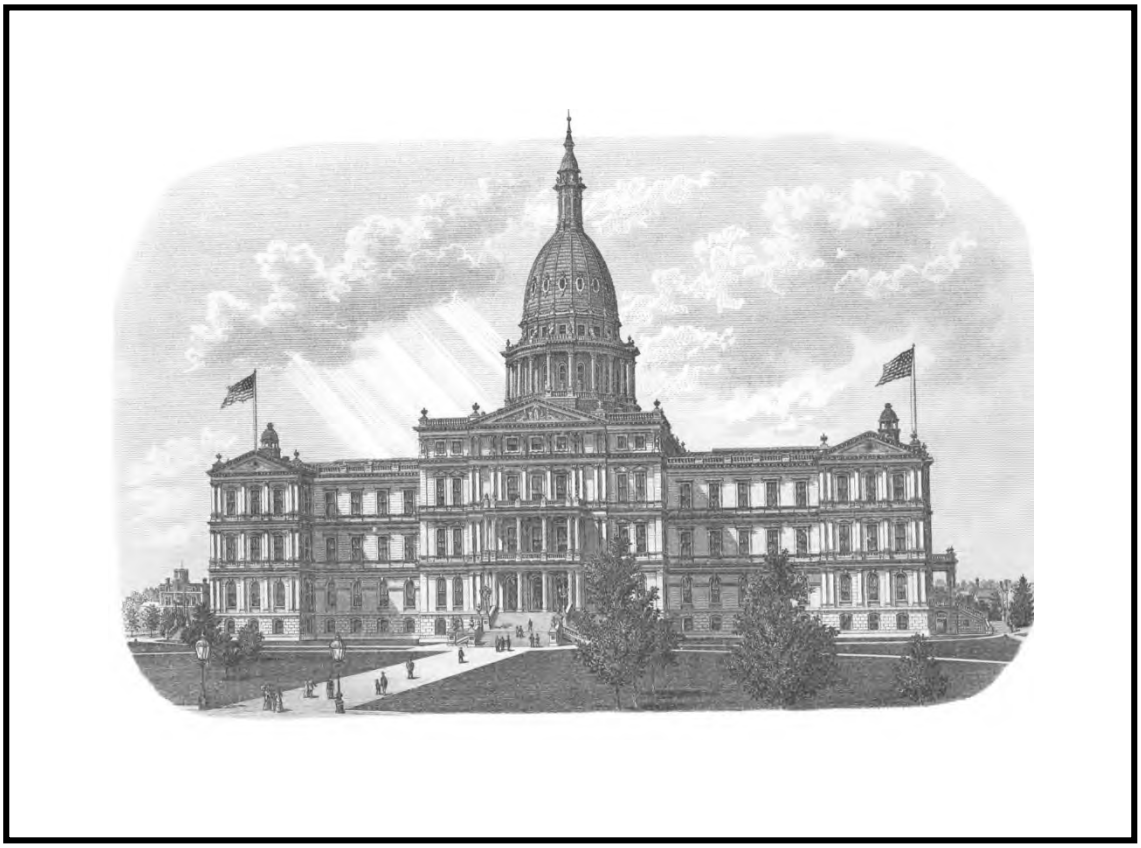
Michigan Register

Issue No. 10 – 2023 (Published June 15, 2023)



GRAPHIC IMAGES IN THE

MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

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

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

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

Because of their size, few architectural renderings of the 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. 10— 2023
(This issue, published June 15, 2023, contains
documents filed from May 15, 2023 to June 1, 2023)

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Michigan Office of Administrative Hearings and Rules

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

Gretchen Whitmer, Governor

Garlin Gilchrist, Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

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

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

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

Sec. 8.

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

(a) Executive orders and executive reorganization orders.

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules.

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

(g) Emergency rules filed with the secretary of state.

(h) Notice of proposed and adopted agency guidelines.

(i) Other official information considered necessary or appropriate by the office of regulatory reform.

(j) Attorney general opinions.

(k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.

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

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

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

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

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

Sec. 203.

(1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.

(2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.

(3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.

(4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.

(5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.

(6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.

(7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).

(8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).

(9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

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

CLOSING DATES AND PUBLICATION SCHEDULE

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

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

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

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

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

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

SUBSCRIPTIONS AND DISTRIBUTION

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

INTERNET ACCESS

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

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

Executive Director,
Michigan Office of Administrative Hearings and Rules

2023 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2023	February 1, 2023
2	February 1, 2023	February 15, 2023
3	February 15, 2023	March 1, 2023
4	March 1, 2023	March 15, 2023
5	March 15, 2023	April 1, 2023
6	April 1, 2023	April 15, 2023
7	April 15, 2023	May 1, 2023
8	May 1, 2023	May 15, 2023
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10	June 1, 2023	June 15, 2023
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12	July 1, 2023	July 15, 2023
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19	October 15, 2023	November 1, 2023
20	November 1, 2023	November 15, 2023
21	November 15, 2023	December 1, 2023
22	December 1, 2023	December 15, 2023
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CUMULATIVE INDEX

BILLS SIGNED INTO LAW OR VETOED

ADMINISTRATIVE RULES
FILED WITH THE SECRETARY OF STATE

MCL 24.208 states in part:

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

* * *

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

ADMINISTRATIVE RULES

DEPARTMENT OF CIVIL RIGHTS

CIVIL RIGHTS COMMISSION

ORGANIZATION, PRACTICE, AND PROCEDURE

Filed with the secretary of state on May 16, 2023

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the civil rights commission by section 29 of article V of the state constitution of 1963 and section 601 of the Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2601)

R 37.2, R 37.4, R 37.5, R. 37.6, R 37.7, R 37.10, R 37.11, R 37.12, and R 37.25 of the Michigan Administrative Code are amended, and R 37.28, R 37.29, R 37.30, and R 37.31 are added, as follows:

R 37.2 Definitions.

Rule 2. As used in these rules:

(a) “Certified complaint” means a complaint of discrimination, drafted by department staff on an official complaint form that is prepared after a preliminary determination of jurisdiction, and has the claimant’s signature.

(b) "Chairperson" means the duly appointed or elected chairperson or a co-chairperson of the commission or, in the event of his or her or their absence, the acting chairperson designated by the remaining members of the commission.

(c) "Charge" means that document or pleading authorized by the department that initiates a contested case hearing under R 37.12.

(d) "Claimant" means any person who makes a complaint of discrimination to the department.

(e) "Commission" means the state civil rights commission created by section 29 of article V of the constitution.

(f) "Commissioner" means any member of the commission.

(g) “Complaint” means a communication from the claimant to the department that alleges discrimination as set forth in R 37.4.

(h) "Constitution" means the state constitution of 1963.

(i) “Day” means a calendar day, including a Saturday, Sunday, and state holiday.

(j) "Department" means the department of civil rights established by section 475 of the Executive organization act of 1965, 1965 PA 380, MCL 16.575.

(k) "Department investigator" means a member, agent, or employee of the department designated or delegated by the director to conduct an investigation.

(l) "Director" means the director of the department appointed by the commission.

(m) "Hearing commissioner" means a commissioner designated by the chairperson or the commission to conduct a hearing.

(n) "Hearing referee" means an agent of the commission designated or delegated by the chairperson or the director to conduct a hearing.

(o) "Party" or "parties" means the claimant or respondent, or both, and the commission or department, or both, where appropriate.

(p) "Person" means an individual, agent, association, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, this state, or a political subdivision or agency of this state, or another legal or commercial entity.

(q) "Respondent" means person against whom the claimant has complained, or against whom the department has issued a charge.

(r) “Summary of complaint” means a document prepared by department staff following an intake interview that explains why a certified complaint was not taken and outlines the timeline to request a reconsideration of that decision.

R 37.4 Complaints.

Rule 4. (1) A person claiming to be aggrieved by unlawful discrimination may personally, or through counsel or other agent, submit a complaint to the department.

(2) A commissioner, director, or agent authorized by the commission or director, may initiate, make, sign, and file a complaint in the public’s interest.

(3) Assistance in drafting and filing a complaint must be available without charge at all department offices.

(4) A certified complaint must be in writing, dated, and include all of the following:

(a) The full name and address of the claimant and his or her agent, if any.

(b) The full name and address of the respondent.

(c) The alleged discrimination and a detailed statement describing it. ~~the particulars thereof.~~

(d) The date, dates, or range of dates of the alleged discrimination and whether the alleged discrimination is of a continuous nature.

(e) The claimant’s signature.

(5) The complaint must be filed with the department at 1 of its offices.

(6) The complaint must be filed within 180 days after the date of the alleged discrimination, or within 180 days after the date when the alleged discrimination was or should have been discovered. If the alleged discrimination is of a continuous nature, the date of the discrimination is any date after the commencement of the discrimination, up to and including the date upon which the discrimination ceased.

(7) The complaint may be filed by personal delivery, mail, or electronic service, and addressed or emailed to 1 of the department's offices.

(8) Complaint forms may be obtained at any of the offices of the department.

(9) A copy of the complaint filed by the claimant must be delivered or mailed to the respondent.

(10) The department may require answers to interrogatories, order the submission of books, papers, records, and other materials pertinent to a complaint, and require the attendance of witnesses, administer oaths, take testimony, and compel, through court authorization, compliance with its orders or an order of the commission.

(11) A complaint, or part of a complaint, may only be withdrawn with written consent of the commission or department upon conditions considered proper under the circumstances.

R 37.5 Conciliation conference.

Rule 5. (1) The respondent may be invited, at any time, to participate in a conciliation conference in a final attempt to address and eliminate the alleged discrimination.

(2) The members of the commission and the department staff shall not disclose what has transpired at the conciliation conference.

(3) If the conciliation conference is successful, the department shall notify the parties of the resolution and close the case.

(4) If the conciliation conference fails, the department may do any of the following:

(a) Conduct additional investigation.

(b) Dismiss the certified complaint based on the investigation.

(c) Refer the case for final legal review with a recommendation for a charge and an administrative hearing.

R 37.6 Charge; issuance; refusal to issue.

Rule 6. (1) If, after investigation, the department determines that there are sufficient grounds, a charge shall be issued.

(2) If the department determines that there are insufficient grounds to issue a charge, it shall refuse to issue a charge and shall notify the parties by mail or electronic service of the determination and the refusal, together with the reasons for refusal, and of the claimant's right to request reconsideration by the department of the determination within 30 days after the date of mailing, in accordance with R 37.7.

R 37.7 Reconsideration of refusal to issue charge; request; hearing.

Rule 7. (1) A claimant may request that the department reconsider a summary of complaint or refusal to issue a charge on a certified complaint. The request must be in writing, state specifically the grounds upon which it is based, and be filed within 30 days after the date of mailing of the notice of disposition of which reconsideration is requested. It must be filed at any office of the department by personal delivery or by mail.

(2) A reconsideration of a summary of complaint must review whether the request for reconsideration is timely filed and if the allegations are jurisdictional.

(3) Reconsideration of a closed or dismissed certified complaint must be filed within 30 days of closure or dismissal and must address the following 3 criteria:

(a) Whether an adequate investigation was conducted.

(b) Whether there is new probative evidence that may change the result of the investigation.

(c) Whether the determination was made in error.

(4) The department may authorize a hearing on the request for reconsideration at a time and place before the hearing commissioner or commissioners or hearing referee or referees as it or the director may determine, and notice must be given to all parties to the proceedings by mail, electronic service, or delivery. The parties may appear in person or by counsel, present witnesses and testimony, and examine and cross-examine witnesses. Verbatim stenographic notes of the proceedings must be made and maintained by a competent reporter. The hearing commissioner or commissioners or hearing referee or referees shall report to the commission on the proceedings. The commission shall determine whether the department shall consider the matter further, and notify all parties by registered or certified mail, return receipt requested, and issue instructions for appropriate action based upon such determination.

R 37.10 Charge; service.

Rule 10. Copies of the charge or amended charge must be delivered by mail or electronic service or sent by certified or registered mail, return receipt requested, to the parties, together with notice to the respondent to answer the charge as provided in R 37.11.

R 37.11 Answer.

Rule 11. (1) The respondent shall file a written verified answer to the charge of discrimination within 21 days after the date of service of the charge.

(2) The answer must be filed in duplicate at any office of the department. The filing must be by personal delivery mail or electronic service, with proof of service.

