislative Service Bureau
Legal Division, Statutory Compiling and Law Publications Unit
124 W. Allegan, Lansing, MI 48909

July 19, 2021
Compiled through PA 65 of 2021

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0001		0030	Yes	3/2/2021	3/2/2021	3/2/2021	***Highways**; memorial*; portion of I-94 in Wayne County; designate as the "Firefighter Coleman A. Tate Memorial Highway". ***(Sen. Adam J. Hollier)***
0002	4047		Yes	3/9/2021	3/9/2021	3/9/2021 +	***Appropriations**; supplemental*; supplemental appropriations; provide for fiscal year 2020-2021. ***(Rep. Timothy Beson)***
0003	4048		Yes	3/9/2021	3/9/2021	3/9/2021 +	***School aid**; supplemental*; supplemental school funding; provide for. ***(Rep. Brad Paquette)***
0004		0186	Yes	3/24/2021	3/24/2021	3/24/2021	***Agriculture**; industrial hemp*; regulations for growing industrial hemp; modify. ***(Sen. Dan Lauwers)***
0005		0100	Yes	3/26/2021	3/26/2021	3/26/2021	***Children**; child care*; definition of foster care; provide for. ***(Sen. John Bizon, M.D.)***
0006	4126		Yes	4/8/2021	4/8/2021	4/8/2021	***Natural resources**; hunting*; pheasant stamp program; modify. ***(Rep. Gary Howell)***
0007	4569		Yes	4/22/2021	4/22/2021	4/22/2021	***Individual income tax**; city*; extension of 2020 city income tax filing deadline; allow. ***(Rep. Andrew Beeler)***
0008	4571		Yes	4/22/2021	4/22/2021	4/22/2021	***Individual income tax**; returns*; extension of filing deadline for 2020 income taxes; allow. ***(Rep. Tenisha Yancey)***

* - 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	4469		Yes	5/6/2021	5/7/2021	5/7/2021	***Appropriations**; natural resources*; Michigan natural resources trust fund; provide appropriations for fiscal year 2021-2022. ***(Rep. Sue Allor)***
0010	4019		Yes	5/6/2021	5/7/2021	5/7/2021	***Appropriations**; zero budget*; multi-department supplemental appropriations; provide for fiscal year 2020-2021. ***(Rep. Thomas Albert)***
0011	4429		Yes	5/13/2021	5/13/2021	5/13/2021	***Highways**; memorial*; portion of US-2 and US-41; designate as the "Darryl M. Rantanen Memorial Highway". ***(Rep. Beau LaFave)***
0012	4067		No	5/13/2021	5/13/2021	**	***Health occupations**; dentists*; health profession specialty field license; expand to include other health profession specialty fields. ***(Rep. Ben Frederick)***
0013	4053		Yes	5/13/2021	5/13/2021	5/13/2021	***Highways**; memorial*; portion of M-120; designate as the "Deputy Ernest W. Heikkila Memorial Highway". ***(Rep. Greg VanWoerkom)***
0014		0016	Yes	5/19/2021	5/19/2021	8/17/2021	***Housing**; inspection*; change of ownership; exclude certain transfers. ***(Sen. Dale W. Zorn)***
0015		0118	Yes	5/19/2021	5/19/2021	5/19/2021	***School aid**; penalties*; penalties for prohibited conduct; modify. ***(Sen. Ed McBroom)***
0016		0141	Yes	5/24/2021	5/25/2021	8/23/2021 #	***Liquor**; spirits*; definition of mixed spirit drink; modify, and modify eligibility for direct shipper license and retailer delivery. ***(Sen. Wayne A. Schmidt)***
0017		0142	Yes	5/24/2021	5/25/2021	8/23/2021 #	***Liquor**; retail sales*; allowing in state and out-of-state mixed spirit drink manufacturers to deliver mixed spirit drink to retailers; provide for. ***(Sen. Winnie Brinks)***
0018		0143	Yes	5/24/2021	5/25/2021	8/23/2021 #	***Liquor**; spirits*; definition of mixed spirit drink; modify. ***(Sen. Jeremy Moss)***

