DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF COMMUNITY AND HEALTH SYSTEMS

QUALIFIED INTERPRETER ADMINISTRATIVE RULES

Filed with the secretary of state on XX

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

(By authority conferred on the director of the department of licensing and regulatory affairs by section 8a of the deaf persons' interpreters act, 1982 PA 204, MCL 393.508a, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2011-4, 2014-5 and 2017-4, MCL 445.2001, 445.2011, 445.2030, 445.2035, and 445.2036.)

PART 1. GENERAL PROVISIONS

R 393.301 Definitions.

Rule 301. follows (1) As used in these rules:

(a) "Act" means the Deaf Persons' Interpreters Act, 1982 PA 204, MCL 393.501 to 393.509.

(b) "Appointing authority" means an entity as defined in the act, specifically MCL 393.502.

(c) "Board" means the board of interpreters for the D/DB/HH created under Executive Order No. 2017-4.

(d) "Board of evaluation of interpreters" or "BEI" means an outstate registry that assesses interpreter skills recognized by this state that includes BEI basic, BEI advanced, and BEI masters certifications.

(e) "Complainant" means an individual that has filed at least one allegation with the department that an individual has violated the act or these rules.

(f) "Continuing Education Unit" or "CEU" means additional educational training required to maintain certification and recognized by the department.

(g) "Deaf, DeafBlind, or hard of hearing" or "D/DB/HH" means a person as defined in the act, specifically MCL 393.502, and is recognized to receive qualified interpreter (QI) services if chosen as required by the act or these rules.

(h) "Deaf interpreter" or "DI" means a qualified interpreter certified through the state or a state-recognized national organization. DI facilitates communication between a D/DB/HH person and a QI.

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

(j) "Educational interpreter performance assessment" or "EIPA" means a credential that assesses the proficiency of interpreters in elementary and secondary educational environments that is performed by the EIPA Diagnostic Center at the Boys Town National Research Hospital and recognized by this state.

(k) “Effective communication” means that all involved parties understand each other for the exchange of visual and audio information about ideas, attitudes, emotions, or behavior that occurs between 2 or more people through a common system of language that is equally and fully understood by a D/DB/HH person and a hearing person.

(l) “Hard of hearing” or “HH” means a person that has a mild-to-moderate hearing loss and may communicate through sign language, spoken language, or both.

(m) "Interpreter" means a person whose essential job function is to interpret or facilitate communication between a D/DB/HH person and a non-signing individual.

(n) “Interpreting” means the process of an interpreter listening, watching, understanding, and analyzing signs, spoken words, written words, facial expressions, and lip movements from a source language and re-expressing that message faithfully, accurately, and objectively in a target language taking the social and cultural context into account. In the context of these rules, “interpreting” generally involves signing to a D/DB/HH person what is being voiced by a hearing person and voicing to a hearing person what is being signed by a D/DB/HH person.

(o) “Oral transliteration” means the practice of interpreting for a D/HH person that uses speech and lipreading as a primary method of communication.

(p) “Proceeding” means any meeting, environment, or setting in which a D/DB/HH person participates that requires a QI under the act.

(q) “Proceedings QI” means a QI that interprets legal proceedings including witness testimony or commentary and is an officer of the court responsible for creating an accurate record for the court.

(r) "Qualified interpreter" or “QI” means a person as defined in the act, specifically MCL 393.502.

(s) “Registry of interpreters for the deaf” or “RID” means a national registry that assesses interpreter skills recognized by this state and includes the following RID and national association of deaf (NAD) certifications:

(i) Certified deaf interpreter or RID CDI.

(ii) Certificate of interpretation or RID CI.

(iii) Conditional legal interpreting permit-relay certificate or RID CLIP-R.

(iv) Comprehensive skills certificate or RID CSC.

(v) Certificate of transliteration or RID CT.

(vi) Educational certificate for kindergarten through twelfth grade or RID Ed: K-12.

(vii) Interpretation certificate or RID IC.

(viii) Master comprehensive skills certificate or RID MCSC.

(ix) National interpreter certificate or RID NIC and includes Advanced and Master certificates.

(x) Oral transliteration certificate or RID OTC.

(xi) Provisional deaf interpreter credential or RID PDIC.

(xii) Reverse skills certificate or RID RSC.

(xiii) Specialist legal certificate or RID SC-L.

(xiv) Transliteration certificate or RID TC.

(xv) NAD III.

(xvi) NAD IV.

(xvii) NAD V.

(t) “Sign language” means a visual language through signing where the brain processes linguistic information through the eyes. The shape, placement, and movement of the hands, as well as facial expressions and body movements, play important parts in conveying information.

(u) “Table QI” means a QI that sits at a legal counsel’s table during litigation, interprets privileged communications between legal counsel and the client, and monitors the proceedings interpreter for accuracy.

(v) “Team interpreting” means the utilization of 2 or more QIs to meet the needs of a particular communication situation depending on both the needs of the participants and the agreement between interpreters. The responsibilities of the individual team members may be rotated, and feedback may be exchanged.

(w) “Video remote interpreting” or “VRI” means the use of video conference technology where the QI is located remotely while the D/DB/HH and non-signing parties are in the same physical location. This term does not include video relay service (VRS) that is a form of telecommunications to enable persons with hearing or speech disabilities to communicate with voice telephone users through video equipment.

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

R 393.303 Scope.

Rule 303. (1) These rules apply to an individual that provides interpreting services before an appointing authority proceeding within this state that involve a D/DB/HH person or any situation where a QI is required as an accommodation under state or federal law.

(2) An individual that interprets for a D/DB/HH person in this state must hold a state certification under R 393.309 and be listed as a QI in the state registry when offering services in any of the following:

(a) An action before a court or grand jury.

(b) A proceeding before a department, board, commission, agency, or licensing authority in this state or a political subdivision of this state.

(c) A proceeding before an entity that is required to provide a QI as an accommodation for a D/DB/HH person under a law of this state or a federal law.