(3) Upon request, the commission or director may, for good cause shown, extend the time within which the answer may be filed.

(4) The answer must be in writing and the original must be signed and verified by the respondent. The answer must contain the address of the respondent, and if he or she is represented by counsel, the name and address of counsel. The answer must contain a general or specific denial or admission or a denial of any knowledge or information sufficient to form a belief of every allegation of the charge and a statement of any matter constituting a defense. An allegation in the charge that is not denied or admitted in the answer, unless the respondent states in the answer that he or she is without knowledge or information sufficient to form a belief, is considered admitted.

(5) The respondent has the right, reasonably and fairly, to amend his or her answer. Both of the following apply to an amended answer:

(a) The respondent's right to amend his or her answer may be exercised at any time, without permission, up to 10 days before the first hearing. If the first hearing is in less than 10 days, the respondent may apply, and the hearing commissioner or hearing referee may allow the respondent to amend his or her answer.

(b) Duplicate copies of an amended answer must be filed with the department.

(6) If an answer is not filed within the time provided for in these rules, each of the allegations in the charge are considered admitted. Upon application, the hearing commissioner or hearing referee, for good cause shown, may set aside the admission.

(7) The department, within 7 days after the date of receiving an answer or amended answer from the respondent, shall send a copy by mail or electronic service, with proof of service, to the claimant’s last known address of record or to the claimant’s counsel.

R 37.12 Hearing.

Rule 12. (1) Upon or after the issuance and service of a department-issued charge, the commission or director may schedule and summon the parties to a hearing. The commission may, at any time, schedule and conduct a hearing with respect to any matter that in the judgment of the commission may involve unlawful discrimination and may warrant investigation by the commission, regardless of whether a charge or complaint has been filed by or with the department.

(2) Notice of the time and place of the hearing must be mailed, electronically served, or delivered to the parties not less than 21 days before the date of the hearing. Upon good cause shown, the commission or director may order a hearing upon shorter notice. However, notice of the time and place of a hearing upon shorter notice must be mailed, electronically served, or delivered to the parties not less than 7 days before the date of the hearing, unless notice is waived by each party.

(3) A hearing must be conducted by 1 or more hearing commissioners, or 1 or more hearing referees, or any combination of hearing commissioners or hearing referees. The hearing commissioners or hearing referees shall hear the evidence and report to the commission.

(4) Unless waived by the hearing commissioners or hearing referees, the claimant shall be present at the hearing. The respondent may appear at the hearing in person or by counsel, examine and cross-examine witnesses and, if an answer has been filed, may submit oral testimony and other evidence in support of the answer.

(5) Subject to R 37.31, hearings must be held at a place designated by the commission or director having due regard for the convenience of the parties and witnesses.

(6) The case in support of the charge must be presented at the hearing by the department's counsel or by a member of the department's staff, or upon notice from the claimant, by the claimant or his or her counsel, subject to the right of the department to present additional evidence or arguments.

(7) Hearing commissioners or hearing referees have full authority to control the procedure of the hearing, admit or exclude testimony or other evidence without regard to strict rules of evidence, and rule upon all motions and objections, and may do any of the following:

(a) By motion or at the request of a party, order witnesses excluded so that they cannot hear the testimony of other witnesses. The hearing commissioners or hearing referees shall not exclude a party, an individual designated by a party as its representative, or a person whose presence is shown by a party to be essential to the party's presentation of his or her position.

(b) Examine witnesses and direct the production of papers or other evidence.

(c) Hear oral testimony. Oral testimony must be given under oath or affirmation and verbatim stenographic notes of the hearing must be made and maintained by a competent reporter. Transcripts must be maintained and, before the issuance of a final order, be available to the hearing commissioners or hearing referees. Parties may obtain transcripts by making arrangements with the reporters, and the department is not responsible for providing transcripts to the parties before the issuance of final orders.

(8) If hearings are conducted by 3 or more commissioners or referees, all rulings and determinations are made by majority rule.

(9) Evidence of the department's endeavors at conciliation is not admissible at the hearing.

(10) Hearing commissioners or hearing referees or a party may request a prehearing conference that the hearing commissioner or hearing referee may schedule, subject to objection by any party. A prehearing conference may be held to obtain admissions, stipulations as to fact and law, agreement on the issues, and to determine the authenticity of documents. A prehearing conference may be held in-person, by telephone, videoconference, or other electronic means. Written stipulations may be introduced in evidence if signed by each person sought to be bound, or by his or her counsel. Oral stipulations may be made on the record at open hearing.

(11) Hearing commissioners or hearing referees may continue a hearing from day to day or adjourn it to a later date or to a different place by an announcement at the hearing or by appropriate notice to all parties.

(12) Hearing commissioners or hearing referees shall allow the parties, their counsel, or the member of the department's staff presenting the case in support of the charge, and may allow interveners, to argue orally before them and to file briefs within the time limits the hearing commissioners or hearing referees determine.

(13) Hearing commissioners or hearing referees may exclude any person who engages in improper conduct before them from the hearing room or from further participation in the proceeding, except a party, his or her counsel, or a witness engaged in testifying, each of whom are subject to appropriate disciplinary action by the commission.

(14) Hearings must be open to the public, unless the hearing commissioners or hearing referees determine otherwise.

(15) Any motion filed by a party after the issuance of a charge and before the hearing must be referred to the hearing commissioners or hearing referees for decision. The hearing commissioners or hearing referees may request briefs and schedule oral arguments, as they consider necessary, and, where appropriate, they may reserve their ruling until the conclusion of the hearing. All rulings upon motions must be included in the report of the hearing commissioners or hearing referees to the commission.

(16) A party may submit, or the hearing commissioners or hearing referees may request, proposed findings of fact, proposed conclusions of law, and proposed orders at the conclusion of the hearing. All proposals must be submitted to the commission with the report of the hearing commissioners or hearing referees.

R 37.25 Exemption from particular section of act; bona fide occupational qualification (BFOQ).

Rule 25. (1) A person subject to article 2 of the Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2201 to 37.2211, may apply to the commission for exemption from particular sections of article 2 of the Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2201 to 37.2211, on the basis that religion, national origin, age, height, weight, or sex is a bona fide occupational qualification (BFOQ). An application for a BFOQ exemption may be obtained from the department's office of legal affairs or via the website at www.michigan.gov/mdcr.

(2) The commission may direct the department to investigate any matter deemed relevant to an application, and the applicant shall make available all records, documents, data, or other information requested by the department or commission. Failure to provide this information results in denial of the application.

(3) An exemption must not be granted if the same facts and circumstances are at issue in a complaint pending before the department or commission. Upon a sufficient showing, the commission may grant an exemption. The exemption may be later revoked by the commission if the commission obtains other or different information, but the revocation is prospective. Any person obtaining an exemption shall notify the commission if and when the classification exempted is no longer utilized.

(4) An approved BFOQ exemption is effective for not more than 5 years after the date of the order of exemption issued by the commission.

(5) Within 21 days' after notice to the person to whom an approved BFOQ exemption has been granted, the commission may revoke the BFOQ exemption by a majority vote of the commission.

(6) An application to renew a BFOQ exemption may be submitted on the application form provided by the department.

R 37.28 Method for calculation of days.

Rule 28. (1) All time is measured in days unless another rule specifically provides a different method.

(2) When counting the number of days, Saturdays, Sundays, and state holidays must be included, subject to subrule (4) of this rule.

(3) "Day 1," the first day for counting, is the day after the event.

(4) When counting the number of days, the last day of the counting period is included, unless it is a Saturday, Sunday, state holiday, or other day when state offices are closed, in which cases the last day becomes the next day state offices are open for business.

R 37.29 Mail and electronic service.

Rule 29. (1) Mailing a copy under these rules means enclosing it in a sealed envelope with first class postage fully prepaid, addressed to the person to be served, and depositing the envelope and its contents in the United States mail. Service by mail is complete upon mailing. Electronic service must be by email. When filing documents by email, all of the following apply:

(a) All documents must be in PDF format.

(b) The email subject line must include the case name, department case number, and title of each document being sent.

(c) An email sent at or before 11:59 p.m. is considered served on that day. If the email is sent on a Saturday, Sunday, or legal holiday, it is deemed to be served on the next business day.

(2) Both mailing and electronic service require proof of service. Proof of service must be by written acknowledgment of service, or a written statement by the individual who served the documents.

(3) Proof of service may be satisfied in documents filed through mail or email, or both, with the following written statement:

PROOF OF SERVICE
I, ___[name]____, certify, under penalty of perjury, that on __[date]___, I caused a copy of the above document to be served by __[mail/email]__ on ____[other party name]_____.
/s/ [electronic signature]
[name]

R 37.30 Signature.

Rule 30. (1) The claimant's signature on a certified complaint form means all of the following apply:

(a) Claimant has read the document.

(b) To the best of claimant's knowledge, information, and belief the allegations are grounded in fact.

(c) The certified complaint is made in good faith and not made for any improper purpose, including to harass or to cause unnecessary expense.

(2) Retention of a signature electronically affixed to a document that will be retained in electronic format must not depend on the mechanism that was used to affix that signature.

R 37.31 Manner of hearings.

Rule 31. (1) Hearings scheduled in accordance with R. 37.7 and R. 37.12 may be held in person or remotely, or both, at the discretion of the commission and in a manner as determined by the commission.

(2) If a remote hearing is initially scheduled for a hearing pursuant to R 37.7, the claimant must be provided an opportunity to request an in-person hearing. A request for an in-person hearing must be made in writing to the commission within 7 days of the hearing notice.

(3) If a remote hearing is initially scheduled for a hearing pursuant to R 37.12, a party may request an in-person hearing within 7 days of the hearing notice.

(4) Requests for in-person hearings are considered on a case-by-case basis and granted only if both of the following requirements are met:

(a) A reasonable, good cause showing of accessibility limitations, specific evidentiary issues, or other unique circumstance.

(b) An agreement to comply with specific requirements for in-person hearings.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CENTRAL FILL AND SHARED PHARMACY SERVICES

Filed with the secretary of state on May 19, 2023

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969,1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16145, 17753, and 17767 of the public health code, 1978 PA 368, MCL 333.16145, 333.17753, and 333.17767, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.3051, R 338.3052, R 338.3053, R 338.3054, R 338.3055, and R 338.3056 of the Michigan Administrative Code are amended, as follows:

PART 1. GENERAL PROVISIONS

R 338.3051 Definitions.

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

(a) “Board” means the Michigan board of pharmacy, created in section 17721 of the code, MCL 333.17721.

(b) "Central fill pharmacy" means a pharmacy that engages in dispensing functions of centralized prescription processing at the request of an originating pharmacy.

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

(d) "Deliver," as used in this part, means the actual, constructive, or attempted transfer of a prescription drug, including a controlled substance, directly to a patient or a patient's agent by the lawful order of a practitioner. Deliver does not include a central fill pharmacy that provides a prescription product to another pharmacy for subsequent issuance to a patient or a patient's agent.

(e) "Delivering pharmacist" means a pharmacist who is responsible for delivering a prescription directly to a patient or a patient's agent.

(f) "Delivering pharmacy" means the pharmacy that delivers the filled or refilled prescription to the patient or the patient's agent. The delivering pharmacy must be either the originating pharmacy or the central fill pharmacy.

(g) “Department” means the department of licensing and regulatory affairs (LARA).

(h) "Originating pharmacy" means a pharmacy that initially receives a patient's or a prescribing practitioner's request to fill or refill a prescription.

(2) Unless otherwise defined in these rules, a term defined in the code has the same meaning if used in these rules.

R 338.3052 Central fill and shared pharmacy services rules; prevail over other pharmacy rules.

Rule 2. (1) In addition to these rules, pharmacies must follow all applicable board rules. However, to the extent that these rules conflict with other board rules, the provisions in these rules must prevail.

(2) Shared pharmacy services for processing functions of centralized pharmacy processing that do not involve the dispensing process, such as completing claims adjudication or remote data entry, may be performed under the general supervision of a pharmacist. For this subrule, dispensing process means the physical preparing, compounding, packaging, or labeling of a drug product intended for delivery to the patient.

R 338.3053 Centralized prescription processing; dispensing requirements.

Rule 3. (1) In addition to complying with the requirements of section 17753 of the code, MCL 333.17753, a pharmacy must meet all of the following requirements before it either performs centralized prescription processing or outsources centralized prescription processing to another pharmacy:

(a) Hold a pharmacy license in this state.

