



STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LIQUOR CONTROL COMMISSION

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In the matter of ) <b>Punchline Comedy Lounge LLC</b> ) <b>d/b/a Punchline Comedy Lounge</b> ) 29555 Northwestern Hwy ) Southfield, MI 48034 ) ) Oakland County ) _____ )	Complaint No. CV-509105  Business ID No. 0260257
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**EMERGENCY SUSPENSION ORDER PURSUANT TO MCL 24.292(2)**  
**AND NOTICE OF HEARING**

The Michigan Liquor Control Commission’s Enforcement Division has submitted a request for an emergency suspension of the licenses and permits held by the above-named licensee based on an investigation conducted on January 23, 2021.

Article IV, § 40 of the Michigan Constitution authorized the Legislature to create the Michigan Liquor Control Commission. Implementing that authority, the Legislature enacted the Michigan Liquor Control Code, MCL 436.1101, et seq., and established the Michigan Liquor Control Commission, MCL 436.1209. The Code vests the Commission with plenary authority over Michigan’s alcoholic liquor industry, including the manufacture, importation, possession, and sales thereof. See MCL 436.1203(2).

Pursuant to the Administrative Procedures Act, if an agency concludes that the public health, safety, or welfare requires emergency action and incorporates this finding in its order, summary suspension of a license may be ordered effective on the date specified in the order or on service of a certified copy of the order on the licensee, whichever is later, and effective during the proceedings. See MCL 24.292(2). Further, MCL 436.1903(1) permits the Commission or any Commissioner or duly authorized agent

of the Commission designated by the Chairperson to suspend or revoke any liquor license on a violation of the Liquor Control Code or the Commission's administrative rules.

On March 10, 2020, Governor Whitmer issued Executive Order 2020-4 declaring a state of emergency due to the breakout of COVID-19 in the State of Michigan. COVID-19 is a respiratory disease that can result in serious illness or death. COVID-19 is caused by a new strain of coronavirus not previously identified in humans, and it easily spreads between persons. There is currently no vaccine or antiviral treatment for this disease readily available to the general public. To date, there have been over 548,000 confirmed cases of COVID-19 in Michigan, resulting in over 14,000 deaths.

The Public Health Code gives the Michigan Department of Health and Human Services (MDHHS) "general supervision of the interests of health and life of people of this state," MCL 333.2221(2), and requires it to "endeavor to prevent disease, prolong life, and promote the public health," MCL 333.2221(1). The MDHHS may "[e]xercise authority and promulgate rules to safeguard properly the public health; to prevent the spread of diseases and the existence of sources of contamination; and to implement and carry out the powers and duties vested by law in the department." MCL 333.2226(d). Further, the MDHHS is authorized to issue emergency orders to address epidemics, pursuant to MCL 333.2253(1):

If the director determines that control of an epidemic is necessary to protect the public health, the director by emergency order may prohibit the gathering of people for any purpose and may establish procedures to be followed during the epidemic to insure continuation of essential public health services and enforcement of health laws.

On November 15, 2020, the MDHHS issued a Gatherings and Face Mask Order that took effect on November 18, 2020. That order stated that the recent "sharp rise in new [COVID-19] infections suggests that the state is entering the most challenging phase of the pandemic thus far." The order concluded that "the COVID-19 pandemic continues to constitute an epidemic in Michigan." Thus, the MDHHS generally prohibited indoor

gatherings, including indoor gatherings at food service establishments. The MDHHS issued similar orders on December 7, 2020, and December 18, 2020. Both December orders rested on the same legal authority as the November 15 order and contained many similar provisions, including provisions prohibiting indoor gatherings at food service establishments.

On January 13, 2021, the MDHHS issued an order that took effect on January 16, 2021, and rescinded the December 18, 2020 Gatherings and Face Mask Order on that date. See Ex. 1. The January 13 MDHHS order, which likewise rests on the same legal authority as the preceding orders, states that the seven-day average case rate in Michigan remained nearly three times higher than on October 1, 2020. In addition, the death rate was six times higher than in October; more than 500 persons were dying each week in Michigan of COVID-19. Like the preceding orders, the January 13 order concludes that the COVID-19 pandemic continues to constitute an epidemic in Michigan.

Also like its predecessor orders, the January 13 order generally prohibits indoor gatherings at non-residential venues. See 1/13/2021 Gatherings and Face Mask Order, section 2(a)(2). A “gathering” is “any occurrence, either indoor or outdoor, where two or more persons from more than one household are present in a shared space.” *Id.* at section 1(g). The January 13 order prohibits indoor gatherings at food service establishments except in “custodial settings, medical facilities, school and university cafeterias, shelters, and soup kitchens.” *Id.* at section 3(b)(1). The order defines “indoors” as “a space that is fully or partially enclosed on the top, and fully or partially enclosed on two or more contiguous sides. Additionally, in a space that is fully or partially enclosed on the top, and fully or partially enclosed on two non-contiguous sides, any part of that space that is more than 8 feet from an open side is indoors.” *Id.* at section (1)(j).