(3) The state registry must list the QI’s full name; city, state, and zip code of residence; type of certification; certification expiration date; and any disciplinary actions taken by the department against the QI. The state registry must be made available on the department’s website.

(4) Levels of certification are based on credentials and allow a QI to interpret in specific proceedings:

(a) Basic QI.

(b) Advanced QI.

(c) Educational QI.

(5) In addition to the certification required in subrule (4), endorsements are necessary to interpret at any of the following:

(a) Medical or mental health proceedings.

(b) Legal proceedings.

(6) An individual may offer interpreting services during an emergency when the health or safety of a D/DB/HH person is in immediate danger and the following are met:

(a) Attempts to locate a QI have begun and continue unabated.

(b) An alternative and more effective means of communication is not available or becomes available and is immediately utilized.

(c) An appointing authority must document efforts to obtain a QI and all temporary options discussed with the D/DB/HH person. An appointing authority must maintain this documentation for 2 years following the emergency.

(7) An individual that does not hold a QI certification may offer interpreting services, excluding legal proceedings, for learning and training purposes if the following are met:

(a) The individual is enrolled in, or graduated from, a course for interpreting at a university or college or is a DI and has not passed a state-approved certification exam or advanced level exam.

(b) The individual is under the in-person supervision of a QI when providing interpreter services, is not a substitute for the QI or team interpreter, and only for proceedings that the supervising QI is qualified.

(c) The supervising QI is in good standing with the state and has an advanced or educational certification and applicable endorsements.

(d) The supervising QI is not providing supervision to more than 2 individuals in a proceeding.

(e) The supervising QI has reviewed and documented with the individual the act and these rules.

(f) The individual has not offered interpreting services for learning and training purposes for more than 2 years.

(g) The supervising QI has documented consent from the D/DB/HH person, or in the case of a child the parent or guardian, to use this individual for learning and training purposes only. The consent must be maintained by the supervising QI for 1 year after the service has been rendered.

(h) The supervising QI is responsible for all services offered by the individual under this rule as if the QI had offered that service directly.

(8) A QI may be mentored by an Advanced QI certification for purposes of training and learning if the following are met:

(a) The individual is under the supervision of an Advanced QI.

(b) The supervising Advanced QI is current and in good standing with the state and has any applicable educational certification or endorsements.

(c) The supervising Advanced QI is not providing supervision to more than 2 individuals in a proceeding.

(d) The supervising Advanced QI has reviewed and documented with the individual the act and these rules.

(e) The supervising Advanced QI has documented consent from the D/DB/HH person, or in the case of a child the parent or guardian, to use this individual for learning and training purposes only. The consent must be maintained by the supervising Advanced QI for 1 year after the service has been rendered.

(f) The supervising Advanced QI is responsible for all services offered by the individual under this rule as if the Advanced QI had offered that service directly.

R 393.305 Deaf, DeafBlind, or hard of hearing person rights.

Rule 305. (1) A D/DB/HH person, or parent or legal guardian of a D/DB/HH minor child, must not be coerced, threatened, or intimidated into signing a waiver under section 503(3) of the act, specifically MCL 393.503, to utilize an individual that does not hold a QI certification in this state. Any agreement obtained under these circumstances is void.

(2) A D/DB/HH person, unless incapacitated to respond, must be informed at a minimum of the following and given an opportunity to determine if and how to proceed for using an individual that does not hold a QI certification in this state during an emergency under R 393.303(6):

(a) Temporary inability to provide a QI.

(b) Status of efforts to obtain a QI.

(c) When a QI is anticipated to become available.

(d) The D/DB/HH person must be given primary consideration for how the communication should be utilized.

(3) A D/DB/HH person must provide consent to use of an individual that does not hold a QI certification in this state for training purposes under R 393.303(7). Consent must be obtained prior to any use of that individual for interpreting services in a proceeding. In the case of a minor, the parent or guardian must provide consent.

(4) A D/DB/HH person must provide consent when a school district plans to use an individual for interpreting services that does not meet the EIPA requirements as a QI under R 393.311. Consent must be obtained prior to any use of that individual for interpreting services in the school environment. In the case of a minor, the parent or guardian must provide consent.

(5) A D/DB/HH person has the right to effective communication and has primary consideration to determine effective communication is being achieved, meaning that all involved parties understand each other for the exchange of visual and audio information about ideas, attitudes, emotions, or behavior that occurs between 2 or more people through a common system of language that is equally and fully understood by a D/DB/HH person and a hearing person.

(6) A D/DB/HH person may file a complaint under R 393.341 with the department if they believe a QI is not compliant with the act or these rules.

R 393.307 Reasonable advance notice to appointing authority.

Rule 307. (1) An appointing authority may require reasonable advance notice from a D/DB/HH person. Notice is reasonable when given by a D/DB/HH person as soon as a medical, legal, or an emergency need is identified.

(2) Determination of reasonableness includes the following:

(a) Local availability of QIs.

(b) Whether the appointing authority regularly utilizes VRI or an interpreter agency.

(c) Nature of the proceeding for which a QI is requested.

(d) Any specific type of endorsement or other interpreter expertise needed.

(e) Potential for harm if there is delay in the proceeding.

(f) Ability of the D/DB/HH person to have foreseen the need.

PART 2. MINIMUM CREDENTIAL REQUIREMENTS AND LEVELS

R 393.309 Certification types.

Rule 309. (1) There are 3 types of certifications: basic QI, advanced QI, and educational QI. Certification types are based on a QI's credentials and level of expected proficiency. Each type sets a minimum proficiency level and specific proceedings of the QI to protect the health, safety, and welfare of a D/DB/HH person.

(2) An individual with RID oral transliteration certificate only may provide oral transliterating only. If oral transliterating is done in an advanced level proceeding, the QI must also obtain the appropriate endorsements.

(3) A QI must hold an endorsement to interpret in medical or mental health or legal proceedings.

(4) The proceedings where a QI may work are identified in Table 1.