(b) Share sufficient patient and drug information to minimize the possibility of an adverse drug event.

(c) Maintain records required in R 338.3054, for 5 years from the date of dispensing. The pharmacy shall ensure that the records are readily retrievable within 48 hours after the department makes a request for the records. If the records are maintained in a digital format, a printed copy must be made available to the department or other authorized individual upon request.

(2) The originating pharmacy shall maintain the original prescription for a period of 5 years after the date the prescription was filled.

(3) Two years after the prescription was filled, the originating pharmacy may make an electronic duplicate of the original paper prescription, which becomes the original prescription. The originating pharmacy shall present a printed copy of the electronic duplicate of the prescription to the department or board upon request.

(4) A pharmacy engaging in centralized prescription processing is responsible for each function of the prescription's processing performed by that pharmacy.

(5) A delivering pharmacist is responsible for complying with R 338.589(4) regarding patient counseling.

(6) The prescription label for a prescription that was filled by a central fill pharmacy must identify each pharmacy that was involved in dispensing and delivering the prescription. A central fill pharmacy may be identified on a prescription label by use of a unique identifier that is recognized by the delivering pharmacist. A central fill pharmacy shall create and maintain a unique identifier and communicate the unique identifier to all pharmacies that use its services. As used in this subrule, "unique identifier" means a unique combination of letters, numbers, or symbols that allows the delivering pharmacy to identify the specific central fill pharmacy involved in the processing of the prescription.

(7) A prescription that was not delivered to a patient may be transferred back to the pharmacy that filled the prescription, if the transfer records are maintained. A central fill pharmacy and an originating pharmacy shall establish procedures for the disposition of prescription medication that was not delivered to patients. This medication may be returned to stock and may be re-dispensed without constituting a violation of R 338.503(1).

(8) A pharmacy that performs or contracts for centralized prescription processing shall comply with the procedures described in its policies and procedures manual, pursuant to section 17753(2) of the code, MCL 333.17753.

R 338.3054 Records maintenance; requirements for central fill pharmacies.

Rule 4. (1) An originating pharmacy shall maintain records that indicate all of the following:

(a) The date the request for centralized prescription processing was transmitted to a central fill pharmacy.

(b) The method of transmittal.

(c) The identification of the pharmacist responsible for the transmission.

(d) The name and address of the central fill pharmacy where the request for centralized prescription processing was transmitted.

(e) The date the delivering pharmacy received the filled prescription from the central fill pharmacy.

(f) The name of the pharmacy employee who accepted the transfer of a filled prescription from a central fill pharmacy.

(g) The identification of the pharmacist who was responsible for delivering the prescription to the patient or the patient's agent.

(2) A central fill pharmacy that receives the transmitted prescription shall maintain records that indicate all of the following, as applicable to its function:

(a) The date the request for centralized prescription processing was received from the originating pharmacy.

(b) The name and address of the originating pharmacy where the request for centralized prescription processing was received.

(c) The date the prescription was processed, verified, or filled.

(d) The identification of the pharmacists who were responsible for processing the prescription and shipping ~~a~~the filled prescription to an originating pharmacy or delivering the filled prescription to a patient or a patient's agent.

(e) The date the filled prescription was shipped to the originating pharmacy or was shipped or delivered to the patient or the patient's agent.

(f) The name and address of the patient to whom the filled prescription was shipped, if shipped.

(g) The method of delivery, such as private, common, or contract carrier, if shipped.

(3) If a prescription was not delivered to a patient and was transferred back to the pharmacy that filled the prescription, that pharmacy shall maintain the transfer records.

PART 2. CONTROLLED SUBSTANCES PRESCRIPTIONS

R 338.3055 Schedule 2, 3, 4, or 5 controlled substances prescriptions; requirements for central fill pharmacies.

Rule 5. (1) In addition to complying with the requirements of part 1 of these rules, a pharmacy that performs or contracts for centralized prescription processing shall comply with this rule if processing a prescription for a schedule 2, 3, 4, or 5 controlled substance.

(2) Prescriptions for controlled substances may be transmitted electronically, including by facsimile, from an originating pharmacy to a central fill pharmacy.

(3) An originating pharmacy that transmits prescription information for a controlled substance to a central fill pharmacy shall comply with all of the following:

(a) Ensure that the words "CENTRAL FILL" are on the face of the original prescription and the originating pharmacy shall record all of the following information:

(i) The name, address, and the Federal Drug Enforcement Administration (DEA) registration number of the central fill pharmacy where the prescription was transmitted.

(ii) The name of the pharmacist at the originating pharmacy who transmitted the prescription.

(iii) The date of transmittal.

(b) Ensure that the information that is required on a prescription under 21 CFR-1306.05 and R 338.3161 is transmitted to the central fill pharmacy, either on the face of the original prescription or in the electronic transmission of the prescription.

(c) Include all of the following in the prescription:

(i) The number of refills already dispensed.

(ii) The number of refills remaining.

(d) Maintain the original prescription for a period of 5 years from the date the prescription was filled.

(4) Two years after the prescription was filled, the originating pharmacy may make an electronic duplicate of the original printed prescription, which becomes the original prescription. A pharmacy shall present a printed copy of the electronic duplicate of the prescription to the department or board upon request.

(5) In addition to complying with the requirements in R 338.3054(2)(a), (b), (c), (d), (e), (f) and (g), a central fill pharmacy that receives the transmitted prescription shall comply with all of the following:

(a) Maintain records for 5 years after the date of transmittal.

(b) Maintain a copy of the prescription if it was sent via facsimile or an electronic record of all the information transmitted by the originating pharmacy, including the name, address, and DEA registration number of the originating pharmacy that transmitted the prescription.

(c) Maintain a record of the date the filled prescription was dispensed and the method of dispensing.

R 338.3056 Reporting to the electronic system for monitoring controlled substances.

Rule 6. As used in this part, the pharmacy that uses its stock to fill a prescription for a controlled substance is the pharmacy responsible to report to the department or the department's contractor the information required in R 338.3162b for each controlled substance prescription.

ADMINISTRATIVE RULES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

BUREAU OF EMS TRAUMA AND PREPAREDNESS

EMERGENCY MEDICAL SERVICES - LIFE SUPPORT AGENCIES AND MEDICAL CONTROL

Filed with the secretary of state on May 19, 2023

These rules take effect 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of health and human services by sections 2233, 20910, and 20975 of the public health code, 1978 PA 368, MCL 333.2233, 333.20910, and 333.20975, and Executive Reorganization Order No. 2015-1, MCL 400.227)

R 325.22101, R 325.22102, R 325.22103, R 325.22111, R 325.22112, R 325.22113, R 325.22114, R 325.22116, R 325.22117, R 325.22118, R 325.22120, R 325.22122, R 325.22123, R 325.22124, R 325.22125, R 325.22126, R 325.22127, R 325.22131, R 325.22132, R 325.22133, R 325.22134, R 325.22135, R 325.22136, R 325.22137, R 325.22138, R 325.22165, R 325.22181, R 325.22182, R 325.22183, R 325.22184, R 325.22186, R 325.22187, R 325.22189, R 325.22190, R 325.22191, R 325.22193, R 325.22194, R 325.22201, R 325.22202, R 325.22203, R 325.22204, R 325.22205, R 325.22206, R 325.22207, R 325.22208, R 325.22209, R 325.22210, R 325.22211, R 325.22212, R 325.22213, R 325.22214, R 325.22215, R 325.22216, and R 325.22217 of the Michigan Administrative Code are amended, and R 325.22139 and R 325.22218 are added, as follows:

PART 1. GENERAL PROVISIONS

R 325.22101 Definitions; A to D.

Rule 101. As used in these rules:

(a) "Accountable" means ensuring compliance on the part of each life support agency or emergency medical services personnel in carrying out emergency medical services based upon protocols established by the medical control authority and approved by the department.

(b) “Air ambulance service” means providing at least advanced life support services utilizing an air ambulance or ambulances that operate in conjunction with a base hospital or hospitals. Air ambulance service may also include any of the following:

(i) Searches.

(ii) Emergency transportation of any of the following:

(A) Drugs.

(B) Organs.

(C) Medical supplies.

(D) Equipment.

(E) Personnel.

(c) “Back-up air ambulance” means an air ambulance that is used to provide air ambulance services if the primary air ambulance is not available to provide air ambulance services.

(d) "Board certified in emergency medicine" means current certification by the American Board of Emergency Medicine, the American Board of Osteopathic Emergency Medicine, or other organization approved by the department that meets the standards of these organizations.

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

(f) "Designated event” means a temporary event, such as an air show, of no more than 7 days in duration that requires full-time, on-site availability of an air ambulance.

(g) Direct communication" means a communication methodology that ensures medical control authority supervision of a life support agency when performing emergency medical services through any of the following methods:

(i) Direct interpersonal communications at the scene of the emergency.

(ii) Direct verbal communication by means of an approved two-way telecommunications system operating within the medcom requirements.

(iii) Protocols adopted by the medical control authority and approved by the department.

(iv) Other means approved by the department that are not in conflict with the medcom requirements.

(h) "Disciplinary action" means an action taken by the department against a medical control authority, a life support agency, or individual, or an action taken by a medical control authority against a life support agency or individual for failure to comply with the code, rules, or protocols approved by the department.

R 325.22102 Definitions; E to M.

Rule 102. As used in these rules:

(a) "Emergency medical services intercept" means an ambulance operation is transporting an emergency patient from the scene of an emergency, and requests patient care intervention from another transporting ambulance operation.

(b) "Emergency medical services telecommunications" means the reception and transmission of voice or data, or both, information in the emergency medical services system consistent with the medcom requirements prescribed by the department.

(c) “Field study status” means that process required under sections 20910 and 20956 of the code, MCL 333.20910 and 333.20956.

(d) "Fixed wing aircraft" means a non-rotary aircraft transport vehicle that is primarily used or available to provide patient transportation between health facilities and is capable of providing patient care according to orders issued by the patient's physician.

(e) "Ground ambulance" means a vehicle that complies with design and structural specifications, as that term is defined in these rules, and is licensed as an ambulance to provide transportation and basic life support, limited advanced life support, or advanced life support.

(f) "Hold itself out" means the agency advertises, announces, or charges specifically for providing emergency medical services, as that term is defined in the code.

(g) "License" means written authorization issued by the department to a life support agency and its life support vehicles to provide emergency medical services, as that term is defined in the code.

(h) "License expiration date" means the date of expiration indicated on the license issued by the department.

(i) "Licensure action" means probation, suspension, limitation, or removal by the department of a license for a life support agency or a life support vehicle for violations of the code or these rules.

(j) “Life support agency” means an ambulance operation, non-transport pre-hospital life support operation, air transport operation, or medical first response service.

(k) "Life support vehicle" means an ambulance, a non-transport, prehospital life support vehicle, or a medical first response vehicle, as that term is defined in the code.

(l) "Medcom requirements" means medical communication requirements for an emergency medical services communication system.

(m) "Medical control" means supervising and coordinating emergency medical services through a medical control authority, as prescribed, adopted, and enforced through department-approved protocols, within an emergency medical services system.

(n) "Medical control authority" means an organization designated by the department to provide medical control.

(o) "Medical control authority area" means the geographic area composed of a county, group of counties, or parts of an individual county, as designated by the department.

(p) "Medical control authority board" means a board appointed by the participating organizations to carry out the responsibilities and functions of the medical control authority.

(q) “Mutual aid” means a written agreement between 2 or more licensed life support agencies for the provision of emergency medical services when an agency is unable to respond to a request for emergency services, or an agreement according to the direction of a medical control authority in accordance with department approved protocols.

R 325.22103 Definitions; P to S.

Rule 103. As used in these rules:

(a) "Physician" means a doctor of medicine or doctor of osteopathy who possesses a valid license to practice medicine in this state.

(b) "Primary dispatch service area" means a service area.

(c) “Professional standards review organization” means a committee established by a life support agency or a medical control authority for the purpose of improving the quality of medical care.

(d) “Protocol” means a patient care standard, standing orders, policy, or procedure for providing emergency medical services that is established by a medical control authority and approved by the department under section 20919 of the code, MCL 333.20919.

