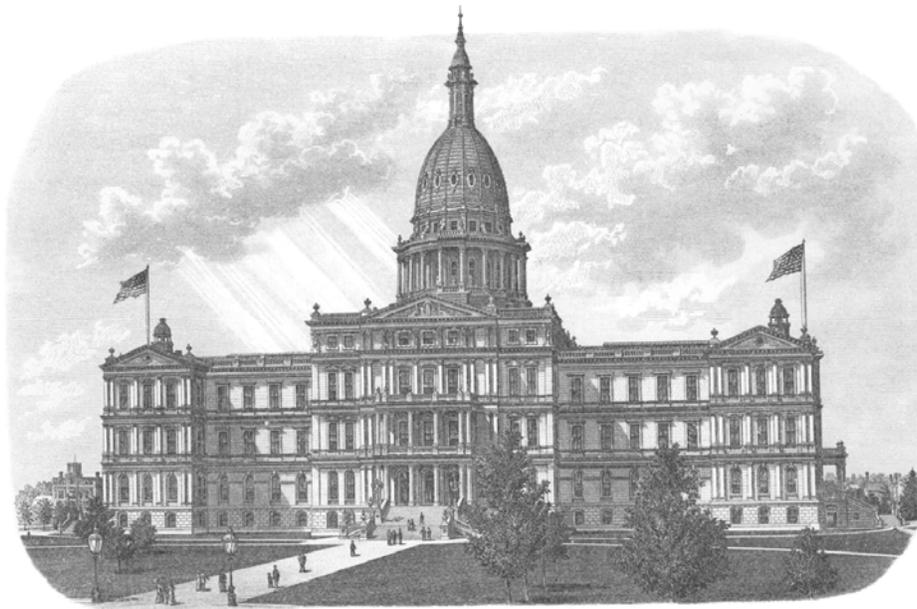


Michigan Register

Issue No. 13 – 2018 (Published August 1, 2018)



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. 13— 2018

(This issue, published August 1, 2018, contains
documents filed from July 1, 2018 to July 15, 2018)

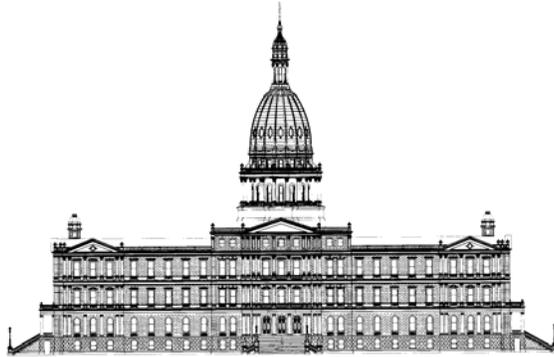
Compiled and Published by the
Office of Regulatory Reinvention

© 2018 by Office of Regulatory Reinvention, State of Michigan
All rights reserved.
Printed in the United States of America

Michigan Register (ISSN 0892-3124). Published twice per month, with a cumulative index, by the Office of Regulatory Reinvention, pursuant to §24.208 of the Michigan Compiled Laws. Subscription \$400.00 per year, postpaid to points in the U.S. First class postage paid at Lansing, Michigan. Direct all mail concerning subscriptions to Office of Regulatory Reinvention, Romney Building – Eight Floor, 111 S. Capitol, Lansing, MI 48909

Jeff Bankowski, Executive Director, Office of Performance and Transformation; **Deidre O’Berry**, Administrative Rules Specialist for Operations and Publications.

Rick Snyder, Governor



Brian Calley, Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform 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, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the Office of Regulatory Reinvention 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 Office of Regulatory Reinvention 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, Office of Regulatory Reinvention, Romney Building – Eight Floor, 111 S. Capitol, Lansing, MI 48909

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: Office of Regulatory Reinvention, Romney Building –Eight Floor, 111 S. Capitol Avenue, Lansing, MI 48909. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reinvention (517) 335-8658.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reinvention: www.michigan.gov/orr.

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reinvention Internet web site. 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.

Jeff Bankowski, Executive Director,
Office of Performance and Transformation

2018 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2018	February 1, 2018
2	February 1, 2018	February 15, 2018
3	February 15, 2018	March 1, 2018
4	March 1, 2018	March 15, 2018
5	March 15, 2018	April 1, 2018
6	April 1, 2018	April 15, 2018
7	April 15, 2018	May 1, 2018
8	May 1, 2018	May 15, 2018
9	May 15, 2018	June 1, 2018
10	June 1, 2018	June 15, 2018
11	June 15, 2018	July 1, 2018
12	July 1, 2018	July 15, 2018
13	July 15, 2018	August 1, 2018
14	August 1, 2018	August 15, 2018
15	August 15, 2018	September 1, 2018
16	September 1, 2018	September 15, 2018
17	September 15, 2018	October 1, 2018
18	October 1, 2018	October 15, 2018
19	October 15, 2018	November 1, 2018
20	November 1, 2018	November 15, 2018
21	November 15, 2018	December 1, 2018
22	December 1, 2018	December 15, 2018
23	December 15, 2018	January 1, 2019
24	January 1, 2019	January 15, 2019

CONTENTS

PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

Department of Licensing and Regulatory Affairs

Director's Office (2017-001)

Construction Code – Part 8. Electrical Code Rules	2-17
Public Hearing Notice.....	18-18

Department of Military and Veteran Affairs

Veterans' Trust Fund board of Trustees (2018-008)

State Homes for Veterans	19-26
Public Hearing Notice.....	27-28

Department of Licensing and Regulatory Affairs

Director's Office (2018-016)

Board of Chiropractic - General Rules	29-43
Public Hearing Notice.....	44-45

Department of Licensing and Regulatory Affairs

Director's Office (2018-024)

Public Health Code – General Rules	46-46
Public Hearing Notice.....	47-48

Department of Licensing and Regulatory Affairs

MIOSHA (2018-044)

Part 310 Lead in General Industry	49-51
Public Hearing Notice.....	52-53

Department of Licensing and Regulatory Affairs

MIOSHA (2018-045)

Part 603. Lead Exposure in Construction	54-60
Public Hearing Notice.....	61-62

OPINIONS OF THE ATTORNEY GENERAL

AG Opinion No. 7304

Exemptions for residents and nonresidents from pistol licensing requirements	64-78
--	-------

AG Opinion No. 7305

Validity of interpretative statement interpreting term “sex” as used in Elliot-Larsen Civil Rights Act	79-93
---	-------

**EXECUTIVE ORDERS
AND
EXECUTIVE REORGANIZATION ORDERS**

Executive Order No. 7
Transfer of Refugee Services Functions Creation of the Chairpersons Council-
Department of Health and Human Services, Department of Licensing and Regulatory Affairs
Michigan Office for new Americans95-98

MICHIGAN ADMINISTRATIVE CODE TABLE

Table (2018 Session)100-105

CUMULATIVE INDEX

Cumulative Index (2018)106-110

BILLS SIGNED INTO LAW OR VETOED

Appendix Table 1 (2018 Session) (Legislative Service Bureau Pages (1-14)).....111-111

**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

DIRECTOR'S OFFICE

CONSTRUCTION CODE

Filed with the Secretary of State on

These rules take effect immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. 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 section 4 of 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2017-1, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 339.3102)

R 408.30801, R 408.30807, R 408.30808, R 408.30810, R 408.30811, R 408.30818, R 408.30819, R 408.30820, R 408.30823, R 408.30826, R 408.30827, R 408.30828, and R 408.30871 of the Michigan Administrative Code are amended and R 408.30805, R 408.30806, R 408.30809, R 408.30812, R 408.30813, R 408.30814, R 408.30817, R 408.30821, R 408.30822, R 408.30824, R 408.30829, R 408.30834, R 408.30835, R 408.30867, R 408.30868, R 408.30869, and R 408.30870 are rescinded as follows:

PART 8. ELECTRICAL CODE

R 408.30801 National electrical code; adoptions by reference; inspection; purchase.

Rule 801. (1) The standards contained in the national electrical code 20142017 edition, including Annex H, except sections 80.2, 80.5, 80.15, 80.21, 80.27, 80.29, 80.31, 80.33, 80.35, 90.6, and ~~110.24, 502.30B, 503.30B, 505.25B, 506.25B, 547.1 to 547.10, and Annex H~~, as published by the national fire protection association (NFPA), shall govern the installation, replacement, alteration, relocation, and use of electrical systems or material. With the exceptions noted, the national electrical code is adopted in these rules by reference.

~~(2) Informational notes contained within the body of the code are not adopted as a part of the code.~~

~~(3)~~(2) All references to the ANSI/ASME A17.1-~~2010~~2013, safety code for elevators and escalators mean the Michigan elevator code and all references to the national electrical code mean the Michigan electrical code.

~~(4)~~(3) NFPA 110, standard for emergency and standby power systems, 2013 edition and NFPA 111, standard on stored electrical energy emergency and standby power systems, 2013 edition, are adopted by reference in these rules.

~~(5)~~(4) The codes are available for inspection at the ~~Okemos~~ Lansing office of the Michigan department of licensing and regulatory affairs, bureau of construction codes.

~~(6)~~(5) The National Electrical Code, NFPA 110 and NFPA 111 may be purchased from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts

~~02269, or from the Michigan Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, 2501 Woodlake Circle, Okemos, Michigan 48864~~through the bureau's website at www.michigan.gov/bcc, at a cost as of the time of adoption of these rules of ~~\$82.00, \$42.00 and \$42.00~~\$98.00, \$47.50, and \$47.50 each, respectively.

R 408.30805 ~~Rescission~~Rescinded.

~~Rule 805. Rules 41 through 77 of the rules of the electrical administrative board, being R338.1041 to R 338.1077 of the Michigan Administrative Code, are rescinded.~~

R 408.30806 ~~Application~~Rescinded.

~~Rule 806. Sections 80.9 and 80.9.1 are added to the code to read as follows:~~

~~80.9. Applicability.~~

~~Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.~~

~~80.9.1 Application.~~

~~(a) New installations. The code applies to new installations. Buildings with construction permits dated after adoption of the code shall comply with its requirements.~~

~~(b) Existing installations. Electrical systems lawfully in existence at the time of the adoption of this code shall be permitted to have their use and maintenance continued if the use, maintenance, or repair is in accordance with the original design and no hazard to life, health, or property is created by this electrical system as determined by the code official.~~

~~(c) Additions, alterations, or repairs. Additions, alterations, or repairs to any building, structure, or premises shall conform to that required of a new building without requiring the existing building to comply with all the requirements of the code. Additions, alterations, installations, or repairs shall not cause an existing building to become unsafe or to adversely affect the performance of the building as approved. Electrical wiring added to an existing service, feeder, or branch circuit shall not result in an installation that violates the provisions of the code in force at the time the additions are made.~~

R 408.30807 ~~Title.~~

~~Rule 807. Section 80.7 is amended to the code to read as follows:~~

~~80.7. Title. These rules shall be known as the Michigan electrical code, hereinafter referred to as "the code."~~

R 408.30808 ~~Scope.~~

~~Rule 808. Sections 80.1 is amended, and 80.1.1, 80.1.2, and 80.1.3 are is added to the code to read as follows:~~

~~80.1. Scope. The code regulates the design, installation, maintenance, alteration, and inspection of electrical systems including all wiring, fixtures, appliances, and appurtenances in connection with the utilization of electrical energy, within or on a building, structure, or properties, and including service entrance wiring as defined by the code.~~

~~Exception: . One and 2 family dwellings and multiple single family dwellings (townhouses) not more than 3 stories high with separate means of egress and their accessory structures shall comply with the Michigan residential code.~~

~~80.1.1. Intent. The purpose of the code is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation, and maintenance or use of electrical wiring and equipment.~~ The following are covered:

- (1) The inspection of electrical installations as covered by 90.2.
- (2) The review of construction plans, drawings, and specifications for electrical systems.
- (3) The design, alteration, modification, construction, maintenance, and testing of electrical systems and equipment.
- (4) The regulation and control of electrical installations at special events, including, but not limited to, exhibits, trade shows, amusement parks, and other similar special occupancies.

~~80.1.280.1.1. Severability. If a section, subsection, sentence, clause, or phrase of the code is, for any reason, held to be unconstitutional, such this decision shall not affect the validity of the remaining portions of the code.~~

~~80.1.3. Code conformity required. A person shall not install, alter, maintain, service, or repair, or cause or permit the installation, altering, maintaining, servicing, or repairing of electrical equipment in or on any building, structure, or part thereof, or on any premises, if by the person's action the work does not conform to the provisions of the code.~~

R 408.30809 Purpose Rescinded.

~~Rule 809. Section 80.3 is added to the code to read as follows:~~

~~80.3. Purpose. The purpose of this article shall be to provide requirements for administration and enforcement of the Michigan electrical code.~~

R 408.30810 Stop work order Authority.

~~Rule 810. Section 80.13, 80.13.1 and 80.13.2 are~~ is added to the code to read as follows:

~~80.13. Authority. Whenever the enforcing agency finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the enforcing agency may issue a stop work order.~~ Where used in this article, the term authority having jurisdiction shall include the chief electrical inspector or other individuals designated by the governing body. This code shall be administered and enforced by the authority having jurisdiction designated by the governing authority as follows:

- (1) When the use of any electrical equipment or its installations is found to be dangerous to human life or property, the authority having jurisdiction may have the premises disconnected from its source of electric supply, as established by the board. When this equipment or installation has been condemned or disconnected, a notice shall be placed on the equipment or installation listing the causes for the condemnation, or the disconnection, or both, and the penalty for the unlawful use of the equipment or installation. Written notice of this condemnation or disconnection and the causes of it shall be given within 24 hours to the owners, or the occupant, or both, of the building, structure, or premises. It is unlawful for any person to remove this notice, to reconnect the electrical equipment to its source of electric supply, or to use or permit to be used electric power in any electrical equipment until the causes for the condemnation or disconnection have been remedied to the satisfaction of the inspection authorities.
- (2) The authority having jurisdiction may delegate to other qualified individuals the powers as necessary for the proper administration and enforcement of this code.

(3) Police, fire, and other enforcement agencies may render necessary assistance in the enforcement of this code when requested to do so by the authority having jurisdiction.

(4) The authority having jurisdiction may order any person or persons to remove or remedy the dangerous or hazardous condition or conditions or equipment. Any person or persons who fail to comply with this order are in violation of this code.

(5) Where the authority having jurisdiction deems that conditions hazardous to life and property exist, he or she may require that the hazardous conditions in violation of this code be corrected.

(6) Persons shall not use a badge, uniform, or other credentials to impersonate the authority having jurisdiction.

(7) The authority having jurisdiction may require plans and specifications to ensure compliance with this code.

(8) Whenever any installation is subject to inspection prior to use is covered or concealed without having first been inspected, the authority having jurisdiction may require that this work be exposed for inspection. Neither the code official nor the jurisdiction is liable for expense entailed in the removal or replacement of any material required to allow inspection. The authority having jurisdiction shall be notified when the installation is ready for inspections.

~~80.13.1. Issuance. Notice shall be in accordance with the act. A person who is served with a stop work order, except for work that the person is directed to perform to remove a violation or unsafe condition, shall be subject to the penalty provisions prescribed by the act.~~

~~80.13.2. Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except the work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.~~

R 408.30811 Duties and powers of code official.

Rule 811. ~~Sections~~Section 80.14, ~~80.14.1, 80.14.2, 80.14.3 and 80.14.4 are~~ is added to the code to read as follows:

80.14. Duties and powers of the code official. The code official is authorized and directed to enforce the provisions of this code. The code official may render interpretations of this code and adopt policies and procedures in order to clarify the application of its provisions. These interpretations, policies, and procedures shall be in compliance with the intent and purpose of this code. These policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

~~80.14.1. Department records. The enforcing agency shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, notices and orders issued. These records shall be retained in the official records for the period required for the retention of public records.~~

~~80.14.2. Identification. The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.~~

~~80.14.3. Right of Entry. Whenever it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in any building or upon any premises any conditions or violations of this code that make the building or premises unsafe, unsanitary, dangerous, or hazardous, the code official shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the code official by this code. If the building or premises is occupied, the code official shall present credentials to the occupant and request entry. If the building or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or~~

~~other person having charge or control of the building or premises and request entry. If entry is refused, the code official shall have recourse to every remedy provided by law to secure entry.~~

~~–80.14.4. Verification of the installation of the concrete encased electrode. The inspection of a concrete encased electrode meeting the requirements of the 2014 NEC NFPA 70 sections 250.50 and 250.52(A)(2) and (3) except for the connection of the grounding electrode conductor to the electrode shall be completed by 1 of the following:~~

~~–(1) The electrical inspector for the enforcing agency.~~

~~–(2) The building inspector for the enforcing agency if all of the following conditions are met:~~

~~–(a) Both the electrical and building inspectors for the enforcing agency shall sign a written agreement which shall remain on file with the enforcing agency that designates authority to the building inspector for that agency to inspect a concrete encased electrode.~~

~~–(b) Upon inspection and verification by the building inspector of a concrete encased electrode, the building inspector shall provide written documentation to the electrical inspector that the installation of the concrete encased electrode meets the requirements set forth in 250.52(A)(2) and (3) and 250.68(C)(3).~~

~~–(c) Verification of approval of the concrete encased electrode shall be made at the construction site by signature of either the electrical inspector or the building inspector for the enforcing agency on the field copy of the building permit noting that the concrete encased electrode was approved along with the footing inspection or by a readily available inspection tag attached to the accessible grounding electrode reinforcing bar.~~

~~–(d) The grounding electrode conductor connection to the concrete encased electrode shall be inspected by the electrical inspector for the enforcing agency.~~

R 408.30812 Means of appeal Rescinded.

~~Rule 812. Sections 80.15, 80.15.1, and 80.15.2 are added to the code to read as follows:~~

~~–80.15. Means of appeal. An interested person may appeal the decision of the enforcing agency to the board of appeals in accordance with the act. An application for appeal shall be based on a claim that the true intent of the code or the rules governing construction have been incorrectly interpreted, the provisions of the code do not apply, or an equal or better form of construction is proposed. The decision of a local board of appeals may be appealed to the construction code commission in accordance with the act and timeframes.~~

~~–80.15.1. Limitation of authority. The board of appeals shall have no authority relative to interpretation of the administration of the code nor shall such board be empowered to waive requirements of the code.~~

~~–80.15.2. Qualifications. The board of appeals shall consist of members who are qualified in accordance with the act.~~

R 408.30813 Code arrangement Rescinded.

~~Rule 813. Section 90.3 of the code is amended to read as follows:~~

~~–90.3. Code arrangement. The code includes an administration section. Additionally, the code is divided into the introduction and 9 chapters. Chapters 1, 2, 3, and 4 apply generally; chapters 5, 6, and 7 apply to special occupancies, special equipment, or other special conditions. Chapters 5, 6, and 7 supplement or modify the general rules. Chapters 1 to 4 apply except as amended by chapters 5, 6, and 7 for the particular~~

~~conditions. Chapter 8 covers communications systems and is not subject to the requirements of chapters 1 to 7 except where the requirements are specifically referenced in chapter 8. Chapter 9 consists of tables that are applicable as referenced. Informative annexes are not part of the requirements of the code but are included for informational purposes only.~~

R 408.30814 ~~Enforcement~~Rescinded.

Rule 814. ~~Sections 90.4 and 90.6 of the code are amended to read as follows:~~
~~–90.4. Enforcement. The code is intended to be suitable for mandatory application by governmental bodies that exercise legal jurisdiction over electrical installations, including signaling and communications systems. The enforcing agency shall interpret the rules, decide on the approval of equipment and materials, and grant special permission set forth in the rules.~~
~~–By special permission, the enforcing agency may permit alternative methods where equivalent objectives may be achieved by establishing and maintaining effective safety.~~
~~–90.6. Formal interpretations. Formal interpretations shall be issued in accordance with 1972 PA 230, MCL 125.1501 et seq.~~

R 408.30817 ~~Disconnection of dangerous electrical equipment~~Rescinded.

Rule 817. ~~Section 80.18.1 is added to the code to read as follows:~~
~~–80.18.1. Disconnection of dangerous electrical equipment. If the use of any electrical equipment is found imminently dangerous to human life or property, the enforcing agency may condemn the equipment or disconnect it from its source of electric supply, except that the enforcing agency shall not disconnect the service entrance equipment or utility service drop wires unless the entrance equipment or utility wires in themselves constitute a hazard to life or property. If the enforcing agency condemns or disconnects dangerous equipment, then the agency shall place a notice on the equipment listing the causes for the condemnation or disconnection and the penalty under the act for the unlawful use of the equipment. The agency shall give written notice of the condemnation or disconnection and the causes for condemning or disconnecting the equipment to the owner or the occupant of the building, structure, or premises. A person shall not remove the notice or reconnect the electrical equipment to its source of electric supply, or use or permit the use of electrical current in the electrical equipment, until the causes for the condemnation or disconnection are remedied and a permit for the electrical repairs of the equipment is obtained from the enforcing agency.~~

R 408.30818 ~~Permits and certificates.~~

Rule 818. ~~Sections 80.19, 80.19.1, 80.19.2, 80.19.3, 80.19.3.1, 80.19.4, 80.19.5, 80.19.6, 80.19.7, 80.19.8, 80.19.9, 80.19.10, 80.19.11, 80.19.12 and 80.19.13 are~~ is added to the code to read as follows:
80.19. ~~Permits and certificates~~**Permits and approvals.** A person shall not equip a building with electrical conductors or equipment or make an alteration of, change in, or addition to, electrical conductors or equipment without receiving a written permit to do the work described. If the electrical installation or alterations of, changes in, or addition to, electrical conductors or equipment are found to be in compliance with the provision of the code and if the work has passed the inspection of the enforcing agency, then the enforcing agency shall, upon the request of the permit holder to whom the permit was issued, issue a certificate of final electrical inspection. ~~The certificate certifies that the provisions of the code have been complied with. This section does not apply to installations that are~~

~~referred to in section 7(3)(a), (b), (c), (d), (e), (f), (h), (k), (l), (m), or (o) of the electrical administrative act, MCL 338.887. Permits and approvals shall conform to (a) to (e).~~

(a) Application. A copy of the permit shall be posted or otherwise readily accessible at each work site or carried by the permit holder as specified by the authority having jurisdiction.

(b) Issuance of Permits. The authority having jurisdiction shall be authorized to establish and issue permits, certificates, notices, and approvals, or orders pertaining to electrical safety hazards, except that no permit shall last longer than 180 days, or be required to execute any of the classes of electrical work specified in the following:

(1) Installation or replacement of equipment such as lamps and of electric utilization equipment approved for connection to suitable permanently installed receptacles.

(2) Replacement of flush or snap switches, fuses, lamp sockets, and receptacles, and other minor maintenance and repair work, such as replacing worn cords and tightening connections on a wiring device and minor repair work as defined in skilled trades regulation act, 2016 PA 407, MCL 339.5101 to 339.6133.

(3) The process of manufacturing, testing, servicing, or repairing electrical equipment or apparatus.

(c) Annual permits. In lieu of an individual permit for each installation or alteration, an annual permit shall, upon application, be issued to any person, firm, or corporation regularly employing 1 or more employees for the installation, alteration, and maintenance of electrical equipment in or on buildings or premises owned or occupied by the applicant for the permit. Upon application, an electrical contractor as an agent for the owner or tenant shall be issued an annual permit. The applicant shall keep records of all work done, and the records shall be transmitted periodically to the electrical inspector.

(d) Inspection and approvals.

(1) Upon the completion of any installation of electrical equipment that has been made under a permit, the person, firm, or corporation making the installation shall notify the electrical inspector having jurisdiction.

(2) Where the inspector finds the installation to be in conformity with the code, state statutes, rules and, if applicable, local ordinances, the inspector shall issue to the person, firm, or corporation making the installation a final approval, or certificate of approval provided payment has been made, which authorizes the connection into the supply of electricity.

(3) When any portion of the electrical installation within the jurisdiction of an electrical inspector is to be hidden from view by the permanent placement of parts of the building, the person, firm, or corporation installing the equipment shall notify the electrical inspector, and the equipment shall not be concealed until it has been approved by the electrical inspector. Neither the code official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

(e) Applications and extensions. The authority having jurisdiction may grant 1 180-day extension of the original permit time period of 180 days, upon presentation of the permittee of a satisfactory reason for failure to start or complete the work or activity authorized by the permit.

~~80.19.1. To whom permits are issued.~~

~~(1) A permit for any type of electrical installation may be secured by 1 of the following:~~

~~(a) A holder of an electrical contractor license or the qualifying master for the electrical contractor when authorized by the electrical contractor to secure a permit.~~

~~(b) A homeowner who occupies or will occupy a single family dwelling and other accessory structures located on the same lot intended for use by the homeowner for which the permit is obtained and who~~

will install the electrical equipment as certified by the homeowner on the permit application pursuant to the act.

~~–(2) A permit for a fire alarm system may be secured by the holder of a fire alarm specialty contractor license or the qualifying fire alarm specialty technician qualifying the fire alarm specialty contractor when authorized by the fire alarm specialty contractor to secure a permit.~~

~~–(3) A permit for an electrical sign or outline lighting, as defined in section 1b(1) and (2) of 1956 PA 217 the electrical administrative act, MCL 338.881b(1) and (2), may be secured by the holder of a sign specialty contractor license or the sign specialty technician qualifying the sign specialty contractor when authorized by the sign specialty contractor to secure a permit.~~

~~–(4) A permit for electrical wiring associated with the installation, removal, alteration, or repair of a water well pump on a single family dwelling to the first point of attachment in the house from the well, may be secured by a registered pump installer under part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771.~~

~~–(5) A permit for wiring associated with existing mechanical and plumbing systems referenced in section 7(3)(i) of the electrical administrative act, 1956 PA 217, MCL 338.887(3)(i), may be secured by the following:~~

~~–(a) A holder of a mechanical contractor license issued pursuant to section 6(3)(a), (b), (d), (e), and (f) of the Forbes mechanical contractors act, 1984 PA 192, MCL 338.976(3)(a), (b), (d), and (f).~~

~~–(b) A holder of a plumbing contractor license issued pursuant to the state plumbing act, 2002 PA 733, MCL 338.3511 to 338.~~

~~–80.19.2. Application for permit. Each application for a permit, with the required fee, shall be filed with the code official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The permit application shall contain all applicable information pursuant to with the act and shall include the signature of the applicant in compliance with section 80.19.1 of the code.~~

~~–80.19.3. Permit expiration. Each permit issued by the code official under the provisions of the code shall expire by limitation and become null and void if the work authorized by the permit is not begun within 180 days from the date of the permit or if not inspected after the work is begun for a period of 180 days. Before the work may be restarted, the permit shall be reinstated if the code has not changed. If the code has changed and the work was not started, a new permit is required based on the current requirements.~~

~~–80.19.3.1. Posting of permit. The permit or a copy shall be kept on site of the work until the project is completed.~~

~~–80.19.4. Uncompleted installation notification. If a person to whom a permit is issued for the installation and inspection of electrical conductors and electrical equipment quits the installation for any reason, then the person shall notify the enforcing agency.~~

~~–80.19.5. Inspection and refunds for partial installation. If an installation is partially completed, then a permit holder, upon quitting the installation, shall notify the enforcing agency and shall request an inspection. The inspector shall record the acceptance of, or violations against, the work installed on the permit record according to the findings of the inspector. The enforcing agency shall not grant a refund to the permit holder of the permit fee covering electrical equipment installed and inspected.~~

~~–80.19.6. Owner notification to enforcing agency. If a permit holder quits an installation after the electrical equipment is installed and fails to notify the enforcing agency, then the building owner or his or her agent may notify the enforcing agency and request inspection. Upon inspection, the enforcing agency shall send the permit holder a notice of a violation. The owner may then secure another licensed contractor to proceed with the work if the new contractor is properly covered by a permit.~~

~~–80.19.7. Transfer of permit. An electrical permit is not transferable.~~

~~80.19.8. Fraudulent application for permit. A permit that is issued in violation of the laws of this state or as a result of false or fraudulent information or misinterpretation of conditions is subject to revocation at the direction of the enforcing agency. The enforcing agency shall notify the person holding the permit to appear and show cause why the permit should not be revoked. Failure to appear is sufficient grounds for revocation of the permit.~~

~~80.19.9. Suspension or revocation of permit. The code official shall have the authority to suspend or revoke a permit issued under the provisions of this code whenever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.~~

~~80.19.10. Annual permit. In place of an individual permit for each alteration to an already approved electrical installation, the enforcing agency may issue an annual permit upon application to any person, firm, or corporation. The applicant shall be licensed pursuant to the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892.~~

~~80.19.11. Annual permit records. The person, firm, and corporation to whom an annual permit is issued shall keep a detailed record of alterations made under an annual permit. Access to the records shall be provided at all times and the records shall be filed with the enforcing agency.~~

~~80.19.12. Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless the application has been pursued in good faith or a permit has been issued; except that the code official may grant 1 or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause shall be demonstrated.~~

~~80.19.13. Validity of permit. The issuance of a permit or approval of construction documents shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or any other ordinance of the jurisdiction. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid.~~

~~The issuance of a permit based upon construction documents and other data shall not prevent the code official from thereafter requiring the correction of errors in the construction documents and other data, or from preventing building operations being carried on thereunder, when in violation of this code or other ordinances of this jurisdiction.~~

R 408.30819 Plans and specifications.