(5) An individual that holds an active standard level 3 certification under the prior rules is considered to hold an advanced QI certification with a legal endorsement.

Table 1 - Basic, Advanced, and Educational Certification, Credentials, and Proceedings

Basic QI Certification	**Advanced QI Certification**
Allows a QI to interpret in low risk, non-complex proceedings and prohibits interpreting in proceedings where the primary focus is medical, mental health, legal, employment, finance, or government.	Allows a QI to interpret in low risk, moderately complex, and medium-high risk proceedings including government, employment, finance, medical, and mental health care environments with the proper endorsement.
A QI must possess at least 1 of the following credentials: (1) BEI Basic. (2) NAD III. (3) RID IC. (4) RID TC.	A QI must possess at least 1 of the following credentials: (1) BEI Advanced. (2) BEI Master. (3) RID CI. (4) RID CT. (5) RID OTC. (6) NAD IV. (7) RID NIC. (8) RID NIC Advanced. (9) RID NIC Master. (10) RID CDI. (11) RID CSC. (12) RID MCSC. (13) RID RSC. (14) NAD V. (15) DI.
A QI may interpret in the following proceedings unless the type of proceeding is more specifically defined in this subrule: (1) Workshops. (2) Meetings. (3) Trainings. (4) General presentations. (5) GED trainings. (6) Post-secondary vocational trainings. (7) Weddings, graduations, and funerals.	A QI may interpret in the following proceedings: (1) Any proceeding in the Basic column. (2) An individualized education program (IEP) meeting. (3) College or university education. (4) Meetings, training sessions, or workshops involving college or university education, employment, finance, science, technology, engineering, math fields, or government. (5) Interviews for employment. (6) Job trainings. (7) Employment complaint and employment discipline meetings. (8) Staff meetings. (9) Political events. (10) Financial or banking transactions.

	(11) Government meetings. (12) Presentation by dignitaries and public personalities. (13) Plays, concerts, television news. (14) Tax assessment meetings or appeals. (15) Applications for state or federal services. (16) VRI services for situations listed in this paragraph. (17) Legal proceedings including the following with a legal endorsement: (a) Forensic psychiatric evaluation. (b) Evaluation of a legal nature. (c) Emergency broadcast. (d) Legal workshop or legal training. (e) VRI services for legal matter and situations listed in this paragraph. (f) Activity involving police, prison, or prisoners. (g) Activity involving an attorney or courts. (h) Activity involving children's protective services. (i) Activity involving probation or parole. (j) Juvenile detention center. (k) Manifestation determination. (l) IEP if an attorney is participating in the meeting. (m) Criminal proceeding. (n) Police interrogation. (18) Medical or mental health environments with a medical-mental health endorsement: (a) Health care beyond first aid. (b) Emergency room, trauma center, urgent care, hospital, nursing home, triage, hospice, rehabilitation center, dialysis center, inpatient facility, outpatient facility, mental health facility, or similar facility where medical or mental health services are provided. (c) Health-related and mental health-related presentations, trainings, and workshops. (d) Counseling. (e) Psychiatric evaluations. (f) Addiction treatment. (g) In a health care situation involving a health care practitioner licensed under the

	public health code, 1978 PA 368, MCL 333.1101 to 333.25211.
Educational QI Certification (Non-Post-Secondary)	
Elementary educational certification allows a QI to interpret for a D/DB/HH child in a pre-kindergarten through 6th grade school environment.	Secondary educational certification allows a QI to interpret for a D/DB/HH student in a 7th grade through 12th grade school environment, and through age 26 for a student with an IEP or section 504 plan (504) pursuant to the Rehabilitation Act of 1973, 34 CFR 104 (2015).
A QI must possess not less than 1 of the following credentials: (1) Performance score on the elementary EIPA examination of 4.0 or higher, with a passing score on the written test, or a similar written test approved by the department in cooperation with the Michigan department of education (MDE). (2) Credential accepted by the board with advice from the MDE that is based on a testing instrument and a score that is like a 4.0 on the elementary EIPA examination. (3) RID CDI. (4) DI	A QI must possess not less than 1 of the following credentials: (1) EIPA performance score on the elementary or secondary EIPA examination of 4.0 or higher, with a passing score on the written test, or a similar written test approved by the board in cooperation with the MDE. (2) Advanced QI certification. (3) Credential accepted by the board with advice from the MDE that is based on a testing instrument and a score that is like a 4.0 on the elementary or secondary EIPA examination. (4) RID CDI (5) DI
A QI may interpret in the following proceedings or environments: (1) Elementary classroom. (2) Meetings pursuant to the Rehabilitation Act of 1973, 34 CFR 104 (2015), regarding an IEP or 504 plan. (3) School-related disciplinary situation, not involving the police. (4) Before-school and after-school activities. (5) Class trips. (6) Other school-related activities. (7) Auxiliary services located within the school or related services listed on a student's IEP. (8) Medical, mental health, or legal proceedings including those involving child protective services if the educational QI has the proper endorsements. Otherwise, an educational QI must work with an advanced QI with the proper endorsements.	A QI may interpret in the following proceedings or environments: (1) Secondary classroom. (2) Meetings pursuant to the regulations effectuating section 504 of the Rehabilitation Act of 1973, 34 CFR part 104 (2015), regarding an IEP or 504 plan. (3) School related disciplinary situation, not involving the police. (4) Before-school and after-school activities. (5) Class trips. (6) High school vocational training. (7) Other school-related activities. (8) Auxiliary services located within the school or related services listed on a student's IEP. (9) Medical, mental health, or legal proceedings including those involving child protective services if the educational QI has the proper endorsements. Otherwise, an

(9) Secondary education environments in this subrule.	educational QI must work with an advanced QI with the proper endorsements.

R 393.311 Exception to 4.0 educational standard.