(e) "Quality improvement program" means actions taken by a life support agency, medical control authority, or jointly between a life support agency and medical control authority with a goal of continuous improvement of emergency medical services in accordance with section 20919 of the code, MCL 333.20919.

(f) “Regional trauma network” means an organized group comprised of the local medical control authorities within a region, which integrates into existing regional emergency preparedness, and is responsible for appointing a regional trauma advisory council and creating a regional trauma plan.

(g) "Rotary aircraft" means a helicopter that is licensed under the code as an ambulance.

(h) "Service area" means the geographic area in which a life support agency is licensed to provide emergency medical services for responding to an emergency.

PART 2. LIFE SUPPORT AGENCIES-GENERAL

R 325.22111 Life support agencies; general provisions.

Rule 111. (1) A life support agency shall not operate unless it is licensed by the department and operates under the direction of a medical control authority in accordance with department-approved protocols. A life support agency shall not operate at a level that exceeds its license or violates approved medical control authority protocols, unless otherwise allowed by part 209 of the code, MCL 333.20901 to 333.20979.

(2) A life support agency license shall do both the following:

(a) Communicate approved protocols to appropriate emergency medical services personnel.

(b) Provide emergency medical services in accordance with protocols established by the medical control authority and approved by the department.

(3) A life support agency application shall not be approved by the department unless signed by the medical director of each medical control authority responsible for the service area of the life support agency in accordance with R 325.22205(2). The medical director's signature serves as confirmation that the medical control authority intends to provide medical control to the life support agency.

(4) A life support agency, except an aircraft transport operation, shall provide at least 1 life support vehicle for response to requests for emergency assistance on a 24-hour-a-day, 7-day-a-week basis in accordance with its licensure level and medical control authority protocols.

(5) All life support agencies shall have a mutual aid agreement with another life support agency to ensure a response within the bounds of its service area.

(6) If no other life support agency is licensed in the medical control authority that meets this criteria, a mutual aid agreement may be entered into with a life support agency in an adjacent medical control authority. This does not preclude a life support agency from entering into additional mutual aid agreements with other life support agencies that are at a level of licensure that is less than their level of licensure.

(7) A life support agency shall notify the jurisdictional medical control authority of any of the following:

(a) Any investigations, disciplinary actions, or exclusions against the life support agency with the potential to impact service delivery.

(b) Action taken by an agency against emergency medical services personnel based on a violation of section 20958 of the code, MCL 333.20958.

R 325.22112 Patient destination; transporting agencies.

Rule 112. (1) An ambulance operation, both ground and rotary, shall transport an emergency patient only to an organized emergency department located in and operated by 1 of the following:

(a) A hospital licensed under part 215 of the code, MCL 333.21501 to 333.21571.

(b) A freestanding surgical outpatient facility licensed under part 208 of the code, MCL 333.20801 to 333.20821, that operates a service for treating emergency patients 24-hours-a-day, 7-days-a-week, and complies with medical control authority protocols.

(c) An off-campus emergency department of a hospital licensed under part 215 of the code, MCL 333.21501 to 333.21571, if the off-campus emergency department is available for treating emergency patients 24-hours-a-day, 7-days-a-week, complies with medical control authority protocols, and has obtained provider-based status under 42 CFR 413.65.

(2) An ambulance operation may transport to an alternate destination requested by the medical control authority and approved by the department under field study status.

R 325.22113 Patient transfers; ground, rotary, aircraft transport.

Rule 113. (1) A person shall not transport a patient by stretcher, cot, litter, or isolette unless it is done in a licensed ambulance or aircraft transport vehicle. The life support agency transporting the patient shall require that any applicable department-approved protocols of the medical control authority are followed in accordance with section 20921(4) and (5) of the code, MCL 333.20921.

(2) An out-of-state service that is coming to this state to transfer a patient from a Michigan facility to a facility in another state or country shall be licensed or certified within its own jurisdiction.

R 325.22114 Professional standards review organization: data collection.

Rule 114. Each life support agency shall establish a professional standards review organization for improving the quality of emergency medical services. As part of the professional standards review organization, each life support agency shall collect data to assess the need for and quality of emergency medical services. The data must be submitted to the medical control authority as determined by department-approved medical control authority protocol as required in R 325.22207.

R 325.22116 Inability to provide service.

Rule 116. (1) If a life support agency cannot operate or staff at least 1 vehicle for response to an emergency within its service area in accordance with the code, these rules, or applicable protocols, then the life support agency shall do all the following:

(a) Immediately notify the department and medical control authority within its service area if it cannot provide at least 1 life support vehicle available for response to requests for emergency assistance on a 24-hour-a-day, 7-day-a-week basis in accordance with medical control authority protocols. This rule excludes air ambulance services and aircraft transport operations when the weather does not meet weather minimums outlined by a national accrediting body for air ambulance services.

(b) Immediately notify the department of a change that would alter the information contained on its application.

(c) Notify the dispatch center that regularly receives requests for its services, and other public safety agencies if appropriate, that it is not available to respond. The notification must advise the dispatch center of the period in which the agency will be out of service and the name of the agency that will be covering its service area.

(d) Notify life support agencies providing mutual aid.

(2) The life support agency shall comply with R 325.22202(4).

R 325.22117 Maintenance of medical records.

Rule 117. In accordance with section 20175(1) of the code, MCL 333.20175, a life support agency shall maintain an accurate record of each case where care is rendered in a format approved by the medical control authority. Medical records must be maintained for a minimum of 7 years. However, records of minors must be maintained until they reach 25 years of age.

R 325.22118 Removal of vehicle from service; licensure; interagency vehicle transfer, lease, loan, from another life support agency.

Rule 118. (1) A life support agency shall notify the department if it permanently removes a vehicle from service. If a vehicle is permanently removed from service, then the agency shall contact the department, in writing, within 30 days after removal. The notification must include the make, model, year, and vehicle identification number on an application prescribed by the department. The agency shall remove all oscillating, rotating, or flashing lights, and words, phrases, signs, symbols, or insignia that advertise or convey to the public that it provides emergency medical services before transfer or sale of the vehicle.

(2) A life support vehicle license is nontransferable. A life support agency may temporarily use a state licensed life support vehicle of another licensed life support agency through a loan. Vehicle loans may occur if mechanical problems prevent an agency from deploying its existing vehicles. The life support agency acquiring the vehicle shall do all the following:

(a) Notify the department of the loan within 3 business days on an application prescribed by the department.

(b) Replace an existing licensed vehicle with the loaned vehicle at the agency. The loaned vehicle must not increase the total number of vehicles the agency is licensed to use.

(c) Use the loan for a maximum of 60 calendar days.

(d) Extend the loan 1 time for 60 additional calendar days if the agency notifies the department on an application prescribed by the department.

(3) A life support agency that obtains a vehicle through a gift, lease, transfer, or purchase from another life support agency shall comply with both of the following:

(a) Submit an application for the vehicle in accordance with R 325.22190.

(b) Comply with R 325.22181.

(4) A life support agency that gives, leases, transfers, or sells a vehicle to another life support agency shall comply with subrule (1) of this rule.

R 325.22120 Life support agencies licensed in other states or dominion of Canada.

Rule 120. (1) A life support agency licensed in another state or the dominion of Canada that responds to emergencies in this state shall be licensed by the department unless specific intergovernmental agreements exist between the department, the dominion of Canada, or the other state.

(2) A life support agency licensed in another state or in the dominion of Canada that responds to emergencies is accountable to the medical control authority in whose geographical boundaries initial patient contact is made.

R 325.22122 Misleading information concerning emergency response.

Rule 122. A life support agency shall not knowingly provide a person with false or misleading information concerning the time at which an emergency is initiated or the location from which the response is being initiated. The department or medical control authority may investigate any allegation of wrongdoing submitted under this rule. If a violation of this rule occurs, the department or medical control authority may take any corrective action authorized under the code and these rules.

R 325.22123 Spontaneous use of vehicle under exceptional circumstances; written report.

Rule 123. (1) If an ambulance operation is unable to respond to an emergency patient within a reasonable time, a vehicle may be used under exceptional circumstances, as defined by department policy, to provide, without charge or fee and as a humane service, transportation for the emergency patient.

(2) Emergency medical personnel who transport, or who make the decision to transport, an emergency patient under subrule (1) of this rule shall file a written report with the medical control authority describing the incident within 7 days.

R 325.22124 Enforcement.

Rule 124. (1) The department may take any action authorized by sections 20162, 20165, and 20168 of the code, MCL 333.20162, 333.20165, and 333.20168, or other provisions of the code in response to a violation of the code or these rules. Enforcement actions include any of the following:

(a) Denial, suspension, limitation, or revocation of a life support agency license.

(b) The issuance of a nonrenewable conditional license effective for not more than 1 year.

(c) The issuance of an administrative order to correct deficiencies and prescribing the actions the department determines necessary to obtain compliance with the code or to protect the public health, safety, and welfare.

(d) Imposition of an administrative fine.

(e) The issuance of an emergency order limiting, suspending, or revoking license.

(2) A life support agency that is granted a 1-year nonrenewable conditional license by the department shall comply with, at a minimum, all the following:

(a) Provide at least 1 vehicle for response to requests for emergency assistance on a 24-hour-a-day, 7-day-a-week basis in accordance with its licensure level.

(b) Submit a statement of the reasons for the life support agency's inability to comply with the code for licensure.

(c) Develop a plan of action to meet all licensure requirements. The plan must be submitted to the medical control authority and the department.

(d) Submit a monthly report to the medical control authority that outlines the progress made on the plan.

(e) Report all out-of-service time to each involved medical control authority.

(3) A life support agency that is granted a 1-year nonrenewable conditional license shall comply with all licensure fee requirements in the code.

R 325.22125 Life support agency; licensure at higher level of care; requirements.

Rule 125. (1) A life support agency seeking licensure at a higher level qualifies for that license only if the life support agency meets the following requirements:

(a) Under the code, a life support agency that is licensed to provide medical first response life support may apply for licensure at the basic, limited advanced, or advanced life support level. A life support agency that is licensed to provide basic life support may apply for licensure at the limited advanced or advanced life support level. In the same manner, a life support agency that is licensed to provide limited advanced life support may apply for licensure at the advanced life support level.

(b) Each life support agency that meets the requirements of subdivision (a) of this subrule shall apply for a higher level of licensure on applications provided by the department and meet the requirements of the code and these rules. The application must include the required fee and identification of level of life support of the operation.

(2) A life support agency that obtains licensure at a higher level shall provide that level of care 24-hours-a-day, 7-days-a-week.

(3) If a life support agency applies to the department for licensure at a higher level than that of its current level, the department shall conduct an inspection of the agency and its vehicles. Verification of compliance with this subrule must be included with the application for licensure for each ground ambulance or non-transport, prehospital life support vehicle by both of the following methods:

(a) Provide, as part of the application, the name and address of the medical control authority or authorities under which the life support agency is operating. The agency shall complete an application for licensure, as prescribed by the department, for each medical control authority under which it operates. The signature on the application of the emergency medical services medical director, from each medical control authority, must verify that the medical control authority agrees to provide medical control to the life support agency.

(b) Attest, by signing the application, to all the following:

(i) The radio communication system for each ambulance or non-transport, prehospital life support vehicle complies with the medcom requirements.

(ii) Each vehicle meets minimum equipment requirements.

(iii) Minimum staff requirements are being met to operate at least 1 vehicle on a 24 hour-a-day, 7 day-a-week basis.

(iv) Each ground ambulance licensed by the department has a manufacturer certificate of compliance.

(4) Verification of compliance with this subrule must be available to the department upon request.

R 325.22126 Life support agency; medical control; disciplinary action.

Rule 126. (1) A medical control authority may exercise disciplinary action against a life support agency or its emergency medical services personnel that may result in the life support agency, or its personnel not being allowed to provide prehospital emergency care. The basis for these actions must be for noncompliance with protocols established by the medical control authority and approved by the

department. Disciplinary action may include the suspension, limitation, or removal of medical control for the life support agency of a medical control authority providing medical control, from an individual providing emergency medical services care, or any other action authorized by the code.

(2) If a suspension or removal of medical control for a life support agency or individual occurs, the life support agency or individual shall not operate or practice in that medical control authority region until medical control is restored by the medical control authority.