Rule 819. Sections 80.21, 80.21.1, 80.21.2, **and** 80.21.3, ~~80.21.4, and 80.21.5~~ are added to the code to read as follows:

80.21. Plans and specifications. An applicant shall submit a detailed set of plans and specifications with the application for an electrical permit for any wiring or alteration to an electrical system if the system requires installation of electrical equipment that has an ampacity of more than 400 amperes for the service or feeder and if the calculated floor area in a building is more than 3,500 square feet. The enforcing agency may request plans for projects that include an unusual design. The electrical drawings shall include all of the following details:

- (a) Lighting layout.
- (b) Circuiting.
- (c) Switching.
- (d) Conductor and raceway sizes.

- (e) Wattage schedule.
- (f) Service location and riser diagram.
- (g) Load calculations and available fault current calculations.
- (h) A proposed method of construction that is drawn with symbols of a standard form.

All conductors are assumed to be copper unless otherwise stated in the plan. Specifications, when provided, shall also include the information listed in this rule. The selection of suitable disconnect and overcurrent devices to provide proper coordination and interrupting capacity for a wiring system is the responsibility of the designer. The enforcing agency, when approving electrical plans, does not assume responsibility for the design or for any deviations from any electrical drawings. The permit holder shall ensure that the plans and specifications approved by the enforcing agency, or a certified copy of the plans and specifications, where required, are available on the jobsite for the use of the enforcing agency.

~~80.21.1. Preparation of plans. An architect or engineer shall prepare, or supervise the preparation of, all plans and specifications for new construction work or repair, expansion, addition, or modification work. The architect or engineer shall be licensed under the occupational code, 1980 PA 299, MCL 339.101 to 339.2919. The plans and specifications shall be sealed and signed pursuant to the occupational code, 1980 PA 299, MCL 339.101 to 339.2919.~~

~~–Note: For exceptions, see the occupational code, 1980 PA 299, MCL 339.101 to 339.2919.~~

~~80.21.280.21.1. Application and permits. The code official shall receive applications, review construction documents, and issue permits for the installation and alteration of electrical systems, inspect the premises for which the permits have been issued, and enforce compliance with the code. The code official may issue a permit for the construction of and part of an electrical system before the entire construction documents for the whole system have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holders of the permit shall proceed at their own risk without assurance that the permit for the entire electrical system will be granted.~~

Work shall be installed pursuant to the code and approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

~~80.21.380.21.2~~ Previous approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been previously issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

~~80.21.4. Retention of construction documents. The code official shall retain 1 set of approved construction documents for a period of not less than 180 days from the date of final inspection of the permitted work.~~

~~80.21.580.21.3.~~ Information on construction documents. Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents may be submitted when approved by the enforcing agency. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules, and regulations as determined by the enforcing agency.

R 408.30820 Representative on jobsite.

Rule 820. ~~Sections Section 80.20 and 80.20.1~~ are added to the code to read as follows:

80.20. Representative on jobsite. The enforcing agency reserves the right to require a representative of the permit holder to be on the job when an inspection is made.

~~80.20.1. Licensed supervision required. A person who is licensed under 1956 PA 217, MCL 338.881 et seq. and who is employed by and represents the permit holder who is responsible for the electrical installation shall be present at all times when electrical construction is in progress.~~

R 408.30821 Occupancy of building or structure ~~Rescinded.~~

~~Rule 821. Section 80.11 is added to the code to read as follows:~~

~~80.11. Occupancy of building or structure.~~

~~–(a) New construction. No newly constructed building may be occupied in whole or in part in violation of the provisions of the code.~~

~~–(b) Existing buildings. Existing buildings that are occupied at the time of adoption of the code shall be permitted to remain in use provided the following conditions apply:~~

~~–(1) The occupancy classification remains unchanged.~~

~~–(2) There exists no condition deemed hazardous to life or property that would constitute an imminent danger.~~

R 408.30822 Inspections ~~Rescinded.~~

~~Rule 822. Sections 80.22, 80.22.1 and 80.22.2 are added to the code to read as follows:~~

~~–80.22. Inspection requests. The holder of the permit or his or her duly authorized agent shall notify the code official when work is ready for inspection. The permit holder shall provide access to and means for inspections of work that is required by this code. An enforcing agency shall perform the inspection within a reasonable period of time after the request for inspection is made~~

~~–80.22.1. Notices and orders. The code official shall issue all necessary notices or orders to ensure compliance with this code.~~

~~–80.22.2. Concealing electrical installation. The code official may conduct inspections deemed necessary to determine compliance with the provisions of this code. Construction or work for which a permit is required shall be subject to inspection by the code official, and the construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid.~~

R 408.30823 Connection to electricity supply.

~~Rule 823. Section 80.25 is added~~ **amended** to the code to read as follows:

~~80.25. Connection to electricity supply. Connections to the electric supply shall conform to (a) and (b). Except where work is performed under an annual permit or except as otherwise provided in the code, a person, firm, or corporation shall not make connection to a supply of electricity or to supply electricity to any electric equipment installation for which a permit is required or that has been disconnected or ordered to be disconnected until authorized by the enforcing~~ **(a) Except where work is done under an annual permit and except as otherwise provided in section 80.25, it is unlawful for any person, firm, or corporation to make connection to a supply of electricity or to supply electricity to any electrical equipment installation for which a permit is required or that has been disconnected or ordered to be disconnected.**

(b) The governing utility may reconnect the electrical service, prior to approval by the enforcing agency, following emergency repairs performed by an electrical contractor licensed pursuant to the the skilled trades regulation act, 2016 PA 407, MCL 339.5701 to 339.5739. The electrical contractor shall secure a permit by the next business day after the work is completed. This requirement is not applicable to new service connections, upgrades, structural fires, or other planned modifications.

R 408.30824 Fees-~~Rescinded~~.

Rule 824. ~~Section 80.24 of the code is added to read as follows:~~

~~80.24. Fees. The fees prescribed by section 22 of 1972 PA 230, MCL 125.1522, shall be paid to the enforcing agency of the jurisdiction before a permit to begin work for new construction, alteration, removal, demolition, or other building operation may be issued. In addition, an amendment to a permit necessitating an additional fee shall not be approved until the additional fee is paid.~~

R408.30826 Violations.

Rule 826. Section 80.23 is ~~added~~ **amended** to the code to read as follows:

80.23. Violations. ~~If it is found that any electrical equipment does not conform to the provisions of the code, then the enforcing agency shall notify, in writing, the person who installs, or who is responsible for installing, the electrical equipment, in accordance with the act, of the defect, misuse, or violation. Violation penalties shall be as specified in the act and with the electrical administrative act, 1956 PA 217, MCL 338.881 to 338. Any portions that do not comply shall be corrected and this portion shall not be covered or concealed until authorized by the enforcing agency. Whenever the authority having jurisdiction determines that there are violations of this code, a written notice shall be issued to the permit holder to confirm such findings. Notice of violation shall be sent to the permit holder in writing.~~

R 408.30827 Service equipment.

Rule 827. Section 80.26 ~~and 80.26.1~~ **are is** added to the code to read as follows:

80.26. Service equipment. The enforcing agency shall approve service equipment installed, altered, or repaired before the load side of the meter is energized.

~~80.26.1 Emergency service repairs. The governing utility shall be permitted to reconnect the electrical service, prior to approval by the enforcing agency, following emergency repairs performed by an electrical contractor licensed pursuant to the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892892. The electrical contractor shall secure a permit within the next business day after the work is completed. This requirement is not applicable to new service connections, upgrades, structural fires, or other planned modifications.~~

R 408.30828 Definitions.

Rule 828. The ~~definitions~~ **definition** of authority having jurisdiction, dwelling unit, dwelling, 1-family, dwelling, 2-family, and dwelling, multifamily in article 100 of the code are amended and the definitions act, chief electrical inspector, code official, electrical inspector, and enforcing agency ~~are is~~ added to article 100 of the code to read as follows:

“Act” means 1972 PA 230, MCL 125.1501 to 125.1531 and known as the Stille-DeRossett-Hale single state construction code act.

~~“Authority having jurisdiction” where used in the code means the enforcing agency.~~

~~“Dwelling unit” means a single unit providing complete independent living facilities for 1 or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.~~

~~“Dwelling, 1-family” means a building that consists solely of 1 dwelling unit complying with the provisions of the Michigan residential code.~~

~~“Dwelling, 2-family” means a building that consists solely of 2 dwelling units complying with the provisions of the Michigan residential code.~~

~~"Dwelling, multifamily" means a building that contains 3 or more dwelling units. Residential occupancies containing more than 2 dwelling units where the occupants are primarily permanent in nature, including all of the following:~~

- ~~1. Apartment houses.~~
- ~~2. Boarding housing, not transient.~~
- ~~3. Convents.~~
- ~~4. Dormitories.~~
- ~~5. Fraternities and sororities.~~
- ~~6. Monasteries.~~

~~"Chief electrical inspector" where used in the code means the code official.~~

~~"Code official" means a person who is appointed and employed by a governmental subdivision who is charged with the administration and enforcement of the state code or codes, and who is registered in accordance with 1986 PA 54, MCL 338.2301 to 338.2313.~~

~~"Electrical inspector" where used in the code means the code official.~~

~~"Enforcing agency" means the enforcing agency, in accordance with the act, which is responsible for administration and enforcement of the code within a governmental subdivision, except for the purposes of the act.~~

R 408.30829 Approval~~Rescinded.~~

~~Rule 829. Section 110.2 of the code is amended to read as follows:~~

~~110.2. Approval. Materials, equipment, and devices shall be constructed and installed in accordance with approvals granted under section 21 of 1972 PA 230, MCL 125.1521, or by the code official.~~

R 408.30834 Maximum number of disconnects~~Rescinded.~~

~~Rule 834. Section 230.71(A) of the code is amended to read as follows:~~

~~230.71(A). General. The service disconnecting means for each service permitted by section 230.2 of the code, or for each set of service entrance conductors permitted by section 230.40, exception nos. 1, 3, or 4, of the code, shall consist of not more than 6 switches or sets of circuit breakers, or a combination of not more than 6 switches and sets of circuit breakers, mounted in a single enclosure, in a group of separate enclosures, or in or on a switchboard, or in switchgear. There shall be not more than 6 sets of disconnects per service grouped in any 1 location.~~

~~For the purpose of this section, disconnecting means installed as part of listed equipment and used solely for the following, shall not be considered a service disconnecting means:~~

- ~~(1) Power monitoring equipment.~~
- ~~(2) Surge protective device or devices.~~
- ~~(3) Control circuit of the ground fault protection system.~~
- ~~(4) Power operable service disconnecting means.~~

R 408.30835 Number of service entrance conductor sets~~Rescinded.~~

~~Rule 835. Section 230.40 of the code is amended to read as follows:~~

~~230.40. Number of Service Entrance Conductor Sets. Each service drop, set of overhead service conductors, set of underground conductors, or service lateral shall supply 1 set of service entrance conductors.~~

~~Exception 1: A building with more than 1 occupancy shall be permitted to have 1 set of service entrance conductors for each service, as defined in section 230.2 of the code, run to each occupancy or group of occupancies. If the number of service disconnect~~

~~locations for any given classification of service does not exceed 6, the requirements of 230.2(E) shall apply at each location. If the number of service disconnect locations exceeds 6 for any given supply classification, all service disconnect locations for all supply characteristics, together with any branch circuit or feeder supply sources, if applicable, shall be clearly described using suitable graphics or text, or both, on 1 or more plaques located in an approved, readily accessible location(s) on the building or structure served and as near as practicable to the point(s) of attachment or entry(ies) for each service drop or service lateral, and for each set of overhead or underground service conductors.~~

~~Exception 2: Where 2 to 6 service disconnecting means in separate enclosures are grouped at 1 location and supply separate loads from 1 service drop, set of overhead service conductors, set of underground service conductors, or service lateral, 1 set of service entrance conductors may supply each or several such service equipment enclosures.~~

~~Exception 3: A 2 family dwelling or a multifamily dwelling may have 1 set of service-entrance conductors installed to supply the circuits covered in section 210.25 of the code.~~

~~Exception 4: One set of service-entrance conductors connected to the supply side of the normal service disconnecting means may supply each or several systems covered by section 230.82(4) or section 230.82(5) of the code.~~

~~R 408.30867 Grounding and bonding of flexible metal conduit~~Rescinded.

~~Rule 867. Section 348.60 of the code is amended to read as follows:~~

~~–348.60. An equipment grounding conductor or equipment bonding jumpers shall be installed. Equipment grounding conductors shall be installed in accordance with section 250.134(B) of the code. Equipment bonding jumpers shall be installed in accordance with section 250.102 of the code.~~

~~R 408.30868 Grounding and bonding of liquidtight flexible metal conduit~~Rescinded.

~~Rule 868. Section 350.60 of the code is amended to read as follows:~~

~~–350.60. An equipment grounding conductor or equipment bonding jumpers shall be installed. Equipment grounding conductors shall be installed in accordance with section 250.134(B) of the code. Equipment bonding jumpers shall be installed in accordance with section 250.102 of the code.~~

~~R 408.30869 Grounding conductors~~Rescinded.

~~Rule 869. Section 250.118 of the code is amended to read as follows:~~

~~–250.118. Types of equipment grounding conductors. The equipment grounding conductor run with or enclosing the circuit conductors shall be 1 or more or a combination of the following:~~

~~–(1) A copper, aluminum, or copper-clad aluminum conductor. This conductor shall be solid or stranded; insulated, covered, or bare; and, in the form of a wire or a busbar of any shape.~~

~~–(2) Rigid metal conduit.~~

~~–(3) Intermediate metal conduit.~~

~~–(4) Electrical metallic tubing.~~

~~–(5) Flexible metallic tubing where the tubing is terminated in listed fittings and meeting both of the following conditions:~~

- ~~–(a) The circuit conductors contained in the tubing are protected by overcurrent devices rated at 20 amperes or less.~~
- ~~–(b) The length of flexible metallic tubing in the ground return path does not exceed 1.8m (6 feet).~~
- ~~–(6) Armor of type AC cable as provided in section 320.108 of the code.~~
- ~~–(7) The copper sheath of mineral insulated, metal sheathed cable type MI.~~
- ~~–(8) Type MC cable that provides an effective ground fault current path pursuant to 1 or more of the following:~~
 - ~~–(a) It contains an insulated or uninsulated equipment grounding conductor in compliance with 250.118(1).~~
 - ~~–(b) The combined metallic sheath and uninsulated equipment grounding or bonding conductor of interlocked metal tape type MC cable that is listed and identified as an equipment grounding conductor.~~
 - ~~–(c) The metallic sheath or the combined metallic sheath and equipment grounding conductors of the smooth or corrugated tube type MC cable that is listed and identified as an equipment grounding conductor.~~
- ~~–(9) Cable trays as permitted by sections 392.10 and 392.60 of the code.~~
- ~~–(10) Cablebus framework as permitted by section 370.60(1) of the code.~~
- ~~–(11) Other listed electrically continuous metal raceways and listed auxiliary gutters.~~
- ~~–(12) Surface metal raceways listed for grounding.~~

R 408.30870 Overcurrent protection **Rescinded.**

Rule 870. Section 625.40 of the code is amended to read as follows:

~~625.40 Overcurrent protection. Overcurrent protection for feeders supplying electric vehicle supply equipment shall be sized for continuous duty and shall have a rating of not less than 125% of the maximum load of the electric vehicle supply equipment. When noncontinuous loads are supplied from the same feeder, the overcurrent device shall have a rating of not less than the sum of the noncontinuous loads plus 125% of the continuous loads. The branch circuit supplying the electric vehicle equipment shall be an individual branch circuit sized for continuous duty and shall have a rating of not less than 125% of the maximum load of the electric vehicle supply equipment.~~

R 408.30871 Bonding other metal piping.

Rule 871. Section 250.104(B) of the code is amended to read as follows:

250.104(B). **Bonding other metal piping.** (1) Other metal piping. If installed in or attached to a building or structure, a metal piping system, including gas piping, capable of becoming energized shall be bonded to any of the following:

- (a) Equipment grounding conductor for the circuit that is likely to energize the piping system.
- (b) Service equipment enclosure.
- (c) Grounded conductor at the service.
- (d) Grounding electrode conductor, if of sufficient size.
- (e) One or more grounding electrodes used, if the grounding electrode conductor or bonding jumper to the grounding electrode is of sufficient size.

The bonding conductor(s) or jumper(s) **conductor or conductors, or the jumper or jumpers** shall be sized in accordance with table 250.122, and equipment grounding conductors shall be sized in accordance with table 250.122 using the rating of the circuit that is likely to energize the piping system(s) **system or systems**. The points of attachment of the bonding jumper(s) **jumper or jumpers** shall be accessible.

~~Either the bonding conductor or conductors, or the jumper or jumpers shall be sized pursuant to section 250.122, using the rating of the circuit that is likely to energize the piping system or systems. The points of attachment of the bonding jumper or jumpers shall be accessible.~~

(2) Corrugated stainless steel tubing (CSST). Listed corrugated stainless steel tubing gas piping systems shall be bonded to the electrical service grounding electrode system. The bonding jumper shall connect to a metallic pipe or fitting between the point of delivery and the first downstream CSST fitting. The bonding jumper shall be not smaller than 6 AWG copper wire or equivalent. A gas piping system that is bonded pursuant to this section shall be considered effectively bonded regardless of the amount of CSST in the system.

Exception: Listed CSST piping systems approved for installation without additional bonding by the manufacturer.

NOTICE OF PUBLIC HEARING

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
NOTICE OF PUBLIC HEARING

Part 8. Electrical Rules (ORR#2017-001LR)

The Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, will hold a public hearing on the revision of the Part 8. Electrical Rules. The public hearing will be held on August 10, 2018, at 9:00 a.m. in the Ottawa Building, Conference Room UL 3, 611 W. Ottawa Street, Lansing, MI 48933. The Part 8. Electrical rules are proposed to take immediate effect after filing with the Secretary of State.

The proposed revisions to the Part 8 Electrical Code rules will adopt the 2017 edition of the National Electrical Code, a national industry standard, and provide Michigan-specific amendments. The hearing is being conducted by the Department under the authority of Section 4 of 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2017-1, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 339.3102.

The proposed rules will be published in the August 1, 2018, *Michigan Register*. You may download a free copy of the proposed amendments by visiting the Bureau's website at www.michigan.gov/bcc. The amendments are located under "What's Happening" on the front page of the website.

Oral or written comments may be presented in person at the hearing on August 10, 2018, or submitted in writing by mail, email, or facsimile no later than 5:00 p.m., August 10, 2018, to the address stated below. If your presentation at the public hearing is in written form, please provide a copy to the Rules Specialist, at the conclusion of your testimony at the hearing.

Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Administrative Services Division
P.O. Box 30254
Lansing, MI 48909
Telephone (517) 241-6312
Facsimile (517) 241-9570
matsumotos@michigan.gov

The meeting site and parking are accessible. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional services (such as materials in alternative format) in order to participate in the meeting should call Shannon Matsumoto at (517) 241-6312 (voice) at least 14 days prior to the hearing. LARA is an equal opportunity employer/program.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

~~BOARD OF MANAGERS~~

VETERANS HOME RULES

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45(a)(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the board of managers by section 8 of 1885 PA 152, MCL 36.8 and Executive Order 1991-7, MCL 36.71)

R 32.71, R 32.72, R 32.73, R 32.74, R 32.75, R 32.76, R 32.77, R 32.78, R 32.79, R 32.83, R 32.85, R 32.86, R 32.87, R 32.88, and R32.89 ~~etc.~~ of the Michigan Administrative Code are amended, **and R 32.80 and R 32.81 of the Code are rescinded**, as follows:

R 32.71 Purpose.

Rule 1. The **intent of the** veterans home rules ~~are created~~ **is** to provide substantive and procedural due process to members of the homes and the public; ~~to assure the continued financial stability of the homes; to prevent and~~ **ensure sufficient standards related to admissions, transfers, and discharges; prohibit fraudulent admissions, continued care and unjust enrichment; and, to** maximize the availability of ~~housing and~~ care to qualified veterans and their family members.

R 32.72 Definitions.

Rule 2. As used in these rules:

(1) "Administrator" means the ~~chief executive officer~~ **licensed senior authority** of a state veterans home, or his or her designated representative.

(2) "Applicant" means an individual who is applying for admission to a state veterans home.

~~(a) "Financially sufficient applicant" means an individual who is applying for admission to a state veterans home, and who is not an indigent and/or whose non-excluded assets exceed the indigent criteria.~~

~~(b) "Financially insufficient applicant" means an individual who is applying for admission to a state veterans home, and who is an indigent and/or whose non-excluded assets do not exceed the indigent criteria.~~

(3) "Arrearage" means ~~the cost of care a home provides less the amount of funds that a member has paid to the state for the cost of care. An arrearage is a~~ **balance debt** owed by a **an applicant**, member, or his or her estate to this ~~the state of Michigan~~ **for care provided at a state veterans home. This definition does not apply to care covered by Medicaid that is also subject to estate recovery.**

(4) "Assessment" means ~~the members charge for services that is less than the cost of care as determined by the governing board.~~

~~(5)~~(4) "Asset" means the valuable property of an applicant or member.

- (6)(5) "Asset divestment" means the disposing, transfer, gifting, ~~conversion,~~ or giving away of assets for less than fair market value.
- (7)(6) "Asset restriction" means the moving or transferring of assets, thereby making them unavailable to pay **the member's individual assessment or** the cost of care.
- (7) "Board" means the board of managers, as established by ~~1885 PA 152, MCL 36.2.~~
- (8) "CFR" means the Code of Federal Regulations.**
- (9)(8) "Contract" means the written agreement between a member and the home.
- (10)(9) "Cost of care" means the monthly amount set by the **governing** board ~~Board~~ at the start of each fiscal year.
- (10) "~~Department~~" means the department of military and veterans affairs.
- (11) "~~Department of veterans affairs~~" or "~~DVA~~" means the federal agency tasked with operating and maintaining federal programs for veterans benefits.
- (12) "~~Eligible veteran~~" means an individual who meets either of the following conditions:
- (a) Was part of a military organization or unit recognized by the department of defense and/or the state of Michigan that had its principle nexus in Michigan at any time during the individual's service.
 - (b) Was part of a military organization or unit recognized by the department of defense and/or the state of Michigan and who is a resident of the state of Michigan at the time of application for admission to a state veterans home.
- (11)(10) "**Governing board**" means the applicable authority; either the board of managers, as established by **1885 PA 152, MCL 36.2, or the veterans' facility authority board as established by section 3 of 2016 PA 560, MCL 36.103**
- (12)(13) "Home" means a state veterans home **as defined by 38 CFR 51.2.,** including the ~~Grand Rapids Home~~ Home for Veterans and the D.J. Jacobetti Home for Veterans.
- (14) "Homestead" means the primary residence of an applicant, member, or spouse of an applicant or member.
- (15) "Indigent" means an individual who is disabled by disease, wounds or otherwise, who has no adequate means of support, and by reason of such disability is incapable of earning a living and is otherwise dependent on public or private charity, as defined in section 11 of 1885 PA 152, MCL 36.11.
- (13)(16) "MCL" means Michigan compiled laws.
- (14)(17) "Member" means an individual who has been admitted to a state veterans home. ~~and may be either of the following:~~
- (a) "~~Financially sufficient member~~" means an individual who has been admitted to a state veterans home, and who is not an indigent and/or whose non-excluded assets exceed the indigent criteria.
 - (b) "~~Financially insufficient member~~" means an individual who has been admitted to a state veterans home, and who is an indigent and/or whose non-excluded assets do not exceed the indigent criteria.
- (18) "Resident" means an individual who is living in the state voluntarily with the intention of making his or her permanent home there.
- (15)(19) "Responsible party" means either of the following:
- (a) The spouse of an applicant, member, or eligible veteran.
 - (b) **A** ~~an~~ individual with the legal authority to act on behalf of an **applicant or member.** ~~applicant, member, or eligible veteran.~~
- (16)(20) "State" means the state of Michigan.
- (21) "Substantial evidence" means evidence that a reasonable person would accept as sufficient to support a conclusion.

R 32.73 Eligibility for admission; continued care.

Rule 3. (1) **Applicants for admission must meet the criteria specified in section 11 of 1885 PA 152, MCL 36.11 or section 1 of 1921 PA 15, MCL 36.31.**

(2) **In addition to the requirements in subrule (1) of this rule, an applicant must demonstrate both of the following:**

(a) **Be able to pay his or her portion of the cost of care.**

(b) **Not require care for which the home is not equipped or staffed to provide.**

~~Before entering into a contract for admission, the administrator will determine whether the applicant meets the criteria for admission as specified in section 11 of 1885 PA 152, MCL 36.11, or section 1 of 1921 PA 15, MCL 36.31. The applicant must provide substantial evidence to establish that he or she is an eligible veteran.~~

(3)(2) **The home may refuse admission to applicants whose medical, behavioral, or other conditions and/or disabilities exceed the level of care service provided by the home.**

~~(3) In determining whether to admit an applicant, the home will consider the medical diagnosis of the applicant's actual or suspected conditions, the classifications of risk potential, the ability of the home to provide adequately and appropriately for the applicant's medical and social needs, and the applicant's ability and willingness to adapt to the home's environment.~~

(4) **Following admission, the home shall continue to provide care, provided that the care required does not exceed the level of care offered at the home.** ~~The home will provide continued care for any member whose medical conditions and/or disabilities change or worsen after admission, provided that the member's medical conditions and/or disabilities do not exceed the level of service provided by the home. If the member's level of care exceeds what the home is able to provide, the home will attempt to transfer the member to an appropriate treatment center.~~

R 32.74 Involuntary transfer and discharge.

Rule 4. ~~(1) The governing board shall establish policies regarding involuntary transfers and discharges. The policies must be in compliance with 38 CFR 51.80 and 42 CFR 483.15. The home may involuntarily transfer or discharge a member for 1 or more of the following reasons:~~

~~(a) Medical reasons.~~

~~(b) The member's welfare.~~

~~(c) The welfare of other members or home employees.~~

~~(d) Non-payment for the member's stay.~~

~~(2) Policies regarding involuntary transfers and discharges will be established by the board.~~

R 32.75 Holding bed open during temporary absence of member.

Rule 5. ~~(1) The governing board shall establish policies regarding the holding of beds for members absent from the home for emergency medical treatment, therapeutic leave, or other reasons. The policies must be in compliance with 38 CFR 51.80 and 42 CFR 483.15. If a member is temporarily absent from the home for emergency medical treatment, the home will hold the bed open for the member for at least 10 days, if there is a reasonable expectation that the member will return within that period of time and the home receives payment for each day the member is absent from the home.~~

~~(2) If a patient is temporarily absent from the home for therapeutic reasons as approved by a physician, the home will hold the bed open for 30 days, if there is a reasonable expectation that the member will return within that period of time. Personal leaves of absence for therapeutic reasons are limited to 30 days per year.~~

~~(3) When a member's absence is longer than specified under subrule (1) or~~

~~(2) of this rule, or both, the member may return to the home for the next available bed.~~

R 32.76 Financial disclosure.

Rule 6. ~~(1) In determining financial eligibility for admission or continued care, a financially insufficient applicant, financially insufficient member, or responsible party must make full and honest disclosure of all current assets and income in accordance with the policies developed by the governing board. as well as all assets held within 3 years before the date of application.~~

~~(2) Financially sufficient applicants, financially sufficient members, and responsible parties who do not have an arrearage and who are paying the cost of care are not required to disclose asset information.~~

~~(3) Applicants and/or members must fully disclose information requested by the administrator and must authorize the release of information as requested by the administrator.~~

R 32.77 Financial responsibility.

Rule 7. (1) ~~Financially sufficient members~~ **A member must pay the his or her portion of the total cost of care as determined in policy established by the governing board.**

~~(2) Financially insufficient members must pay for care in accordance with the board's approved schedules and formulas.~~ **(2)(3) Any amounts of the member's portion of the cost of care not paid are considered an arrearage. The state may file an appropriate legal proceeding at any time to recover an arrearage owed.**

R 32.78 Asset divestment; asset restriction.

Rule 8. ~~(1) The governing board shall determine policies establishing asset divestment and restriction penalties. Divestment of assets during the 36 months before the date of application to a home subjects an applicant to an admission disqualification period.~~

~~(2) Restriction of assets during the 36 months before the date of application to a home subjects an applicant to an admission disqualification period.~~

~~(3) An applicant must not divest assets after application or admission to a home.~~

~~(4) An applicant must not restrict assets after application or admission to a home.~~

R 32.79 Exempt assets and income.