Rule 311. (1) A school district may use an individual who lacks the 4.0 or higher performance score on the EIPA examination until the end of a school year if the following are met:

(a) Notifies the department prior to using the individual that the individual passed the EIPA written test and received an EIPA examination performance score of 3.5 to 3.9 on either the elementary or secondary examination.

(b) Notifies in writing the parent or guardian that the district is unable to hire a QI that has met the EIPA requirement.

(c) Has written consent from the parent(s) or guardian(s) to use the individual that does not meet EIPA requirements.

(d) Has exhausted reasonable efforts to locate a QI that includes documentation of advertising for the position, including a copy of the notice, a list of where it was posted, and the dates of posting.

(e) Has discussed other educational options including enrollment in the Michigan School for the Deaf, participation in a regional deaf education program, or enrollment in a remote educational program with the parent(s) or guardian(s) of the D/DB/HH student by the IEP team.

(2) The school district must maintain the following documents related to the individual for 2 years after the exception ends:

(a) Proof the individual passed the EIPA written test and received an EIPA examination performance score of 3.5 to 3.9 on either the elementary or secondary examination, depending on where the applicant is interpreting, within the 24-month period immediately before September 1 of the school year for which the exception is being requested.

(b) Documentation of 2 CEUs or 20 hours in educational interpreting training by the individual within the 12-month period immediately preceding September 1 of the school year for which the exception is being requested.

R 393.313 Endorsements; medical-mental health; legal.

Rule 313. (1) A QI must hold the endorsement as designated under this rule to interpret for medical or mental health or legal proceedings.

(2) An applicant for an endorsement under subrule (1) must submit:

(a) The fee(s) required by the act.

(b) A completed application on a form provided by the department.

(3) An endorsement application is valid for 90 days from the date the department receives the application.

(4) An applicant that applies for a medical-mental health endorsement must demonstrate the following:

(a) Is qualified to interpret for a proceeding at the advanced certification level.

(b) Has completed not less than 2.0 or 20 hours of medical or mental health CEUs at the initial time of application and 2.0 CEUs or 20 hours of medical or mental health CEUs per 4-year cycle after.

(5) An applicant that applies for a legal endorsement must meet either (a) or (b), have completed 2.0 CEUs or 20 hours of legal CEUs per 4-year cycle, and:

(a) Possess an RID SC:L or RID CLIP-R or other legal certification recognized by RID that is substantially similar to an RID SC:L or an RID CLIP-R.

(b) Meet the following:

(i) Possess certification for 1 of the following credentials:

(A) BEI Master.

(B) RID CSC.

(C) RID MCSC.

(D) RID reverse skills certificate.

(E) RID CDI.

(F) NAD V.

(G) RID CI and CT.

(H) RID OTC.

(I) RID NIC.

(J) RID NIC Advanced.

(K) RID NIC Master.

(ii) Complete not less than 75 hours of legal mentoring experience with a QI that holds any of the following: RID SC:L or RID CLIP-R or other legal certification recognized by RID that is substantially like an RID SC:L or an RID CLIP-R, a legal endorsement issued by this state, or legal credential issued by another state.

(iii) Complete not less than 20 hours of trial observation or mock trial training. This requirement may be met with hours used to meet (ii) of this subdivision.

(iv) Document and complete not less than 4 years of post-advanced QI certification interpreting experience. A CDI is exempt from this requirement.

(v) Complete not less than 50 hours or 5.0 CEUs of legal interpreting concepts. The QI must maintain documents to demonstrate compliance if requested by the department.

R 393.315 Temporary credentials, endorsements.

R 315. (1) The board may advise the department to recognize a temporary credential or endorsement not referenced in these rules for 2 years or until these rules are updated, whichever occurs first.

(2) The board must allow an opportunity for public testimony prior to any advice to the department.

(3) The temporary credential or endorsement must be equivalent to existing credentials or endorsements and must not conflict with the act or these rules.

(4) Any temporary credential or endorsement will be null and void if not promulgated into these rules within 2 years from the effective date of the temporary credential or endorsement.

R 393.317 Initial deaf interpreter requirements.

R 317. (1) A DI must be state certified as a QI pursuant to these rules.

(2) To be state certified, an individual must meet the following:

(a) Possess an associate degree or higher from an accredited university, college, or other education institution.

(b) Proof of deafness (audiogram must show 60db loss or greater).

(c) Documentation of either a score of 4 or higher on the American Sign Language Proficiency Interview (ASLPI) or advanced or higher on the Sign Language Proficiency Interview – American Sign Language (SLPI-ASL).

(d) Complete 40 hours of interpreting training that includes:

(i) Eight (8) hours of ethics.

(ii) Twelve (12) hours of training in the work of a deaf interpreter and in their professional responsibility.

(iii) Twenty (20) hours of any other interpreting training.

PART 3. MINIMUM STANDARDS OF PRACTICE

R 393.319 Practice standards.

Rule 319. (1) A QI must interpret for a proceeding within their QI level under these rules, unless otherwise provided in these rules and the act.

(2) Before starting a proceeding, a QI must provide proof of current certification and endorsement(s) issued by the state to the appointing authority and D/DB/HH person(s) as well as a valid government issued identification with photo upon request.

(3) A QI working within a school must provide proof of current certification and endorsement(s) to the school annually and the school must maintain a copy on file and make available for public review upon request.

(4) If there is a conflict between these rules and a local, state, or federal law, a QI must comply with the law. A QI must comply with federal regulations established by the United States Department of Justice under title II and III of the Americans with Disabilities Act of 1990 or Americans with Disabilities Amendments Act of 2008. These rules are intended to supplement state and federal laws and must be read to be consistent with state and federal law if more than 1 interpretation is possible.

(5) A neutral QI must be used to interpret for a co-worker or peer during a disciplinary meeting, conflict resolution, personal meeting, or employment dispute unless a D/DB/HH person requests a QI that is a co-worker or peer.

(6) A QI must not interpret for opposing parties and/or counsel in a legal proceeding.