(3) If a suspension or removal of medical control for a life support agency or individual occurs, the life support agency or individual may appeal the decision to the medical control authority. After appeals to the medical control authority have been exhausted, the life support agency or individual may appeal the medical control authority's decision to the statewide emergency medical services coordination committee. An appeal to the emergency medical services coordination committee must be filed with the department in writing not more than 30 calendar days following notification to the agency or individual of the final determination of the medical control authority.

(4) The emergency medical services coordination committee shall review the appeal of a life support agency or individual and make a recommendation to the department. The department shall consider the emergency medical services coordination committee recommendation and conduct its own review of the appeal. If the department determines that licensure action is required, the department shall provide a hearing in accordance with the code and chapter 4 of the administrative procedures act of 1969, 1969 PA 369, MCL 24.271 to 24.288.

R 325.22127 Life support agency; life support vehicle; inspection; contractor requirements.

Rule 127. (1) The department shall, at least annually, inspect or provide for the inspection of each life support agency. The department shall conduct random inspections of life support vehicles during the agency licensure period.

(2) A life support agency that receives accreditation from the Commission on Accreditation of Ambulance Services or another department-approved national accrediting organization as having equivalent expertise and competency in the accreditation of life support agencies, may not be subject to an agency inspection by the department if the life support agency meets both of the following requirements:

(a) Submits verification of accreditation described in this rule.

(b) Maintains accreditation as described in this rule.

(3) Accreditation of a life support agency does not prevent the department from conducting a life support agency inspection.

(4) Pursuant to section 20910(2)(b) of the code, MCL 333.20910, if emergency medical services activities apply to contracts with agencies or individuals for purposes of providing life support agency and life support vehicle inspections, the department shall notify each life support agency and medical control authority of the existence of the contracts, including the roles and responsibilities of those agencies or individuals having been awarded contracts.

PART 3. LIFE SUPPORT AGENCIES

R 325.22131 Life support agency; initial application.

Rule 131. A life support agency and its life support vehicles shall be licensed by the department in accordance with sections 20920, 20926, 20931, and 20941 of the code, MCL 333.20920, 333.20926, 333.20931, and 333.20941. The application for initial licensure must include all the following:

(a) Be on an application provided by the department and include the required fees and identification of level of life support of the agency.

(b) Specify each life support vehicle to be operated, the level of life support being provided by that life support vehicle, and include a certificate of insurance covering each life support vehicle as identified in this rule.

(c) Provide the name and address of each medical control authority under which the life support agency is operating. The agency shall complete an application for licensure, as prescribed by the department, for each medical control authority under which it operates. A signature on the application by the emergency medical services medical director, from each medical control authority, is proof that the medical control authority agrees to provide medical control to the life support agency.

(d) Provide an attestation, as evidenced by signing the application, of all the following:

(i) Radio communications for each life support vehicle comply with medcom requirements.

(ii) Each vehicle meets minimum equipment requirements.

(iii) Minimum staff requirements must be met to operate at least 1 vehicle on a 24 hour-a-day, 7 day-a-week basis, consistent with section 20921(3) and (4), 20927(3), 20932(2), or 20941(6) of the code, MCL 333.20921, 333.20927, 333.20932, and 333.20941, as appropriate.

(iv) A manufacturer certificate of compliance for each ground ambulance licensed by the department.

(e) Include evidence that the operation possesses not less than $1,000,000.00 insurance coverage or is under a self-insurance program authorized under 1951 PA 35, MCL 124.1 to 124.13 for property damage and personal injury, except for rotary winged aircraft. An application for rotary winged aircraft must include evidence that the operation possesses not less than $5,000,000.00 insurance coverage or is under a self-insurance program authorized under 1951 PA 35, MCL 124.1 to 124.13, for property damage and personal injury, except under section 20934(6) of the code, MCL 333.20934.

(f) Include full disclosure of the operation ownership, including all the following:

(i) Copies of documents relating to the official type of legal organization of the operation, stating whether it is an individual proprietorship, partnership, corporation, or subsidiary of another corporation or unit of government. These documents must be maintained by the operation and made available to the department upon request.

(ii) Copies of registration of the operation with the secretary of state or other designated official in each state that the agency is chartered, incorporated, or authorized to do business. These documents must be maintained by the operation and made available to the department upon request.

(iii) Disclose all legally responsible individuals, owners, or officers of the life support agency when submitting an application, including any trade names under which the organization operates. These must include, but are not limited to, the name or names by which the life support agency is known to the public.

(iv) Disclose all parent organizations and any person, as that term is defined in section 20908 of the code, MCL 333.20908, that have not less than a 10% interest in the life support agency.

(g) Identify 1 individual who will serve as the agency licensure administrator for the life support agency. The agency licensure administrator is the point of contact for licensing and inspection activities.

R 325.22132 Life support agency; operating requirements.

Rule 132. In addition to requirements prescribed in the code and these rules, life support agency shall do all the following:

(a) Establish and maintain a written procedure that explains the steps that will be followed when a complaint is received by the agency. This procedure shall be maintained by the agency and made available to the department upon request.

(b) Maintain evidence of participation in the county, local, or regional disaster plan. Approved protocols may be used to meet this requirement. These documents must be maintained by the operation and made available to the department upon request.

(c) Comply with medical record keeping requirements in accordance with R 325.22117.

(d) Maintain written policies and procedures that address safety and accident reduction and comply with all applicable state and federal health and safety laws as prescribed on the department-approved agency inspection form. These procedures must be maintained by the operation and be available to the department upon request.

(e) Require that each individual staffing a licensed life support agency complies with the code and applicable medical control authority protocols.

(f) Require that a life support vehicle is not operated while transporting a patient unless the ambulance is staffed in accordance with section 20921(3), (4), and (5) of the code, MCL 333.20921.

(g) Require that a non-transport prehospital life support vehicle is not operated unless it is staffed in accordance with sections 20927(3) and 20941(6) of the code, MCL 333.20927 and 333.20941.

(h) Require that an aircraft transport vehicle is not operated unless it is staffed in accordance with section 20932(2) of the code, MCL 333.20932.

(i) Maintain evidence of an orientation process of emergency medical services personnel that familiarizes them with the agency's policies and procedures and trains them in the use and application of all the equipment carried in the licensed life support vehicle. At a minimum, the orientation process must include an introduction to personnel duties and responsibilities, in addition to medical control authority protocols.

(j) Maintain access to the current version of all applicable protocols for each medical control authority under which the agency operates.

(k) Complete and submit patient care records according to department-approved medical control authority protocols.

(l) Participate in data collection and quality improvement activities authorized under medical control authority protocols.

(m) Ensure that each licensed life support vehicle meets all applicable vehicle standards and state minimum equipment requirements prescribed by the department and department-approved medical control authority protocols.

(n) Require compliance with medcom requirements.

(o) Not knowingly respond to, or advertise its services for, prehospital emergency patients from outside its service area except for mutual aide requests.

(p) Require that each individual operating a licensed ground life support vehicle during an emergency response or patient transport has completed a department-approved vehicle operation education and competency assessment.

R 325.22133 Life support agency; licensure requirements.

Rule 133. A life support agency shall comply with all the following:

(a) Ensure compliance with the code and these rules.

(b) Advise the department immediately of any changes that would alter the information contained on its licensure application, including any of the following:

(i) Change of ownership.

(ii) Change of facility name.

(iii) Change in vehicle status.

(iv) Change in agency licensure administrator contact information.

(v) Circumstances that preclude the life support agency from complying with staffing or minimum equipment requirements.

(vi) Change in communication ability to comply with medcom requirements.

(vii) Change in service area.

(c) A life support agency shall require that an individual whose license is at least equal to the level of vehicle license is in the patient compartment when transporting an emergency patient, or consistent with department-approved medical control authority protocols.

R 325.22134 Additional licensure requirements for life support agencies approved to administer medications.

Rule 134. In addition to meeting the other licensure requirements of the code and these rules, a life support agency approved to administer medications by their local medical control authority shall do both of the following:

(a) Comply with the procedures of drug acquisition, storage, security, dispensing, and accountability in accordance with department-approved medical control authority protocols and federal and state law.

(b) If licensed at the limited advanced or advanced life support level, comply with the acquisition, storage, security, dispensing, and accountability procedures for intravenous solutions, tubing, and related apparatus in accordance with department-approved medical control authority protocols and in compliance with the federal and state law.

R 325.22135 Rotary aircraft ambulance operations; additional licensure requirements.

Rule 135. (1) In addition to meeting other licensure requirements of the code and these rules, an ambulance operation providing rotary aircraft transport shall do all the following:

(a) Meet all equipment requirements of the Federal Aviation Administration for the specific type of aircraft and flying conditions under which the aircraft will operate as specified by the air taxi certificate of operation of the aircraft transport provider.

(b) Maintain accurate medical flight records concerning the transportation of each emergency patient in intrastate flights or interstate flights originating in this state. The records must be available to the department and the medical control authority of the originating scene, when requested.

(c) Meet department licensure requirements and follow department-approved medical control authority protocols when providing on-scene emergency care.

(d) Meet department licensure requirements when providing interfacility transfers.

(e) Provide verification of Medicaid participation. A new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation is provided to the department within 6 months after the new provider begins offering services.

(2) An ambulance operation licensed in this state that provides rotary aircraft services or fixed wing ambulance service shall be accredited by a department-approved national accrediting organization within 2 years after beginning operation. During the provisional period between licensing and accreditation, the air ambulance operation must provide all the following:

(a) Written policies and procedures specifying the levels of patient care to be provided. The level of patient care provided must be commensurate with the education and experience of the staff and the capabilities of the base hospitals.

(b) Written patient care protocols including provisions for continuity of care.

(c) Written policies and procedures that define the roles and responsibilities of all staff members.

(d) Written policies and procedures addressing the appropriate use of air ambulance’services in accordance with section 20932a of the code, MCL 333.20932a.

(e) A written communicable disease and infection control program.

(f) A written plan for dealing with situations involving hazardous materials.

(g) A planned and structured program for initial and continuing education and training, including didactic, clinical, and in-flight, for all scheduled staff members appropriate for the respective duties and responsibilities.

(h) Written policies and procedures addressing the integration of the air ambulance service with public safety agencies governing the base hospitals including, but not limited to, the federal aviation administration, medical control authorities, life support vehicles and disaster planning.

(i) A quality management program.

(j) A clinical database for utilization review and professional standards review organization.

(k) Procedures to screen patients to ensure appropriate utilization of the air ambulance service.

R 325.22136 Life support agency; issuance of license.

Rule 136. Receipt of the completed application by the department serves as attestation by the life support agency that the agency and life support vehicles being licensed comply with the minimum standards required by the department. Upon approval of the application, the department shall issue a license to the life support agency.

R 325.22137 Ambulance operation; false advertising; conflict of interest.

Rule 137. An ambulance operation may not do any of the following:

(a) Induce or seek to induce any person engaging an ambulance to patronize a long-term care facility, mortuary, or hospital.

(b) Advertise, or allow advertising of, within or on the premises of the ambulance operation or within or on an ambulance, the name or the services of an attorney, accident investigator, nurse, physician, long-term care facility, mortuary, or hospital. If 1 of those persons or facilities owns or operates an ambulance operation, then the person or facility may use its business name in the name of the ambulance operation and may display the name of the ambulance operation within or on the premises of the ambulance operation or within or on an ambulance.

(c) Advertise or disseminate information for the purpose of obtaining contracts under a name other than the name of the person holding an ambulance operation license, the trade, or assumed name of the ambulance operation.

(d) Use the terms "ambulance" or "ambulance operation" or a similar term to describe or refer to the person unless the department licenses the person under section 20920 of the code, MCL 333.20920.

(e) Advertise or disseminate information leading the public to believe that the person provides an ambulance operation, unless that person does in fact provide that service and is licensed by the department.

R 325.22138 Life support agency; renewal.

Rule 138. (1) A life support agency shall complete an application for renewal and return the completed application to the department before the date of license expiration. Failure to receive a notice for renewal from the department does not relieve the licensee of the responsibility to apply for renewal.

(2) The license of a life support agency and its life support vehicles expire on the same date.

(3) An application for licensure renewal received by the department after the license expiration date, but within 60 calendar days after the expiration date requires the life support agency to comply with section 20936 of the code, MCL 333.20936.

(4) A life support agency may provide emergency medical services during the 60 days following its license expiration date, whether or not the department has received an application for renewal.