Rule 9. ~~(1) The governing board shall determine policies establishing exempt assets and income. The exempt dollar amount for a single applicant or member is \$2,000. The exempt dollar amount for a married applicant or member is \$25,000. Assets exempt from this dollar amount include all of the following:~~

~~(a) The homestead of a married applicant or member.~~

~~(b) An automobile.~~

~~(c) An irrevocable or prepaid funeral/burial contract up to an amount determined by the board.~~

~~(2) The board may determine if the homestead of a single applicant or member is an exempt asset. In making its decision, the board may consider various reasons for exemption of the homestead of a single applicant or member, including the possibility that the applicant or member may recover his or her health and return home.~~

R 32.80 Rescinded. ~~—Asset divestment or restriction at time of application; verification; admission disqualification period; waiver of disqualification period.~~

~~Rule 10. (1) If an applicant has divested or restricted an asset during the 36 months before the date of application, the applicant must provide verification of the date and amount of the divestment or restriction.~~

~~–(2) If the home believes that an applicant has divested or restricted an asset during the 36 months before the date of application, the applicant may be asked to provide verification that the divestment or restriction did not occur.~~

~~–(3) The length of an admission disqualification period is determined by dividing the value of the divested or restricted asset or assets by the monthly cost of care.~~

~~–(4) A period of admission disqualification will begin with the month in which the divestment or restriction occurred.~~

~~–(5) A period of admission disqualification will take place in whole-month increments, up to a maximum of 36 months.~~

~~–(6) An admission disqualification period may be waived to facilitate immediate admission, provided that the applicant agrees to pay the cost of his or her care until such time as the combined value of the divested or restricted assets and any remaining non-exempt assets have been used to pay the cost of care. The applicant will pay for the cost of care for the remainder of the disqualification period or until any remaining non-exempt assets have been utilized, whichever is longer.~~

R 32.81 Rescinded. ~~–Asset divestment or restriction after application or admission.~~

~~–Rule 11. (1) If a divestment or restriction of assets occurs after application but before admission, the applicant is ineligible for admission unless the applicant pays the cost of care until such time as the combined value of the divested or restricted assets and any remaining non-exempt assets have been used to pay the cost of care.~~

~~–(2) If an asset divestment or restriction occurs after admission, the member may be discharged unless the member pays the cost of care until such time as the combined value of the divested or restricted assets and any remaining non-exempt assets have been used to pay the cost of care.~~

R 32.82 Contract for admission.

Rule 12. **A member and a home must enter into a contract for admission.** ~~There will be a contract for admission between a member and a home.~~

R 32.83 **Appeals; Right right** to compliance conference; grounds; written notice; appearance by letter; date, time, and location of compliance conference; stay pending decision.

Rule 13. (1) **Appeals associated with Medicaid must comply with federal regulations.** An applicant, member, or responsible party may request a compliance conference with the home in the event of any the following:

- (a) A denial of admission to a state veterans home.
- (b) A denial of continued care at a state veterans home.
- (c) A decision to involuntarily transfer or discharge a member.
- (d) A determination of an amount owed.

~~(e) A determination of "financially sufficient" or "financially insufficient."~~ (e)(f) A determination of asset divestment or restriction.

(2) To request a compliance conference, the applicant, member, or responsible party must provide written notice to the home administrator that he or she wishes to contest the denial of admission to a state veterans home, the denial of continued care at a state veterans home, the decision to involuntarily transfer or discharge a member, the determination of an amount owed, ~~the determination of "financially sufficient" or "financially insufficient,"~~ or the determination of asset divestment or restriction. Written notice must include all of the following:

- (a) The date.
- (b) The name **and address** of the person providing notice.

- (c) The name of the affected applicant, member, or responsible party.
- (d) The basis for the objection.
- (e) All documents that support the objection.
- (f) Any other pertinent documents that the person providing notice wants the home to consider.
- (3) A compliance conference ~~will~~ **must** be conducted at a reasonable time and date, to be determined by the home administrator. The location of a compliance conference will be the home where the member resides or, in the case of applicants not yet admitted to a state veterans home, the home where application was made. The home administrator may accept a letter from the applicant, member, or responsible party, instead of the applicant's, member's, or responsible party's personal appearance at a compliance conference. The applicant, member, or responsible party must notify the home administrator, in writing, that he or she wishes to appear by letter before the start of the scheduled compliance conference.
- (4) **The home shall mail notice** ~~Notice~~ of the time, date, and location of compliance conference ~~will be mailed~~ to the applicant, member, or responsible party requesting a compliance conference at least 10 business days before the date of the compliance conference.
- (5) Requesting a compliance conference under this ~~subrule~~ rule will automatically stay a member's transfer or discharge pending a decision. The automatic stay requirement of this subrule does not apply in any of the following instances:
 - (a) If an emergency transfer or discharge is mandated by the member's health care needs.
 - (b) If the transfer or discharge is mandated by the physical safety of other ~~patients~~ **members, visitors, employees, and/or contractors. and/or home employees.**
 - (c) If the transfer or discharge is later agreed to by the member or the responsible party.

R 32.84 Denial or dismissal of request for compliance conference.

Rule 14. (1) The home ~~will~~ **shall** deny or dismiss the request for a compliance conference if any of the following ~~occur~~ **occurs**:

- (a) The request is withdrawn by an applicant, member, or responsible party, in writing, before the date of the compliance conference.
- (b) The applicant, member, or responsible party abandons the compliance conference.
- (c) The home has no jurisdiction over the matter.
- (2) Abandonment occurs if an applicant, member, or responsible party, without good cause, fails to appear at the scheduled compliance conference or fails to submit an appearance by letter.

R 32.85 Home's decision; notice of opportunity to appeal the home's decision; date, time, and location of hearing; telephonic attendance; appearance by letter; waiver.

Rule 15. (1) Within 10 business days following a compliance conference, the home ~~will~~ **must** provide the applicant, member, or responsible party written notice of the home's decision. Written notice ~~will~~ **must** include all of the following:

- (a) A statement of ~~what~~ **the** action the home intends to take.
- (b) The reasons for the intended action.
- (c) The specific rules supporting the action.
- (d) **A statement that** ~~An explanation~~ of the applicant's, member's, or responsible party's **has the** right to request a hearing before the **governing** board.
- (e) The circumstances, if any, under which a member's transfer or discharge will be stayed if a hearing is requested.

(2) Within 15 business days of service of the written notice of the home's decision, the applicant, member, or responsible party may request, in writing, a hearing before the board to appeal the decision of the home. Written notice must include all of the following:

- (a) The date.
- (b) The name **and address** of the person requesting a hearing.
- (c) The name of the affected applicant, member, or responsible party.
- (d) The basis for the appeal.
- (e) All documents that support the appeal.
- (f) Any other pertinent documents that the person requesting a hearing wants the **governing** board to consider.

(3) A hearing will be conducted at a reasonable time, date, and location, to be determined by the **governing** board. The **governing** board may accept a letter from the applicant, member, or responsible party, instead of the applicant's, member's, or responsible party's personal appearance at a hearing before the **governing** board. The applicant, member, or responsible party must notify the **governing** board, in writing, that he or she wishes to appear by letter before the start of the scheduled hearing.

(4) ~~The home shall mail notice~~ Notice of the time, date, and location of hearing ~~will be mailed~~ to the applicant, member, or responsible party requesting a hearing at least 10 business days before the date of the hearing.

(5) A hearing may be conducted via telephone upon written request by the applicant, member, or responsible party. Written request for a hearing via telephone must accompany the applicant's, member's, or responsible party's written request for a hearing before the **governing** board in order to be considered.

(6) If the applicant, member, or responsible party does not request a hearing before the **governing** board within 15 business days of service of the notice of opportunity to appeal the home's decision, then the applicant, member, or responsible party ~~is will be~~ deemed to have waived the right to appeal the home's decision to the **governing** board.

R 32.86 Hearing rights of parties.

Rule 16. (1) An applicant, member, or responsible party may do any of the following:

- (a) Examine the contents of his **or her** case file and all documents and records to be used by the **governing** board at the hearing at a reasonable time before the date of the hearing, as well as during the hearing.
- (b) Present a case **individually himself** or with the aid of legal counsel or an authorized representative
- (c) Bring witnesses.
- (d) Establish all pertinent facts and circumstances.
- (e) Advance any relevant arguments without undue interference.
- (f) Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

(2) The home may be represented by legal counsel and other representatives, staff, or former staff members.

R 32.87 Denial or dismissal of request for hearing.

Rule 17. (1) The home ~~shall will~~ deny or dismiss the request for a hearing under any of the following conditions:

- (a) The request is withdrawn by an applicant, member, or responsible party, in writing, before the hearing date.
- (b) The applicant, member, or responsible party abandons the hearing.

(c) The home has no jurisdiction over the matter.

(2) Abandonment occurs if an applicant, member, or responsible party, without good cause ~~therefore~~, fails to appear at the scheduled hearing or fails to submit an appearance by letter.

R 32.88 Decision of **governing** board ~~Board's decision~~.

Rule 18. (1) After the hearing and an opportunity to consider the evidence presented, the **governing** board may do any of the following:

(a) Affirm the home's decision.

(b) Make a finding that the home's decision be overturned.

(c) Enter into a written settlement of the matter with the applicant, member, or responsible party.

(d) Direct the home to provide the applicant, member, or responsible party with written notice of the opportunity to appeal the **governing** board's decision to the circuit court.

R 32.89 Judicial review.

Rule 19. (†) Decisions of the **governing** board are appealable to the circuit court as provided by law.

NOTICE OF PUBLIC HEARING

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
MICHIGAN VETERANS AFFAIRS AGENCY

VETERANS HOME RULES
Rule Set 32.71-32.89

NOTICE OF PUBLIC HEARINGS

TUESDAY, AUGUST 14, 2018
3000 Monroe NE
Grand Rapids, MI, 49505, 1:00 PM

TUESDAY, AUGUST 21, 2018
425 Fisher St, Marquette, MI 49855
Board Room, 1:00 PM

The Department of Military and Veterans Affairs will hold a public hearing on Tuesday, August 14, 2018, at the Grand Rapids Home for Veterans, 3000 Monroe NE, Grand Rapids, Michigan in the Board Room at 1:00 p.m. and an additional hearing on Tuesday, August 21, 2018 at the DJ Jacobetti Home for Veterans, 425 Fisher St, Marquette, MI in the Board Room at 1:00 p.m. The hearings will be held to receive public comments on proposed changes to the Veterans Home rules.

The proposed rule set (32.71 – 32.89) will amend the current rules to eliminate conflicts between current rules and CMS Medicare/Medicaid rules 42 CFR 483 (Requirements for States and Long Term Care Facilities). Additionally, the proposed rules will rescind obsolete and unnecessary rules.

These rules are promulgated by authority conferred on the board of managers by section 8 of 1885 PA 152, MCL 36.8 and Executive Order 1991-7, MCL 36.1. These rules will take effect immediately upon filing with the Secretary of State.

The rules are published on the Office of Regulatory Reinvention's website at www.michigan.gov/orr and in the August 1, 2018, issue of the *Michigan Register*. Comments must be submitted to the following address by 5:00 P.M. on Wednesday, August 22, 2018. Copies of the draft rules may also be obtained by mail or electronic transmission at the following address:

Department of Military and Veterans Affairs
Steve Rolston, Michigan Veterans Affairs Agency
222 N. Washington Sq, 5th Floor
Lansing, MI 48933
Phone: 517-242-3862
Fax: 517-284-5295
E-mail: rolstons@michigan.gov

The hearing site is accessible, including handicap parking. People with disabilities requiring additional accommodations in order to participate in the hearing (such as information in alternative formats) should contact the Michigan Veterans Affairs Agency at 517-242-3862 at least 14 days prior to the hearing date. Individuals attending the meeting are requested to refrain from using heavily scented personal care products in order to enhance accessibility for everyone. Information at this meeting will be presented by speakers and printed handouts.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CHIROPRACTIC - GENERAL RULES

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. 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(~~3~~), **16148**, 16401, **16412**, 16423, and 16431(~~3~~) of 1978 PA 368, MCL 333.16145(~~3~~), **333.16148**, 333.16401, **333.16412**, 333.16423, and 333.16431(~~3~~), and Executive Reorganization Order Nos. ~~1996-1~~, **1991-9**, 1996-2, 2003-1, and 2011-4, MCL ~~333.3101~~, **338.3501**, 445.2001, 445.2011, and 445.2030)

R 338.12001 of the Administrative Code is amended, and R 338.12021, R 338.12031, R 338.12032, R 338.12033, R 338.12034, R 338.12035, R 338.12036, R 338.12037, R 338.12041, R 338.12042, R 338.12051, R 338.12052, R 338.12053, and R 338.12054 are added to the Code, and R 338.12001a, R 338.12003, R 338.12004, R 338.12005, R 338.12006, R 338.12008, R 338.12008a, R 338.12008b, R 338.12010, R 338.12011, R 338.12011a, R 338.12011b, R 338.12014, and R 338.12015 are rescinded, to read as follows:

PART 1. GENERAL PROVISIONS

R 338.12001 Definitions.

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

(a) "Adjustment apparatus" means a tool or device used to apply a mechanical force to correct or reduce subluxations, misalignments, and joint dysfunctions.

(b) "Analytical instruments" means instruments used in the detection and diagnosis of human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals in order to restore and maintain health.

(c) "Board" means the Michigan board of chiropractic created in section 16421 of the code, MCL 333.16421.

(~~e~~) (d) "Code" means 1978 PA 368, MCL 333.1101 ~~et seq.~~ to 333.25211, known as the public health code.

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

(~~d~~) (f) "Nationally recognized standards" means that which is taught in a chiropractic educational program or postgraduate educational program that is accredited by the council on chiropractic education; ~~commission on accreditation.~~

~~(e)~~ (g) "Physical measures" means procedures or techniques used to correct or reduce subluxations, misalignments, and joint dysfunctions.

~~(f)~~ (h) "Rehabilitative ~~exercises~~ **exercise program**" means the coordination of a patient's exercise program; the performance, ordering and use of tests; the performance of measurements; instruction and consultation; supervision of personnel; and the use of exercise and rehabilitative procedures, with or without assistive devices, for the purpose of correcting or preventing subluxations, misalignments, and joint dysfunctions.

~~(g)~~ (i) "Test" means a procedure that is ordered or performed for the purpose of detecting and diagnosing human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals in order to restore and maintain health.

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

R 338.12001a. ~~Training standards for identifying victims of human trafficking; requirements.~~
Rescinded.

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

~~(a) Training content shall 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 board for initial licensure, or by a college or university.~~

~~(iv) Reading an article related to the identification of victims of human trafficking that meets the requirements of subrule (1)(a) of this rule and is published in a peer review journal, health care journal, or professional or scientific journal.~~

~~(e) 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 include the individual's name and either of the following:~~

~~(i) For training completed pursuant to subrule (1)(b)(i) to (iii) of this rule, the date, training provider name, and name of training.~~

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

~~(3) Pursuant to section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule apply to license renewals beginning with the first renewal cycle after the promulgation of this rule and for initial licenses issued 5 or more years after the promulgation of this rule.~~

R 338.12003 Licensure by examination; requirements. Rescinded.

~~Rule 3. An applicant for a chiropractic license by examination shall submit the required fee and a completed application on a form provided by the department. In addition to meeting the requirements of the code and these rules, an applicant shall meet both of the following requirements:~~

~~(a) Have graduated from a program or institution of chiropractic that meets the educational standards in R 338.12006 and have final, official transcripts provided to the department from the educational institution.~~

~~(b) Have passed parts I, II, III, and IV of the national board examination that is conducted and scored by the national board of chiropractic examiners.~~

R 338.12004 Licensure by endorsement; requirements. Rescinded.

~~Rule 4. (1) An applicant for a chiropractic license by endorsement shall submit the required fee and a completed application on a form provided by the department. In addition to meeting the requirements of the code and these rules, an applicant who satisfies the requirements of this rule, as applicable, shall meet the requirements of section 16186 of the code.~~

~~(2) If an applicant was first licensed in another state for 5 years or more immediately preceding the date of filing an application for a Michigan chiropractic license, then the applicant presumably meets the requirements of section 16186 of the code.~~

~~(3) If an applicant was first licensed in another state for less than 5 years immediately preceding the date of filing an application for a Michigan chiropractic license, then the applicant shall establish that the applicant passed parts I, II, III, and IV of the national board examination that is conducted and scored by the national board of chiropractic examiners.~~

~~(4) In addition to meeting the requirements of subrule (1) and either subrule (2) or (3) of this rule, an applicant's license shall be verified, on a form supplied by the department, by the licensing agency of any state of the United States in which the applicant holds a current license or ever held a license as a chiropractor. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending against the applicant.~~

R 338.12005 Examination; adoption and approval; passing score. Rescinded.

~~Rule 5. The board approves and adopts the national board examination in chiropractic that is conducted and scored by the national board of chiropractic examiners. The board adopts the passing score recommended by the national board of chiropractic examiners for the national board examination parts I, II, III, and IV.~~

R 338.12006 Educational program standards; adoption by reference. **Rescinded.**

~~Rule 6. (1) The board adopts by reference the standards of the council on chiropractic education, commission on accreditation, as specified in the publication entitled, "Standards for Doctor of Chiropractic Programs and Requirements for Institutional Status" January 2007. The standards are available from The Council on Chiropractic Education, 8049 N. 85th Way, Scottsdale, Arizona 85258-4321, or at the council's website at <http://www.cceusa.org> at no cost. Copies of the standards are available for inspection and distribution at cost from the Board of Chiropractic, Bureau of Health Professions, Department of Licensing and Regulatory Affairs, 611 West Ottawa Street, P. O. Box 30670, Lansing, Michigan 48909.~~

~~(2) Any chiropractic educational program that is accredited by the council on chiropractic education, commission on accreditation, qualifies as a chiropractic educational program approved by the board.~~

R 338.12008 License renewal; continuing education. **Rescinded.**

~~Rule 8. (1) An applicant for renewal of a license to practice chiropractic shall have completed, in the 2-year period immediately preceding the application, 30 hours of continuing education in programs approved by the board.~~

~~(a) An applicant for renewal of a license to practice chiropractic under section 16201 of the code shall have completed in each renewal period, as part of the required hours of continuing education, all of the following:~~

~~(i) One continuing education hour on sexual boundaries.~~

~~(ii) One continuing education hour on ethics.~~

~~(iii) One continuing education hour on pain and symptom management.~~

~~(iv) Two continuing education hours on physical measures under MCL~~

~~333.16431(3). The continuing education hours required on physical measures shall be completed by attending a live, in-person program.~~

~~(v) Two continuing education hours on the performance and ordering of tests under MCL 333.16431(3). The continuing education hours required on the performance and ordering of tests shall be completed by attending a live, in-person program.~~

~~(b) Of the required hours of continuing education, not more than 15 continuing education hours may be in board-approved distance learning programs. For the purposes of this subrule, distance learning means any of the following:~~

~~(i) Approved continuing education courses, programs, or activities where the instructor and participant are apart and not able to immediately interact. Instruction takes place through media including, but not limited to, journal articles, manuals, CDs,~~

~~DVDs, audio and video tapes, research projects, and Internet courses.~~

~~(ii) Approved continuing education courses where the instructor and participant are apart but are able to immediately interact and participant attendance is verified by the provider. This type of distance learning includes, but is not limited to, instruction presented through teleseminars and webinars.~~

~~(c) The board shall not approve for continuing education credit a distance learning program in which a participant performs a chiropractic manipulation or adjustment on another individual as part of the program.~~

~~(d) This subrule does not apply to licensees who have obtained their initial chiropractic license within the 2-year period immediately preceding the expiration date of the initial license.~~

~~(2) Submission of an application for renewal shall constitute the applicant's certification of compliance with this rule. An applicant for renewal shall retain documentation of meeting this rule for a period of 3~~

years from the date of applying for license renewal. Failure to comply with this rule shall be a violation of section 16221(h) of the code.

R 338.12008a Continuing education; approval of programs; acceptable and unacceptable programs. Rescinded.

~~Rule 8a.(1) The board shall consider as board-approved continuing education, the successful completion of a course or courses offered for academic credit in a chiropractic school approved by the board under R 338.12006.~~

~~(2) The board shall consider both of the following as continuing education:~~

~~(a) Successful completion of a continuing education program offered by a chiropractic school approved by the board under R 338.12006. Effective June 1, 2012, a chiropractic school shall comply with the all of the following:~~

~~(i) Submit to the department the names, dates, and times of the programs that will be offered and the locations of the programs offered in this state. The school shall submit the information prior to the start of the academic year.~~

~~(ii) Submit any continuing education programs added after the beginning of the academic year to the department at least 90 days prior to the continuing education program being held.~~

~~(iii) Submit any additional information requested by the department or the board to ensure compliance with this rule.~~

~~(b) The board may grant 1 continuing education contact hour for each 50 to 60 minutes of program attendance, without limitation, at a continuing education program, which has been granted approval by another state's board of chiropractic.~~

~~(3) If a chiropractic school fails to comply with the requirements of subrule 2(a) of this rule, the board may require approval of continuing education programs under subrule (4) of this rule.~~

~~(4) The board shall consider requests for approval of continuing education programs by sponsors who submit applications on a form provided by the department. For purposes of this rule, 1 hour of continuing education is defined as 50 to 60 minutes of program attendance or participation in an activity. The board shall evaluate applications for approval based upon all of the following:~~

~~(a) Programs have content outlines and schedules.~~

~~(b) Sponsors provide a listing of program materials.~~

~~(c) Sponsors provide information relative to the method for monitoring attendance, if applicable, or verifying completion of an activity.~~

~~(d) Sponsors furnish evidence of program attendance or completion of an activity to participants.~~

~~(e) Program instructors, presenters, developers, or authors demonstrate qualifications and knowledge in the subject matter.~~

~~(f) Programs relate to the general subject area of the practice of chiropractic.~~

~~(5) Programs considered for approval under subrules (1) and (2) of this rule shall not receive credit for those portions of programs covering subject areas that include practice building, marketing, or financial advancement, with the exception of content that includes the laws, rules, regulations, or policies regarding insurance billing or documentation.~~

~~(6) The board may disapprove programs offered by institutions and organizations if the board determines that the programs offered by those institutions or organizations fail to demonstrate compliance with the legislative intent to further educate licensees on subjects related to the practice of chiropractic.~~

~~(7) A member of the board or his or her designee may attend a continuing education program and perform a random review to ensure compliance with this rule.~~

R 338.12008b Relicensure; requirements. **Rescinded.**

~~Rule 8b. (1) An applicant for relicensure may be relicensed under section 16201(3) and (4) of the code if the applicant meets either of the following requirements:~~

~~(a) Have completed, in the 3-year period immediately preceding the application for relicensure, 45 hours of continuing education in programs approved by the board that include all of the following:~~

~~(i) Twenty-four continuing education hours on chiropractic adjusting techniques.~~

~~(ii) The required continuing education hours listed in paragraphs (i) to (v) of R 338.12008(1)(a).~~

~~(ii) Not more than 15 continuing education hours in board-approved distance learning programs.~~

~~(b) Have been licensed as a chiropractor in another state of the United States during the 3-year period immediately preceding the application for relicensure.~~

~~(2) In addition to meeting the requirements of subrule (1) of this rule, an applicant's license shall be verified, on a form supplied by the department, by the licensing agency of any state of the United States in which the applicant holds a current license or ever held a license as a chiropractor. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending against the applicant.~~

R 338.12010 Adjustment apparatus; criteria for board approval. **Rescinded.**

~~Rule 10. Under section 16423 of the code, any adjustment apparatus approved by the board shall satisfy all of the following requirements:~~

~~(a) The apparatus shall be used for the practice of chiropractic as defined in section 16401(1)(e) of the code.~~

~~(b) The apparatus shall be used for the purpose of correcting or reducing subluxations, misalignments, and joint dysfunctions. The use of the apparatus may be included as, but not limited to, a part of a rehabilitative exercise program.~~

~~(c) The use of the apparatus shall be substantially equivalent to nationally recognized standards as defined in R 338.12001(d).~~

R 338.12011 Analytical instruments; criteria for board approval. **Rescinded.**

~~Rule 11. Under section 16423 of the code, any analytical instruments approved by the board shall satisfy all of the following requirements:~~

~~(a) The instruments shall be used for the practice of chiropractic as defined in section 16401(1)(e) of the code.~~

~~(b) The instruments shall be used for the purpose of detecting and diagnosing human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals in order to restore and maintain health. The use of the instruments may be included as, but not limited to, a part of a rehabilitative exercise program.~~

~~(c) The use of the instruments shall be substantially equivalent to nationally recognized standards as defined in R 338.12001(d).~~

R 338.12011a Tests; performance or ordering; requirements. **Rescinded.**

~~Rule 11a. Under section 16423 of the code, the performance, ordering or use of tests shall satisfy all of the following requirements:~~

~~(a) The performance and ordering of tests shall be for the practice of chiropractic as defined in section 16401(1)(e) of the code.~~

~~(b) The performance, ordering, or use of tests shall be for the purpose of detecting and diagnosing human conditions and disorders of the musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals in order to restore and maintain health. The performance and ordering of tests may be included as, but not limited to, a part of a rehabilitative exercise program.~~

~~(c) The performance and ordering of tests shall be substantially equivalent to nationally recognized standards as defined in R 338.12001(d).~~

R 338.12011b Performance of invasive procedure; requirements. Rescinded.

~~Rule 11b. Under sections 16401(2)(d) and 16423 of the code, a chiropractor may perform an invasive procedure if both of the following requirements are met:~~

~~(a) The invasive procedure is limited to an examination of the ears, nose, and throat.~~

~~(b) The purpose of the examination is to detect and diagnose human conditions and disorders of the musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals in order to restore and maintain health.~~

R 338.12014 Advertising. Rescinded.

~~Rule 14. (1) All licensees practicing chiropractic in this state shall use the word "chiropractic" or "chiropractor" or the initials "D.C." in conjunction with their names on all signs, letterheads, business cards, or similar items of identification.~~

~~(2) Any advertisement or advertising that does any of the following is considered by the board to be fraudulent, false, deceptive, or misleading:~~

~~(a) Contains a misrepresentation of facts.~~

~~(b) Is misleading or deceiving in its content or context.~~

~~(c) Creates false or unjustified expectations of beneficial treatment or successful cures.~~

~~(d) Fails to conspicuously identify the chiropractor or chiropractors referred to in the advertising as a chiropractor or chiropractors.~~

~~(e) Contains any representation that identifies the chiropractic practice being advertised by a name that does not include the term "chiropractor" or "chiropractic" or the initials "D.C."~~

~~(f) Appears in any classified directory, listing, or compendium under a heading which, when considered together with the advertisement, has the capacity or tendency to be deceptive or misleading with respect to the profession or professional status of the chiropractor.~~

R 338.12015 Patient records. Rescinded.

~~Rule 15. (1) A licensee practicing chiropractic in this state shall maintain a legible patient record for each patient, which accurately reflects the licensee's evaluation and treatment of the patient. Entries in the patient record shall be made in a timely fashion.~~

~~(2) The patient record shall contain all of the following:~~

~~(a) The name of the attending chiropractor.~~

- ~~(b) The patient's full name, address, date of birth, sex, and other information sufficient to identify the patient.~~
- ~~(c) The date of every entry in the patient record.~~
- ~~(d) A patient record entry for an initial patient visit that includes all of the following:~~
 - ~~(i) History, including description of presenting condition.~~
 - ~~(ii) Physical evaluation.~~
 - ~~(iii) Diagnostic studies, if applicable.~~
 - ~~(iv) Diagnosis.~~
 - ~~(v) Treatment or care provided.~~
- ~~(e) A patient record entry for subsequent evaluations, treatments, or care provided that includes all of the following:~~
 - ~~(i) Change in condition, if applicable.~~
 - ~~(ii) Physical evaluation.~~
 - ~~(iii) Treatment or care provided.~~
 - ~~(f) If applicable, a referral to another health care provider.~~
- ~~(3) A licensee shall retain a patient record for at least 7 years from the date of the last chiropractic service for which a patient record entry is required. A licensee shall retain the patient record for a minor patient until 1 year after the minor patient reaches 18 years of age, even if this results in the record being retained for more than 7 years.~~

PART 2. EDUCATION

R 338.12021 Educational program standards; adoption by reference.

Rule 21. (1) The board adopts by reference the standards of the council on chiropractic education, (CCE), as specified in the publication entitled, "CCE Accreditation Standards: Principles, Processes & Requirements for Accreditation" January 2018. The standards are available from The Council on Chiropractic Education, 8049 N. 85th Way, Scottsdale, Arizona 85258-4321, or at the council's website at <http://www.cce-usa.org> at no cost. Copies of the standards are available for inspection and distribution at cost from the Board of Chiropractic, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa Street, P. O. Box 30670, Lansing, Michigan 48909.

(2) Any chiropractic educational program that is accredited by the CCE qualifies as a chiropractic educational program approved by the board.

PART 3. LICENSURE

R 338.12031 Training standards for identifying victims of human trafficking; requirements.

Rule 31. (1) Pursuant to 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 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 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 include the individual's name and either of the following:

(i) For training completed pursuant to subrule (1)(b)(i) to (iii) of this rule, the date, training provider name, and name of training.

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

(3) Pursuant to 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 March 17, 2021.

R 338.12032 Educational limited license; requirements.

Rule 32. An applicant for a nonrenewable educational limited license under section 16412 of the code, MCL 333.16412, shall submit 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) Submit evidence that the applicant has successfully completed 2 years of education in a college of arts and sciences and have official transcripts provided to the department from the educational institution.

(b) Submit evidence that the applicant has successfully completed at least 1 of the following:

(i) Two years of attendance in a program or institution of chiropractic that meets the educational standards in R 338.12021 and have official transcripts provided to the department from the educational institution.