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PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0019		0144	Yes	5/24/2021	5/25/2021	8/23/2021 #	***Liquor**; spirits*; definition of mixed spirit drink; modify. ***(Sen. Curtis S. VanderWall)***
0020		0049	Yes	6/3/2021	6/3/2021	6/3/2021	***Liquor**; permits*; an on-premises tasting room and an off-premises tasting room held at same location; allow under certain conditions. ***(Sen. Kimberly A. LaSata)***
0021	4043		No	6/8/2021	6/9/2021	**	***Mental health**; other*; information gathered by the electronic inpatient bed registry; require to be reported to the Michigan crisis and access line. ***(Rep. Mary Whiteford)***
0022	4044		No	6/8/2021	6/9/2021	**	***Mental health**; other*; state-operated registries related to mental health; require to report data to the Michigan crisis and access line. ***(Rep. Mary Whiteford)***
0023	4376		Yes	6/9/2021	6/9/2021	9/7/2021 #	***Occupations**; individual licensing and registration*; waiver of licensing fees for veterans, members of the armed forces, members of the uniformed forces, and their dependents; provide for. ***(Rep. Andrea Schroeder)***
0024	4377		Yes	6/9/2021	6/9/2021	9/7/2021	***Occupations**; individual licensing and registration*; licensing reciprocity for certain skilled trades for veterans, members of the armed forces, members of the uniformed services, and their dependents who hold an out-of-state license; provide for. ***(Rep. Sarah Anthony)***
0025		0157	Yes	6/9/2021	6/9/2021	9/7/2021	***Health occupations**; health professionals*; reciprocity for veterans, members of the armed forces, members of the uniformed services, and their dependents who hold an out-of-state license or registration; provide for. ***(Sen. John Bizon, M.D.)***
0026		0312	Yes	6/9/2021	6/9/2021	9/7/2021 #	***Occupations**; individual licensing and registration*; licensing reciprocity for certain occupations for veterans, members of the armed forces, members of the uniformed services, and their dependents who hold an out-of-state license; provide for. ***(Sen. Marshall Bullock)***
0027		0437	Yes	6/15/2021	6/15/2021	6/15/2021	***Michigan business tax**; credits*; time frame for completion of certain multiphase projects; modify. ***(Sen. Wayne A. Schmidt)***
0028	4325		No	6/15/2021	6/15/2021	**	***Senior citizens**; other*; criminal history check for employees, volunteers, or independent contractors of a local area agency on aging; require. ***(Rep. Matt Hall)***

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PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0029	4445		No	6/15/2021	6/15/2021	**	***Liquor***; *licenses*; minimum number of sporting events for a motor sports license; reduce. ***(Rep. Sarah Lightner)***
0030		0037	Yes	6/23/2021	6/23/2021	6/23/2021	***Appropriations***; *zero budget*; supplemental appropriations; provide for fiscal year 2020-2021. ***(Sen. Jim Stamas)***
0031		0010	Yes	6/24/2021	6/24/2021	6/24/2021	***Records***; *veterans*; veteran services boards; allow to hold closed sessions when interviewing veterans' applications for benefits. ***(Sen. Lana Theis)***
0032	4040		No	6/24/2021	6/24/2021	**	***Education***; *occupational schools*; occupational school regulations; exempt certain apprenticeship programs. ***(Rep. Ben Frederick)***
0033	4050		Yes	6/24/2021	6/24/2021	6/24/2021	***Civil rights***; *public records*; certain data relating to location of game; exempt from freedom of information act requests. ***(Rep. John Cherry)***
0034	4122		Yes	6/24/2021	6/24/2021	6/24/2021	***Military affairs***; *other*; distribution structure of the county veteran service fund; modify. ***(Rep. Annette Glenn)***
0035		0440	Yes	6/24/2021	6/24/2021	6/24/2021	***Health facilities***; *certificate of need*; certain PET scanners; exempt from certificate of need regulations. ***(Sen. Winnie Brinks)***
0036		0155	Yes	7/1/2021	7/1/2021	7/1/2021	***Health***; *pharmaceuticals*; emergency dispensing of insulin; provide for under certain circumstances. ***(Sen. Kevin Daley)***
0037		0156	Yes	7/1/2021	7/1/2021	7/1/2021 #	***Insurance***; *health insurers*; coverage for emergency refill of prescription medication of insulin for up to a 30-day supply; provide for. ***(Sen. Kevin Daley)***
0038		0256	Yes	7/1/2021	7/1/2021	7/1/2021	***Sales tax***; *distribution*; transfer of funds from the comprehensive transportation fund into the transportation administration collection fund; provide for. ***(Sen. Roger Victory)***