(5) An application for licensure renewal not received by the department within 60 calendar days after the license expires must be considered revoked.

(6) Reinstatement of the life support agency and life support vehicle licenses require completion of a new application for licensure, including all fees prescribed in section 20936 (1) and (2) of the code, MCL 333.20936.

R 325.22139 Aircraft transport operations; additional licensure requirements.

Rule 139. (1) In addition to meeting other licensure requirements of the code and these rules, an aircraft transport operation shall do all the following:

(a) Meet all equipment requirements of the Federal Aviation Administration for the specific type of aircraft and flying conditions under which the aircraft will operate, as specified by the air taxi certificate of operation of the aircraft transport provider.

(b) Maintain accurate medical flight records concerning the transportation of each emergency patient in intrastate flights or interstate flights originating in this state. The records must be available to the department and the medical control authority of the originating scene, when requested.

(c) Meet department licensure requirements when providing interfacility transfers.

(d) Provide verification of Medicaid participation. A new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation is provided to the department within 6 months after the new provider begins offering services.

(2) An aircraft transport operation licensed in this state shall be accredited by a department-approved national accrediting organization within 2 years of beginning operation. During the provisional period between licensing and accreditation, the aircraft transport operation shall provide all the following:

(a) Written policies and procedures specifying the levels of patient care to be provided. The level of patient care provided must be commensurate with the education and experience of the staff and the capabilities of the base hospitals.

(b) Written patient care protocols including provisions for continuity of care.

(c) Written policies and procedures that define the roles and responsibilities of all staff members.

(d) Written policies and procedures addressing the appropriate use of aircraft transport in accordance with section 20932a of the code, MCL 333.20932a.

(e) A written communicable disease and infection control program.

(f) A written plan for dealing with situations involving hazardous materials.

(g) A planned and structured program for initial and continuing education and training, including didactic, clinical, and in-flight, for all scheduled staff members appropriate for the respective duties and responsibilities.

(h) Written policies and procedures addressing the integration of the air ambulance service with public safety agencies governing the base hospitals including, but not limited to, the Federal Aviation Administration, medical control authorities, life support vehicles and disaster planning.

(i) A quality management program.

(j) A clinical data base for utilization review and professional standards review organization.

(k) Procedures to screen patients to ensure appropriate utilization of the aircraft transport operation.

(3) An air ambulance service may operate a back-up air ambulance if the primary air ambulance or ambulances are not available or for a designated event with prior notification and approval from the local medical control authority.

(4) A back-up air ambulance must not be operated at the same time as the primary aircraft for the provision of air ambulance services except for a designated event or disaster.

PART 6. MEDICAL FIRST RESPONSE SERVICES

R 325.22165 Medical first response service; law enforcement; fire suppression agency.

Rule 165. (1) A medical first response service means a person licensed by the department to respond under medical control to an emergency scene with a medical first responder and equipment required by the department before the arrival of the ambulance. This includes a fire suppression agency only if it is dispatched for medical first response life support.

(2) A fire suppression agency shall be licensed as a life support agency, in accordance with R 325.22131, and provide life support as described in the code and these rules if it is dispatched to provide any care a medical first responder is qualified to provide under section 20906(8) of the code, MCL 333.20906.

(3) A law enforcement agency shall be licensed as a life support agency, in accordance with R 325.22131, and provide life support as described in the code and these rules if both of the following conditions are met:

(a) Holds itself out as a medical first response service.

(b) Is dispatched to provide medical first response life support.

(4) A law enforcement agency holds itself out as a medical first response service if it advertises or announces that it will provide patient care that may include any care a medical first responder is qualified to provide under section 20906(8) of the code, MCL 333.20906, or charges for those services.

PART 8. LIFE SUPPORT VEHICLES

R 325.22181 Ground ambulance; requirements.

Rule 181. (1) An ambulance operation shall maintain the manufacturer's certificate of compliance on file at the time of application to the department for licensure of each ground ambulance. The certificate of compliance must be executed by the final manufacturer of each ground ambulance and be on a form prescribed by the department.

(2) The manufacturer of a ground ambulance executing a certificate of compliance shall comply with the ambulance structural and mechanical specifications with 1 of the following standards that was in effect at the time of manufacture:

(a) Federal KKK-A-1822 standards, excluding the paint scheme.

(b) The Commission on Accreditation of Ambulance Services (CAAS) Ground Vehicle Standard for Ambulances (GVSA) in its entirety.

(c) The National Fire Protection Association (NFPA) 1917 Standard for Automotive Ambulances in its entirety.

(3) The manufacturer shall maintain test data demonstrating compliance.

(4) Once licensed for service, an ambulance must not be required to meet later modified state vehicle standards during its use by the ambulance operation that obtained the license.

(5) A ground ambulance referred to in subrule (2) of this rule must not be modified to alter its original design upon which the certificate of compliance was based unless a new certificate is issued verifying that the modifications have not altered the integrity of the vehicle.

(6) The patient compartment of a ground ambulance that has met applicable standards at the time of manufacture may be remounted on to a different chassis. The remounter may be a member of 1 or more of the following: Ford Qualified Vehicle Modifier, Mercedes Benz Sprinter Preferred Upfitter, Ram Q Pro Programs, or the National Truck Equipment Association Member Verification Program.

(7) A new manufacturer’s certificate of compliance must be issued that identifies the new vehicle identification number and demonstrates compliance with either KKK, GVSA, or NFPA standards in accordance with subrule (2) of this rule.

R 325.22182 Non-qualifying vehicles for licensure.

Rule 182. (1) A ground ambulance that was originally manufactured before January 1, 1982, may not qualify for licensure by the department and must not be sold or donated in this state for use as a ground ambulance. This subrule does not apply to a ground ambulance that is currently licensed by the department and has been in continuous service before January 1, 1982.

(2) A ground ambulance manufactured after January 1, 1982, whose age from the date of manufacture exceeds 2 years, must have a safety inspection by a certified mechanic being sold to provide ground ambulance services. The inspection must be documented on a form developed by the department and include a notarized statement by the previous owner attesting that the ground ambulance has not been involved in a vehicular accident altering its safety. The documents required by this subrule must be submitted to the department by the purchaser as part of the application for licensure by the new owner.

R 325.22183 Life support vehicle sanitation.

Rule 183. A life support agency shall require that equipment, linen, and supplies be cleaned or exchanged following each patient care use.

R 325.22184 Life support vehicles; displaying of name.

Rule 184. (1) A life support agency name shall be prominently displayed on the left and right side of all licensed life support vehicles.

(2) If the life support agency is operated by or advertised with a name different than the life support agency name, then the name may be displayed on the left and right side of the life support vehicle below the name of the life support agency. The advertised name shall be smaller than the life support agency name.

(3) A life support agency that identifies a level of licensure in its name or brand that is higher than the level of life support provided by a specific licensed vehicle, shall prominently display the actual level of licensure of the vehicle on the sides of the vehicle.

R 325.22186 Life support vehicles; patient care and safety equipment; review.

Rule 186. The department shall, with the advice of the emergency medical services coordination committee, annually review and modify, as necessary, the minimum equipment standards for life support vehicles.

R 325.22187 Rotary ambulance; requirements.

Rule 187. A rotary ambulance must meet all the following standards:

(a) Be capable of on-scene response and transportation of emergency patients.

(b) Be staffed in accordance with section 20921(3), (4), and (5) of the code, MCL 333.20921.

(c) Allow for patient access and treatment to the patient by the rotary ambulance personnel.

(d) Possess access that allows for safe loading and unloading of a patient without excessive maneuvering of the patient.

(e) Be temperature controlled for the comfort of the patient.

(f) Have adequate lighting for patient care and observation.

(g) Be equipped with communication capability with hospitals, life support vehicles, and medical control in accordance with the medcom requirements.

(h) Be capable of carrying a minimum of 1 patient in a horizontal position.

(i) Securely store equipment and make the equipment readily accessible.

(j) Operate under the medical control authority.

R 325.22189 Aircraft transport vehicle; requirements.

Rule 189. An aircraft transport vehicle must comply with all the following:

(a) Be authorized as part of a licensed aircraft transport operation.

(b) Be capable of carrying a minimum of 1 patient in a horizontal position.

(c) Provide a means of securing the litter while supporting a patient to the floor, walls, seats, specific litter rack, or any combination thereof.

(d) Ensure that the patient compartment has adequate lighting available for patient observation.

(e) Require that equipment is secured to the aircraft, readily accessible, and when not in use, securely stored.

(f) Ensure that the interior of each vehicle affords an adequate patient care and treatment area.

(g) Ensure that each vehicle is equipped with a cargo door or other entry that allows for loading and unloading of the patient without excessive maneuvering of the patient.

(h) Ensure that the interior of each vehicle is equipped with temperature control for the comfort of the patient.

R 325.22190 Life support vehicles; licensure and relicensure inspections; new and replacement vehicles; licensure at higher level of care.

Rule 190. Life support vehicles must be inspected as follows:

(a) The department may conduct random renewal inspections of life support vehicles, including medical first response vehicles. Inspections are unannounced unless circumstances warrant notifying a life support agency in advance that an inspection of its life support vehicles will be conducted. The department shall determine if prior notification of an inspection is warranted. A vehicle license may be renewed without an inspection.

(b) Submission of a licensure renewal application is considered an attestation by the life support agency that the vehicle meets all licensure requirements.

(c) A life support agency that is adding a new or higher licensure level for a life support vehicle shall submit an application, on forms provided by the department, and include the required fee. New and higher level of care vehicles must be inspected before being placed into service. Upon receipt of the application and required fee, the department shall inspect new or upgrade vehicles within 15 days after receipt of the application.

(d) A life support agency that is replacing a life support vehicle shall submit an application, on forms provided by the department, and include the required fee. A replacement vehicle means a life support agency has removed a vehicle from service and has replaced the vehicle with another.

(e) Replacement vehicles may be placed into service upon submission of an application and the required fee to the department. Upon receipt of the application and required fee, the department shall inspect the replacement vehicle within 15 days after receipt of the application.

(f) With written notification in a format specified by the department, a rotary ambulance back-up vehicle may be put into service for 30 days before it must comply with subdivisions (a) to (e) of this rule.

R 325.22191 Life support vehicles inspected; non-compliance; corrective measures.

Rule 191. If the department determines that a life support vehicle does not comply with the requirements of the code and these rules, then the following applies:

(a) If an agency has a vehicle determined to be noncompliant with minimum equipment items as identified on the inspection form, the agency has 24 hours to bring the vehicle into compliance and notify the department in writing of the corrections made. The vehicle may be returned to service before a reinspection with approval of the department. A reinspection must occur within 15 days after notification by the life support agency.

(b) If an agency fails to bring a vehicle into compliance within 24 hours, the agency shall remove the vehicle from service until the life support agency submits a written explanation of corrective action to the department and the department reinspects the vehicle. A vehicle taken out of service shall not function as an ambulance or life support vehicle until the vehicle passes the department reinspection.

(c) If a vehicle remains out of compliance for more than 15 calendar days from the date of inspection, its license is automatically revoked. Reinstatement of the life support vehicle license requires

reapplication for licensure, payment of the licensure fee prescribed in the code, and a reinspection of the vehicle.

(d)The department may immediately order a life support vehicle out of service if it determines that the health and welfare of a patient may be in jeopardy due to noncompliance with minimum equipment standards or defective and nonfunctional critical minimum equipment. A notice of that action be immediately provided to the life support agency by the department based upon the deficiencies found.

(e) A life support agency that takes corrective measures to bring a life support vehicle into compliance during the time of a department inspection will not receive notice of noncompliance. The inspection report must reflect that the corrective action and compliance have been met.

PART 9. COMMUNICATIONS REQUIREMENT

R 325.22193 Medcom requirements.

Rule 193. Medcom requirements must be reviewed annually and updated, if necessary, with the advice and recommendations of the emergency medical services coordination committee.

R 325.22194 Illegal interception of radio communications.

Rule 194. A person that receives any radio communication not intended for the general public may not use the contents of the communication for initiating an emergency medical service response as described in section 20963(2) of the code, MCL 333.20963.

PART 10. MEDICAL CONTROL AUTHORITY

R 325.22201 Medical control authorities; designation.

Rule 201. (1) The department shall designate a medical control authority to provide medical control for emergency medical services for a particular geographic area. The medical control authority shall operate in accordance with the code.