(ii) Four semesters of attendance in a program or institution of chiropractic that meets the educational standards in R 338.12021 and have official transcripts provided to the department from the educational institution.

(iii) Six quarter terms of attendance in a program or institution of chiropractic that meets the educational standards in R 338.12021 and have official transcripts provided to the department from the educational institution.

(c) Submits evidence that the applicant will be supervised by a licensed chiropractor on a form provided by the department.

R 338.12033 Examination; adoption and approval; passing score.

Rule 33. The board approves and adopts the national board examination in chiropractic that is conducted and scored by the national board of chiropractic examiners (NBCE). The board adopts the passing score recommended by the NBCE for the national board examination parts I, II, III, and IV.

R 338.12034 Licensure by examination; requirements.

Rule 34. An applicant for a chiropractic license by examination shall submit 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 both of the following requirements:

(a) Have graduated from a program or institution of chiropractic that meets the educational standards in R 338.12021 and have final and official transcripts provided to the department from the educational institution.

(b) Have passed parts I, II, III, and IV of the national board examination that is conducted and scored by the NBCE, under R 338.12033. The applicant shall ensure that the NBCE issues evidence of official passing scores directly to the department.

R 338.12035 Licensure by endorsement; requirements.

Rule 35. (1) An applicant for a chiropractic license by endorsement shall submit 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 either of the following requirements:

(a) Have been licensed in another state of the United States for 5 years or more immediately preceding the date of application.

(b) Have been licensed in another state of the United States for less than 5 years immediately preceding the date of filing an application and have passed parts I, II, III, and IV of the national board examination that is conducted and scored by the NBCE, pursuant to R 338.12033. The applicant shall have the NBCE issue evidence of official passing scores directly to the department.

(2) An applicant shall have his or her license verified by the licensing agency of any state of the United States in which the applicant holds or has ever held a license to practice chiropractic. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending against the applicant.

R 338.12036 Relicensure requirements.

Rule 36. (1) An applicant for relicensure whose license has been lapsed for less than 3 years preceding the date of application may be relicensed under section 16201(3) of the code, MCL 333.16201(3), if the applicant satisfies all of the following requirements:

- (a) Establishes that he or she is of good moral character.**
- (b) Submits the required fee and a completed application on a form provided by the department.**
- (c) Submits proof to the department of the completion of, in the 3-year period immediately preceding the application for relicensure, 45 hours of continuing education in programs approved by the board that include all of the following:**
 - (i) The required continuing education hours listed in R 338.12041(1)(c) to (g).**
 - (ii) Not more than 15 continuing education hours in board-approved distance learning programs.**
- (d) An applicant shall have his or her license verified by the licensing agency of any state of the United States in which the applicant holds or has ever held a license to practice chiropractic. 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 may be relicensed under section 16201(4) of the code, MCL 333.16201(4), if the applicant satisfies all of the following:

- (a) Establishes that he or she is of good moral character.**
- (b) Submit fingerprints as set forth in section 16174(3) of the code, MCL 333.16174(3).**
- (c) Submits the required fee and a completed application on a form provided by the department.**
- (d) Submits proof to the department of the completion of, in the 3-year period immediately preceding the application for relicensure, 45 hours of continuing education in programs approved by the board that include all of the following:**
 - (i) Twenty-four live and in-person continuing education hours on chiropractic adjusting techniques.**
 - (ii) The required continuing education hours listed in R 338.12041(1)(c) to (g).**
 - (iii) Not more than 15 continuing education hours in board-approved distance learning programs.**
- (e) Provides either of the following:**
 - (i) Documentation to the department that the applicant holds or has held a valid and unrestricted license in another state within 3 years immediately preceding the application for relicensure.**
 - (ii) Evidence of having passed the special purposes exam for chiropractic (SPEC) of the NBCE. The applicant shall request written authorization from the department to take the exam. The applicant must pass the exam within 6 months after the department's issuance of written authorization to take the exam. The applicant shall ensure that the NBCE issues evidence of official passing scores directly to the department.**
- (f) An applicant shall have his or her license verified by the licensing agency of any state of the United States in which the applicant holds or has ever held a license to practice chiropractic. Verification includes, but is not limited to, showing proof of any disciplinary action taken or pending against the applicant.**

R 338.12037 License renewal; continuing education.

Rule 37. (1) An applicant for license renewal shall complete 30 hours of board-approved continuing education in the 2-year period immediately preceding the application that complies with R 338.12041.

(2) This rule does not apply to a licensee who has obtained his or her initial chiropractic license within the 2-year period immediately preceding the expiration date of the initial license.

(3) Submission of an application for renewal shall constitute the applicant's certification of compliance with this rule. The licensee shall retain documentation of meeting this rule for a period of 4 years from the date of applying for license renewal. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221(h).

PART 4. CONTINUING EDUCATION

R 338.12041 Acceptable continuing education.

Rule 41. (1) The 30 hours of continuing education required under R 338.12037 shall comply with all of the following:

(a) No more than 12 credit hours of continuing education shall be earned during 1 24-hour period.

(b) Credit for a continuing education program or activity that is identical to or substantially identical to a program or activity for which the licensee has already earned credit during the license cycle shall not be granted.

(c) Pursuant to section 16431(2) of the code, MCL 333.16431(2), at least 1 hour of continuing education shall be in the area of pain and symptom management. Continuing education in pain and symptom management may include, but is not limited to, courses in: chiropractic manipulative treatment, manual therapies, therapeutic exercises for pain management; behavior management; psychology of pain; pharmacology; behavior modification; stress management; clinical applications; and drug interventions as they relate to the practice of chiropractic.

(d) At least 1 hour of continuing education shall be in the area of sexual boundaries.

(e) At least 1 hour of continuing education shall be in the area of ethics.

(f) At least 2 hours of continuing education shall be in the area of physical measure and shall be completed by attending a live, in-person program.

(g) At least 2 hours of continuing education shall be in the area of performing and ordering tests and shall be completed by attending a live, in-person program.

(h) At least 15 hours of continuing education shall be completed by attending a live, in-person program.

(2) In addition to those programs approved by the board under R 338.12042, the board shall consider any of the following as acceptable continuing education:

(a) Successful completion of a course or courses related to the practice of chiropractic which are offered for academic credit in a chiropractic school approved by the board under R 338.12021, according to the following:

(i) If audited, the licensee shall submit a letter from the program director verifying the licensee participated in the program.

(ii) Five continuing education credit hours may be earned for each semester credit. Three continuing education contact hours may be earned for each quarter credit earned.

(iii) There is no limitation on hours earned in this category.

(b) Attendance at or participating in a continuing education program or activity related to the practice of chiropractic that is offered on campus at a chiropractic school approved by the board under R 338.12021, by the Michigan association of chiropractors, or by an organization approved by the board under R 338.12042.

(i) If audited, the licensee shall submit 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 other activity, and the date on which the program or activity was completed.

(ii) The number of continuing education hours for a specific program or activity shall be the number of hours approved by the sponsor or approving organization for the specific program or activity.

(iii) A maximum of 30 hours of continuing education may be earned for the program or activity in each renewal period.

(c) Initial presentation of a continuing education program related to the practice of chiropractic to a state, regional, national, or international organization. To receive credit, the presentation shall not be a part of the licensee's regular job description and shall be approved or offered for continuing education credit by any of the following: the American chiropractic association, the international chiropractors association, the Michigan association of chiropractors, or an organization approved by the board under R 338.12042.

(i) If audited, the licensee shall submit a copy of the presentation notice or advertisement showing the date of the presentation and the licensee's name listed as a presenter.

(ii) Two hours of continuing education credit shall be granted for each 50 to 60 minutes of presentation. No additional credit shall be granted for preparation of a presentation.

(iii) A maximum of 10 hours of continuing education may be earned for the activity in each renewal period.

(3) This rule takes effect beginning with the first renewal cycle after the promulgation of this rule. Continuing education programs approved by the board before the effective date of this amended rule are considered approved.

R 338.12042 Approval of continuing education programs.

Rule 42. (1) An organization may petition the board for approval of a continuing education program.

(2) The petition shall be filed at least 60 days before the commencement of the program.

(3) The petition shall include all of the following information:

(a) A description of the sponsoring organization.

(b) Name, title, and address of the program director.

(c) An outline of the course.

(d) A resumé for all speakers or presenters, or both.

(e) A description of the delivery method.

(f) The dates and location or locations that the course will be delivered.

(g) A description of how attendance will be monitored, sample documents, and identification of the person monitoring attendance.

(h) A sample certificate or other document that will be issued upon completion and a description of how the participant will be notified.

(i) If appropriate, a request for recognition in a specific topic area required by R 338.12041(1)(c) to (h).

PART 5. STANDARDS OF PRACTICE

R 338.12051 Performance of invasive procedure; requirements.

Rule 51. Under sections 16401(2)(d) and 16423 of the code, MCL 333.16401(2)(d) and MCL 333.16423, a chiropractor may perform an invasive procedure if both of the following requirements are satisfied:

- (a) The invasive procedure is limited to an examination of the ears, nose, and throat.
- (b) The purpose of the examination is to detect and diagnose human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals in order to restore and maintain health.

R 338.12052 Tests; performance or ordering; requirements.

Rule 52. Under section 16423 of the code, MCL 333.16423, the performance, ordering or use of tests shall satisfy all of the following requirements:

- (a) The performance and ordering of tests shall be for the practice of chiropractic as defined in section 16401(1)(e) of the code, MCL 333.16401(1)(e).
- (b) The performance, ordering, or use of tests shall be for the purpose of detecting and diagnosing human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals in order to restore and maintain health. The performance and ordering of tests may be included as, but not limited to, a part of a rehabilitative exercise program.
- (c) The performance and ordering of tests shall be substantially equivalent to nationally recognized standards as defined in R 338.12001(1)(f).

R 338.12053 Analytical instruments; criteria for board approval.

Rule 53. Under section 16423 of the code, MCL 333.16423, analytical instruments shall satisfy all of the following requirements:

- (a) The instruments shall be used for the practice of chiropractic as defined in section 16401(1)(e) of the code, MCL 333.16401(1)(e).
- (b) The instruments shall be used for the purpose of detecting and diagnosing human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions, or to assist the chiropractor in offering advice to seek treatment from other health professionals in order to restore and maintain health. The use of the instrument may be included as, but not limited to, a part of a rehabilitative exercise program.
- (c) The use of the instrument shall be substantially equivalent to nationally recognized standards as defined in R 338.12001(1)(f).

R 338.12054 Adjustment apparatus; criteria for board approval.

Rule 54. Under section 16423 of the code, MCL 333.16423, an adjustment apparatus shall satisfy all of the following requirements:

(a) The apparatus shall be used for the practice of chiropractic as defined in section 16401(1)(e) of the code, MCL 333.16401(1)(e).

(b) The apparatus shall be used for the purpose of correcting or reducing subluxations, misalignments, and joint dysfunctions. The use of the apparatus may be included as, but not limited to, a part of a rehabilitative exercise program.

(c) The use of the apparatus shall be substantially equivalent to nationally recognized standards as defined in R 338.12001(1)(f).

NOTICE OF PUBLIC HEARING

**Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing**

NOTICE OF PUBLIC HEARING

August 10, 2018

9:00 a.m.

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

The hearing is held to receive public comments on the following administrative rules:

Board of Chiropractic-General Rules (ORR 2018-016 LR)

Authority: MCL 333.16145; MCL 333.16148; MCL 333.16401; MCL 333.16412; MCL 333.16423; MCL 333.16431; MCL 338.3501; MCL 445.2001; MCL 445.2011; MCL 445.2030

Overview: The proposed revisions to the rules will provide updated accreditation standards for chiropractic educational programs, include requirements for an educational limited license, require applicants for licensure and endorsement to have the National Board of Chiropractic Examiners issue evidence of official passing scores directly to the department, require applicants for relicensure to provide fingerprints and establish good moral character, revise requirements for relicensure and continuing education, and rescind requirements related to advertising and patient records.

Bureau of Professional Licensing–General Rules–Public Health Code (ORR 2018-024 LR)

Authority: MCL 333.16145; MCL 333.16194; MCL 333.16201; MCL 333.16221; MCL 338.3501; MCL 445.2001; MCL 445.2011; MCL 445.2025; MCL 445.2030

Overview: The proposed rule rescission will permit a health board’s disciplinary subcommittee to consider all relevant factors when assessing a fine for a licensee’s violation of the code, and it will remove the subcommittee’s duty to specifically consider the listed factors when assessing a fine for a licensee’s code violation.

The rules will take effect immediately upon filing with the Secretary of State, unless specified otherwise in the rules. 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 August 10, 2018**, at the following address or e-mail address:

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 Email: BPL-BoardSupport@michigan.gov

A copy of the proposed rules may be obtained by contacting Board Support at (517) 241-7500 or the email address noted above. Electronic copies also may be obtained at the following link:

http://dmbinternet.state.mi.us/DMB/DTMBORR/AdminCode.aspx?AdminCode=Department&Dpt=LR&Level_1=Bureau+of+Professional+Licensing

The meeting site and parking are accessible to people with disabilities. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional accommodations (such as materials in alternative format) in order to participate in the meeting should call (517) 241-7500).

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF PROFESSIONAL LICENSING

GENERAL RULES – PUBLIC HEALTH CODE

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. 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, 16194, 16201, and 16221(e)(iv)(B) of 1978 PA 368, MCL 333.16145, **MCL 333.16194**, **MCL 333.16201**, and **MCL 333.16221(e)(iv)(B)** and Executive Reorganization Order Nos. ~~1996-1~~ **1991-9**, 1996-2, 2003-1, 2008-4, and 2011-4, MCL ~~330.3101~~ **338.3501**, **MCL 445.2001**, **MCL 445.2011**, ~~445.2015~~, **MCL 445.2025**, and **MCL 445.2030**)

R 338.7005 of the Michigan Administrative Code is rescinded as follows:

R 338.7005 ~~Assessment of fines.~~ **Rescinded.**

~~Rule 5. When a fine is designated as an available sanction for a violation of section 16221 to 16226 of the code, MCL 333.16221 to 333.16226, in the course of assessing a fine, the disciplinary subcommittee shall take into consideration the following factors without limitation:~~

~~(a) The extent to which the licensee obtained financial benefit from any conduct comprising part of the violation found by the disciplinary subcommittee.~~

~~(b) The willfulness of the conduct found to be part of the violation determined by the disciplinary subcommittee.~~

~~(c) The public harm, actual or potential, caused by the violation found by the disciplinary subcommittee.~~

~~(d) The cost incurred in investigating and proceeding against the licensee.~~

NOTICE OF PUBLIC HEARING

**Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing**

NOTICE OF PUBLIC HEARING

August 10, 2018

9:00 a.m.

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

The hearing is held to receive public comments on the following administrative rules:

Board of Chiropractic-General Rules (ORR 2018-016 LR)

Authority: MCL 333.16145; MCL 333.16148; MCL 333.16401; MCL 333.16412; MCL 333.16423; MCL 333.16431; MCL 338.3501; MCL 445.2001; MCL 445.2011; MCL 445.2030

Overview: The proposed revisions to the rules will provide updated accreditation standards for chiropractic educational programs, include requirements for an educational limited license, require applicants for licensure and endorsement to have the National Board of Chiropractic Examiners issue evidence of official passing scores directly to the department, require applicants for relicensure to provide fingerprints and establish good moral character, revise requirements for relicensure and continuing education, and rescind requirements related to advertising and patient records.

Bureau of Professional Licensing–General Rules–Public Health Code (ORR 2018-024 LR)

Authority: MCL 333.16145; MCL 333.16194; MCL 333.16201; MCL 333.16221; MCL 338.3501; MCL 445.2001; MCL 445.2011; MCL 445.2025; MCL 445.2030

Overview: The proposed rule rescission will permit a health board’s disciplinary subcommittee to consider all relevant factors when assessing a fine for a licensee’s violation of the code, and it will remove the subcommittee’s duty to specifically consider the listed factors when assessing a fine for a licensee’s code violation.

The rules will take effect immediately upon filing with the Secretary of State, unless specified otherwise in the rules. 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 August 10, 2018**, at the following address or e-mail address:

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 Email: BPL-BoardSupport@michigan.gov

A copy of the proposed rules may be obtained by contacting Board Support at (517) 241-7500 or the email address noted above. Electronic copies also may be obtained at the following link:

http://dmbinternet.state.mi.us/DMB/DTMBORR/AdminCode.aspx?AdminCode=Department&Dpt=LR&Level_1=Bureau+of+Professional+Licensing

The meeting site and parking are accessible to people with disabilities. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional accommodations (such as materials in alternative format) in order to participate in the meeting should call (517) 241-7500).

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY AND HEALTH STANDARD OCCUPATIONAL HEALTH
STANDARDS

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under Section 33, 44, or 45a(6) of 1969 PA 306. 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 14 and 24 of 1974 PA 154, MCL 408.1014 and 408.1024, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 325.51933, R 325.51936, R 325.51937, R 325.51938, R 325.51943, and R 325.51945 of the Michigan Administrative Code are amended, as follows:

GENERAL INDUSTRY SAFETY AND HEALTH STANDARD
PART 310. LEAD IN GENERAL INDUSTRY

R 325.51933 Biological monitoring.

Rule 33. An employer shall make available biological monitoring in the form of blood sampling and analysis for lead ~~and zinc protoporphyrin~~ levels to each employee who or may be exposed to concentrations of lead greater than the action level for more than 30 days a year in accordance with the following schedule:

(a) At least once every 6 months for each employee.

(b) At least once every 2 months for each employee whose blood sample and analysis indicated a blood lead level at or above **15 micrograms (µg) per deciliter (dL)**. ~~40 micrograms per 100 grams (40 µg/100 g) of whole blood.~~ The 2-month frequency shall continue until 2 consecutive blood samples and analyses indicate a blood level below **15 µg/dL** ~~40 micrograms per 100 grams (40 µg/100 g) of whole blood.~~

(c) At least monthly during the period of time an employee is removed from exposure to lead due to an elevated blood lead level.

R 325.51936 Employee notifications.

Rule 36. Within 5 working days after the receipt of biological monitoring results, an employer shall notify each employee, in writing, whose blood lead level is at or above **15 µg/dL** ~~40 micrograms per 100 grams (40 µg/100 g) of whole blood~~ of both of the following:

(a) The employee's blood lead level.

(b) That these rules require temporary medical removal with Medical Removal Protection benefits when an employee's blood lead level is at or above the numerical criterion for medical removal pursuant to R 325.51943.

R 325.51937 Medical examinations and consultations.

Rule 37. An employer shall make available medical examinations and consultations to each employee who is or may be exposed to concentrations of lead greater than the action level for more than 30 days a year according to the following schedule:

(a) At least annually for each employee for whom a blood sampling test conducted at any time during the previous 12 months indicated a blood lead level at or above **15 µg/dL** ~~40 micrograms per 100 grams (40 ug/100 g)~~ of whole blood.

(b) Prior to an employee's being assigned for the first time to an area in which airborne concentrations of lead are at or above the action level.

(c) As soon as possible after notification by an employee that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice concerning the effects of current or past exposure to lead on the employee's ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing either during a respirator fitting test or during use of a respirator. As medical appropriate for an employee who is either removed from exposure to lead due to a risk of sustaining material impairment to health or who is otherwise limited pursuant to a final medical determination.

R 325.51938. Content.

Rule 38. (1) A medical examination made available pursuant to R 325.51937(a) and (b) shall include all of the following elements:

(a) A detailed work history and a medical history, with particular attention to past occupational and non-occupational lead exposure in all of the following:

- (i) Personal habits, such as smoking and hygiene.
- (ii) Past gastrointestinal.
- (iii) Personal hematological.
- (iv) Renal.
- (v) Cardiovascular.
- (vi) Reproductive.
- (vii) Neurological problems.

(b) A thorough physical examination, with particular attention to all of the following:

- (i) Teeth.
- (ii) Gums.
- (iii) Hematological status.
- (iv) Gastrointestinal status.
- (v) Renal status.
- (vi) Cardiovascular status.
- (vii) Neurological status.
- (viii)** Pulmonary status shall be evaluated if respiratory protection is to be used.

(c) A blood pressure measurement.

(d) A blood sample and an analysis which determines all of the following:

- (i) Blood lead level.
- (ii) Hemoglobin and hematocrit determinations, red cell indices, and examination of peripheral and smear morphology.

- (iii) Blood urea nitrogen.
- (iv) Serum creatinine.
- ~~(v) Zine protoporphyrin.~~
- (e) A routine urinalysis with microscopic examination.
- (f) A laboratory or other test which an examining physician deems necessary by sound medical practice.

(2) The contents of a medical examination made available pursuant to R 325.51937(c) and (d) shall be determined by an examining physician and, if requested by an employee, shall include pregnancy testing or laboratory evaluation of male fertility, as the case may be.

R 325.51943 Temporary medical removal due to elevated blood lead levels.

Rule 43. (1) An employer shall remove an employee from work who has an exposure to lead at or above the action level on each occasion that a periodic blood sampling test and a follow-up blood sampling test conducted under these rules indicate that the employee's blood lead level is at or above **30 µg/dL** ~~60 micrograms per 100 grams (60 ug/100 g)~~ of whole blood.

(2) An employer shall remove an employee from work if the employee has an exposure to lead at or above the action level on each occasion that the average of the last 3 blood sampling tests conducted under these rules, or the average of all blood sampling tests conducted over the previous 6 months, whichever is longer, indicates that the employee's blood lead level is at or above **20 µg/dL** ~~50 micrograms per 100 grams (50 ug/100 g)~~ of whole blood. However, an employee shall not be removed if the last blood sampling test indicates a blood lead level below **15 µg/dL** ~~40 micrograms per 100 grams (40 ug/100 g)~~ of whole blood.

R 325.51945 Return of an employee to former job status.

Rule 45. (1) An employer shall return an employee to his or her former job status under any of the following circumstances:

(a) For an employee removed due to a blood lead level at or above **30 µg/dL** ~~60 micrograms per 100 grams (60 ug/100 g)~~ of whole blood or due to an average blood lead level at or above **20 µg/dL** ~~50 micrograms per 100 grams (50 ug/100 g)~~ of blood, when 2 consecutive blood sampling tests indicate that the employee's blood lead level is below **15 µg/dL** ~~40 micrograms per 100 grams (40 ug/100 g)~~ of whole blood.

(b) For an employee removed due to a final medical determination, when a subsequent final medical determination results in a medical finding, determination or opinion that the employee no longer has a detected medical condition which places the employee at an increased risk of material impairment to health from exposure to lead.

(2) For purposes of this rule, the requirement that an employer return an employee to his or her former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

NOTICE OF PUBLIC HEARING

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (MIOSHA)

General Industry Safety and Health Standard Part 310 Lead in General Industry
ORR# 2018-044 LR

Construction Safety and Health Standard Part 603 Lead Exposure in Construction
ORR# 2018-045 LR

NOTICE OF PUBLIC HEARING
FRIDAY, AUGUST 3, 2018
Michigan Library and Historical Center
702 West Kalamazoo Street, Lansing, Michigan, 48909
Michigan Library Auditorium, 1st Floor, 9:00 a.m.

The Department of Licensing and Regulatory Affairs, Michigan Occupational Safety and Health Administration, will hold a public hearing on Friday, August 3, 2018 at the Michigan Library and Historical Center, 702 West Kalamazoo Street, Lansing, Michigan, Library Auditorium at 9:00 a.m. The hearing will be held to receive public comments on the proposed changes to the MIOSHA General Industry Part 310 and Construction Safety Part 603 Standards.

General Industry Safety and Health Standard Part 310 Lead in General Industry and Construction Safety and Health Standard Part 603 Lead Exposure in Construction give direction to employers and employees on protecting Michigan employees from health and safety hazards in the workplace when exposed to lead. The intent of the proposed revision of the rules is to update the outdated blood lead levels in the current rules to reflect today's level of knowledge. Existing standards are based on medical and scientific information that is more than 35 years old. Current rules allow workers to have Blood Lead Levels (BLL's) up to 50-60 µg/dL before they have to be removed from significant lead exposure, and they are permitted to return to work when their BLL is 40 µg/dL or lower. The proposed rules revise the removal levels to 30 µg/dL and the return to work level to 15 µg/dL. The requirement for Zinc Protoporphyrin testing is being removed from the proposed rules.

These rules are promulgated by authority conferred on the director of the department of licensing and regulatory affairs by sections 14 and 24 of 1974 PA 154, MCL 408.1014 and 408.1024; and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, and 2011-4, MCL 330.3101, 445.2001, 445.2011, 445.2025, and 445.2030. These rules will take effect 7 days after filing with the Secretary of State.

The rules are published on the Office of Regulatory Reinvention's website at www.michigan.gov/orr and in the August 1, 2018, issue of the *Michigan Register*. Comments must be submitted to the following address by 5:00 p.m. on Friday, August 3, 2018. Copies of the draft rules are available on the MIOSHA website in the *Spotlight* section at www.michigan.gov/mioshastandards, or by mail or electronic transmission at the following address:

Michigan Department of Licensing and Regulatory Affairs
MIOSHA Technical Services Division
530 West Allegan Street - P.O. Box 30643 - Lansing MI 48909-8143
Telephone 517.284.7740 - Facsimile 517.284.7735 - E-mail: kloppt@michigan.gov

This Notice of Public Hearing is published pursuant to Section 42 of the Administrative Procedures Act, MCL 24.242. The hearing is being held to receive public comments on the proposed amendments to the administrative rules listed above. The hearing will be for the purpose of providing an opportunity for all interested persons to present statements, views, data, questions, or arguments concerning the proposed rules. The public hearing will continue until all parties present have had a reasonable opportunity to present statements regarding the proposed rules. Persons presenting statements may be asked questions by the staff, as well as by the presiding officer. Statements may be limited in duration by the presiding officer in order to ensure that all interested parties have an opportunity to participate in the proceedings.

The hearing site is accessible, including handicap parking. People with disabilities requiring additional accommodations in order to participate in the hearing (such as information in alternate formats) should contact the MIOSHA Technical Services Division at 517.284.7740 at least 14 days prior to the hearing date. Individuals attending the hearing are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. Information at this meeting will be presented by speakers and printed handouts.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

**CONSTRUCTION SAFETY AND HEALTH STANDARD OCCUPATIONAL HEALTH
STANDARDS**

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under Section 33, 44, or 45a(6) of 1969 PA 306. 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 14 and 24 of 1974 PA 154, MCL 408.1014 and 408.1024; and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, and 2011-4, MCL 330.3101, 445.2001, 445.2011, 445.2025, and 445.2030)

R 325.51991, R 325.51992, and R 325.51993 of the Michigan administrative code are amended, and R 325.51983, R 325.51984, R 325.51985, R 325.51986, R 325.51987, R 325.51988, R 325.51989, and R 325.51990 are added, as follows:

**CONSTRUCTION SAFETY AND HEALTH STANDARD
PART 603. LEAD EXPOSURE IN CONSTRUCTION**

R 325.51983 Scope and application.

Rule 83. These rules apply to all construction work as defined by the Michigan Occupational Safety and Health Act (MIOSHA), 1974 PA 154, MCL 408.1001 to 408.1094. Construction work includes all of the following:

- (a) Demolition or salvage of structures where lead or materials containing lead are present.**
- (b) Removal or encapsulation of materials containing lead.**
- (c) New construction, alteration, repair, painting, decorating, or renovation of structures, substrates, or portions thereof that contain lead or materials containing lead.**
- (d) Installation of products containing lead.**
- (e) Lead contamination or emergency cleanup.**
- (f) Transportation, disposal, storage, or containment of lead or materials containing lead on the site or location at which construction activities are performed.**
- (g) Maintenance operations associated with the construction activities described in this rule.**

R 325.51984 Adoption by reference of federal regulations.

Rule 84. (1) The federal Occupational Safety and Health Administration (OSHA) regulation 29 C.F.R. §1926.62, “Lead,” as amended on March 26, 2012, is adopted in these rules.

(2) The adopted federal regulations shall have the same force and effect as a rule promulgated under the Michigan Occupational Safety and Health Act (MIOSHA), 1974 PA 154, MCL 408.1001 to 408.1094.

(3) The following provisions of the OSHA regulation adopted in these rules, are not adopted by reference:

(a) 1926.62(d)(2)(v) is replaced by R 325.51986.

(b) 1926.62(j)(1) is replaced by R 325.51987.

(c) 1926.62(j)(2)(i) is replaced by R 325.51988.

(d) 1926.62(j)(2)(iv) is replaced by R 325.51989.

(e) 1926.62(j)(3)(i) is replaced by R 325.51990.

(f) 1926.62(j)(3)(ii) is replaced by R 325.51991.

(g) 1926.62(k)(1)(i) is replaced by R 325.51992.

(h) 1926.62(k)(1)(iii) is replaced by R 325.51993.

(4) A reference to 1926.51 “Sanitation,” means Construction Safety and Health Standard Part 1 “General Rules,” as referenced in R 325.51985.

(5) A reference to 1910.133 “Eye and face protection,” means Construction Safety and Health Standard Part 6 “Personal Protective Equipment,” as referenced in R 325.51985.

(6) A reference to 1910.134 “Respiratory Protection,” means General Industry and Construction Safety and Health Standard Part 451 “Respiratory Protection,” as referenced in R 325.51985.