(7) When a defendant in a criminal trial is a D/DB/HH person, separate proceedings QI(s) and table interpreter(s) must be required. A table interpreter facilitating communication between a D/DB/HH person, and their counsel must not interpret for the court. A proceeding must not proceed without a table interpreter being present in a criminal case. The roles of the QI at the table and the proceedings QI are neither adversarial nor compatible. The QI at the table is a member of the council team and an agent of the attorney. The proceedings QI is an officer of the court. In such instances, both of the following apply:

(a) The proceedings QI must interpret the courtroom proceedings.

(b) The table QI must interpret privileged and other communications between a D/DB/HH person and their attorney while monitoring the accuracy and effectiveness of the proceedings QI's interpretations on behalf of the defense.

(8) A QI must not accept assignments requiring them to be the sole interpreter in situations that require a team. A team must be required if any of the following factors exist:

(a) A criminal case where the defendant is a D/DB/HH person as described in subrule (7) of this rule.

(b) D/DB/HH participants that are represented by opposing counsels or otherwise have incompatible interests or privacy concerns.

(c) A D/DB/HH youth of 18 years or younger is a witness, victim, or defendant.

(d) Police interrogations.

(e) The D/DB/HH participant has requested a deaf interpreter (DI).

(9) The decision to utilize team interpreting involves ethical decision making and consideration of a variety of variables. These variables can impact effective communication as well as result in repetitive strain injury to the QI. A QI must not be compelled to interpret alone if the request for a team is denied. A QI may request of the appointing authority a team if 1 or more of the following variables exist:

(a) Multiple D/DB/HH participants and/or multiple hearing participants are present.

(b) The subject matter requires a high degree of specialized vocabulary.

(c) There is a high degree of interactivity among the participants requiring the QI to utilize both expressive and receptive skills.

(d) There is a rapid pace of communication that cannot be easily modified.

(e) Participants exhibit limited language proficiency.

(f) The D/DB/HH participants use different modes of communication.

(g) There are logistical considerations.

(h) A proceeding exceeds 2 hours of continuous interpreting with no or limited breaks.

(10) Medical, mental health, police, or legal situations, including situations involving child protective services that occur in school, must include a QI holding the appropriate medical or legal endorsement and is credentialed with an Advanced QI.

(11) A contract or regular employee, regardless of job title, whose essential job function is to interpret or to facilitate communication between a D/DB/HH person and a non-signing person through sign language or oral transliteration, must hold appropriate credentials and endorsements making them a QI as prescribed in the act and these rules.

R 393.321 Adoption by reference; code of professional conduct.

Rule 321. These rules adopt by reference the NAD-RID Code of Professional Conduct, effective July 1, 2005. The department must maintain on its website information on how to obtain copies.

R 393.323 Educational standards.

Rule 323. (1) The rules adopt by reference the policies and procedures for recognizing accrediting organizations of the Council for Higher Education Accreditation (CHEA), effective September 24, 2018, and the procedures and criteria for recognizing accrediting agencies of the United States Department of Education, 34 CFR part 602 (2009). The department must maintain on its website information on how to obtain copies.

(2) Any university, college, or other education institution accredited by a CHEA approved accrediting agency or an accrediting agency recognized by the United States Secretary of Education is considered accredited for the purpose of these rules.

R 393.325 VRI requirements.

Rule 325. (1) VRI cannot be provided to a person that is or is identified as being legally blind.

(2) An appointing authority may utilize VRI in place of a QI onsite only if D/HH person agrees to use VRI. A consent agreement must be in writing and signed by the D/HH person and appointing authority prior to the day of the appointment or proceeding. The agreement must be retained by the appointing authority for 2 years after the date that the VRI service has ended.

(3) An appointing authority using VRI must use a QI with appropriate certification and with the required endorsements for the applicable proceeding.

(4) A QI must convey their full name and show proof of current certification and endorsement(s) issued by the state on the video screen to the D/HH person and appointing authority before starting the VRI service. The appointing authority must document the QI's name and certification. The QI must also present a valid government-issued photo identification upon request.

(5) An appointing authority cannot utilize VRI for a minor without consent by the minor's parent or legal guardian, except where parental or guardian consent is not required in medical situations under state or federal laws.

(6) VRI must not be used unless the following are met:

(a) A QI must not transfer a medical call to a different call center when interpreting for a single proceeding with a D/HH patient, unless using the same call center is not possible.

(b) A QI and appointing authority must provide continuity by minimizing the number of call centers and QIs that work with a single D/HH patient during multiple proceedings related to the course of an inpatient stay or the treatment of a single ailment.

(c) A QI and appointing authority must require an onsite systems administrator, technician, or other individual that possesses the training and knowledge to connect, fix, or correct technical issues that arise during the use of VRI.

(7) A QI that believes VRI is not providing effective communication must immediately inform the D/HH person, appointing authority, and parties involved to determine if another form of interpreting is necessary.

(8) A QI must immediately stop using VRI if a D/HH person indicates that effective communication is not being achieved. Proceedings must not be resumed using VRI unless effective communication can be achieved.

(9) VRI may be used by an appointing authority and a QI on a temporary basis in a medical emergency pursuant to R 393.303(6).

(10) A QI can participate in VRI if conducted from a dedicated and secure call center that complies with the following:

(a) Is convened in a private location where a D/HH person may reasonably expect confidentiality.

(b) Uses dedicated and separate rooms where QIs and others necessary to conduct the interpreting services can be located.

(c) Uses only dedicated computers and equipment for VRI.

(11) A QI must enter into a HIPAA-compliant agreement with an appointing authority as required by the HIPAA omnibus rule.

(12) A QI that uses VRI in an educational environment must comply with educational interpreter standards and the following:

(a) A QI must not interpret for a proceeding using VRI for any D/HH child from birth through grade 5.

(b) The parents or legal guardians, IEP team or 504 plan team, and the D/HH student must all participate in the final determination of whether effective communication is achieved for a student using VRI services during an IEP or 504 plan meeting and for any student in a secondary educational environment.