(2) A medical control authority shall be administered by the following:

(a) Each hospital licensed under part 215 of the code, MCL 333.21501 to 333.21571, that operates a service for treating emergency patients 24-hours-a-day, 7-days-a-week, may participate and serve on the medical control authority board in the ongoing planning and development activities of the medical control authority designated by the department.

(b) Each freestanding surgical outpatient facility licensed under part 208 of the code, MCL 333.20801 to 333.20821, that operates a service for treating emergency patients 24-hours-a-day, 7-days-a-week and meets standards established by the medical control authority may participate and serve on the medical control authority board in the ongoing planning and development activities of the medical control authority designated by the department. If a freestanding surgical outpatient facility participates in the medical control authority as described in this rule, the facility shall meet all applicable standards established by the medical control authority.

(3) Each hospital, off-campus emergency department with provider-based status, as described in R 325.22112(1)(c), and freestanding surgical outpatient facility shall comply with protocols for providing services to a patient before care of the patient is transferred to hospital personnel.

R 325.22202 Medical control authorities; authority board; advisory body; medical director; responsibilities; approval.

Rule 202. (1) A medical control authority shall be approved by the department, and do all the following:

(a) Develop bylaws that define the medical control authority organizational structure.

(b) Appoint a medical control authority board to administer the medical control authority. The majority of the board shall be comprised, at a minimum, of members of the hospitals and, when applicable, freestanding surgical outpatient facilities and off-campus emergency department with provider-based status, as described in R 325.22112(1)(c). The board may include other entities as determined by the medical control authority bylaws.

(c) If the board also functions as the advisory body to the medical control authority as described in this rule, then the board shall include a representative of each type of life support agency and emergency medical services personnel functioning within the medical control authority's region.

(d) Appoint an advisory body, as that term is defined in section 20918(2) and (4) of the code, MCL 333.20918. The advisory body shall meet at least quarterly.

(e) Appoint a medical director, with the advice of the advisory body, in accordance with section 20918(3) of the code, MCL 333.20918. The medical director is responsible for medical control for the emergency medical services system served by the medical control authority. The medical control authority, with the advice of the advisory body, may appoint more than 1 physician to serve as medical director provided the individual meets all applicable criteria, or is approved by the department.

(f) Appoint a professional standards review organization to monitor and improve the quality of medical care.

(g) Hold each licensed life support agency and individual accountable to the medical control authority in the provision of emergency medical services, as that term is defined in department-approved protocols.

(h) Provide protocols for the practice of life support agencies and emergency medical services personnel as prescribed or approved by the department.

(i) Collect data as necessary to assess the quality and needs of emergency medical services throughout its medical control authority area.

(2) Each participating and nonparticipating hospital, off-campus emergency department with provider-based status, as described in R 325.22112(1)(c), and freestanding surgical outpatient facility within a medical control authority region shall follow all standards, policies, procedures, and protocols established by the medical control authority as approved by the department.

(3) Each medical control authority shall submit to the department current protocols for department review and approval. Department approval shall be on a 3-year cycle, or as defined by the department.

(4) The medical control authority shall notify the department if a life support agency is consistently unable to provide at least 1 life support vehicle 24-hours-a-day, 7-days-a-week.

R 325.22203 Medical control authority; denial, revocation, or suspension of designation.

Rule 203. (1) The department may deny, revoke, limit, or suspend designation of a medical control authority upon finding that the medical control authority meets 1 or more of the following:

(a) Is guilty of fraud or deceit in securing its medical control designation.

(b) Has failed to perform in accordance with the terms of its designation and its department-approved protocols.

(c) Has not maintained minimum criteria for medical control authorities, as established by the department.

(d) Has failed to develop protocols as identified in the code to protect the public health.

(2) If the department denies, revokes, limits, or suspends a medical control authority designation, then the department shall designate a medical control authority to serve that medical control authority area.

(3) The department shall provide notice of intent to deny, revoke, limit, or suspend medical control authority designation and provide for a hearing in accordance with the code and the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

R 325.22204 Medical control authority; advisory body.

Rule 204. A medical control authority shall appoint an advisory body, as that term is defined in section 20918(2) and (4) of the code, MCL 333.20918. The advisory body shall, at a minimum, do all the following:

(a) Advise the medical control authority on the appointment of a medical director.

(b) Advise the medical control authority on the development of protocols.

(c) Meet at least quarterly.

R 325.22205 Medical control authority; medical director; responsibilities.

Rule 205. (1) The medical director is an agent of the medical control authority and is responsible for medical control for the emergency medical services system.

(2) The medical director shall ensure the provision of medical control. The medical director's signature on a life support agency's application for licensure or relicensure affirms that the medical control authority intends to provide medical control to the life support agency. If the medical director refuses to sign the life support agency application for licensure or relicensure, then the medical director shall notify the department in writing, within 5 business days, providing justification for denial based on a department-approved protocol. Refusal of a medical director to sign a life support agency application will result in denial justification review by the department.

(3) The medical director shall do all the following:

(a) Participate every 2 years in 1 department-approved educational program relating to medical control issues.

(b) Be responsible for the supervision, coordination, implementation, and compliance with protocols of the medical control authority.

(c) Receive input from, and be responsive to, the advisory body.

R 325.22206 Medical control authority; region.

Rule 206. (1) Not more than 1 medical control authority may be approved in each designated region.

(2) A medical control authority shall obtain approval from the department to change or combine medical control authority areas, or to assume a temporary contractual responsibility for a portion of another medical control authority's region.

R 325.22207 Medical control authority; protocol development; promulgation of protocols; emergency protocol.

Rule 207. (1) Each medical control authority shall establish protocols, as that term is defined in section 20919 of the code, MCL 333.20919, which must include, but are not limited to all the following:

(a) The acts, tasks, or functions that may be performed by each level of emergency medical services personnel licensed under this part. Emergency medical services personnel shall not provide life support at a level that exceeds the life support agency license and approved medical control authority protocols.

(b) Procedures to ensure that life support agencies are providing clinical competency assessments to emergency medical services personnel before the individual provides emergency medical services within the medical control authority area.

(c) Medical protocols to require the appropriate dispatching of a life support agency based upon medical need and the capability of the emergency medical services system.

(d) A do-not-resuscitate protocol consistent with section 20919(1)(c) of the code, MCL 333.20919.

(e) A protocol consistent with part 56B of the code, MCL 333.5671 to 333.5685.

(f) Protocols defining the process, actions, and sanctions a medical control authority may use in holding life support agency or personnel accountable. This must include disciplinary action against a life support agency or emergency medical services personnel.

(g) Protocols defining the process to immediately remove medical control if the medical control authority determines that an immediate threat to the public health, safety, or welfare exists. These protocols must specify that a medical control authority has 3 business days to hold a hearing and make a determination.

(h) Protocols establishing that if medical control has been removed or suspended from a participant, that the participant shall not provide prehospital services in that until medical control is reinstated. If medical control is removed or suspended from a participant in the medical control authority, then the department and life support agency shall be notified within 1 business day of the removal. Medical control shall inform the department when medical control is reinstated.

(i) Protocols that ensure a quality improvement program as follows:

(i) The quality improvement program must include a requirement that each life support agency collects and submits data to the medical control authority.

(ii) Data must be reviewed by the medical control authority professional standards review organization.

(iii) Data must be protected in accordance with section 20919(1)(g) of the code, MCL 333.20919.

(j) Protocols that ensure an appeals process of a medical control decision is in effect.

(k) Protocols that specify that if life support agencies transport prehospital patients to hospitals outside of their originating medical control authority area, they will comply with their own medical control authority protocols.

(2) Each medical control authority shall develop standards for the withdrawal or restoration of a hospital or free-standing surgical outpatient facility, or off-campus emergency department with provider-based status, as described in R 325.22112(1)(c), to a medical control authority. The protocol must include a provision to notify the regional trauma network of the withdrawal or restoration of a facility.

(3) Each medical control authority shall develop specific protocols applicable to the acquisition, storage, and use of drugs, intravenous fluids, and medical devices. Protocols must include all of the following:

(a) All drugs must be under the control of a pharmacist licensed in this state affiliated with a participating medical control authority hospital, free-standing surgical outpatient facility, or off-campus emergency department with provider-based status, as described in R 325.22112(1)(c).

(b) The medical control authority participating pharmacy shall provide medication and intravenous fluid exchange services in accordance with the protocols developed by the individual medical control authority and approved by the medical control authority medical control director and the department.

(c) In the instance of a recall relating to medical control authority participating pharmacy supplied medications or devices, the pharmacy shall notify the medical control authorities.

(d) All medication storage containers must be numbered. Each medication storage container must be inspected and inventoried by a medical control authority-approved pharmacy at least annually.

(e) All medication storage containers must have at least the following information affixed to the outside of the container:

(i) The name of the medical control approved pharmacy that most recently restocked the container.

(ii) The date of the most recent restock.

(iii) The name and date of the medications with the earliest expiration dates.

(iv) Notation of the licensed pharmacy personnel who completed and sealed the medication container.

(f) The medical control authority participating facility or agency in possession of intravenous fluids, tubing, and supplies shall have a method for verifying and tracking that the supplies are within their expiration date and do not have any active recall notices.

(g) The medication containers must be stored in a method that maintains the stability, integrity, and effectiveness of the medication contained therein.

(4) Emergency protocols developed in accordance with section 20919(3)(e) of the code, MCL 333.20919, must be submitted to the department, within 5 business days, for review and must remain in effect for not more than 60 days unless approved by the department.

R 325.22208 Medical control authority protocols; department review; approval; adoption by medical control authority.

Rule 208. (1) A medical control authority shall circulate, not less than 60 days before adoption, a draft of proposed protocols to all affected life support agencies within the emergency medical services system under the medical control authority.

(2) A medical control authority shall submit a written draft of proposed protocols to the department for review by the quality assurance task force no later than the tenth day of any given month. A protocol received not later than the tenth day of a given month must be reviewed that month. A protocol received after the tenth day of a given month must be reviewed the next month following the date of receipt by the department.

(3) The department shall consider any written comments received from persons within the medical control authority when reviewing a protocol.

(4) The department shall provide written recommendations to the medical control authority within 60 days after receipt of a protocol in compliance with this rule, and comments, suggested changes, deletions, denial, or approval on the proposed protocol. Protocols resubmitted with changes or modifications by the medical control authority fall under the 60-day response deadline as prescribed in this rule.

(5) Following department approval of a protocol, the medical control authority may formally adopt the protocol.

R 325.22209 Medical control authority; additional standards.

Rule 209. A medical control authority may adopt protocols that require additional or more stringent standards for life support agencies, equipment, and personnel than those already required by the department to enhance its system. If a life support agency or emergency medical services personnel within the medical control authority disagree with the proposed protocol, the medical control authority shall provide the department with the medical and economic considerations such enhancements may have on the local community. The quality assurance task force shall review and make recommendations to the department before department approval.

R 325.22210 Medical control authority; life support agencies and personnel; compliance with protocols.

Rule 210. (1) A medical control authority shall establish written protocols for the process, actions, and sanctions a medical control authority may use in holding a life support agency or personnel accountable. These protocols must include disciplinary action against a life support agency or emergency medical services personnel to ensure compliance with all protocols or to protect the public health, safety, or welfare.

(2) A medical control authority may exercise disciplinary action against a life support agency and its emergency medical services personnel that may result in the life support agency, or its personnel not being allowed to provide emergency medical services. The basis for these actions must be for

noncompliance with policies, procedures, or protocols established by the medical control authority. The disciplinary action may include the suspension, limitation, or removal of a life support agency or its personnel to provide emergency medical services within the medical control authority area.

(3) If disciplinary action against an agency or individual results in the suspension, limitation, or removal of medical control, the medical control authority shall advise the department, in writing, of the action within 1 business day.

(4) If a suspension or removal of medical control to a life support agency or individual occurs by the medical control authority, the life support agency or individual may not operate or practice in that medical control authority region until medical control is restored by the medical control authority.

(5) If a suspension or removal of medical control to a life support agency or individual occurs by the medical control authority, the life support agency or individual shall not operate or practice in that medical control authority area until medical control is restored by the medical control authority.

(6) In cases of malfeasance, misfeasance, or nonfeasance on the part of the medical control authority, the department shall take action to preserve medical control in a medical control authority region.