(7) A reference to 1910.20 means 1910.1020 “Access to employee exposure and medical records,” means General Industry and Construction Safety and Health Standard Part 470 “Employee Medical Records and Trade Secrets,” as referenced in R 325.51985.

(8) A reference to 1910.1025 “Lead,” means General Industry Safety and Health Standard Part 310 “Lead in General Industry,” as referenced in R 325.51985.

(9) A reference to 1910.1200 “Hazard Communication,” means Construction Safety and Health Standard Part 42 “Hazard Communication,” as referenced in R 325.51985.

R 325.51985 Availability of OSHA adopted standard and MIOSHA referenced standards.

Rule 85. (1) The OSHA regulation adopted in these rules is 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.

(2) The regulation adopted in these rules is available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(3) The regulation adopted in these rules may be obtained from the publisher or may be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost charged in this rule, plus \$20.00 for shipping and handling.

(4) The following Michigan Occupational Safety and Health Administration (MIOSHA) standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Regulatory Services Section, 530 West Allegan Street, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

- (a) Construction Safety and Health Standard Part 1 “General Rules,” R 408.40101 to R 408.40134.**
- (b) Construction Safety and Health Standard Part 6 “Personal Protective Equipment,” R 408.40601 to R 408.40660.**
- (c) Construction Safety and Health Standard Part 42 “Hazard Communication,” R 408.44201 to R 408.44204.**
- (d) General Industry Safety and Health Standard Part 310 “Lead in General Industry,” R 325.51901 to R 325.51958.**
- (e) General Industry and Construction Safety and Health Standard Part 451 “Respiratory Protection,” R 325.60051 to R 325.60052.**
- (f) General Industry and Construction Safety and Health Standard Part 470 “Employee Medical Records and Trade Secrets,” R 325.3451 to R 325.3476.**

R 325.51986 Interim protection.

Rule 86. (1) This rule replaces OSHA 1926.62(d)(2)(v).

(2) Until the employer performs an employee exposure assessment as required under 1926.62(d) and determines actual employee exposure, the employer shall provide to employees performing the tasks described in 1926.62(d)(2)(i), (ii), (iii) and (iv) with interim protection as follows:

- (a) Appropriate respiratory protection in accordance with 1926.62(f).**
- (b) Appropriate personal protective clothing and equipment in accordance with 1926.62(g).**
- (c) Change areas in accordance with 1926.62(i)(2).**
- (d) Hand washing facilities in accordance with 1926.62(i)(5).**
- (e) Biological monitoring in accordance with R 325.51987(2) of these rules, to consist of blood sampling and analysis for lead levels.**
- (f) Training as required by the following:**
 - (i) Under 1926.62(l)(1)(i) regarding “Hazard Communication.”**
 - (ii) Under 1926.62(l)(2)(iii) regarding use of respirators.**
 - (iii) Training in accordance with Construction Safety and Health Standard Part 1 “General Rules,” as referenced in R 325.51985.**

R 325.51987 Medical surveillance, general.

Rule 87. (1) This rule replaces OSHA 1926.62(j)(1).

(2) An employer shall make available initial medical surveillance to employees occupationally exposed on any day to lead at or above the action level. Initial medical surveillance consists of biological monitoring in the form of blood sampling and analysis for lead levels.

(3) An employer shall institute a medical surveillance program in accordance with R 325.51988, 1926.62(j)(2), R 325.51989, R 325.51990, R 325.51991, and 1926.62(j)(3) for all employees who are or may be exposed by the employer at or above the action level for more than 30 days in any consecutive 12 months.

(4) An employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician.

(5) An employer shall make available the required medical surveillance including multiple physician review under 1926.62(j)(3)(iii) without cost to employees and at a reasonable time and place.

R 325.51988 Blood lead level sampling and analysis.

Rule 88. (1) This rule replaces OSHA 1926.62(j)(2)(i).

(2) An employer shall make available biological monitoring in the form of blood sampling and analysis for lead levels to each employee covered under R 325.51987 (2) and (3) of these rules on the following schedule:

(a) For each employee covered under R 325.51987(3) of these rules, at least every 2 months for the first 6 months and every 6 months thereafter.

(b) For each employee covered under R 325.51987 (2) or (3) of these rules whose last blood sampling and analysis indicated a blood lead level at or above 15 µg/dL, at least every 2 months. This frequency shall continue until 2 consecutive blood samples and analyses indicate a blood lead level below 15 µg/dL.

(c) For each employee who is removed from exposure to lead due to an elevated blood lead level at least monthly during the removal period.

R 325.51989 Employee notification.

Rule 89. (1) This rule replaces OSHA 1926.62(j)(2)(iv).

(2) Within 5 working days after the receipt of biological monitoring results, the employer shall notify each employee in writing of his or her blood lead level.

(3) An employer shall notify each employee whose blood lead level is at or above 15 µg/dL that these rules require temporary medical removal with Medical Removal Protection benefits when an employee's blood lead level is at or above the numerical criterion for medical removal under R 325.51992 of these rules.

R 325.51990 Medical examinations and consultations, frequency.

Rule 90. (1) This rule replaces OSHA 1926.62(j)(3)(i).

(2) An employer shall make available medical examinations and consultations to each employee covered under R 325.51987(3) of these rules on the following schedule:

(a) At least annually for each employee for whom a blood lead sampling test conducted at any time during the preceding 12 months indicated a blood lead level at or above 15 µg/dL.

(b) As soon as possible, upon notification by an employee either that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice concerning the effects of current or past exposure to lead on the employee's ability to procreate a healthy child, that the employee is pregnant, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during use.

(c) As medically appropriate for each employee either removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited pursuant to a final medical determination.

R 325.51991 Content of medical examinations. Scope and application.

Rule 91. † (1) This rule replaces OSHA 1926.62(j)(3)(ii). These rules apply to all construction work as defined by the Michigan Occupational Safety and Health Act (MIOSHA), 1974 PA 154, MCL 408.1001 to 408.1094. Construction work includes all of the following:

(a) Demolition or salvage of structures where lead or materials containing lead are present.

(b) Removal or encapsulation of materials containing lead.

(c) New construction, alteration, repair, painting, decorating, or renovation of structures, substrates, or portions thereof that contain lead or materials containing lead.

(d) Installation of products containing lead.

(e) Lead contamination or emergency cleanup.

~~(f) Transportation, disposal, storage, or containment of lead or materials containing lead on the site or location at which construction activities are performed.~~

~~(g) Maintenance operations associated with the construction activities described in this rule.~~

(2) The content of medical examinations made available pursuant to R 325.51990(2) (b) and (c) of these rules shall be determined by an examining physician and, if requested by an employee, shall include pregnancy testing or laboratory evaluation of male fertility.

(3) Medical examinations made available pursuant to R 325.51990(2)(a) of these rules include all of the following elements:

(a) A detailed work history and a medical history, with particular attention to past occupational and non-occupational lead exposure in all of the following:

(i) Personal habits, such as smoking and hygiene.

(ii) Past gastrointestinal.

(iii) Hematologic.

(iv) Renal.

(v) Cardiovascular.

(vi) Reproductive.

(vii) Neurological problems.

(b) A thorough physical examination, with particular attention to all of the following:

(i) Teeth.

(ii) Gums.

(iii) Hematologic.

(iv) Gastrointestinal.

(v) Renal.

(vi) Cardiovascular.

(vii) Neurological systems.

(viii) Pulmonary status should be evaluated if respiratory protection will be used.

(c) A blood pressure measurement.

(d) A blood sample and an analysis which determines all of the following:

(i) Blood lead level.

(ii) Hemoglobin and hematocrit determinations, red cell indices, and examination of peripheral smear morphology.

(iii) Blood urea nitrogen.

(iv) Serum creatinine.

(e) A routine urinalysis with microscopic examination.

(f) Any laboratory or other test relevant to lead exposure which the examining physician deems necessary by sound medical practice.

~~R 325.51992 Temporary removal due to elevated blood lead level. Adoption by reference of federal regulations.~~

~~Rule 92. 2 (1) This rule replaces OSHA 1926.62(k)(1)(i). The federal occupational safety and health administration's regulations on lead exposure in construction promulgated by the United States department of labor and codified at 29 C.F.R. §1926.62, "Lead Exposure in Construction," as amended on March 26, 2012, are adopted in these rules.~~

(2) An employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to these rules indicate that the employee's blood lead level is at or above 30 µg/dL. The federal regulations adopted in subrule(1) of this rule have the same force and effect as a rule

promulgated pursuant to the provisions of the Michigan Occupational Safety and Health Act (MIOSHA), 1974 PA 154, MCL 408.1001 to 408.1094.

(3) All of the following provisions apply as used in these rules:

(a) A reference to 29 C.F.R. §1926.59, “Hazard communication,” in 29 C.F.R. 1926.62(d) means Occupational Health Standard Part 430 “Hazard Communication, and Construction Safety Standard Part 42 “Hazard Communication,” as referenced in R 325.51993.

(b) A reference to 29 C.F.R. §1910.133, “Eye and face protection,” in 29 C.F.R. 1926.62(g) means Occupational Health Standard Part 433 “Personal Protective Equipment,” General Industry Safety Standard Part 33 “Personal Protective Equipment,” and Construction Safety Standard Part 6 “Personal Protective Equipment,” as referenced in R 325.51993.

(c) A reference to 29 C.F.R. §1910.20, “Access to employee exposure and medical records,” in 29 C.F.R. 1926.62(l) means Occupational Health Standard Part 470 “Employee Medical Records and Trade Secrets,” as referenced in R 325.51993.

R 325.51993 **Return of employee to former job status.** Obtaining adopted and referenced standards.

Rule 93. 3. (1) **This rule replaces OSHA 1926.62(k)(1)(iii).** The OSHA regulations adopted in R 325.51992 are available from the United States Department of Labor, Occupational Safety and Health Administration, via the internet at website www.osha.gov, at no charge as of the time of adoption of these rules.

(2) **An employer shall return an employee to his or her former job status under either of the following circumstances:**

(a) **For an employee removed due to a blood lead level at or above 30 µg/dL when 2 consecutive blood sampling tests indicate that the employee's blood lead level is below 15 µg/dL.**

(b) **For an employee removed due to a final medical determination, when a subsequent final medical determination results in a medical finding, determination, or opinion that the employee no longer has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.** The standards adopted in R 325.51992 are also available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(3) **For the purposes of this rule, the requirement that an employer return an employee to his or her former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.** Copies of the standards adopted in R 325.51992 may be obtained from the publisher or may also be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, plus \$20.00 for shipping and handling.

(4) The following Michigan occupational safety and health standards are referenced in R 325.51991 and R 325.51992. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of licensing and regulatory affairs, MIOSHA standards section, 7150 Harris Drive, P.O. Box 30643, Lansing, MI, 48909-8143 or via the internet at website:

www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, at the time of adoption of these rules, is 4 cents per page.

(a) Construction Safety Standard Part 6 “Personal Protective Equipment,” R 408.40601 to R 408.40841.

(b) Construction Safety Standard Part 42 “Hazard Communication,” R 408.44201 to R 408.44203.

(c) General Industry Safety Standard Part 33 “Personal Protective Equipment,” R 408.13301 to R 408.13398.

(d) Occupational Health Standard Part 430 “Hazard Communication,” R 325.77001 to R 325.77003.

~~(e) Occupational Health Standard Part 433 “Personal Protective Equipment,” R 325.60001 to R 325.60013.~~

~~(f) Occupational Health Standard Part 470 “Employee Medical Records and Trade Secrets,” R 325.3451 to R 325.3476.~~

NOTICE OF PUBLIC HEARING

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (MIOSHA)

General Industry Safety and Health Standard Part 310 Lead in General Industry
ORR# 2018-044 LR

Construction Safety and Health Standard Part 603 Lead Exposure in Construction
ORR# 2018-045 LR

NOTICE OF PUBLIC HEARING
FRIDAY, AUGUST 3, 2018
Michigan Library and Historical Center
702 West Kalamazoo Street, Lansing, Michigan, 48909
Michigan Library Auditorium, 1st Floor, 9:00 a.m.

The Department of Licensing and Regulatory Affairs, Michigan Occupational Safety and Health Administration, will hold a public hearing on Friday, August 3, 2018 at the Michigan Library and Historical Center, 702 West Kalamazoo Street, Lansing, Michigan, Library Auditorium at 9:00 a.m. The hearing will be held to receive public comments on the proposed changes to the MIOSHA General Industry Part 310 and Construction Safety Part 603 Standards.

General Industry Safety and Health Standard Part 310 Lead in General Industry and Construction Safety and Health Standard Part 603 Lead Exposure in Construction give direction to employers and employees on protecting Michigan employees from health and safety hazards in the workplace when exposed to lead. The intent of the proposed revision of the rules is to update the outdated blood lead levels in the current rules to reflect today's level of knowledge. Existing standards are based on medical and scientific information that is more than 35 years old. Current rules allow workers to have Blood Lead Levels (BLL's) up to 50-60 µg/dL before they have to be removed from significant lead exposure, and they are permitted to return to work when their BLL is 40 µg/dL or lower. The proposed rules revise the removal levels to 30 µg/dL and the return to work level to 15 µg/dL. The requirement for Zinc Protoporphyrin testing is being removed from the proposed rules.

These rules are promulgated by authority conferred on the director of the department of licensing and regulatory affairs by sections 14 and 24 of 1974 PA 154, MCL 408.1014 and 408.1024; and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, and 2011-4, MCL 330.3101, 445.2001, 445.2011, 445.2025, and 445.2030. These rules will take effect 7 days after filing with the Secretary of State.

The rules are published on the Office of Regulatory Reinvention's website at www.michigan.gov/orr and in the August 1, 2018, issue of the *Michigan Register*. Comments must be submitted to the following address by 5:00 p.m. on Friday, August 3, 2018. Copies of the draft rules are available on the MIOSHA website in the *Spotlight* section at www.michigan.gov/mioshastandards, or by mail or electronic transmission at the following address:

Michigan Department of Licensing and Regulatory Affairs
MIOSHA Technical Services Division
530 West Allegan Street - P.O. Box 30643 - Lansing MI 48909-8143
Telephone 517.284.7740 - Facsimile 517.284.7735 - E-mail: kloppt@michigan.gov

This Notice of Public Hearing is published pursuant to Section 42 of the Administrative Procedures Act, MCL 24.242. The hearing is being held to receive public comments on the proposed amendments to the administrative rules listed above. The hearing will be for the purpose of providing an opportunity for all interested persons to present statements, views, data, questions, or arguments concerning the proposed rules. The public hearing will continue until all parties present have had a reasonable opportunity to present statements regarding the proposed rules. Persons presenting statements may be asked questions by the staff, as well as by the presiding officer. Statements may be limited in duration by the presiding officer in order to ensure that all interested parties have an opportunity to participate in the proceedings.

The hearing site is accessible, including handicap parking. People with disabilities requiring additional accommodations in order to participate in the hearing (such as information in alternate formats) should contact the MIOSHA Technical Services Division at 517.284.7740 at least 14 days prior to the hearing date. Individuals attending the hearing are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. Information at this meeting will be presented by speakers and printed handouts.

**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

BILL SCHUETTE, ATTORNEY GENERAL

FIREARMS ACT: Exemptions for residents and nonresidents
from pistol licensing requirements.
LICENSES AND PERMITS:
CONCEALED WEAPONS:

A resident of another state who holds a license to carry a pistol concealed upon his or her person issued by a state other than Michigan is exempt under subsection 12(1)(f), MCL 28.432(1)(f), of the Firearms Act, from obtaining a license to purchase, carry, possess, or transport a pistol as required by section 2, MCL 28.422, of the Act.

A Michigan resident who holds a concealed pistol license issued by another state is exempt under subsection 12(1)(f), MCL 28.432(1)(f), of the Firearms Act, from obtaining a license to purchase, carry, possess, or transport a pistol as required by section 2, MCL 28.422, but is not exempt from obtaining a concealed pistol license under section 5b, MCL 28.425b, of the Act, in order to carry a concealed pistol in Michigan.

Opinion No. 7304

June 19, 2018

The Honorable Mike Nofs
State Senator
The Capitol
Lansing, MI 48909

The Honorable Lee Chatfield
State Representative
The Capitol
Lansing, MI 48909

You have asked whether a person who holds a concealed pistol license issued by a state other than Michigan is exempt from the requirement to register his or her handgun in Michigan.¹

The Firearms Act (Act), 1927 PA 372, as amended, MCL 28.421 *et seq.*, regulates the possession and carrying of certain firearms by Michigan residents, and, to some extent, by residents of another state while in Michigan. As explained below, the Act provides for a general licensing requirement for people who wish to purchase, carry, possess, or transport regulated firearms, and a specific licensing

requirement for those who want to carry a concealed pistol. Both licensing schemes are implicated by your question, so a brief summary of each follows.

I. Pistol licensing

Section 2 of the Firearms Act, MCL 28.422, provides that “[e]xcept as otherwise provided in this act, a person shall not purchase, carry, possess, or transport a pistol in this state *without first having obtained a license for the pistol as prescribed in this section.*” (Emphasis added).² Subsection 2(3) provides that an “applicant” will be “qualified” to receive a “license” if certain criteria are met. MCL 28.422(3).

First, the person cannot be the subject of an order or disposition issued under various statutes, including personal protection orders, orders requiring involuntary hospitalization, or orders adjudging an individual as legally incapacitated. MCL 28.422(3)(a)(i)–(vii). Second, the person must be “18 years of age or older” or “21 years of age or older” if the “seller is licensed under 18 USC 923,” a federal law. MCL 28.422(3)(b). Third, the person must be “a citizen of the United States or an alien lawfully admitted into the United States and [] a legal resident of this state.” MCL 28.422(3)(c). Fourth, the person must not have a felony or a criminal charge listed in section 5b of the Act, MCL 28.425b, pending against him or her at the time of application. MCL 28.422(3)(d).³ Fifth, the person must not be prohibited from “possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under . . . MCL 750.224f,” the felon in possession of a firearm statute. MCL 28.422(3)(e). Sixth, the person “has not been adjudged insane in this state or elsewhere unless he or she

¹ Your request uses the term “handgun.” While federal law uses the term “handgun,” see 18 USC 921a(29), relevant Michigan law uses the term “pistol.” This opinion thus uses the term “pistol.”

² A “pistol” is defined as “a loaded or unloaded firearm that is 26 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals it as a firearm.” MCL 28.421(1)(i). Like pistols, a short-barreled shotgun or short-barreled rifle that is 26 inches or less in length is subject to section 2, MCL 28.422, or section 2a, MCL 28.422a, whichever is applicable. MCL 750.224b(4).

³ Subsection 5b(7), MCL 28.425b(7), contains an extensive list of misdemeanors that can effect an applicant’s ability to obtain a license to purchase or acquire a pistol or a concealed pistol license.

has been adjudged restored to sanity by court order.” MCL 28.422(3)(f). Seventh, the person “is not under an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.” MCL 28.422(3)(g). And eighth, the “person has not been adjudged legally incapacitated in this state or elsewhere. This subdivision does not apply to a person who has had his or her legal capacity restored by order of the court.” MCL 28.422(3)(h).

In addition to these requirements, another section of the Firearms Act specifies that “[a] license shall not be issued to an applicant under section 2 . . . unless . . . [t]he issuing agency has determined through the federal national instant criminal background check system (NICS) that the applicant is not prohibited under federal law from possessing or transporting a firearm.” MCL 28.426.¹

Any person meeting all the criteria must fill out an application for a license and sign it under oath, and in return will receive a license to purchase a pistol (often referred to as a pistol purchase permit) signed by the licensing authority (the local police department or county sheriff). MCL 28.422(3)–(4). This license to purchase is void unless used within 30 days. MCL 28.422(4). At the time the person “purchases or otherwise acquires a pistol, the seller shall fill out the license forms describing the pistol, together with the date of sale or acquisition, and sign his or her name in ink indicating that the pistol was sold to or otherwise acquired by the purchaser. The purchaser shall also sign his or her name in ink indicating the purchase or other acquisition of the pistol from the seller.” MCL 28.422(5) (emphasis added).

The person purchasing or otherwise acquiring the pistol must then return a copy of the completed license to the local police department or county sheriff within 10 days of the purchase or

¹ If the applicant is not a United States citizen, the licensing agency must also verify “through the United States immigration and customs enforcement databases that the applicant is not an illegal alien or a nonimmigrant alien.” MCL 28.426(b). These requirements also apply to applicants for a concealed pistol license under section 5b, MCL 28.425b. See MCL 28.426.

acquisition. *Id.* Within 10 days of receiving the completed license from the purchaser, the local police department or county sheriff must enter the information into the pistol entry database or otherwise provide the information to the Department of State Police. MCL 28.422(6). And within 48 hours of entering the information in the database or otherwise providing it to the State Police, the local police department or county sheriff must forward a copy of the completed license to the State Police. *Id.* Thereafter, “[t]he licensee may carry, use, possess, and transport the pistol for 30 days beginning on the date of purchase or acquisition only while he or she is in possession of his or her copy of the license.” *Id.* After the 30 days, “the person is not required to have the license in his or her possession while carrying, using, possessing, or transporting the pistol” *Id.*

Under the Michigan Penal Code, Chapter 37, Firearms, 1931 PA 328, MCL 750.222 *et seq.*, it is a misdemeanor for a person to “obtain” a pistol in violation of section 2, MCL 28.422. MCL 750.232a(1). A person who makes a false statement on an application to purchase a pistol under section 2, MCL 28.422, is guilty of a felony. MCL 750.232a(3). In addition, a person who “knowingly sells a pistol without complying with section 2” is guilty of a misdemeanor. MCL 750.223.

II. Concealed pistol licensing

Subsection 227(2) of the Michigan Penal Code, MCL 750.227(2), generally prohibits the carrying of a pistol concealed upon a person’s body without a license:

A person shall not carry a pistol concealed on or about his or her person . . . except in his or her dwelling house, place of business, or on other land possessed by the person, without a license to carry the pistol as provided by law and if licensed, shall not carry the pistol in a place or manner inconsistent with any restrictions upon such license. [Emphasis added.]

A person who violates this subsection is guilty of a felony. MCL 750.227(3).

Consistent with the language of subsection 227(2), subsection 231a(1)(a) expressly provides that the prohibition regarding concealed carry does not apply “[t]o a person holding a valid license to carry a

pistol concealed upon his or her person issued by his or her state of residence except where the pistol is carried in nonconformance with a restriction appearing on the license.” MCL 750.231a(1)(a).¹

As noted above, the Firearms Act sets forth the licensing scheme for carrying a concealed pistol in Michigan. See MCL 28.421a (“It is the intent of the legislature to create a standardized system for issuing concealed pistol licenses . . .”). Section 5b of the Firearms Act, MCL 28.425b, prescribes the requirements for obtaining such a license. A person must apply for a license by filling out an application and providing the required information, including that: the applicant meets the requirements for licensure; the applicant authorizes access to certain personal records, like medical records; the applicant discloses relevant mental health history, along with any felony convictions and specific misdemeanors; and the applicant discloses whether the person was dishonorably discharged from the military. MCL 28.425b(1)(a)–(f). The applicant must also provide a certificate stating that he or she has completed pistol safety training as required by the Act. MCL 28.425b(1)(j); MCL 28.425b(7)(c). Applications are then returned to the relevant county clerk. MCL 28.425b(1).²

After the applicant submits a completed application, pays the required fee, MCL 28.425b(5), and has fingerprints taken, MCL 28.425b(9), the Department of State Police verifies whether the applicant meets certain requirements for licensure. MCL 28.425b(6). The requirements are similar to those stated above for receiving a license to purchase or acquire a pistol under section 2, but the applicant must be at least 21 years of age; reside in Michigan for at least six months;³ have completed the required training; not be dishonorably discharged from the military; and have no felony convictions or pending felony charges and no convictions or pending charges for certain misdemeanors within 3 or 8 years preceding

¹ The Michigan Penal Code also exempts other individuals, see MCL 750.231, or certain circumstances, see MCL 750.231a(1)(b)–(e), from subsection 227(2)’s concealed carry prohibition.

² Public Act 3 of 2015 abolished county concealed weapon licensing boards and transferred the duties to county clerks.

³ The six months applies unless an emergency concealed pistol license is sought or, at the time the applicant’s residence in Michigan is established, the applicant has a valid concealed pistol license issued by another state. MCL 28.425b(7)(b).

the application. MCL 28.425b(7)(a)–(m). The person must also have a valid state-issued driver license or personal identification card. MCL 28.425b(7)(n). The person seeking licensure must also submit fingerprints, which are sent to the Department of State Police and the Federal Bureau of Investigation for review. MCL 28.425b(1), (9)–(10).

If an applicant does not meet the requirements of subsection 5b(7), the license must be denied. MCL 28.425b(11). The license generally must be granted or denied within 45 days after the applicant has classifiable fingerprints taken, and if denied, the applicant must be informed of the reason for the denial and the right to appeal. MCL 28.425b(13)–(14). If the license is granted, it “authorizes the licensee” to “[c]arry a pistol concealed on or about his or her person anywhere in this state,” and in “a vehicle, whether concealed or not concealed, anywhere in this state” except as otherwise provided by section 5o, MCL 28.425o, and other laws. MCL 28.425c(3)(a)–(b).

III. Interplay between pistol licensing and concealed pistol licensing

Subsection 2a(1) of the Firearms Act, MCL 28.422a(1), provides that certain “individuals are not required to obtain a license under section 2 to purchase, carry, possess, use, or transport a pistol[.]” The exemptions include “[a]n individual licensed under section 5b” to carry a concealed pistol. MCL 28.422a(1)(a).¹ In that case, if a person licensed to carry a concealed pistol purchases or otherwise acquires a pistol, the seller records the purchase information on a record (presently called a pistol sales record), including the purchaser’s concealed weapon license number, and the purchaser must return a copy of the record to his or her local police department or county sheriff within 10 days of the purchase or acquisition. MCL 28.422a(2).

¹ That exemption, however, does not include “an individual who has an emergency license issued under section 5a(4) or a receipt serving as a concealed pistol license under section 5b(9) or 5l(3).” MCL 28.422a(1)(a).

Within 10 days of receiving the pistol sales record from the purchaser, the local police department or county sheriff must enter the information into the pistol entry database or otherwise provide the information to the Department of State Police. MCL 28.422a(3). Within 48 hours of entering the information in the database or otherwise providing it to the State Police, the local police department or county sheriff must forward a copy of the record to the State Police. *Id.* “The purchaser may carry, use, possess, and transport the pistol for 30 days beginning on the date of purchase or acquisition only while he or she is in possession of his or her copy of the record.” *Id.* After the 30 days, “the person is not required to have the record in his or her possession while carrying, using, possessing, or transporting the pistol” *Id.* Thus, section 2a, MCL 28.422a, relieves Michigan concealed pistol license holders of the obligation to obtain a license to purchase a pistol under section 2. Nevertheless, the purchase or acquisition information is shared with law enforcement just as in a purchase or acquisition under section 2.

IV. Application of pistol licensing requirements to a person holding a concealed pistol license from another state

You ask whether “an individual who holds a concealed pistol license from a state other than Michigan [is] exempt from the requirement to register” his or her pistol in Michigan. The word “register” is understood as referring to the general licensing requirements set forth in section 2 of the Act, which includes a pistol registration component, as discussed above. You also note that this question “arises from the exemption offered in MCL 28.432(1)(f)[.]”

Again, section 2 sets forth a general licensing requirement for the purchase, possession, carrying, and transporting of a pistol in Michigan. Section 2 itself provides exemptions to the licensing requirement for various individuals. See MCL 28.422(7) (dealers who purchase from wholesalers; persons who sell or exchange antique firearms); 422(9) (nonresidents); 422(12) (persons under age 18 at a target range or shooting facility); 422(13) (other persons at target range or shooting facility).

In addition, section 2a provides exemptions to the licensing requirement. See MCL 28.422a(1)(a) (individual with concealed pistol license under section 5b, with certain exceptions); 422a(1)(b) (federally licensed firearms dealer); 422a(1)(c) (individual who purchases a pistol from a federally licensed firearms dealer in compliance with 18 USC 922(t)); 422a(1)(d) (individual employed as a police officer and licensed or certified under 1965 PA 203).

And finally, section 12 of the Act, MCL 28.432, establishes other exemptions to section 2. Section 12 provides that “[s]ection 2 does not apply to any of the following,” and it sets forth a number of entities and individuals, including:

A United States citizen holding a license to carry a pistol concealed upon his or her person issued by another state. [MCL 28.432(1)(f).]

The question is who is exempted from complying with section 2 under the plain language of subsection 12(1)(f)—a resident of another state, a resident of Michigan, or both. Because your request does not expressly identify whether the person at issue is a resident of Michigan or of another state, both scenarios are addressed.

A. Resident of another state

When interpreting a statute, the primary rule of construction is to discern and give effect to the Legislature’s intent, the most reliable indicator of which is the clear and unambiguous language of the statute. *Jesperson v Auto Club Ins Ass’n*, 499 Mich 29, 34 (2016). The language must be enforced as written, giving effect to every word, phrase, and clause. *Id.*

Subsection 12(1)(f) plainly applies to a United States citizen residing in another state who holds a license to carry a concealed pistol, whether issued by the person’s state of residence or by state other

than Michigan.¹ This exemption is consistent with section 2’s internal exemption from its requirements for nonresidents, except section 2 requires the nonresident to be licensed to purchase, carry, or transport a pistol by that individual’s “state of residence.” MCL 28.422(9).²

It is my opinion, therefore, that a resident of another state who holds a license to carry a pistol concealed upon his or her person issued by that state or a state other than Michigan is exempt under subsection 12(1)(f), MCL 28.432(1)(f), of the Firearms Act, from obtaining a license to purchase, carry, possess, or transport a pistol as required by section 2, MCL 28.422, of the Act.