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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					
0039		0438	Yes	7/1/2021	7/1/2021	7/1/2021	***Criminal procedure**; arrests*; exception to the presumption for issuance of appearance tickets in lieu of an arrest in operating while intoxicated; provide for. ***(Sen. Curtis S. VanderWall)***
0040	4055		Yes	7/1/2021	7/1/2021	7/1/2021	***Higher education**; financial aid*; state competitive scholarships; modify. ***(Rep. Sarah Anthony)***
0041	4056		Yes	7/1/2021	7/1/2021	7/1/2021	***Higher education**; tuition*; tuition grants; modify. ***(Rep. Scott VanSingel)***
0042	4540		Yes	7/1/2021	7/1/2021	7/1/2021	***Law enforcement**; other*; transit police officers as law enforcement officers; establish. ***(Rep. Tyrone Carter)***
0043	4541		Yes	7/1/2021	7/1/2021	7/1/2021	***Vehicles**; other*; street cars; modify motor vehicle code to provide for. ***(Rep. Graham Filler)***
0044	4641		Yes	7/1/2021	7/1/2021	7/1/2021	***Economic development**; neighborhood enterprise zones*; filing of neighborhood enterprise zone certificate extension; modify. ***(Rep. Steve Marino)***
0045	4123		Yes	7/1/2021	7/1/2021	7/1/2021	***Water supply**; systems*; use of clean water assistance and safe drinking water assistance funds for energy efficiency water works projects; modify. ***(Rep. Beth Griffin)***
0046	4015		No	7/1/2021	7/1/2021	**	***Consumer protection**; marketing and advertising*; disclosure from third-party websites conducting state business; require. ***(Rep. Sarah Lightner)***
0047	4421		Yes	7/7/2021	7/7/2021	7/7/2021	***Appropriations**; school aid*; multisection school aid supplemental for fiscal year 2021-2022; provide for. ***(Rep. Brad Paquette)***
0048	4411		Yes	7/13/2021	7/13/2021	*** +	***Appropriations**; school aid*; provide for fiscal years 2020-2021 and 2021-2022. ***(Rep. Brad Paquette)***

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PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0049	4201		Yes	7/13/2021	7/13/2021	10/11/2021 #	***Transportation**; school vehicles*; penalties for entering a school bus without authorization or impeding or obstructing a school bus; create. ***(Rep. Jack O'Malley)***
0050	4202		Yes	7/13/2021	7/13/2021	10/11/2021 #	***Transportation**; school vehicles*; school bus stop-arm cameras; allow. ***(Rep. Tyrone Carter)***
0051	4203		Yes	7/13/2021	7/13/2021	10/11/2021 #	***Transportation**; school vehicles*; allowable painting of school buses; modify. ***(Rep. Jewell Jones)***
0052	4204		Yes	7/13/2021	7/13/2021	10/11/2021 #	***Transportation**; school vehicles*; school bus stop-arm cameras; allow. ***(Rep. Greg VanWoerkom)***
0053	4359		Yes	7/13/2021	7/13/2021	10/11/2021	***Health occupations**; nurses*; scope of practice of registered professional nurse holding a specialty certification as a nurse anesthetist; modify. ***(Rep. Mary Whiteford)***
0054	4603		Yes	7/13/2021	7/13/2021	7/13/2021	***Civil rights**; open meetings*; circumstances permitting public meetings of certain public bodies to be held electronically by telephonic or video conferencing; modify. ***(Rep. Joe Bellino)***
0055	4516		Yes	7/13/2021	7/13/2021	10/11/2021	***Marihuana**; liability*; sale of marihuana to an individual who is younger than 21 years of age or visibly intoxicated; prohibit, and create cause of action for harm that the individual causes. ***(Rep. Jim Lilly)***
0056	4517		Yes	7/13/2021	7/13/2021	10/11/2021	***Marihuana**; other*; definitions of marihuana and industrial hemp; modify, and require the marijuana regulatory agency to promulgate rules regarding. ***(Rep. Yousef Rabhi)***
0057	4740		Yes	7/13/2021	7/13/2021	10/11/2021	***Marihuana**; other*; certain definitions in the Medical marihuana facilities licensing act; modify. ***(Rep. Pat Outman)***
0058	4741		Yes	7/13/2021	7/13/2021	10/11/2021	***Marihuana**; other*; certain definitions in the industrial hemp growers act; modify. ***(Rep. TC Clements)***