(13) The D/HH person must have access to the equipment when communication is taking place, and its usage must not be restricted.

(14) The D/HH person must retain the ability to be reconnected to VRI when the need for communication arises.

(15) If there are 3 failed connection attempts, shutdowns, or unexpected equipment disconnects, the QI must report to the appointing authority that they cannot provide effective communication due to equipment failure. The QI must withdraw from the assignment and the appointing authority must use an onsite QI for the remainder of the proceeding or until the equipment failure is resolved.

PART 4. QUALIFIED INTERPRETER CERTIFICATION PROCESS

PART 4A. APPLICATION

R 393.327 Application for certification and endorsement requirements.

Rule 327. (1) An applicant will submit the following for certification and endorsements:

(a) A completed application on a form provided by the department.

(b) The fee(s) required by the act.

(c) A copy of a valid government photo identification.

(d) Evidence of being at least 18 years of age.

(e) A confirmation on the application form that the applicant has no past or pending disciplinary action, including revocation, from this state or other states the individual holds an interpreter license, registration, or certification. If the applicant cannot attest to these facts, the applicant may submit an accurate and written clarification on why a disciplinary action should not be reason for denial in this state.

(f) A confirmation on the application form that the applicant will comply with:

(i) NAD-RID code of professional conduct.

(ii) EIPA Guidelines of Professional Conduct for Educational Interpreters.

(g) Proof of at least 1 of the following:

(i) For BEI credential, BEI interpreter test passing scores and documentation of an associate or higher degree from an accredited university, college, or other education institution. An applicant possessing a BEI certification issued before July 7, 2018, is exempt from the degree requirement unless the certification has lapsed.

(ii) For RID credential, documentation that indicates the type of certification or a RID verification document with current expiration date.

(iii) For EIPA credential, documentation of passage of the written exam and 4.0 or higher on the performance exam at the elementary or secondary level.

(iv) For DI credential, documentation that meets the requirements of R 393.317(2).

(2) If a QI applies for an additional state certification when they already hold a state certification on a different credential, the additional state certification expires on the same date the previous state certification was issued.

(3) The department will notify an applicant if an application is incomplete.

(4) An application is considered withdrawn if not completed within 90 calendar days of notification from the department that it was incomplete. Once an application is considered withdrawn, a new application with supporting documentation and fee(s) required by the act must be submitted.

(5) Upon submission of an application, the applicant must provide contact information including mailing address, email address, and phone number. Once certified, the QI is required to notify the department upon change, but no later than 30 days after a change, of a mailing address, email address, or phone number.

PART 4B. TESTING

R 393.329 Testing.

Rule 329. (1) To apply to take the TEP test, an applicant must submit the following:

(a) A completed application on a form provided by the department.

(b) A valid state-issued or government-issued photo identification verifying 18 years of age at the time of application for testing.

(c) The fee(s) required by the act.

(d) Verification of high school graduation or general educational development (GED) certificate.

(2) To apply to take the BEI basic, advanced, or master test an applicant must submit the following:

(a) A completed application on a form provided by the department to take the level of test for which the applicant qualifies or is eligible to take.

(b) Proof of successfully passing the TEP.

(c) Proof of any current interpreter credentials.

(d) A copy of official transcripts verifying an associate or higher college degree from an accredited university, college, or other education institution or proof of having obtained current certification or national certification before July 7, 2018.

(e) A valid state-issued or government-issued photo identification verifying 18 years of age at the time of application for testing.

(f) The fee(s) required by the act.

(g) An attestation that the individual has no past revocation action while the individual held an interpreter license, registration, or certification in this state or another state in the past 5 years from submission of the application.

(3) An application to take the BEI basic, advanced, or master test is valid for 1 year from the date the department received the application.

R 393.331 Retesting.

Rule 331. (1) An applicant that has taken a test under the state-approved testing system and has passed the BEI (basic, advanced, or master) test does not have to retest unless their state BEI certification has lapsed greater than 1 year from the expiration date. To renew within 1 year from expiration without retesting, the applicant must have met their CE requirements, paid the required fees, and completed the renewal application.

(2) If an applicant holds a current BEI certification in another state in good standing, they are not required to retest. The applicant must submit proof of current certification and complete the application process pursuant to R 393.327.

(3) If an applicant’s state BEI certification has lapsed greater than 1 year, they must retest.

R 393.333 Refunds; conditions; rescheduling examinations.

Rule 333. (1) The department must issue refunds if it cancels a test or service that was paid for and not received due to cancellation or error by the department, except for events that are rescheduled.

(2) Failure to appear for a performance test or TEP on a scheduled date, or arriving late for a confirmed performance test, must result in forfeiture of the fee(s) required by the act.

(3) The department must consider if weather conditions caused an applicant to fail to appear or to be late in arriving to the test.

(4) The department must offer an opportunity to the applicant to reschedule the test as soon as possible after the cancellation of the test. If the applicant does not complete the test within one calendar year of the cancellation, the fee(s) required by the act must be forfeited.

PART 4C. RENEWALS

R 393.335 Certification and endorsement renewal requirements.

Rule 335. (1) A QI that provides interpreting services during a proceeding that involves a D/DB/HH person residing in this state must renew their certification with the state annually before the expiration date issued by the department.

(2) A QI that holds a certificate or an endorsement for renewal must submit the following prior to the expiration date of the certificate or endorsement:

(a) A completed application on a form required by the department.

(b) The fee(s) required by the act.

(c) An RID certificate holder must provide proof of RID membership credential that indicates the type of RID certification and the current expiration date.

(d) An attestation to all the following:

(i) The QI has no past revocation action while the individual held an interpreter license, registration, or certification in this state or in another state in the past 5 years from submission of the renewal application.

(ii) The QI agrees to comply with the NAD-RID code of professional conduct.

(iii) The QI has complied with the applicable CEU requirements.

(e) CEUs as provided under R 393.337 are required every 4-year renewal cycle on the renewal date issued by the department.