B. Resident of Michigan

For purposes of licensing under section 2, “a person is considered a legal resident” of Michigan if (1) the person has a valid, lawfully obtained Michigan driver license or personal identification card; or (2) the person is lawfully registered to vote in Michigan; or (3) the person is on active duty status with the United States armed forces and is stationed outside of Michigan, but the person’s home of record is in Michigan; or (4) the person is on active duty with the United States armed forces and is permanently stationed in Michigan, but the person’s home of record is in another state. MCL 28.422(3)(c)(i)–(iv).³

Assuming an individual is a resident of Michigan for purposes of section 2, the question is whether the resident’s possession of a concealed pistol license from a state other than Michigan exempts the resident from obtaining a license to possess, purchase, carry, or transport a pistol in Michigan under section 2.

¹ There are 30 states that will issue concealed pistol (or concealed carry) licenses to nonresidents, including Ohio, Indiana, Illinois, Minnesota, and Pennsylvania. See <http://www.handgunlaw.us/documents/NonResidentPermits.pdf>, (last accessed June 14, 2018).

² Section 2’s exemption for nonresidents with a license from their state of residence does not apply if the nonresident’s visit exceeds 180 days. MCL 28.422(9)(e).

³ Section 5b also requires persons to be residents of Michigan in order to obtain a concealed pistol license. See MCL 28.425b(7)(b)(i)–(iv).

“When the plain and ordinary meaning of statutory language is clear, [] construction is neither necessary nor permitted.” *Pace v Edel–Harrelson*, 499 Mich 1, 6 (2016). The language of subsection 12(1)(f) is plain; it applies to a “United States citizen holding a license to carry a pistol concealed upon his or her person issued by another state.” MCL 28.432(1)(f). A Michigan resident with an out-of-state concealed pistol license who is also a United States citizen falls within this broad language and is exempt from section 2’s licensing requirements. This conclusion is consistent both with the Act’s treatment of Michigan residents with Michigan concealed pistol licenses, and with the legislative history of subsection 12.

Statutory provisions “ ‘are not to be read in isolation; rather, context matters, and thus statutory provisions are to be read as a whole.’ ” *McCahan v Brennan*, 492 Mich 730, 740 (2012), quoting *Robinson v City of Lansing*, 486 Mich 1 (2010). Context confirms the plain meaning of section 12(1)(f). As noted above, section 2a exempts a Michigan resident with a Michigan concealed pistol license from the licensing requirements of section 2. MCL 28.422a(1)(a).¹ This exemption is rational. As discussed above in Parts I and II, section 5b’s licensing requirements for concealed pistol licenses are more rigorous than those for section 2 licenses to purchase or otherwise acquire a pistol. See MCL 28.425b(1)(a)–(j), (7), (9). In other words, if a Michigan resident has met the requirements for obtaining a Michigan concealed pistol license, the resident has met the requirements of section 2 as well. In addition, pistol purchase or acquisition information is recorded for Michigan concealed pistol license holders as it is for section 2 license holders. See MCL 28.422(4)–(6) and 28.422a(2)–(3).

The rationale for exempting a Michigan resident with an *out-of-state* concealed pistol license from section 2 is presumably the same—that the Michigan resident will have essentially met Michigan’s

¹ MCL 28.422a(1)(a) provides that “[t]he following individuals are not required to obtain a license under section 2, . . . [a]n individual licensed under section 5b, except for an individual who has an emergency license issued under section 5a(4) or a receipt serving as a concealed pistol license under section 5b(9) or 5l(3).”

section 2 licensing requirements in the process of obtaining his or her out-of-state concealed pistol license. See, e.g., *People v Miller*, 238 Mich App 168, 171 (1999) (“Apparently, the intent of the Legislature was to accept as a satisfactory alternative the application, investigation, and licensing scheme of some other state, in lieu of similar procedures required by Michigan law.”).¹ It should be noted that for this exemption to apply, the Michigan resident must possess an actual license from another state. OAG, 1930–1932, pp 568, 570 (May 10, 1932) (“A license to carry a pistol by another state is necessary.”). See, e.g., *Miller*, 238 Mich App at 171 (“another state’s legislative scheme that does not require any license whatsoever being issued is insufficient to trigger the exclusion of the Michigan statute”).

The history of section 12, MCL 28.432, further supports this conclusion. A precursor to section 12 appeared in Public Act 313 of 1925. But instead of providing an exemption from licensing, section 6 of that Act provided that a Michigan concealed pistol license could “be issued . . . to any person having a bona fide residence or place of business within the United States, and holding a license to carry [a pistol] concealed upon his person, issued by the authorities of the United States.” 1925 PA 313, section 6.

Public Act 313 was repealed by 1927 PA 372, Michigan’s current Firearms Act. As enacted, section 12 of Public Act 372 addressed both section 2 and section 5 licensing, and set forth many of the exceptions found in the Act today, including language similar to subsection 12(1)(f):

The provisions of section two [pistol licensing], . . . [and] five [concealed pistol licensing] . . . shall not apply to . . . a person licensed to carry a pistol concealed upon his person issued by another state

This section was codified at CL 1929, § 16761, then again at CL 1948, 28.432.

¹ Given the wide variety of licensing schemes, this may or may not be true depending upon the laws of the licensing state.

Section 12 was first amended by Public Act 216 of 1964. Public Act 216 amended section 12 and added section 12a. Section 12 continued to set forth the exemptions from section 2’s pistol licensing requirements, including the exemption for a person with a concealed pistol license from another state. New section 12a set forth exemptions from the concealed pistol licensing requirements, which included a parallel exemption for “[a] person licensed to carry a pistol concealed upon his person issued by another state[.]” See 1964 PA 216, MCL 28.432a.

Section 12a’s language was later interpreted by Attorney General Frank Kelley in OAG, 1993-1994, No. 6798, p 144 (May 16, 1994). Attorney General Kelley analyzed section 12a and MCL 750.231a, which exempted “a person holding a valid license to carry a pistol concealed upon his or her person issued by another state” from prosecution for carrying a concealed weapon under MCL 750.227. The Attorney General concluded that this language did not apply to Michigan residents with out-of-state concealed pistol licenses in light of the Act’s numerous and specific licensing requirements because this would “permit Michigan residents to avoid them by obtaining a concealed pistol license in another state that may not impose many of the Michigan requirements.” *Id.* at 146.

This opinion was cited with approval in *People v Williams*, 226 Mich App 568, 570–571 (1997), which also interpreted MCL 750.231a and similarly concluded that the “person holding a valid license to carry a pistol concealed upon his or her person issued by another state” language did not apply to a Michigan resident in possession of an out-of-state concealed pistol license. Otherwise, a Michigan resident could avoid Michigan’s “strict criteria” by obtaining a license from another state. *Id.* at 571–572.¹

¹ See also *Urbanik v Attorney General*, unpublished memorandum opinion by the Michigan Court of Appeals, (Docket No. 202126), decided April 3, 1998 (similarly interpreting MCL 28.432a).

Importantly, neither OAG 6798 nor the *Williams* Court examined or even mentioned the language of section 12, MCL 28.432.

Not long after *Williams*, the Legislature amended section 12a in Public Act 381 of 2000. Public Act 381 amended section 12a to provide its current exemption for “[a] resident of another state who is licensed by that state to carry a concealed pistol.” MCL 28.432a(h). This amendment conformed the exemption in section 12a to the interpretation given it in *Williams*.

Section 12 was also amended by Public Act 381. Before its amendment, section 12 provided that section 2 did not apply to “a person holding a license to carry a pistol concealed upon his person issued by another state” Public Act 381 substituted the term “United States citizen” for “person” in section 12(1)(f). MCL 28.432(1)(f). But unlike section 12a, section 12 was not amended to conform to the *Williams* Court’s interpretation.

“[W]hen enacting legislation, the Legislature is presumed to be fully aware of existing laws, including judicial decisions.” *Alvan Motor Freight, Inc v Dep’t of Treasury*, 281 Mich App 35, 41 (2008). Under this principle, it is presumed that the Legislature was aware of both section 12’s longstanding exemption from section 2 licensing and the *Williams* decision interpreting similar language in section 12a. These facts, along with the Legislature’s failure to similarly amend section 12 at the same time it amended section 12a in Public Act 381, confirms that the Legislature did not intend section 12(1)(f) to be limited to nonresidents. Rather, Michigan residents who are also United States citizens may invoke the exemption.¹

¹ Unlike other sections of the Act, section 12(1)(f) has not been amended to address lawfully admitted aliens. See MCL 28.422(3)(c), 28.425b(7)(b); see also *Chan v City of Troy*, 220 Mich App 376 (1996) (holding as unconstitutional under the federal Equal Protection Clause section 2’s United States citizenship requirement for licensing to the extent it excluded lawfully admitted aliens).

The purpose of section 2 along with section 5b is the creation of a comprehensive licensing scheme regarding the possession of pistols by Michigan residents. Some might argue that allowing a Michigan resident to opt out of section 2 licensing based on the person's possession of an out-of-state concealed pistol license is at odds with that purpose, particularly where even nonresidents staying in Michigan must comply with section 2 after the expiration of 180 days. MCL 28.422(9). But the language of section 12(1)(f) is expansive and includes Michigan residents. If this interpretation is not the intended result, the Legislature is certainly free to amend the Act accordingly.¹

To be clear, while a Michigan resident in possession of a concealed pistol license from another state is exempt from section 2's requirements, possession of that license does not entitle the Michigan resident to carry a concealed pistol in Michigan. Rather, a Michigan resident must obtain a Michigan concealed pistol license to carry concealed in Michigan. MCL 28.425b(7); 28.432a(h). Nonetheless, a Michigan resident with an out-of-state concealed pistol license under section 12(1)(f) may lawfully transport a pistol in a vehicle in Michigan, because such a resident is in compliance with section 2 by virtue of the exemption in section 12. See MCL 750.227(2); 750.231a(1)(a), (d), and (e).

It is my opinion, therefore, that a Michigan resident who holds a concealed pistol license issued by another state is exempt under subsection 12(1)(f), MCL 28.432(1)(f), of the Firearms Act from obtaining a license to purchase, carry, possess, or transport a pistol as required by section 2, MCL 28.422, but is not exempt from obtaining a concealed pistol license under section 5b, MCL 28.425b, of the Act, in order to carry a concealed pistol in Michigan.

Sincerely,

¹ This opinion does not address whether Michigan residents who hold a concealed pistol license from another state, and others who are exempt from section 2 under section 12, must comply with the requirements of section 2a(2).

A handwritten signature in black ink, reading "Bill Schuette". The signature is written in a cursive style with a long horizontal flourish extending from the end of the name.

BILL SCHUETTE
Attorney General

meaning. For example, the Michigan Transportation Commission, a six-member executive agency appointed by the Governor (similar to the Michigan Civil Rights Commission), cannot modify the road-funding allocations set out in law. No, only the Legislature may modify highway funding allocations. See 1951 PA 51; MCL 247.660. As another example, the Michigan Commission on Agriculture and Rural Development, a five-member executive agency appointed by the Governor, may recommend land-use policies but cannot change what counts as “agricultural land” under the Michigan Zoning Enabling Act. MCL 125.3102(a). Under Michigan law, agencies and commissions have limited authority to interpret the statutes they administer, and their interpretations are entitled to respectful consideration, but an agency interpretation is invalid if it conflicts with the plain language of the statute.

Here, the Commission’s interpretation conflicts with the Act’s plain language: ELCRA’s text prohibits discrimination based on sex but does not cover distinctions based on sexual orientation or gender identity. Because the Commission’s interpretation is inconsistent with ELCRA, its interpretive statement is invalid, and the Commission may not rely on it to enforce ELCRA. Although ELCRA expressly defines discrimination based on sex to include sexual harassment that occurs in the context of employment, public accommodations, public services, education, or housing, ELCRA does not define discrimination based on sex to include sexual orientation or gender identity.

I. Consistent with Michigan’s Constitution, the Legislature enacted ELCRA.

The Elliott-Larsen Civil Rights Act was enacted in 1976, 1976 PA 453, and it bans discrimination (in employment, housing, public accommodations, public service, and educational facilities) based on ten enumerated categories: “religion, race, color, national origin, age, sex, height, weight, familial status, or marital status as prohibited by this act, is recognized and declared to be a civil right.” MCL 37.2102(1); see also, Const 1963, art 1, § 2. The Act does not define the word “sex,” but it

was amended, first in 1978 and then in 1980, to specify that two types of conduct count as discrimination based on sex. 1978 PA 153; 1980 PA 202. First, with respect to employment, it provides that “ ‘sex’ includes, but is not limited to, pregnancy, childbirth, or a medical condition related to pregnancy or childbirth that does not include nontherapeutic abortion not intended to save the life of the mother.” MCL 37.2201(d); see also MCL 37.2202(d) (identifying prohibited acts). Second, it provides that “[d]iscrimination because of sex includes sexual harassment.” MCL 37.2103(i). “Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature” *Id.*

The Michigan Civil Rights Commission is the executive agency charged in Michigan’s Constitution with “investigat[ing] alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution” Const 1963, art 5, § 29. In addition to those four categories listed in the Constitution, the Commission is also authorized by ELCRA to issue orders addressing violations of ELCRA. MCL 37.2605(1).

On May 21, 2018, the Commission issued an interpretive statement asserting that the language “because of . . . sex” in ELCRA is “ambiguous.” Interpretive Statement 2018-1 (Attachment A). The Commission based this finding of ambiguity on its belief that “the definition of ‘discrimination because of . . . sex’ under Michigan law has to date been interpreted to be less inclusive than the definitions of other protected classes, and in a way that is contrary to the plain meaning of the language in this context.” *Id.* As a result, the Commission stated that “as used in the Elliott Larsen Civil Rights Act ‘discrimination because of . . . sex’ includes discrimination because of gender identity and discrimination because of sexual orientation.” *Id.* The Commission then said that it would “process all

complaints alleging discrimination on account of gender identity and sexual orientation as complaints because of sex” and therefore prohibited by the Act. *Id.*¹

II. ELCRA covers discrimination based on sex, not based on sexual orientation or gender identity.

The starting point for answering your question is ELCRA’s plain language, because the Commission’s authority extends only to enforcing civil rights guaranteed by the Constitution or by law, and not to creating new civil rights. The Commission’s authority to consider complaints relating to sexual orientation or gender identity therefore depends on whether ELCRA covers those categories.

Michigan law governing statutory interpretation focuses on the plain and ordinary meaning of the statutory text. MCL 8.3a (“All words and phrases shall be construed and understood according to the common and approved usage of the language”); *Jespersion v Auto Club Ins Ass’n*, 499 Mich 29, 34 (2016) (“When interpreting statutory language, we begin with the plain language of the statute. We must give effect to the Legislature’s intent, and the best indicator of the Legislature’s intent is the words used.”) (citations and quotation marks omitted). “When the plain and ordinary meaning of statutory language is clear, judicial construction is neither necessary nor permitted.” *Pace v Edel-Harrelson*, 499 Mich 1, 7 (2016).

The fact that a word is undefined does not make it ambiguous. *Terrien v Zwit*, 467 Mich 56, 75–76 (2002) (rejecting as “remarkable” the proposition “that the lack of an explicit internal definition of a term somehow equates to ambiguity”). Instead, “[w]hen a statute does not expressly define a term, courts may consult dictionary definitions to ascertain its ordinary and generally accepted meaning.” *Pace*, 499 Mich at 7. And because the goal is to “ ‘ascertain the original meaning’ ” of the statute, “it is

¹ The Civil Rights Commission was invited to provide comments regarding this opinion request and did so. Comments were also received from Representative Sam Singh and Senator Jim Ananich on behalf of the Michigan House and Senate

best to consult a dictionary from the era in which the legislation was enacted.” *In re Certified Question from United States Court of Appeals for Ninth Circuit (Deacon v Pandora Media, Inc)*, 499 Mich 477, 484–85 (2016), quoting *Cain v Waste Mgt, Inc (After Remand)*, 472 Mich 236, 247 (2005).

A. The word “sex” refers to the biological difference between males and females and not to the distinct concepts of sexual orientation or gender identity.

The word “sex” was understood in 1976, when ELCRA was enacted, to refer to the biological differences between males and females, not to refer to the concepts of sexual orientation or gender identity. For example, the 1969 edition of the *American Heritage Dictionary* defined “sex” as “[t]he property or quality by which organisms are classified according to their reproductive functions,” and as “[e]ither of two divisions, designated *male* and *female*, of this classification.” Similarly, the 1975 edition of *Webster’s New Collegiate Dictionary* defined “sex” as “either of two divisions of organism distinguished respectively as male or female,” and as “the sum of the structural, functional, and behavioral characteristics of living beings that subserve reproduction by two interacting parents and that distinguish males and females.” Those definitions are unambiguous and did not include the concepts of sexual orientation or of gender identity; indeed, common dictionaries from 1976 or earlier (such as the two cited above) typically did not include entries for those concepts. E.g., *Hively v Ivy Tech Community College of Indiana*, 853 F3d 339, 350 n 5 (CA 7, 2017) (en banc) (“[T]he term ‘sexual orientation’ was not defined in the dictionary around the time of Title VII’s enactment [in 1964].”); accord *id.* at 357 (Posner, J, concurring) (“ ‘Sex’ in 1964 meant gender, not sexual orientation.”). In short, the contemporaneous understanding of the word “sex” was that it referred to the reproductive functions of organisms (i.e., to biological distinctions between males and females).

In fact, the words “sex,” “sexual orientation,” and “gender identity” continue, in 2018, to express different concepts. Compare Dictionary.com (defining “sex” as “either the male or female division of a species, especially as differentiated with reference to the reproductive functions” and as “the sum of the structural and functional differences by which the male and female are distinguished, or the phenomena or behavior dependent on these differences”), with Dictionary.com (defining “sexual orientation” as “one’s natural preference in sexual partners”), and Dictionary.com (defining “gender identity” as “a person’s inner sense of being male or female”) (all web pages last visited June 11, 2018); see also merriam-webster.com (similar definitions); ahdictionary.com (American Heritage Dictionary, with similar definitions). These definitional distinctions confirm that prohibiting discrimination because of “sex” (i.e., because of status as a male or female of a species) conveys a different idea than prohibiting discrimination because of “sexual orientation” or because of “gender identity.”

B. Numerous contemporaneous interpretations of the word “sex” confirm that it was originally understood to refer to biological sex, not to sexual orientation or gender identity.

Michigan law also considers contemporaneous interpretation of words as shedding light on their original meaning. See *People v Pickens*, 446 Mich 298, 319 (1994) (“Strong deference is due contemporaneous and longstanding interpretations of the constitution because they most likely reflect its original understanding.”); see also *McPherson v Blacker*, 92 Mich 377, 383 (1892). Twenty-five years ago, the Michigan Court of Appeals considered the meaning of the word “sex,” and did so in the specific context of the Elliott-Larsen Civil Rights Act. In *Barbour v Department of Social Services*, 198 Mich App 183 (1993), a plaintiff asserted that harassment based on his sexual orientation violated the Act. The Michigan Court of Appeals rejected that conclusion, holding instead that “harassment or discrimination based on a person’s sexual orientation is not an activity proscribed by the act.” *Id.* at 185. The court thus did not read the phrase “because of sex” in the Act to mean because of sexual

orientation or because of gender identity. *Id.* at 184 n 1 (emphasizing the word “sex” in the statutory text); see also *Robinson v Ford Motor Co*, 277 Mich App 146, 156–57 (2007) (“ ‘[S]ex,’ is most commonly defined as, ‘either the female or male division of the species, esp. as differentiated with reference to the reproductive functions’ and ‘the sum of the structural and functional differences by which the female and male are distinguished, or the phenomena or behavior dependent on these differences.’ ”).

Barbour’s interpretation remains binding law in Michigan, as the Sixth Circuit has recognized, *Kalich v AT & T Mobility, LLC*, 679 F3d 464, 470 (CA 6, 2012) (quoting *Barbour* for the proposition that “[h]arassment or discrimination because of a person’s sexual orientation or perceived sexual orientation is not prohibited conduct under ELCRA”), and so it binds the Civil Rights Commission. MCR 7.215(C)(2); MCR 7.215(J)(1). In addition, the Michigan Supreme Court, which is very familiar with the plain language of ELCRA, has observed that “the [EL]CRA” “neither provides a cause of action for sexual orientation discrimination nor grants municipalities the authority to create one.” *Mack v City of Detroit*, 467 Mich 186, 196 (2002); see also *id.* at 196–197 (“No [] legislative act has recognized sexual orientation discrimination claims.”); *id.* at 196 n 10 (“[EL]CRA does not recognize sexual orientation discrimination”). These statements further confirm that ELCRA’s plain language is clear and that it does not include sexual orientation as a protected class.

The Court of Appeals’ interpretation in *Barbour* and the Supreme Court’s interpretation in *Mack* are not outliers. To the contrary, every federal regional circuit asked to read nearly identical language in the federal Title VII statute—language prohibiting discrimination “based on sex”—interpreted that same word in the same way when it first (i.e., most contemporaneously) examined the issue. 42 USC 2000e-2 (addressing discriminating in employment). Each concluded that Title VII’s prohibition on discrimination based on “sex” did not cover discrimination based on sexual orientation:

- *DeSantis v Pac Tel & Tel Co, Inc*, 608 F2d 327, 329–30 (CA 9, 1979) (“Title VII’s prohibition of ‘sex’ discrimination applies only to discrimination on the basis of gender and should not be judicially extended to include sexual [orientation.]”) (footnote omitted);
- *Blum v Gulf Oil Corp*, 597 F2d 936, 938 (CA 5, 1979) (per curiam) (“Discharge for [sexual orientation] is not prohibited by Title VII.”);
- *Williamson v AG Edwards & Sons, Inc*, 876 F2d 69, 70 (CA 8, 1989) (“Title VII does not prohibit discrimination against [gays].”);
- *Wrightson v Pizza Hut of Am, Inc*, 99 F3d 138, 143 (CA 4, 1996) (“Title VII does not afford a cause of action for discrimination based upon sexual orientation”);
- *Fredette v BVP Mgt Assoc*, 112 F3d 1503, 1510 (CA 11, 1997) (“We do not hold that discrimination because of sexual orientation is actionable.”);
- *Higgins v New Balance Athletic Shoe, Inc*, 194 F3d 252, 259 (CA 1, 1999) (“Title VII does not proscribe harassment simply because of sexual orientation.”);
- *Simonton v Runyon*, 232 F3d 33, 35 (CA 2, 2000) (“The law is well-settled in this circuit and in all others to have reached the question that Simonton has no cause of action under Title VII because Title VII does not prohibit harassment or discrimination because of sexual orientation.”);
- *Hamner v St Vincent Hosp & Health Care Ctr, Inc*, 224 F3d 701, 704 (CA 7, 2000) (“[H]arassment based solely upon a person’s sexual preference or orientation (and not on one’s sex) is not an unlawful employment practice under Title VII.”);
- *Bibby v Philadelphia Coca Cola Bottling Co*, 260 F3d 257, 261 (CA 3, 2001) (“Title VII does not prohibit discrimination based on sexual orientation.”);
- *Medina v Income Support Div, New Mexico*, 413 F3d 1131, 1135 (CA 10, 2005) (“We construe Ms. Medina’s argument as alleging she was discriminated against because she is a heterosexual. Title VII’s protections, however, do not extend to harassment due to a person’s sexuality.”);
- *Vickers v Fairfield Med Ctr*, 453 F3d 757, 762 (CA 6, 2006) (“As is evident from the above-quoted language, sexual orientation is not a prohibited basis for discriminatory acts under Title VII.”).

As these decisions show, courts consistently understood, from the 1970s to the 2000s, that there is a difference between classifying someone based on sex and classifying based on sexual orientation.

The same is true with regard to gender identity. For more than 50 years after the inclusion of “sex” in Title VII (i.e., from 1964 to 2017), every federal circuit to directly address whether “based on

sex” meant “based on gender identity” held that Title VII does not prohibit discrimination based on gender identity. See *Holloway v Arthur Andersen & Co*, 566 F2d 659, 662 (CA 9, 1977) (rejecting the argument that “that ‘sex’ as used [in Title VII] is [synonymous] with ‘gender,’ and gender would encompass transsexuals” because, “[g]iving the statute its plain meaning, this court concludes that Congress had only the traditional notions of ‘sex’ in mind”); *Sommers v Budget Marketing, Inc*, 667 F2d 748, 750 (CA 8, 1982) (per curiam) (in light of “the plain meaning” of the term “sex,” Title VII does not “include transsexualism”); *Ulane v E Airlines, Inc*, 742 F2d 1081, 1084–1085 (CA 7, 1984) (rejecting holding that “sex” as used in Title VII covers “sexual identity” and prohibits discrimination against a transsexual, and stating, “The phrase in Title VII prohibiting discrimination based on sex, in its plain meaning, implies that it is unlawful to discriminate against women because they are women and against men because they are men.”).

To be sure, two federal circuits reversed course this year (more than half a century after Title VII’s enactment) on the issue of sexual orientation. E.g., *Zarda v Altitude Express, Inc*, 883 F3d 100, 114 (CA 2, 2018) (en banc) (holding that Title VII bars discrimination based on sexual orientation); *Hively v Ivy Tech Community College of Indiana*, 853 F3d 339 (CA 7, 2018) (en banc) (holding that Title VII covers discrimination based on sexual orientation). And the Sixth Circuit has held “that discrimination on the basis of transgender and transitioning status violates Title VII.” *Equal Employment Opportunity Comm v RG & GR Harris Funeral Homes, Inc*, 884 F3d 560, 574–75 (CA 6, 2018). But those interpretations were less contemporaneous, and so less persuasive as to the original meaning of the word “sex” in 1964 (or 1976). As the Michigan Supreme Court has explained, courts are expected to “ascertain the original meaning . . . when the statute was enacted,” *Cain*, 472 Mich at 247, so it is the older cases, not the newer ones, that offer the most insight into the original public meaning of the word “sex.”

C. Recent federal cases expanding on the meaning of the word “sex” under federal law are not consistent with Michigan’s principles of statutory interpretation.

More fundamentally, these newer federal decisions interpreting Title VII do not follow Michigan’s principles of statutory interpretation. And “[w]hile federal precedent may often be useful as guidance in this Court’s interpretation of laws with federal analogues, such precedent cannot be allowed to rewrite Michigan law.” *Garg v Macomb Co Cmty Mental Health Services*, 472 Mich 263, 283 (2005), opinion amended on denial of rehearing (July 18, 2005). Michigan law remains rooted in the original statutory text. E.g., MCL 8.3a; *Jesperson*, 499 Mich at 34 (“ ‘We must give effect to the Legislature’s intent, and the best indicator of the Legislature’s intent is the words used.’ ”); *People v McKinley*, 496 Mich 410, 415 (2014) (“If the statutory language is unambiguous, no further judicial construction is required or permitted.”).

This interpretive approach recognizes that it is the Legislature that is authorized to enact and change laws, not the other branches of government. But these recent federal decisions do not rely on legislative intent or contend that the word “sex” would have been understood to mean “sexual orientation” or “gender identity” at the time of enactment. Rather, as Judge Posner acknowledged in *Hively*, those interpretations are instances where “judges rather than members of Congress[] are imposing on a half-century-old statute a meaning of ‘sex discrimination’ that the Congress that enacted it would not have accepted.” 853 F3d at 357 (Posner, J, concurring); see also *id.* at 353 (calling this process “judicial interpretive updating”). As he acknowledged, “Title VII does not mention discrimination on the basis of sexual orientation, and so an explanation is needed for how 53 years later the meaning of the statute has changed and the word ‘sex’ in it now connotes both gender and sexual orientation.” *Id.* The explanation that he offers is that “[w]e understand the words of Title VII differently . . . because we live in a different era, a different culture.” *Id.* at 357 (emphasis removed). Similarly, the Second Circuit majority did not deny the contention “that it is not ‘even remotely

plausible that in 1964, when Title VII was adopted, a reasonable person competent in the English language would have understood that a law banning employment discrimination ‘because of sex’ also banned discrimination because of sexual orientation[.]’ ” *Zarda*, 883 F3d at 114, quoting *Hively*, 853 F3d at 362 (Sykes, J., dissenting). Instead, these circuit decisions relied on the premise that “legal doctrine evolves.” *Zarda*, 883 at 113; *Hively*, 853 F3d at 340–341 (accepting invitation “to take a fresh look at our position” in light of two decades of legal developments); *EEOC v RG & GR Harris Funeral Homes*, 884 F3d at 573 (distinguishing a 1977 circuit precedent because it did not “anticipat[e]” an evolution in legal doctrine).