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	HB	SB					
0059	4742		Yes	7/13/2021	7/13/2021	10/11/2021	***Marihuana**; other*; certain definitions in the marihuana tracking act; modify. ***(Rep. Tenisha Yancey)***
0060	4743		Yes	7/13/2021	7/13/2021	10/11/2021	***Marihuana**; other*; certain definitions in the public health code; modify. ***(Rep. Julie Calley)***
0061	4744		Yes	7/13/2021	7/13/2021	10/11/2021	***Marihuana**; other*; certain definitions in the industrial hemp research and development act; modify. ***(Rep. Richard Steenland)***
0062	4745		Yes	7/13/2021	7/13/2021	10/11/2021	***Marihuana**; other*; certain definitions in the Michigan Medical Marihuana Act; modify. ***(Rep. Jim Lilly)***
0063	4746		Yes	7/13/2021	7/13/2021	10/11/2021	***Liquor**; other*; definition of marihuana in the Michigan liquor control code of 1998; modify. ***(Rep. Roger Hauck)***
0064		0559	Yes	7/13/2021	7/13/2021	7/13/2021	***Liquor**; other*; provisions relating to drinks to go and social districts; remove sunset. ***(Sen. Aric Nesbitt)***
0065		0028	Yes	7/15/2021	7/15/2021	7/15/2021	***Appropriations**; zero budget*; supplemental appropriations; provide for multi-year supplemental. ***(Sen. Jim Stamas)***
Veto	4049		No	No		3/9/2021	***Health**; diseases*; authority to close certain schools to in-person instruction and prohibit certain sporting events in emergency orders issued in response to an epidemic; modify. ***(Rep. Pamela Hornberger)***
Veto		0001	No	No		3/24/2021	***Health**; diseases*; time limits on emergency orders issued in response to an epidemic; provide for unless extension is approved by the legislature and require emergency order to include certain information. ***(Sen. Lana Theis)***
Veto		0029	No	No		3/26/2021	***Appropriations**; supplemental*; supplemental appropriations for 2019-2020 and 2020-2021; provide for. ***(Sen. Jim Stamas)***

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Veto		0114	No	No		3/26/2021	***Appropriations**; zero budget*; multidepartment supplemental appropriations; provide for fiscal year 2020-2021. ***(Sen. Jim Stamas)***
Veto	4210		No	No		4/14/2021 #	***Property tax**; utility property*; eligible broadband equipment; exempt from certain taxes. ***(Rep. Beth Griffin)***
Veto		0046	No	No		5/13/2021	***Property tax**; exemptions*; eligible broadband equipment; exempt from personal property tax. ***(Sen. Aric Nesbitt)***
Veto		0017	No	No		5/19/2021	***Public employees and officers**; other*; 1968 PA 317 regarding contracts of public servants with public entities; modify certain population thresholds. ***(Sen. Dale W. Zorn)***
Veto	4448		No	No		6/3/2021	***State financing and management**; other*; suspension of freedom of information act requests in an executive order under the emergency management act; prohibit. ***(Rep. Steven Johnson)***
Veto	4728		No	No		6/3/2021	***Health**; diseases*; exemption for high school commencement ceremonies from emergency orders issued to control an epidemic; provide for under certain circumstances. ***(Rep. Ann Bollin)***
Veto	4224		No	No		6/25/2021	***Sales tax**; exemptions*; exemption for certain personal protective equipment; provide for. ***(Rep. Jim Lilly)***
Veto	4225		No	No		6/25/2021	***Use tax**; exemptions*; exemption for certain personal protective equipment; provide for. ***(Rep. Sarah Anthony)***
Veto	4945		No	No		7/1/2021	***Education**; alternative*; operation of a strict discipline academy; modify. ***(Rep. Pamela Hornberger)***
Veto	4288		No	No		7/13/2021	***Corporate income tax**; flow-through entities*; entity flow-through tax; provide for. ***(Rep. Mark Tisdel)***

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