(3) A QI that fails to renew their certification before the expiration date may, within 30 calendar days of the expiration date, file to renew by paying the fee(s) required by the act. The QI may continue to practice and use the title during the 30-day period.

(4) A QI that fails to renew their certification within 30 calendar days of the expiration date has a lapsed certification and must cease practicing as a QI.

(5) A renewal application is considered expired if not completed, including all requested information or documentation, within 90 calendar days of notification from the department on what is required to complete the application. Once an application is considered expired, a new application with supporting documentation and fee(s) must be submitted.

(6) Upon approval of an application, the department will renew a certification and any applicable endorsement and list the individual as active in the online registry system.

PART 4D. CONTINUING EDUCATION

R 393.337 Continuing education requirements for state certification.

Rule 337. (1) The following CEU activities are considered recognized by the department:

(a) CEUs recognized and sponsored by RID.

(b) CEUs sponsored by another jurisdiction if the CEUs meet the requirements and appropriate documentation is provided in these rules.

(c) Proof of successful completion of coursework related to the interpreter profession that was taken for credit or audit from an accredited university, college, or other education institution. The coursework must be documented by a transcript that shows the name of the institution, number of hours, name of participant, date completed, and evidence of successful completion. CEU credit must be granted as follows:

(i) Semester system: 1 credit hour = 15 clock hours.

(ii) Quarter system: 1 credit hour = 10 clock hours.

(e) A program related to the interpreting profession given or facilitated by the Michigan department of education.

(2) A QI must comply with the CEU totals as provided in Table 2 for every 4-year renewal cycle established by the department:

Table 2 – CEU Requirements

CEU Type	**RID**	**RID & BEI**	**RID & EIPA**	**RID & BEI & EIPA**	**BEI**	**BEI & EIPA**	**EIPA**	**DI**
At least 4.0 CEUs or 40 hours in professional studies					X	X	X	X
At least 2.0 CEUs or 20 hours in ethics					X	X	X	X
Not more than 1.0 CEU or 10 hours in general studies					X	X	X	X
At least 1.0 CEU or 10 hours of DeafBlind	X	X	X	X	X	X	X	X
At least 1.0 CEU or 10 hours of education*						X	X	X
Total CEUs Required at renewal	1	1	1	1	8	8	8	8
Following CEUs are required if QI holds endorsement (R 393.313)								
At least 2.0 CEUs or 20 hours of medical-mental health	X	X	X	X	X	X	N/A	X
At least 2.0 CEUs or 20 hours of legal	X	X	X	X	X	X	N/A	N/A

* Educational CEUs are not in addition to total CEUs. A DI that works in an educational environment must also complete educational related CEUs.

N/A – Not applicable.

(3) Proof of CEU compliance must be maintained by the QI as applicable in Table 2 for each 4-year renewal cycle and documentation must be made available to the department upon request under R 393.339. An RID-credentialed QI must submit only endorsements and DeafBlind CEUs. If a QI holds an RID with a BEI and/or EIPA, the QI must submit only CEUs for endorsements and DeafBlind CEUs.

(4) For professional studies, CEUs must be related to the following topics:

(a) Interpreting or skill development.

(b) Deafness.

(c) Deaf culture.

(d) Active involvement, including presenting, teaching, and planning.

(5) For ethics, CEUs must be related to ethics or RID power, privilege, and oppression (PPO).

(6) For general studies or CEUs, topics that enhance the interpreter's general knowledge that can be related to deafness or interpreting, or topics that are accepted by other professions in this state or are accepted by RID as general studies.

(7) For the DeafBlind requirement, CEUs must be related to DeafBlind, deaf persons with low vision, and interpreting for DB and deaf persons with low vision.

(8) For elementary and secondary education, CEUs must be related to educational interpreting related subjects.

(9) For medical-mental health endorsement, CEUs must be related to health care or mental health interpreting in medical and mental health proceedings.

(10) For legal endorsement, CEUs must be related to legal interpreting in legal proceedings.

(11) One (1) CEU equals 10 clock hours of continuing education. Credit may be given 0.25-hour increments. Lunch hours, social programs, events, or breaks that are longer than 15 minutes do not count toward CEUs.

(12) Credit for the same continuing education program must not be given twice in the same 4-year cycle.

(13) The department may waive CEU requirements as a condition of certification or endorsement renewal if the QI provides written documentation prior to the expiration date demonstrating any of the following during the period in question:

(a) Disability.

(b) Military service.

(c) Medical circumstances.

(d) Absence from the continental United States.

(e) Extenuating circumstances.

R 393.339 Department records; continuing education; audit process.

Rule 339. (1) The department must establish within 1 year from the effective date of these rules and update, when necessary, a CEU audit process with advice of the board. The process must consider the ability to align cycles.

(2) The department must publicly post the established audit process on its website.

(3) The department must report to the board findings from the CEU audit process.

(4) After an applicant attests to having met the CEU requirements during their renewal, the department may request documentation to verify compliance.

(5) Documentation may include the following on either a certificate of attendance, letter of participation, or a professional development transcript:

(a) Name of the sponsoring organization.

(b) Educational program date.

(c) Title of the program.

(d) Number of CEUs issued.

(6) A QI must retain their own CEU documentation for a period of 5 years from the date of applying for initial certification or renewal.

(7) If there is a question regarding the CEU described in this rule or R 393.337, the department shall make a final determination.

(8) New CEUs required by these rules and not already in effect in previous rules take effect 2 years from the effective date of these rules.

PART 5. COMPLAINTS

R 393.341 Filing complaints.

Rule 341. (1) An individual may file a complaint with the department for any alleged violation of the act or these rules.

(2) Complaints must be filed in writing. As an accommodation, a D/DB/HH person may file a video request so that it may be translated by the department into writing.

(3) A team interpreter that files a complaint is not in breach of confidentiality.

(4) A complaint against a QI must be filed with the department within 12 months after the alleged violation. The department may investigate a complaint filed more than 12 months after the alleged violation if the complainant shows good cause for the delay in filing the complaint.