But under Michigan law, the mechanism for evolution in statutory law is through legislation. Const 1963, art 4, § 1; *id.*, art 2, § 9; see also, e.g., *Barrett v Kirtland Cmty Coll*, 245 Mich App 306, 322 (2001) (declining to extend the prohibition of discrimination based on sex to discrimination based on romantic jealousy, explaining that “[h]ad our Legislature intended the [EL]CRA to protect against discrimination based on romantic jealousy, it could have expressly stated that intent within its statutory definitions”). It is not the role of the Civil Rights Commission to “update” a statute; rather, “ ‘[i]t is the legislators who establish the statutory law because the legislative power is exclusively theirs.’ ” *Coalition of State Emp Unions v State*, 498 Mich 312, 330 n 40 (2015), quoting *Cameron v Auto Club Ins Ass’n*, 476 Mich 55, 65 (2006); see also *Robertson v DaimlerChrysler Corp*, 465 Mich 732, 761 (2002) (refusing to treat words as if they were “written on water” and rejecting the view “that courts may correct laws that they view as inadequate” because “[i]t is only by interpretations of the law that are in accord with the words of the lawmaker—that is, interpretations in which judges look *outside* themselves for a source of law—that the decisions of courts are truly removed from the realm of politics and policymaking”).

Moreover, Michigan courts interpreting ELCRA have not expanded the meaning of “sex” in the way that a few federal courts interpreting Title VII have. The evolving legal doctrine that these circuits relied on stems largely from the U.S. Supreme Court’s plurality opinion in *Price Waterhouse v Hopkins*, 490 US 228 (1989), in which four justices concluded that “[i]n the specific context of sex stereotyping, an employer who acts on the basis of a belief that a woman cannot be aggressive, or that she must not be, has acted on the basis of gender.” *Id.* at 250 (plurality opinion). The plurality further concluded that “stereotyped remarks can certainly be *evidence* that gender played a part.” *Id.* at 251 (plurality opinion).

Michigan courts have cited *Price Waterhouse*, but have not extended it to reach the issues of sexual orientation or gender identity. For example, Michigan courts have cited it for analysis on how to approach cases where an employer has both valid reasons and discriminatory reasons for adverse employment actions, e.g., *Harrison v Olde Fin Corp*, 225 Mich App 601, 612 (1997), and for what constitutes direct evidence, *DeBrow v Century 21 Great Lakes, Inc*, 463 Mich 534, 541 (2001) (per curiam) (citing Justice O’Connor’s concurrence). But the Michigan cases that have cited *Price Waterhouse* have not extended ELCRA to require treating discrimination based sexual orientation or gender identity as discrimination based on sex. As a result, Michigan law on the meaning of discrimination based on sex has not evolved in the way that federal law may be evolving.

To be clear, ELCRA protects everyone, regardless of sex, sexual orientation, or gender identity, from sexual harassment. ELCRA specifically states that “[d]iscrimination because of sex includes sexual harassment,” and specifically forbids unwelcome sexual advances, requests for sexual favors, and other conduct or communication of a sexual nature in the context of employment, public accommodations, public services, education, or housing. MCL 37.2103(i); see also *Barbour*, 198 Mich App at 186 (allowing a claim based on unwelcome sexual advances to proceed); *Robinson*, 277 Mich App at 153 (“The language of the [EL]CRA does not exclude same-gender harassment claims.”). But

this language also shows that the Legislature knows how to expand what should be included as discrimination because of sex. Indeed, the Legislature has twice expressly adopted such expansions: first, it amended ELCRA to provide that employment-based discrimination because of sex includes discrimination because of pregnancy or childbirth, MCL 37.2201(d), and second, it amended ELCRA to expressly state that discrimination because of sex includes sexual harassment, MCL 37.2103(i).

The Legislature may, if it chooses, add the new categories of sexual orientation and gender identity to the statute. But as noted in your request, legislation addressing this precise issue has been introduced every year for the past 15 years, and each year the Legislature has declined the invitation to add sexual orientation and gender identity to protected categories under ELCRA. See also *Bibby*, 260 F3d at 261 (“Congress has repeatedly rejected legislation that would have extended Title VII to cover sexual orientation.”). And the Legislature’s rejection of these proposals cannot be because the Legislature thinks those categories are already protected; *Barbour* specifically holds that sexual orientation is not protected, and no binding Michigan case holds that gender identity is protected. The fact that the branch of our government with the authority to enact laws has declined to extend ELCRA’s coverage to reach sexual orientation and gender identity means that an executive agency (i.e., the Civil Rights Commission) necessarily lacks the authority to achieve that extension through its limited authority to enforce the law, not to make it.

III. The Civil Rights Commission’s statement is invalid because it is contrary to ELCRA’s plain language.

The Civil Rights Commission is authorized to interpret ELCRA, *Clonlara, Inc v State Bd of Ed*, 442 Mich 230, 240 (1993), and generally its interpretation is entitled to “respectful consideration.” *In re Complaint of Rovas Against SBC Michigan*, 482 Mich 90, 103 (2008). But an agency’s interpretation “cannot conflict with the Legislature’s intent as expressed in the language of the statute at issue.” *Id.*

As the Michigan Supreme Court has explained, “[a]n interpretation not supported by the enabling act is an invalid interpretation, not a rule.” *Clonlara, Inc*, 442 Mich at 243. “Interpretive ‘rules’ are invalid,” the Court explained, “if they extend or modify the statute” *Id.* at 243 n 26; see also *Schinzel v Dep’t of Corr*, 124 Mich App 217, 221 (1983) (explaining that a policy directive “cannot be deemed an interpretive statement” of what a word means if “it changes that term’s very definition”). Thus, even though interpretive statements by definition do “not have the force and effect of law,” MCL 24.207(h) (excluding interpretive statements and guidelines from the APA’s definition of a “rule”); *Faircloth v Family Indep Agency*, 232 Mich App 391, 404 (1998) (“an interpretive statement is not, by definition, a rule under the APA”), they are invalid if, as here, they are not supported by the underlying statute or if they attempt to modify that statute.

As explained above, neither the plain text of ELCRA nor Michigan case law supports the Commission’s interpretive statement. That statement therefore is invalid. See, e.g., *Michigan Dep’t of Civil Rights v General Motors, Corp*, 93 Mich App 366, 373 (1979) (stating that the Civil Rights Commission “cannot legislate or impose substantive duties or penalties beyond the scope of the legislative enactment authorizing it to prohibit religious discrimination”).

The significance of the issues addressed in this opinion to the Commission and many Michigan residents is not lost on this office. But again, the power to change Michigan law lies only with the Legislature, 1963 Const, art 4, § 1, or the people themselves through initiative, 1963 Const, art 2, § 9, and not with Executive branch agencies like the Commission, Const 1963, art 3, 2. As an analogy, many people would encourage the Michigan Transportation Commission to expand and modify PA 51 road funding allocation to various urban or rural communities or might encourage the Michigan Commission of Agriculture and Rural Development to expand state laws relating to zoning. But – again, only the Legislature (or the people themselves, by initiative) may do so. And, without a doubt the

issues of sexual orientation, gender identity, and the role of the Michigan Civil Rights Commission are significant issues of public policy.

However, it is my opinion that the Michigan Civil Rights Commission’s Interpretative Statement 2018-1, which concludes that the term “sex” as used in the Elliott-Larsen Civil Rights Act includes sexual orientation and gender identity, is invalid because it conflicts with the original intent of the Legislature as expressed in the plain language of the Act, and as interpreted by Michigan’s courts.

Sincerely,

A handwritten signature in cursive script that reads "Bill Schuette". The signature is written in black ink and is positioned above the printed name.

BILL SCHUETTE
Attorney General

**EXECUTIVE ORDERS
AND
EXECUTIVE REORGANIZATION ORDERS**

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:

(a) Executive orders and executive reorganization orders.”

EXECUTIVE ORDERS

EXECUTIVE ORDER
No. 2018 - 7

TRANSFER OF REFUGEE SERVICES FUNCTIONS
CREATION OF THE CHAIRPERSONS COUNCIL

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE FOR NEW AMERICANS

EXECUTIVE REORGANIZATION

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration; and

WHEREAS, Section 8 of Article V of the Michigan Constitution of 1963 provides that each principal department shall be under the supervision of the Governor, unless otherwise provided by the constitution; and

WHEREAS, there is a continued need to reorganize functions among state departments to ensure efficient administration; and

WHEREAS, the Department of Health and Human Services has established an Office of Refugee Services to coordinate and administer the provision of social services and other services to refugees in Michigan; and

WHEREAS, the Michigan Office for New Americans, created within the Executive Office of the Governor by Executive Order 2014-2, and transferred to the Department of Licensing and Regulatory Affairs by Executive Order 2014-12, MCL 125.1995, is charged with the responsibility for coordinating all executive branch programs related to the provision of services for immigrants, including the provision of services to refugees;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the powers and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. TRANSFER OF REFUGEE SERVICES FUNCTIONS

A. Except as otherwise provided in this order, all authority, powers, duties, functions, and responsibilities for the administration of refugee services undertaken by the Office of Refugee Services within the Department of Health and Human services are transferred to the Michigan Office for New Americans within the Department of Licensing and Regulatory Affairs.

B. The administrative functions transferred to the Michigan Office for New Americans as provided in this Order include, but are not limited to, the following:

- Administration of Refugee Social Services;
- Administration of contracts with Refugee Service Agencies for the Unaccompanied Refugee Minors Program;
- Administration of federal funding for refugee services not otherwise listed;
- Coordination of services to refugees provided by other entities;
- Training state employees in the provision of refugee services;
- Federal reporting and outcome analysis; and
- Preparation and submission of the State Plan for Refugee Services.

C. The following responsibilities shall remain with the Department of Health and Human services:

- Administration of Refugee Cash Assistance;
- Administration of Refugee Medical Assistance & other health programming; and
- Administration of the Repatriation Program.

D. The authority, powers, duties, functions, and responsibilities transferred to the Michigan Office for New Americans as provided in this Order are administrative in nature and do not include the direct service delivery functions performed by employees of the Michigan Department of Health and Human Services assigned to local field offices.

E. All records, personnel, property, unexpended balances of appropriations, allocations, or other funds used, held, employed, available, or to be made available to the Department of Health and Human Services necessary for the activities, powers, duties, functions, and responsibilities transferred by this Order are transferred to the Department of Licensing and Regulatory Affairs.

F. All personnel necessary for performance of the administrative functions transferred by this Order are transferred from the Department of Health and Human Services to the Department of Licensing and Regulatory Affairs.

II. CREATION OF THE CHAIRPERSONS COUNCIL

A. The Chairpersons Council is created within the Office for New Americans as an advisory body charged with providing advice and counsel to the Office for New Americans regarding its mission and services.

B. The Chairpersons Council shall consist of the Chairperson of the Asian Pacific American Affairs Commission, the Chairperson of the Hispanic/Latino Commission of Michigan, and the Chairperson of the Commission on Middle Eastern American Affairs.

C. The Chairpersons Council shall meet at the call of any of its members, and not less than four times per year.

D. The Chairpersons Council shall be staffed and assisted as necessary by personnel from the Office for New Americans as directed by the Office for New Americans.

E. Members of the Chairpersons Council shall serve without compensation. Subject to the approval of the Office for New Americans and available funding, members of the Chairpersons Council may receive reimbursement for necessary travel and expenses according to relevant statutes and the rules and procedures of the Department of Licensing and Regulatory Affairs.

III. IMPLEMENTATION

A. The Director of the Department of Licensing and Regulatory Affairs, after consultation with the Director of the Department of Health and Human Services, shall provide executive direction and supervision for the implementation of the transfer. The Director of the Department of Licensing and Regulatory Affairs shall administer any assigned functions to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

B. The directors of the departments effected by this order shall immediately initiate coordination to facilitate the transfers and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Licensing and Regulatory Affairs.

C. The State Budget Director shall determine and authorize the most efficient manner possible for the handling of financial transactions and records in the state's financial management system for the remainder of the current state fiscal year for transfers made under this Order.

IV. MISCELLANEOUS

A. The position of Director of the Michigan Office for New Americans created by Sec. I. B. of Executive Order 2014-2 is eliminated.

B. All rules, orders, contracts, plans, and agreements relating to the functions transferred by this Order lawfully adopted prior to the effective date of this Order by the responsible state department shall continue to be effective until revised, amended, or rescinded.

C. Any suit, action, or other proceeding lawfully commenced by or against any department identified in Section I of this order prior to the effective date of this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

D. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, this Order shall be effective 60 days after the filing of this Order.

Given under my hand and the Great Seal of the state of Michigan this _____ day of _____, in the Year of our Lord Two Thousand Eighteen.

RICHARD D. SNYDER
GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE

MICHIGAN ADMINISTRATIVE CODE TABLE
(2018 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 2018, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).

**MICHIGAN ADMINISTRATIVE CODE TABLE
(2018 RULE FILINGS)**

R Number	Action	2018 MR Issue	R Number	Action	2018 MR Issue	R Number	Action	2018 MR Issue
18.1	R	6	123.55	R	10	299.4052	*	4
18.2	R	6	123.56	R	10	299.4053	*	4
18.3	R	6	123.61	R	10	299.4054	*	4
18.4	R	6	123.62	R	10	299.4055	*	4
18.5	R	6	123.63	R	10	324.103	*	11
18.11	R	6	123.64	R	10	324.201	*	11
18.21	R	6	123.65	R	10	324.206	*	11
18.31	R	6	205.1001	*	9	324.208	*	11
18.41	R	6	205.1002	*	9	324.212	*	11
18.51	R	6	205.1003	*	9	324.703	*	11
18.61	R	6	205.1004	*	9	324.704	*	11
18.71	R	6	205.1006	R	9	324.801	*	11
18.351	*	5	205.1006a	A	9	324.802	*	11
18.354	*	5	205.1006b	A	9	324.803	*	11
123.1	R	10	205.1006c	A	9	324.804	*	11
123.3	R	10	205.1006d	A	9	324.805	*	11
123.4	R	10	205.1007	*	9	324.806	*	11
123.5	R	10	205.1008	*	9	324.807	*	11
123.20	R	10	205.1009	*	9	324.808	*	11
123.21	R	10	205.1010	*	9	324.809	A	11
123.22	R	10	205.1011	*	9	324.810	A	11
123.23	R	10	257.531	*	5	324.811	A	11
123.24	R	10	257.532	*	5	324.812	A	11
123.30	R	10	257.533	*	5	324.813	A	11
123.31	R	10	257.534	*	5	324.814	A	11
123.32	R	10	257.535	*	5	324.815	A	11
123.33	R	10	257.536	*	5	324.816	A	11
123.34	R	10	257.537	*	5	324.1102	*	11
123.35	R	10	257.538	*	5	324.1451	A	9
123.36	R	10	257.539	*	5	324.1452	A	9
123.37	R	10	257.540	*	5	324.1453	A	9
123.38	R	10	281.770.16	R	8	324.1454	A	9
123.40	R	10	299.4001	*	4	324.1455	A	9
123.43	R	10	299.4002	*	4	324.1456	A	9
123.44	R	10	299.4003	*	4	324.1457	A	9
123.51	R	10	299.4004	*	4	325.2491	R	6
123.52	R	10	299.4006	*	4	325.2492	R	6
123.53	R	10	299.4007	*	4	325.2493	R	6
123.54	R	10	299.4051	*	4	325.2651	*	2

(* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

2018 MR 13 – August 1, 2018

R Number	Action	2018 MR Issue	R Number	Action	2018 MR Issue	R Number	Action	2018 MR Issue
325.2652	*	2	338.10303	*	5	339.22313	*	10
325.2653	*	2	338.10303a	*	5	339.22315	*	10
325.2654	*	2	338.10303b	*	5	339.22601	R	10
325.2655	*	2	338.10303c	*	5	339.22602	R	10
325.2656	R	2	338.10303d	A	5	339.22603	R	10
325.2657	R	2	338.10305	*	5	339.22604	R	10
325.10102	*	11	338.10305a	*	5	339.22605	R	10
325.10105	*	11	338.10305b	*	5	339.22606	R	10
325.10108	*	11	338.10305c	*	5	339.22607	R	10
325.10401a	*	11	338.10306	*	5	339.22609	R	10
325.10405	*	11	338.10307	*	5	339.22611	R	10
325.10410	*	11	338.10308	*	5	339.22613	R	10
325.10413	*	11	338.10309	*	5	339.22617	R	10
325.10420	*	11	338.10310	*	5	339.22618	A	10
325.10604f	*	11	338.10401	*	5	339.22619	A	10
325.10710a	*	11	338.10403	*	5	339.22620	A	10
325.10710b	*	11	338.10404c	A	5	339.22621	A	10
325.10710d	*	11	338.10405c	A	5	339.22622	A	10
325.11506	*	11	338.10601	*	5	339.22623	A	10
325.11604	*	11	338.10602	*	5	339.22624	A	10
325.11606	*	11	338.10702	*	5	339.22625	A	10
325.14202	*	3	338.10703	*	5	339.22626	A	10
325.14205	*	3	338.10704	*	5	339.22627	A	10
325.34001	A	3	339.15101	*	9	339.22628	A	10
325.34005	A	3	339.15201	*	9	339.22629	A	10
325.34010	A	3	339.15202	*	9	339.22630	A	10
338.201	A	2	339.15301	*	9	339.22631	R	10
338.202	A	2	339.15501	*	9	339.22632	A	10
338.203	A	2	339.15502	*	9	339.22645	R	10
338.204	A	2	339.15502a	A	9	339.23104	A	10
338.7001a	*	5	339.15504	*	9	339.23203	*	10
338.10204	*	5	339.15505	R	9	339.23326	*	10
338.10207	*	5	339.15506	*	9	340.241	*	2
338.10208	*	5	339.22101	*	10	340.242	*	2
338.10209	*	5	339.22201	R	10	340.281	*	10
338.10210	*	5	339.22203	*	10	340.282	*	10
338.10212	*	5	339.22217	*	10	340.1707	*	2
338.10213	*	5	339.22219	*	10	340.1719	R	2
338.10301	*	5	339.22221	A	10	340.1723c	*	2

(* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

2018 MR 13 – August 1, 2018

R Number	Action	2018 MR Issue	R Number	Action	2018 MR Issue	R Number	Action	2018 MR Issue
340.1724d	*	2	408.10227	R	2	408.10371	R	2
340.1742	*	2	408.10228	R	2	408.10372	R	2
340.1799c	*	2	408.10230	R	2	408.10401	R	2
408.65	*	10	408.10231	R	2	408.10403	R	2
408.82	*	10	408.10232	R	2	408.10404	R	2
408.10001	*	2	408.10233	R	2	408.10406	R	2
408.10002	A	2	408.10235	R	2	408.10407	R	2
408.10003	*	2	408.10236	R	2	408.10408	R	2
408.10004	*	2	408.10237	R	2	408.10421	R	2
408.10005	*	2	408.10239	R	2	408.10422	R	2
408.10011	*	2	408.10240	R	2	408.10427	R	2
408.10012	*	2	408.10241	R	2	408.10428	R	2
408.10013	A	2	408.10301	R	2	408.10431	R	2
408.10015	*	2	408.10305	R	2	408.10432	R	2
408.10016	R	2	408.10306	R	2	408.10433	R	2
408.10017	*	2	408.10307	R	2	408.10441	R	2
408.10021	R	2	408.10308	R	2	408.10442	R	2
408.10022	R	2	408.10310	R	2	408.10443	R	2
408.10026	*	2	408.10311	R	2	408.10445	R	2
408.10031	*	2	408.10321	R	2	408.10446	R	2
408.10034	*	2	408.10323	R	2	408.10447	R	2
408.10036	*	2	408.10324	R	2	408.10451	R	2
408.10098	R	2	408.10325	R	2	408.10452	R	2
408.10201	*	2	408.10326	R	2	408.10454	R	2
408.10202	A	2	408.10328	R	2	408.10456	R	2
408.10203	A	2	408.10331	R	2	408.10501	*	3
408.10204	A	2	408.10333	R	2	408.10502	*	3
408.10205	*	2	408.10335	R	2	408.10503	*	3
408.10206	R	2	408.10341	R	2	408.10504	*	3
408.10207	R	2	408.10342	R	2	408.10505	*	3
408.10208	R	2	408.10345	R	2	408.10506	*	3
408.10211	R	2	408.10351	R	2	408.10507	*	3
408.10213	R	2	408.10352	R	2	408.10508	*	3
408.10215	R	2	408.10353	R	2	408.10509	*	3
408.10217	R	2	408.10354	R	2	408.10511	R	3
408.10219	R	2	408.10355	R	2	408.10512	R	3
408.10220	R	2	408.10357	R	2	408.10513	R	3
408.10221	R	2	408.10361	R	2	408.10518	A	3
408.10223	R	2	408.10365	R	2	408.10521	R	3

(* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

2018 MR 13 – August 1, 2018

R Number	Action	2018 MR Issue	R Number	Action	2018 MR Issue	R Number	Action	2018 MR Issue
408.10522	R	3	408.12165	*	3	408.13306	*	3
408.10523	R	3	408.12169	*	3	408.13311	*	3
408.10524	R	3	408.12176	*	3	408.13325	*	3
408.10525	R	3	408.12190	*	3	408.13329	*	3
408.10526	R	3	408.12501	*	3	408.13344	*	3
408.10527	R	3	408.12510	*	3	408.13355	*	3
408.10528	R	3	408.12701	*	3	408.13367	*	3
408.10529	R	3	408.12702	*	3	408.13387	*	3
408.10530	R	3	408.12711	*	3	408.13390	R	3
408.10531	R	3	408.12712	*	3	408.13395a	A	3
408.10532	R	3	408.12714	*	3	408.13395b	A	3
408.10533	R	3	408.12717	*	3	408.13395c	A	3
408.10534	R	3	408.12718	*	3	408.13395d	A	3
408.10535	R	3	408.12719	*	3	408.13395e	A	3
408.10541	R	3	408.12724	*	3	408.13395f	A	3
408.10542	R	3	408.12726	*	3	408.13395g	A	3
408.10543	R	3	408.12727	*	3	408.15001	*	3
408.10544	R	3	408.12728	*	3	408.15003	*	3
408.10545	R	3	408.12730	*	3	408.15004	*	3
408.11801	*	3	408.12733	*	3	408.15201	*	3
408.11807	*	3	408.12736	*	3	408.15209	*	3
408.11808	*	3	408.12739	*	3	408.15211	*	3
408.11821	*	3	408.12741	*	3	408.15212a	*	3
408.11823	*	3	408.12755	*	3	408.15222	*	3
408.11824	*	3	408.12759	*	3	408.15225	*	3
408.11835	*	3	408.12761	*	3	408.15226	*	3
408.11843	*	3	408.12767	*	3	408.15229	*	3
408.11844	*	3	408.12773	*	3	408.15231	*	3
408.11852	*	3	408.12781	*	3	408.15247	*	3
408.11854	*	3	408.12784	*	3	408.15251	*	3
408.11863	*	3	408.12791	*	3	408.15254	*	3
408.11865	*	3	408.12792	*	3	408.15261	*	3
408.11871	*	3	408.12793	*	3	408.15271	*	3
408.11872	*	3	408.12798	*	3	408.15273	*	3
408.11873	*	3	408.13301	*	3	408.15275	*	3
408.12111	*	3	408.13301a	*	3	408.15801	*	7
408.12131	*	3	408.13302	*	3	408.15802	*	7
408.12155	*	3	408.13303	*	3	408.15803	*	7
408.12164	*	3	408.13305	*	3	408.15804	*	7

(* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

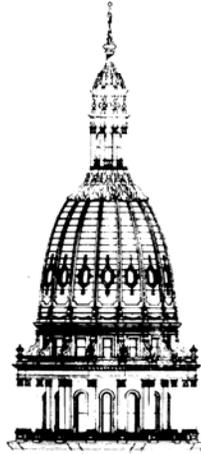
2018 MR 13 – August 1, 2018

R Number	Action	2018 MR Issue	R Number	Action	2018 MR Issue	R Number	Action	2018 MR Issue
408.15805	*	7	408.16372	*	7	432.21514	*	5
408.15810	*	7	408.16375	*	7	432.21516	*	5
408.15812	A	7	408.16377	*	7	436.1133	R	7
408.15815	*	7	408.16387	*	7	474.101	R	2
408.15817	*	7	408.18601	*	3	474.102	R	2
408.15825	*	7	408.18602	*	3	474.103	R	2
408.15831	*	7	408.18605	*	3	474.104	R	2
408.15832	*	7	408.18610	*	3	474.105	R	2
408.15833	*	7	408.19401	*	7	474.106	R	2
408.15836	*	7	408.19403	*	7	484.1001	A	5
408.15839	*	7	408.19405	*	7	484.1002	A	5
408.15842	*	7	408.19410	A	7	484.1003	A	5
408.16301	*	7	418.10106	*	5	484.1004	A	5
408.16302	*	7	418.10107	*	5	484.1005	A	5
408.16309	*	7	418.10207	*	5	484.1006	A	5
408.16311	*	7	418.10208	*	5	484.1007	A	5
408.16312	*	7	418.10212	*	5	484.1008	A	5
408.16313	*	7	418.10214	*	5	484.1009	A	5
408.16318	A	7	418.10404	*	5	500.1261	R	9
408.16321	*	7	418.10416	*	5	500.1262	R	9
408.16322	*	7	418.10904	*	5	500.1263	R	9
408.16323	*	7	418.10905	*	5	500.1264	R	9
408.16325	*	7	418.10909	*	5	500.1265	R	9
408.16331	*	7	418.10912	*	5	500.1266	R	9
408.16333	*	7	418.10920	*	5	500.1267	R	9
408.16335	*	7	418.10923b	*	5	500.1268	R	9
408.16338	*	7	418.10926	A	5	500.1269	R	9
408.16343	*	7	418.101002	*	5	500.1270	R	9
408.16345	*	7	418.101003	*	5	500.1271	R	9
408.16346	*	7	418.101003a	*	5	501.351	R	7
408.16347	*	7	418.101008a	*	5	501.352	R	7
408.16350	*	7	418.101010	A	5	501.353	R	7
408.16351	*	7	418.101501	*	5	501.354	R	7
408.16353	*	7	418.101503	*	5	550.101	R	7
408.16354	*	7	432.2	*	5	550.102	R	7
408.16356	*	7	432.5	*	5	550.103	R	7
408.16361	*	7	432.6	*	5	550.104	R	7
408.16362	*	7	432.16	*	5	550.105	R	7
408.16364	*	7	432.17	*	5	550.106	R	7

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2018 MR Issue
550.107	R	7
550.108	R	7
550.111	R	7
550.112	R	7

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



**CUMULATIVE
INDEX**

A

**ATTORNEY GENERAL, DEPARTMENT OF
Opinions**

Application of Minimum Wage Laws to Agricultural Employees
OAG Opinion No. 7301 (2018-1)

Preemption of local ordinances concerning farming activities
OAG Opinion No. 7302 (2018-6)

Constitutional Limits on tax levies for district libraries
OAG Opinion No. 7303 (2018-10)

Exemptions for residents and nonresidents from pistol licensing requirements
OAG Opinion No. 7304 (2018-13)

Validity of interpretative statement interpreting term “sex” as used in Elliot-Larsen Civil Rights Act
OAG Opinion No. 7305 (2018-13)

E

Executive Order

- No. 1 -2018 (2018-1)
- No. 2 -2018 (2018-2)
- No. 3 -2018 (2018-5)
- No. 4 -2018 (2018-7)
- No. 5 -2018 (2018-7)
- No. 6 -2018 (2018-10)
- No. 7 -2018 (2018-13)

EDUCATION, DEPARTMENT OF

Correction:

Teacher and School Administrator Evaluation Tools (2018-9)

Fees for Transporting Pupils to or from Nonmandatory and Noncredited Events (2018-2)
Special Education Programs and Services (2018-2)
Transportation of Nonpublic Schoolchildren (2018-10)

**ENVIRONMENTAL QUALITY, DEPARTMENT OF
CORRECTIONS**

Oil and Gas Operations (2018-10)
Supplying Water to the Public (2018-12)

Oil and Gas Operations (2018-11)
Part 9. Emission Limitation and Prohibitions – Miscellaneous (2018-3*)
Supplying Water to the Public (2018-11)

H

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF
Certificate of Need**

Nursing Home and Hospital Long Term Care Unit Beds (2017-18)
Urinary Extracorporeal Shock Wave Lithotripsy Services (2018-10)

Correction:

Birth Defect Reporting (2018-1)

Crime Victim Services – General Rules (2018-5)
EMS Organization Licensure Rules (2018-5*)

H

INSURANCE AND FINANCE, DEPARTMENT OF

Certificates - Discretionary Clauses (2018-7)
Certificates of No-Fault Self -Insurance (2018-5)
Fire Insurance – Withholding (2018-9)
Petition Requesting Promulgation, Amendment, Or Rescission Of Rules (2018-7)
Procedures for Informal Managerial-level Conferences and Review by Commissioner of Insurance (2018-7)

L

**LICENSING AND REGULATORY AFFAIRS, DEPARTMENT OF
CORRECTIONS**

Board of Real Estate Appraisers (2018-10)

EMERGENCY RULE

Medical Marijuana Facilities Licensing Act (2018-10)
Unarmed Combat Emergency Rules (2018-11)

A standing Order for Dispensing Opioid Antagonists (2018-2)

Architects - General Rules (2018-9)
Audiology - General Rules (2018-10*)
Behavior Analysts – General Rules (2018-9*)
Board of Chiropractic - General Rules (2018-13*)
Board of Massage Therapy – General Rules (2018-9*)
Board of Nursing – General Rules (2018-5)
Board of Real Estate Appraisers (2018-10)
Board of Social Work - General Rules (2018-10*)
Code of Conduct (2018-8*)
Construction Code – Part 8. Electrical Code Rules (2018-13*)

Consumer Standards and Billing Practices for Electric and Gas Residential Service (2018-7*)
Licensing Qualifications (2018-7)
Licensing Substance Use Disorder Programs (2018-3)
Michigan Gas Safety Standards (2018-4*)
Occupational Code Renewals (2018-1*)
Part 1. General Provisions GI (2018-2)
Part 2. Walking Working Surfaces GI (2018-2)
Part 3. Fixed Ladders GI (2018-2)
Part 4. Portable Ladders GI (2018-2)
Part 5. Powered Platforms for Building Maintenance GI (2018-3)
Part 18. Overhead and Gantry Cranes GI (2018-3)
Part 21. Powered Industrial Trucks GI (2018-3)
Part 25. Manlifts GI (2018-3)
Part 27. Woodworking Machinery GI (2018-3)
Part 33. Personal Protective Equipment GI (2018-3)
Part 50. Telecommunications GI (2018-3)
Part 52. Sawmills GI (2018-3)
Part 58. Aerial Work Platforms (2018-7)
Part 63. Pulp, Paper, and Paperboard Mills (2018-7)
Part 86. Electric Power Generation, Transmission, and Distribution GI (2018-3)
Part 94 Textiles (2018-7)
Part 310 Lead in General Industry (2018-13*)
Part 340. Beryllium GI (2018-3)
Part 603. Lead Exposure in Construction (2018-13*)
Pharmacy – Controlled Substances (2018-8*)
Public Health Code – General Rules (2018-5, 2018-13*)
Real Estate Appraisers - General Rules (2018-1*)
Real Estate Brokers and Salespersons (2018-10)
Residential Builders and Maintenance and Alteration Contractors (2018-9*)
Responsibilities of Providers of Basic Local Exchange Service that
Cease to Provide the Service (2018-5)
Securities (2018-4*)
Ski Area Safety (2018-10)
State Boundary Commission (2018-10)
Technical Standards for Electric Service (2018-6*)
Telecommunications Industry (2018-6)
Veterinary Medicine – General Rules (2018-8*)

Veterinary Technician Licensure (2018-8*)
Workers' Compensation Health Care Services (2018-5)

M

MILITARY AND VETERAN AFFAIRS, DEPARTMENT OF
State Homes for Veterans (2018-13*)

N

NATURAL RESOURCES, DEPARTMENT OF
Correction:

Metallic Minerals Leased on State Lands (2018-5)
Pure Michigan Trail, Water Trail, and Trail Town Designation (2018-9)

EMERGENCY RULE

Establishment of Restricted Anchor and Vessel Equipment Zone in the Straits of Mackinac (2018-10)

Leasing State-Owned Nonmetallic Mineral Rights (2018-8*)
Metallic Minerals Leased on State Lands (2018-4)
Pure Michigan Trail, Water Trail, and Trail Town Designation (2018-9)
Special Local Watercraft Controls (2018-8)
Underground Gas Storage Leases on State Lands (2018-4)

S

STATE POLICE, DEPARTMENT OF
Test for Breath Alcohol (2018-2)

T

TECHNOLOGY MANAGEMENT AND BUDGET, DEPARTMENT OF
Federal Surplus Property Program (2018-6)

TRANSPORTATION, DEPARTMENT OF
Motor Bus Transportation (2018-2)
Motor Bus Transportation (2018-8*)

TREASURY, DEPARTMENT OF
Correction:

Charitable Gaming Rules (2018-5)
Taxpayers Bill of Rights (2018-9)

Charitable Gaming Rules (2018-5)
Lottery Rules (2018-5)
Taxpayers Bill of Rights (2018-9)

**ADMINISTRATIVE RULES
ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2018 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.”