Further, subject to limited exceptions, the January 13 order requires “[a]ll persons participating in gatherings . . . to wear a face mask.” *Id.* at section 7(a). “Except as provided elsewhere in [the January 13] order, a person responsible for a business . . . must prohibit gatherings of any kind unless the person requires individuals in such

gatherings (including employees) to wear a face mask[] and denies entry or service to all persons refusing to wear face masks while gathered.” *Id.* at section 7(c).

Violations of the January 13 Gatherings and Face Mask Order constitute misdemeanors and are punishable by up to six months imprisonment and certain fines. See *id.* at section 10(e), (h).

Based on the investigative report received from the Michigan Liquor Control Commission’s Enforcement Division, and the dictates of the MDHHS’s January 13, 2021 Gatherings and Face Mask Order, the Commissioner finds on behalf of the Commission that the public health, safety, and welfare requires emergency action, as contemplated by MCL 24.292(2). The Commissioner therefore issues an emergency suspension of the licenses and permits held by Punchline Comedy Lounge LLC located at 29555 Northwestern Hwy., Southfield. A post-suspension hearing is scheduled for **February 8, 2021 at 1:00pm**, to determine whether this suspension should continue or other fines and penalties should be imposed.

#### I. **Findings of Fact**

Punchline Comedy Lounge LLC (Licensee) currently holds a Class C license with Sunday Sales Permits (A.M. & P.M.), Dance-Entertainment Permit, and Outdoor Service (1 Area), at its licensed location. According to the MLCC investigative report, on January 23, 2021, at approximately 1:00 a.m., an investigator from the Michigan Liquor Control Commission’s Enforcement Division conducted an investigation at the Licensee’s establishment. The investigation was prompted by information received anonymously on January 22, 2021, stating that the licensee was violating MDHHS’s Gatherings and Face Mask Order after midnight on weekends. During the investigation, the investigator took several digital photographs of the inside of the licensed premises and the parking lot. The photographs show that the inside of the licensed premises was full of patrons, and the parking lot was full of cars. The patrons inside the licensed premises were not socially

distanced, and the investigative report notes that few patrons were wearing masks.

The investigative report further specifies that a MLCC investigator previously contacted the sole member of the Licensee on December 21, 2020, pursuant to information received that the licensee was violating the then-effective MDHHS order by allowing indoor gatherings. The Licensee denied that indoor gatherings were taking place at the licensed premises. Despite the prior contact on December 21, 2020, with the Licensee's member, the Licensee was violating the MDHHS order on January 23, 2021.

The Licensee is a bar and a food service establishment that does not qualify for an exception to the indoor gathering prohibition in the January 13, 2021 MDHHS Gatherings and Face Mask Order. The continued operation of the licensed premises allowing indoor gatherings, as "gathering" is defined by that order, and allowing those gatherings without requiring individuals to wear face masks, poses an immediate threat to the health, safety, and welfare of the public and if allowed to continue is likely to result in additional significant outbreaks of COVID-19.

## **II. Conclusions of Law:**

The Licensee violated the MDHHS Gatherings and Face Mask Order dated January 13, 2021, by allowing non-residential indoor gatherings contrary to sections 2(a)(2) and 3(b)(1). This violation also violates Mich Admin Code, R 436.1011(1).

The Licensee also violated the MDHHS Gatherings and Face Mask Order dated January 13, 2021, by allowing non-residential indoor gatherings without requiring persons to wear face masks, contrary to section 7(a), (c). This also violates Mich Admin Code, R 436.1011(1).

For these reasons, the Commissioner orders the following, pursuant to MCL 24.292(2):

**THEREFORE, IT IS ORDERED** that:

A. The Class C license, and all permits, at the above-captioned licensed premises are hereby immediately suspended.

B. Punchline Comedy Club LLC, shall appear before an Administrative Law Judge on **Monday, February 8, 2021 at 1:00pm** for a virtual hearing via Zoom on the charges identified above and listed in Complaint No. CV-509105 in accordance with the Michigan Administrative Procedures Act, MCL 24.201, et. seq., and the Commission's Hearing and Appeals Practice administrative rules.

**IT IS SO ORDERED.**

MICHIGAN LIQUOR CONTROL COMMISSION



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Edward Toma, Hearing Commissioner

Date Mailed: \_\_\_\_\_