(5) Complaints related to denial of reasonable accommodations may be filed with the Michigan department of civil rights under the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101 to 37.1607, or with the United States Department of Justice for violations under the Americans with Disabilities Act of 1990, 42 USC 12101 et seq., as amended by the Americans with Disabilities Amendments Act of 2008, Public Law 110-325.

R 393.343 Acknowledgement of complaint.

Rule 343. The department must notify the complainant of the receipt of the complaint.

R 393.345 Complaint notification.

Rule 345. (1) The department must decide within 45 calendar days of receipt of the complaint if an investigation will be conducted. If an investigation is to be conducted, the QI identified in the allegations must be notified by the department within 10 calendar days after the department's decision to investigate.

(2) The department must conduct the investigation by reviewing the complaint and any response from the QI to determine whether a violation of the act or these rules occurred. The department may request additional information.

R 393.347 Investigation.

Rule 347. (1) If the department's investigation does not identify a violation of the act or these rules, the department must close the complaint.

(2) If the department finds or obtains evidence of a violation of the act or these rules, the department must act under Part 6.

(3) A QI must cooperate with the department's investigation of a complaint. Cooperation includes, but is not limited to, answering questions, and providing pertinent documents.

(4) The department must provide the QI with written findings no later than 30 calendar days after the conclusion of the investigation.

(5) The department must provide the complainant with the findings not later than 60 calendar days after the conclusion of the investigation process.

PART 6. REVOCATION, SUSPENSION, LIMITATION OF CERTIFICATION

R 393.349 Plan of correction.

Rule 349. (1) The department may request a plan of correction to resolve noncompliance with the act or these rules. A QI has 15 calendar days to submit a proposed plan of correction. A plan of correction becomes binding when approved by the department.

(2) The department must take enforcement action under R 393.351 for failure by a QI to submit the plan of correction acceptable to the department.

(3) The department must take enforcement action under R 393.351 for failure by a QI to adhere to a plan of correction approved by department. Adherence to the plan of correction is determined at the discretion of the department.

R 393.351 Enforcement.

Rule 351. (1) The department must monitor compliance with certificates and endorsements and investigate allegations of noncompliance with the act or these rules.

(2) A finding of noncompliance by the department may include that a QI provided false information during the application process and was issued a certificate or endorsement based on the false information unknown to the department at that time.

(3) If the department determines that a QI is in violation of the act or these rules, excluding approved and adhered to plans of correction under R 393.349, the department must do 1 or more of the following:

(a) Revoke the certificate or endorsement pursuant to R 393.353.

(b) Suspend the certificate or endorsement pursuant to R 393.353.

(4) After the issuance of a notice of intent under R 393.353, the department may settle alleged or unresolved violations of the act or these rules for enforcement actions under subrule (3).

(5) A settlement acceptable to the department that may include, but not limited to, the following:

(a) Place a limitation on the certificate or endorsement.

(b) Require retraining or completion of continuing education.

(c) Issue a written reprimand that does not otherwise affect or limit the certificate.

(d) Take any other action as authorized by the act or these rules.

(6) A QI may voluntarily surrender a certificate or endorsement by notifying the department in writing. The effective date of the voluntary termination will be the date the department receives the written request. The department must honor the request unless it has an open complaint investigation; pending disciplinary action; or open enforcement action, such as a plan of correction, against the QI.

R 393.353 Notice of Intent.

Rule 353. (1) The department must notify the QI in writing of the facts or conduct that warrant the intended action before revoking or suspending the certificate or endorsement. The written notice of intent must include the following:

(a) The nature of the allegations.

(b) The approximate date and time the allegations occurred.

(c) The department’s intended action to revoke or suspend.

(d) An opportunity to discuss the allegations at an informal compliance conference.

(e) The right to waive the compliance conference and proceed directly to an administrative hearing.

(f) Notice that the department's intended action to revoke or suspend will be final if the QI does not submit a written appeal as instructed in the notice of intent.

(2) Service of a notice of intent by the department can be made via email or US mail to the contact address provided by the QI in R 393.327(5).

(3) The QI must submit a written request for a compliance conference or an administrative hearing within 30 days after the date of the written notice, as provided in subrule (1). The department will enforce the sanction indicated in the written notice if the QI does not submit a timely written request.

(4) The department must forward a written request for administrative hearing to the Michigan office of administrative hearings and rules upon receipt or after a compliance conference that does not result in settlement of the issues raised in the notice of intent.

(5) Procedures for an administrative hearing must comply with sections 71 to 92 of the Michigan Administrative Procedures Act, 1969 PA 306, MCL 24.271 to 24.292, and the Michigan Administrative Hearing System Uniform Hearing Rules, R 792.10101 to R 792.10137.

(6) A QI has the right to be represented by an attorney at the compliance conference or administrative hearing at the QI's expense.

R 393.355 Summary Suspension.

Rule 355. (1) The department may summarily suspend the QI's certificate or endorsement if the department finds that the public health, safety, or welfare requires emergency action in accordance with section 92 of the Michigan Administrative Procedures Act, 1969 PA 306, MCL 24.292. If the department summarily suspends a certificate or endorsement, it must promptly hold an administrative hearing to determine if the summary suspension should remain in effect.

(2) The record created at a post-suspension hearing becomes a part of the record at any subsequent contested case hearing concerning the certificate or endorsement.

R 393.357 Opportunity to Show Compliance.

Rule 357. When the department issues a notice of intent, a notice of compliance conference must accompany the notice of intent. The notice of compliance conference must state the date, time, and location or medium of the compliance conference, and must state the following:

(a) The purpose of the compliance conference is to provide the QI the opportunity to demonstrate compliance with requirements for a certificate or endorsement at the time of the incident alleged in the notice of intent.

(b) If the QI is unable to reach a settlement with the department, the matter will proceed to an administrative hearing.

(c) The QI may waive the compliance conference and proceed directly to administrative hearing.