2018 Michigan Public Acts Table

Legislative Service Bureau
Legal Division, Statutory Compiling and Law Publications Unit
124 W. Allegan, Lansing, MI 48909

May 7, 2018
Through Act 133 of 2018

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
1		0095	Yes	No	1/18	1/18/18	Use tax; collections; use tax on the difference; accelerate phase-in. **** Governor Veto of 7/25/17 overridden and approved by 2/3 vote on 1/17/18 **** (Sen. D. Robertson)
2		0094	Yes	No	1/18	1/18/18	Sales tax; collections; use tax on the difference; accelerate phase-in. **** Governor Veto of 7/25/17 overridden and approved by 2/3 vote on 1/17/18 **** (Sen. D. Hildenbrand)
3	4533		Yes	1/26	1/26	1/26/18	Natural resources; hunting; nonresident 3-day small game license; establish. (Rep. C. VanderWall)
4	4957		Yes	1/26	1/26	1/26/18	Natural resources; hunting; mentored youth hunting license; allow individual to purchase additional licenses. (Rep. G. Howell)
5		0207	Yes	1/26	1/26	4/26/18	Law enforcement; other; arrest power for state property security officers; modify. (Sen. M. Green)
6		0525	Yes	1/26	1/26	1/26/18	Courts; reorganization; reorganization of courts and number of judgeships; modify. (Sen. R. Jones)
7		0702	Yes	1/26	1/26	1/26/18	Local government; other; educational instruction access act; clarify deed restriction language. (Sen. P. Pavlov)
8	4849		Yes	1/26	1/26	4/26/18	Cemeteries and funerals; other; money held by a county for care and preservation of cemetery lots; require to be presumed abandoned under certain circumstances. (Rep. J. Alexander)

- * - 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.

2018 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
9	4940		Yes	1/26	1/26	4/26/18	Agriculture ; associations and commissions; dry bean act; modify apportionment of districts and create a member at large. (Rep. E. Canfield)
10	5144		Yes	1/26	1/26	1/26/18	Marihuana ; facilities; requirements for the issuance of a state operating license; revise, and provide for other general amendments. (Rep. K. Kesto)
11	4735		Yes	2/6	2/6	5/7/18	Education ; dual enrollment; definition of eligible institution for postsecondary dual enrollment; expand. (Rep. A. Miller)
12	4218		Yes	2/6	2/6	5/7/18	Juveniles ; juvenile justice services; qualifications for direct care worker of a juvenile court-operated residential care facility; modify. (Rep. E. Leutheuser)
13	4821		Yes	2/6	2/6	5/7/18 #	Probate ; wills and estates; appointment of the state or county public administrator as personal representative of a decedent's estate in a formal proceeding; require, and modify powers and duties of public administrators acting as personal representatives. (Rep. J. Runestad)
14	4822		Yes	2/6	2/6	5/7/18 #	Probate ; wills and estates; appointment of the state or county public administrator as personal representative of a decedent's estate in a formal proceeding; require, and modify powers and duties of public administrators acting as personal representatives. (Rep. J. Ellison)
15	4470		Yes	2/6	2/6	5/7/18 #	Civil procedure ; statute of limitations; appointment of receiver; clarify that appointment does not constitute an action under the "one act" rule, and clarify that statute of limitations under other act does not conflict with the revised judicature act. (Rep. B. Iden)
16	4471		Yes	2/6	2/6	5/7/18 #	Civil procedure ; remedies; uniform commercial real estate receivership act; enact. (Rep. B. Iden)
17	4644		Yes	2/12	2/13	5/14/18	Traffic control ; traffic regulation; annual multiple trip permit for vehicles; allow. (Rep. T. Cole)
18		0409	Yes	2/12	2/13	5/14/18	Natural resources ; Great Lakes; use of certain bottomlands for private harbors; provide for. (Sen. T. Casperson)

- * - 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.

2018 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
19		0543	Yes	2/14	2/14	5/15/18	Highways; name ; portion of I-94 in Kalamazoo County; designate as the "Chief Ed Switalski Memorial Highway". (Sen. M. O'Brien)
20		0316	Yes	2/14	2/14	2/14/18	Natural resources; other ; certain regulations on the taking of frogs; repeal. (Sen. D. Booher)
21		0529	Yes	2/14	2/14	5/15/18 #	Human services; county services ; child care fund act; establish reimbursement procedures for appeal of determination. (Sen. P. MacGregor)
22		0530	Yes	2/14	2/14	5/15/18 #	Human services; county services ; child care fund act; designate state as first payer and clarify reimbursable expenses. (Sen. P. MacGregor)
23		0574	Yes	2/12	2/14	5/15/18	Education; financing ; levy of regional enhancement millage; revise. (Sen. D. Hildenbrand)
24		0634	Yes	2/14	2/14	2/14/18	Health occupations; psychologists ; temporary license for individuals seeking a limited license as a psychologist; allow for extensions or renewals under certain circumstances and exempt certain individuals from examination requirement to obtain a limited license as a psychologist. (Sen. W. Schmidt)
25	4787		Yes	2/14	2/14	2/14/18	Natural resources; fishing ; ice shanty identification requirements and removal dates; modify. (Rep. C. VanderWall)
26	5284		Yes	2/12	2/14	2/14/18	Property; conveyances ; transfer of certain state-owned property in Saginaw County; provide for. (Rep. V. Guerra)
27	4523		Yes	2/20	2/21	5/22/18	Explosives; other ; Michigan explosives permitting act; repeal. (Rep. S. Johnson)
28	4524		Yes	2/20	2/21	5/22/18 #	Torts; liability ; joint and several liability; revise to reflect repeal of explosives act of 1970. (Rep. S. VanSingel)

- * - 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.

2018 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
29	5137		Yes	2/20	2/21	5/22/18	Crimes; explosives; certain activities with respect to explosive materials; prohibit and provide penalties. (Rep. S. Johnson)
30	5138		Yes	2/20	2/21	5/22/18 #	Criminal procedure; sentencing guidelines; certain activities with respect to explosive materials; prohibit, and enact sentencing guidelines. (Rep. S. Johnson)
31	4950		Yes	2/20	2/21	2/21/18	Corporate income tax; insurance companies; tax imposed on gross direct premiums; exclude health maintenance organizations. (Rep. H. Vaupel)
32	5047		Yes	2/20	2/21	2/21/18 #	Corporate income tax; insurance companies; definition of insurance company; exclude health maintenance organizations. (Rep. H. Vaupel)
33	4752		Yes	2/20	2/21	2/21/18	Probate; wills and estates; fee ratio and reporting requirement; revise, and remove sunset. (Rep. K. Kesto)
34	4813		Yes	2/20	2/21	5/22/18	Animals; other; training requirements for animal control shelters, animal protection shelters, and class B dealers to obtain a limited permit to buy, possess, and administer certain animal tranquilizers and sodium pentobarbital; revise. (Rep. H. Vaupel)
35	4956		Yes	2/20	2/21	5/22/18	Vehicles; equipment; distance requirement between kingpins and axles on certain trucks; eliminate. (Rep. T. Cole)
36	5200		Yes	2/20	2/21	2/21/18 #	Natural resources; other; certain sections in the natural resources and environmental protection act; update and eliminate certain references. (Rep. G. Howell)
37	4411		Yes	2/20	2/21	2/21/18	Liquor; licenses; eligibility of certain local governmental units to receive a scheduled event license; modify population threshold. (Rep. C. VanderWall)
38		0748	Yes	2/28	2/28	2/28/18	Individual income tax; exemptions; treatment of certain deductions and exemptions for state purposes after reduction of federal exemptions to zero; clarify and increase. (Sen. J. Brandenburg)

* - 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.

2018 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
39		0750	Yes	2/28	2/28	2/28/18	Individual income tax ; city; treatment of exemptions after reduction of federal exemptions to zero; clarify. <i>(Sen. M. Knollenberg)</i>
40	5175		Yes	2/28	2/28	5/29/18	Liquor ; licenses; qualifications of an eligible merchant that may fill and sell growlers of beer; revise. <i>(Rep. T. Brann)</i>
41	4472		Yes	2/28	2/28	5/29/18	Health ; pharmaceuticals; food and drug administration-designated interchangeable biological drug products; allow pharmacists to dispense under certain circumstances. <i>(Rep. J. Bizon)</i>
42	4665		Yes	2/28	2/28	2/28/18	Education ; discipline; enrollment eligibility in strict discipline academy; modify. <i>(Rep. R. VerHeulen)</i>
43	5040		Yes	3/1	3/1	3/1/18	Traffic control ; other; driver responsibility fees; eliminate collection of beginning September 30, 2018. <i>(Rep. L. Chatfield)</i>
44	5041		Yes	3/1	3/1	3/1/18	Traffic control ; other; educational outreach program for driver responsibility fee amnesty program; create. <i>(Rep. S. Santana)</i>
45	5043		Yes	3/1	3/1	3/1/18	Traffic control ; other; driver responsibility fees; eliminate collection of for certain individuals who entered into an installment payment program. <i>(Rep. R. Hauck)</i>
46	5044		Yes	3/1	3/1	3/1/18	Traffic control ; other; driver responsibility fees; eliminate assessment beginning October 1, 2018. <i>(Rep. J. Bellino)</i>
47		0613	Yes	3/1	3/1	3/1/18	Traffic control ; other; reference in enhanced driver license and enhanced official state personal identification card act to driver responsibility fees; modify. <i>(Sen. R. Jones)</i>
48	5046		Yes	3/1	3/1	3/1/18	Traffic control ; other; waiver of driver responsibility fee for successful participation in DWI sobriety court program; provide for on or after October 1, 2018. <i>(Rep. S. Marino)</i>

* - 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.

2018 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
49		0625	Yes	3/1	3/1	3/31/18	Traffic control; other; workforce training payment program; create. (Sen. K. Horn)
50	5079		Yes	3/1	3/1	3/31/18	Traffic control; driver license; driver responsibility fee; amend eligibility for alternative payment programs and reinstatement of driver license, and eliminate driver responsibility fee assessments for certain offenses. (Rep. D. Rendon)
51		0400	Yes	3/6	3/6	3/6/18	Communications; emergency 9-1-1; emergency 9-1-1 service enabling act; modify. (Sen. R. Jones)
52		0481	Yes	3/6	3/6	6/4/18	Highways; name; portion of US-10; designate as the "Marine Lance Corporal Ryan Burgess Memorial Highway". (Sen. J. Stamas)
53	4191		Yes	3/6	3/6	6/4/18	Highways; name; portion of I-75; designate as the "Officer Martin 'Marty' Chivas Memorial Highway". (Rep. M. Howrylak)
54	5216		Yes	3/6	3/6	6/4/18	Civil procedure; other; report of prisoner actions dismissed as frivolous; eliminate. (Rep. K. Kesto)
55	5039		Yes	3/6	3/6	3/6/18	Transportation; motor fuel tax; motor fuel tax exemptions; modify. (Rep. J. Wentworth)
56		0616	Yes	3/6	3/6	6/4/18	Children; protection; access to electronic central registry; allow tribal entity or tribal social services representative to have access. (Sen. J. Emmons)
57		0393	Yes	3/13	3/14	1/1/19	Economic development; tax increment financing; tax increment finance authorities into a single act; provide for. (Sen. K. Horn)
58		0419	Yes	3/13	3/14	6/12/18	Juveniles; other; considerations for returning child to custody of parent; modify. (Sen. J. Emmons)

- * - 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.

2018 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
59		0420	Yes	3/13	3/14	6/12/18	Children; protection; considerations for returning child to custody of parent; modify. (Sen. P. Pavlov)
60		0421	Yes	3/13	3/14	6/12/18	Children; child abuse or child neglect; considerations for returning child to custody of parent; modify. (Sen. R. Jones)
61		0522	Yes	3/13	3/14	6/12/18	Local government; other; compensation for directors of a village or township community center; provide for. (Sen. T. Casperson)
62		0582	Yes	3/13	3/14	6/12/18	Vehicles; registration; issuance of plates, tabs, or placards to persons with disabilities; allow upon determination of a qualifying condition by a physical therapist. (Sen. M. Knollenberg)
63		0645	Yes	3/13	3/14	6/12/18	Transportation; other; state safety oversight entity; create to oversee covered rail fixed guideway public transportation systems. (Sen. T. Casperson)
64	4535		Yes	3/13	3/14	6/12/18	Traffic control; civil infraction procedures; civil infraction for failure to place a tab on a vehicle within 30 days of date of registration; modify. (Rep. C. VanderWall)
65	4536		Yes	3/13	3/14	6/12/18 #	Criminal procedure; expunction; expunction of all information in arrest record when individual is wrongly accused under certain circumstances; require. (Rep. P. Lucido)
66	4537		Yes	3/13	3/14	6/12/18 #	Law enforcement; law enforcement information network (LEIN); promulgation of rules to effectuate expunction and destruction of all arrest record information from LEIN and other databases by C.J.I.S. under certain circumstances; require. (Rep. P. Lucido)
67	4538		Yes	3/13	3/14	6/12/18 #	Criminal procedure; pretrial procedure; expunction and destruction of biometric data; eliminate certain exceptions. (Rep. P. Lucido)
68	4973		Yes	3/19	3/19	6/17/18	Civil rights; public records; public body records, documents, or information disclosable under freedom of information act; exempt critical energy infrastructure and cybersecurity-related information. (Rep. B. Iden)

* - 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.

2018 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
69		0596	Yes	3/19	3/19	6/17/18	Recreation; trails; trail development and management; provide for. (Sen. G. Hansen)
70	4168		Yes	3/19	3/19	6/17/18	Highways; name; portion of M-71; designate as "PFC Shane Cantu Veterans Memorial Highway". (Rep. B. Frederick)
71	4430		Yes	3/19	3/19	6/17/18	Civil rights; privacy; state assistance of federal government data collection; restrict. (Rep. M. Howrylak)
72	4545		Yes	3/19	3/19	7/1/18	Employment security; other; data sharing; allow for certain purposes and facilitate access. (Rep. J. Ellison)
73	4546		Yes	3/19	3/19	7/1/18 #	Employment security; reports; liability for misuse of shared data; extend to individuals associated with Michigan works agencies and certain educational institutions. (Rep. G. Howell)
74	4839		Yes	3/19	3/19	6/17/18	Vehicles; registration; authority to deny or suspend vehicle registrations of carriers under certain circumstances; provide for. (Rep. C. VanderWall)
75	4888		Yes	3/19	3/19	3/19/18	Traffic control; traffic regulation; definition of "charitable or civic organization" in section 676b of the Michigan vehicle code; modify. (Rep. D. Lauwers)
76	5094		Yes	3/19	3/19	6/17/18	Consumer credit; credit reports and reporting agencies; free security freeze for consumers; provide for. (Rep. J. Bellino)
77	5112		Yes	3/19	3/19	6/17/18	Highways; name; portion of Red Arrow Highway in Berrien County; designate as the "Trooper Robert J. Mihalik Memorial Highway". (Rep. K. LaSata)
78	5155		Yes	3/19	3/19	6/17/18	Natural resources; rivers and streams; adopt-a-river program; limit to state parks and recreation areas. (Rep. K. LaSata)

- * - 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.

2018 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
79	5156		Yes	3/19	3/19	6/17/18	Natural resources; shorelands; adopt-a-shoreline program; limit to state parks and recreation areas. (Rep. K. LaSata)
80	5198		Yes	3/19	3/19	6/17/18	Natural resources; forests; agreements with other states and the federal government to provide assistance; allow for all hazard incidents. (Rep. S. Allor)
81	5236		Yes	3/19	3/19	6/17/18	Occupations; accounting; certified public accountants; continuing education requirements; modify, and make other general revisions. (Rep. B. Iden)
82	4321		Yes	3/20	3/20	3/20/18	Appropriations; zero budget; supplemental appropriations; provide for fiscal year 2017-2018. (Rep. L. Cox)
83	5120		Yes	3/26	3/26	6/24/18	Highways; name; portion of M-15 in the city of Vassar; designate as the "Specialist 5 Michael May and Corporal Chris Esckelson Memorial Highway". (Rep. E. Canfield)
84		0353	Yes	3/26	3/26	6/24/18	Labor; benefits; mandatory job interview information requirements; prohibit local units of government from establishing for employers. (Sen. J. Proos)
85		0442	Yes	3/26	3/26	6/24/18	Businesses; business corporations; general revisions to business corporation act; provide for. (Sen. M. Kowall)
86		0590	Yes	3/26	3/26	6/24/18	Townships; charter; computation of net indebtedness; modify to include eligible reimbursements under the local community stabilization authority act. (Sen. J. Stamas)
87		0591	Yes	3/26	3/26	6/24/18	Villages; general law; computation of net indebtedness; modify to include eligible reimbursements under the local community stabilization authority act. (Sen. J. Stamas)
88		0592	Yes	3/26	3/26	6/24/18	Villages; home rule; computation of net indebtedness; modify to include eligible reimbursements under the local community stabilization authority act. (Sen. M. Shirkey)

* - 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.

2018 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
89		0593	Yes	3/26	3/26	6/24/18	Cities; home rule ; computation of net indebtedness; modify to include eligible reimbursements under the local community stabilization authority act. (Sen. M. Shirkey)
90		0589	Yes	3/26	3/26	6/24/18	Vehicles; other ; operation of electric patrol vehicles on sidewalks; permit under certain circumstances and modify certain equipment requirements. (Sen. P. MacGregor)
91		0638	Yes	3/26	3/26	6/24/18	Insurance; reinsurance ; eligibility credit for reinsurance; modify. (Sen. M. O'Brien)
92	4811		Yes	3/26	3/26	3/26/18 #	Agriculture; other ; certain food processing standards; modify compliance with federal regulations, and modify certain licensing requirements and fees. (Rep. R. Victory)
93	4812		Yes	3/26	3/26	3/26/18 #	Agriculture; other ; certain feed standards; modify compliance with federal regulations. (Rep. R. Victory)
94	5227		Yes	3/26	3/26	6/24/18	Agriculture; regulation ; seed potato standards for distributing, growing, and planting; require to comply with the national harmonization program. (Rep. R. Victory)
95	5257		Yes	4/2	4/2	7/1/18	Crimes; computer ; penalties for possession and use of ransomware without authorization; provide for. (Rep. B. Iden)
96	5258		Yes	4/2	4/2	7/1/18 #	Criminal procedure; sentencing guidelines ; sentencing guidelines for possession with intent to use ransomware without authorization; enact. (Rep. J. Lower)
97	5097		Yes	4/2	4/2	7/1/18	Counties; boards and commissions ; permit fee required for a government entity or telecommunication provider working within a county right-of-way; clarify limits, and clarify bonding and insurance requirements for telecommunication providers working within a county right-of-way. (Rep. B. Griffin)
98	5220		Yes	4/2	4/2	4/2/18	Weapons; other ; purchase and possession of certain self-defense spray concentration; allow under certain circumstances. (Rep. M. Hoitenga)

* - 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.

2018 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
99	5282		Yes	4/2	4/2	7/1/18	Crimes; intoxication or impairment; hearing procedure for issuing a restricted license requiring the installation of ignition interlock device; modify. <i>(Rep. P. Lucido)</i>
100	5456		Yes	4/2	4/2	4/2/18	Civil procedure; civil actions; asbestos bankruptcy trust claims transparency act; enact. <i>(Rep. J. Wentworth)</i>
101	5678		Yes	4/2	4/2	4/2/18	Health occupations; health professionals; bona fide prescriber-patient relationship before prescribing or dispensing a controlled substance; modify beginning date. <i>(Rep. B. Kahle)</i>
102	4633		Yes	4/2	4/5	7/4/18	Law enforcement; reports; uniform crime reporting system; include the national missing and unidentified persons system (NamUs) for reports of missing individuals. <i>(Rep. T. Brann)</i>
103		0623	Yes	4/5	4/5	4/5/18	Individual income tax; deductions; extension or renewal of certain qualified renaissance zones; allow. <i>(Sen. K. Horn)</i>
104		0662	Yes	4/2	4/5	7/4/18	Liquor; licenses; eligibility for club liquor license; extend to certain additional members. <i>(Sen. R. Jones)</i>
105		0712	Yes	4/5	4/5	4/5/18	Civil rights; public records; maintenance, custody, and procedure for disclosing certain public records; modify. <i>(Sen. J. Stamas)</i>
106		0727	Yes	4/5	4/5	4/5/18	Education; teachers; interim teaching certificate; modify certain criteria. <i>(Sen. P. Pavlov)</i>
107		0801	Yes	4/5	4/5	7/4/18	Controlled substances; schedules; tianeptine sodium; include as a schedule 2 drug. <i>(Sen. R. Jones)</i>
108	4922		Yes	4/2	4/5	7/4/18	Vehicles; inspection; records of collection and disposition of inspection fees; allow for review by local government. <i>(Rep. J. Yaroch)</i>

- * - 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.

2018 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
109		0521	Yes	4/24	4/24	7/23/18	Traffic control; traffic regulation; procedure for intersection traffic flow due to power failure; clarify. (Sen. R. Jones)
110	5190		Yes	4/24	4/24	4/24/18	Liquor; licenses; issuance of a national sporting event license; expand to include Professional Golf Association Tour Champions Tournament for 2018-2020. (Rep. T. Sneller)
111	4562		Yes	4/25	4/25	4/25/18 #	Agriculture; other; agricultural disaster loan origination program act; recodify and update reference to sales tax exemption. (Rep. C. VanderWall)
112	4563		Yes	4/25	4/25	4/25/18 #	State financing and management; funds; reference to sales tax exemption for certain agriculture equipment; revise. (Rep. D. Rendon)
113	4561		Yes	4/25	4/25	4/25/18	Sales tax; exemptions; exemption for certain agricultural equipment; clarify. (Rep. D. Lauwers)
114	4564		Yes	4/25	4/25	4/25/18	Use tax; exemptions; exemption for certain agricultural equipment; clarify. (Rep. T. Barrett)
115	5394		Yes	4/25	4/26	7/25/18	Highways; name; portion of Business Route 127; designate as the "SPC Robert Friese Memorial Highway". (Rep. J. Wentworth)
116	5001		Yes	4/25	4/26	7/25/18 #	Occupations; foresters; registration of foresters; provide for purposes of preparing management plan for tax-exempt qualified forest property. (Rep. D. Rendon)
117	5002		Yes	4/25	4/26	7/25/18 #	Property tax; exemptions; qualified forest property; revise forester registration program citation. (Rep. D. Rendon)
118	5091		Yes	4/25	4/26	4/26/18	Individual income tax; reporting; employer reporting deadline; modify to comply with federal deadline. (Rep. B. Kahle)

- * - 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.

2018 Michigan Public Acts Table

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
119	5438		Yes	4/25	4/26	7/25/18	Crimes; human trafficking ; definition of coercion; expand to include controlling or facilitating access to controlled substances. (Rep. L. Cox)
120		0809	Yes	5/2	5/3	12/31/18	Elections; other ; Michigan election law; repeal and remove certain obsolete provisions, and make other miscellaneous changes. (Sen. D. Robertson)
121		0810	Yes	5/2	5/3	12/31/18 #	Courts; district court ; reference in the revised judicature act of 1961 to the Michigan election law; update. (Sen. D. Robertson)
122		0811	Yes	5/2	5/3	12/31/18 #	Elections; school ; reference in the revised school code to the Michigan election law; update. (Sen. D. Robertson)
123		0812	Yes	5/2	5/3	12/31/18	Elections; voting equipment ; certain obsolete provisions; remove, and modify voting machine references to electronic voting system. (Sen. D. Robertson)
124		0813	Yes	5/2	5/3	12/31/18 #	Criminal procedure; sentencing guidelines ; sentencing guidelines for certain Michigan election law violations; provide for. (Sen. D. Robertson)
125		0814	Yes	5/2	5/3	12/31/18	Elections; registration ; certain obsolete provisions in the Michigan election law related to voter registration; remove, and amend other provisions related to voter registration. (Sen. D. Robertson)
126	5646		Yes	5/2	5/3	5/3/18	Elections; qualified voter file ; maintenance of the statewide qualified voter file; require the secretary of state to check against the United States Social Security Administration's death master file and require the secretary of state to participate in multistate voter registration verification programs. (Rep. J. Calley)
127	5644		Yes	5/2	5/3	5/3/18	Elections; absent voters ; procedure to "spoil" an absent voter ballot; provide for, and require use of paper ballots for tabulation. (Rep. T. Barrett)
128	5012		Yes	5/2	5/3	8/1/18	Elections; recounts ; aggrieved candidate for purposes of recount; clarify. (Rep. J. Lilly)

- * - 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					
129	5669		Yes	5/2	5/3	5/3/18	Elections ; voting procedures; identification for election purposes; define. (Rep. A. Miller)
130		0290	Yes	5/2	5/3	8/1/18	Elections ; recounts; recount fee; increase for certain recounts. (Sen. D. Robertson)
131		0841	Yes	5/2	5/3	8/1/18	Businesses ; partnerships; liability for obligations of limited liability partnerships; clarify. (Sen. J. Brandenburg)
132	5261		Yes	5/2	5/3	5/3/18	Property tax ; exemptions; filings for certain personal property exemptions; modify dates. (Rep. J. Tedder)
133	4905		Yes	5/2	5/3	5/3/18	Property tax ; principal residence exemption; principal residence exemption for individual residing in nursing home or assisted living facility; modify. (Rep. P. Lucido)

* - 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.