R 325.22211 Medical control authority; quality improvement.

Rule 211. (1) A medical control authority shall establish a quality improvement protocol to ensure a quality improvement program is in place and functional.

(2) Data submitted by the life support agencies within the medical control authority area must be reviewed by the medical control authority professional standards review organization for the purpose of improving the quality of medical care within the medical control authority area.

R 325.22212 Medical control authority; appeals.

Rule 212. (1) A medical control authority shall incorporate procedures for the appeal of decisions made by the authority against a life support agency and emergency medical services personnel. Once appeals to the medical control authority have been exhausted, the decision made by the medical control authority may be appealed to the statewide emergency medical services coordination committee. An appeal to the emergency medical services coordination committee must be filed with the department in writing not more than 30 calendar days following notification to the agency or individual of the final determination of the medical control authority. The emergency medical services coordination committee shall issue an opinion on whether the actions or decisions of the medical control authority comply with the department-approved protocols of the medical control authority and the code.

(2) If a decision of the medical control authority is appealed to the emergency medical services coordination committee, the medical control authority shall document their decision to the statewide emergency medical services coordination committee for their review.

R 325.22213 Medical control authority; data collection; data confidentiality.

Rule 213. (1) A medical control authority shall collect data under the department-approved quality improvement protocol from each life support agency within the medical control authority area. Data collected must be reviewed by the medical control authority professional standards review organization to improve the quality of medical care within the medical control authority area and comply with section 20919(1)(g) of the code, MCL 333.20919. All data collected under section 20919(1)(g) of the code, MCL 333.20919, are confidential, not public record, not discoverable, and shall not be used as evidence in a civil action or administrative proceeding.

(2) A medical control authority shall submit data to the department as prescribed by the department and approved by the emergency medical services coordination committee.

(3) Medical control authorities shall have access to quality data residing within the Michigan Emergency Medical System Information System for incidents that occur within the medical control authority's geographic area.

R 325.22214 Medical control authority; special studies.

Rule 214. (1) A medical control authority that intends to establish a protocol involving skills, techniques, procedures, or equipment that is not included in this state's approved curriculum, may need to establish the practice as a special study. Determination that a proposed protocol is acceptable under current practice or requires a special study is decided by the quality assurance task force. A protocol may be approved as a medical control authority protocol under the following conditions:

(a) The medical control authority provides documentation that the skill, technique, procedure, or equipment complies with 1 of the following:

(i) The practice is recognized by a national organization as acceptable.

(ii) The practice has existing precedent in Emergency Medical System outside of this state.

(iii) There are published studies that support the safety and efficacy in its application of the practice within the emergency setting.

(b) The medical authority provides the educational outline that will be implemented to instruct the emergency medical services personnel in the new skill, technique, procedure, or equipment, as well as the verification of competency that will be utilized.

(c) A letter of support, justifying the need for the practice, signed by the medical director for the medical control authority participating in the practice implementation.

(d) The medical control authority submits protocols that will be used for the practice.

(e) The quality assurance task force may require data submission to this state for approval of the practice. If data is required for approval, the approval must be indicated as approval of the practice as a special study.

(2) A medical control authority that intends to establish a protocol involving skills, techniques, procedures, or equipment that is not included in this state's approved curriculum, and is not consistent with its level of licensure requires a special study and must comply with all of the following:

(a) Provide any available studies or supporting documentation indicating the practice has been studied. Published studies supporting the safety and efficacy of its applications within the emergency setting must also be submitted.

(b) The medical control authority provides an educational outline that will be implemented to instruct the emergency medical services personnel in the new skill, technique, procedure, or equipment, as well as the verification of competency that will be utilized and the plan for continued competency assurance, such as a continuing education plan.

(c) Provide a letter of support, justifying the need for the practice, signed by the medical director for the medical control authority participating in the special study.

(d) The medical control authority shall submit protocols that will be used for the practice.

(e) Identify life support agencies involved in the special study, their licensure level, the number of emergency medical services personnel to be trained, and their respective licensure levels.

(f) Submit a timeline indicating the proposed duration of the study.

(g) Describe the proposed data to be submitted to this state during the study. Generally, data submission is required quarterly.

(h) If the medical control authority designs the study to develop or contribute to generalizable knowledge, the medical control authority shall also submit documentation of Institutional Review Board approval, exemption, or not regulated status for the study.

(3) A medical control authority that intends to establish a protocol involving skills, techniques, procedures, or equipment that is not included in this state's approved curriculum and is not consistent

with either the level of licensure or scope of practice, involves human subject research under 45 CFR part 46, or intends to publish the human subject research, shall require a special study if it complies with all of the following:

(a) Provide any available studies or supporting documentation indicating the practice has been studied. Published studies supporting the safety or efficacy of its application within the emergency setting must also be submitted.

(b) Submit initial and refresher education requirements and provide an educational outline to be implemented to instruct the emergency medical services personnel in the new skill, technique, procedure, or equipment, as well as verification of competency that will be utilized. Refresher education requirements must include frequency and content of refresher to maintain proficiency in skill, technique, procedure, or equipment.

(c) Identify life support agencies involved, their licensure level, the number of emergency medical services personnel to be trained, and their respective licensure levels.

(d) If providing mutual aid outside its medical control authority region, the medical control authority shall have a written agreement with another medical control authority to continue to utilize its protocols.

(e) Identify the quality review process that will be implemented.

(f) Submit protocols that will be included in the special study.

(g) Identify data parameters to be collected and the quality review process that will be implemented. The medical control authority shall submit quarterly reports, and upon completion of the study, submit a final report to the department.

(h) Obtain and submit an institutional review board approval or an institutional review board official exemption. If the medical control authority used a randomized study, include the consent form, method of institutional review board approval, and institutional review board approval letter.

(4) A special study may be terminated by the department, with the advice of the quality assurance task force, for any of the following reasons:

(a) The special study jeopardizes the health, safety, or welfare of the citizens of this state.

(b) There is evidence of failure to follow study parameters.

(c) There is evidence of failure to submit reports.

(d) The medical control authority or medical director requests termination.

(e) There is not sufficient data to support continuation.

(5) A special study may be considered complete when outcomes have been met, the timeline has been completed, or the study has been terminated by the department with the advice of the quality assurance task force. A final report must be submitted to the department by the medical control authority when the study is complete, unless the study is terminated by the department. The medical control authority may request any of the following for the protocol being studied:

(a) That it become a standard protocol for the requesting medical control authority.

(b) That it become a standard protocol for this state.

(c) That it be extended.

(d) That it be terminated.

(6) Disposition of the protocol is determined by the quality assurance task force.

R 325.22215 Medical control authority; communication requirements.

Rule 215. (1) A medical control authority shall comply with the ambulance-to-hospital radio communications system approval process, as prescribed by the medcom requirements.

(2) Each medical control authority shall designate an individual or organization to be responsible for maintaining records of the telecommunications activities in support of medical control. The records must be in the form of electronic recordings and maintained for 60 days.

(3) The department may add additional frequencies or other methods of communications to the medcom requirements. The department, before implementation, shall approve new requirements and technologies for ambulance-to-hospital communication.

R 325.22216 Medical control authority; interface with public safety agencies; authority for management of patient.

Rule 216. A medical control authority shall establish protocols that do all the following:

(a) Clarify that the authority for the management of a patient in an emergency is vested in the licensed health professional or licensed emergency medical services personnel at the scene of the emergency who has the most training specific to the provision of emergency medical care.

(b) Identify that when a life support agency is present at the scene of an emergency, authority for the management of an emergency patient in an emergency is vested in the physician responsible for medical control, until that physician relinquishes management of the patient to a licensed physician at the scene of an emergency.

(c) Specify that the appropriate public safety agency shall manage the scene of an emergency.

(d) Specify that if an emergency is declared, the declaration that an emergency no longer exists may be made only by an individual licensed under the code or a health professional licensed under the code who has training specific to the provision of emergency medical services in accordance with department-approved protocols.

R 325.22217 Medical control authority; interfacility transfers.

Rule 217. (1) A medical control authority may adopt a protocol that governs the transport of a patient from 1 health facility to another. If a medical control authority has not established department-approved protocols for the interfacility transport of a patient, then patient care must be determined according to written orders of the transferring physician within the scope of practice of the emergency medical services personnel.

(2) A life support agency is accountable to a medical control authority in which it has been approved to operate.

R 325.22218 Medical control authority; stretcher transport of nonemergency patients.

Rule 218. With department approval, a medical control authority may implement a protocol that governs the treatment and stretcher transport of nonemergency patients.

ADMINISTRATIVE RULES

DEPARTMENT OF STATE POLICE

SPECIAL OPERATIONS DIVISION

DRUNK DRIVING PREVENTION EQUIPMENT AND TRAINING FUND

Filed with the secretary of state on May 22, 2023

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the department of state police by section 625h of the Michigan vehicle code, 1949 PA 300, MCL 257.625h)

R 257.991, R 257.992, R 257.993, R 257.994, and R 257.996 of the Michigan Administrative Code are amended, as follows:

R 257.991 Definitions.

Rule 1. As used in these rules:

(a) "Act" means the Michigan vehicle code, 1949 PA 300, of MCL 257.1 to 257.923.

(b) "Breath alcohol test instrument" means an evidential breath-testing device that indicates a specific breath alcohol concentration expressed as grams of alcohol per 210 liters of breath.

(c) "Department" means the department of state police.

(d) "Fund" means the drunk driving prevention equipment and training fund described in section 625h of the act, MCL 257.625h.

(e) "Preliminary breath alcohol test instrument" means a breath alcohol screening device that indicates the presence or absence of alcohol in the individual's breath.

R 257.992 Fund.

Rule 2. (1) The department shall allocate sufficient money from the fund to cover the following:

(a) The salaries and other necessary expenses to administer the fund.

(b) The acquisition and maintenance of breath alcohol test instruments, supplies, and accessories.

(c) The training required for law enforcement personnel on the use of breath alcohol testing instruments.

(2) The department may allocate fund money for the acquisition of preliminary breath alcohol test instruments, supplies, and accessories.

R 257.993 Purchase of breath alcohol test instruments.

Rule 3. The department shall purchase, maintain, and retain ownership of breath alcohol test instruments. At least 1 breath alcohol test instrument must be placed in each county at a location determined by the department. Additional instruments must be placed, maintained, or moved by the department according to considerations including, but not limited to, population density, proximity of additional instruments, historical usage, instrument accessibility, and the department's ability to adequately maintain the instruments.

R 257.994 Maintenance of equipment.

Rule 4. The department shall manage the maintenance of instruments that are purchased from the fund.

R 257.996 Purchase of preliminary breath alcohol test instruments.

Rule 6. (1) The department shall evaluate and designate preliminary breath alcohol test instruments that can be purchased by all law enforcement agencies in this state.

(2) The department may expend fund money as grants to law enforcement agencies for preliminary breath alcohol test instruments, including the maintenance of the instruments. The following agencies may apply for preliminary breath alcohol test instruments:

(a) The department.

(b) County sheriff departments.

(c) Local law enforcement agencies.

(3) An agency shall submit an application for grant funding to the department on the form and in the manner prescribed by the department. The completed application must contain all of the information required by the department.

(4) The department may distribute preliminary breath alcohol test instruments as follows:

(a) A certified law enforcement agency that does not have any instruments must receive at least 1 instrument.

(b) The ratio of distribution of fund money among the department, sheriff departments, and local agencies must be based on the ratio of marked patrol vehicles at the department, sheriff departments, and local agencies.

(c) The department shall allocate money from the fund each fiscal year for other breath alcohol test instruments.

ADMINISTRATIVE RULES

DEPARTMENT OF STATE POLICE

TRAINING DIVISION

TESTS FOR BREATH ALCOHOL

Filed with the secretary of state on May 22, 2023

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the department of state police by section 190 of the Aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.190, and section 625a of the Michigan vehicle code, 1949 PA 300, MCL 257.625a)

R 325.2651, R 325.2652, R 325.2653, R 325.2655, and R 325.2658 of the Michigan Administrative Code are amended, R 325.2656a, R 325.2657a, and R 325.2659 are added, and R 335.2654 is rescinded, as follows:

R 325.2651 Definitions.

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

(a) "Acts" means the Aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208; the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923; the railroad code of 1993, 1993 PA 354, MCL 462.101 to 462.451; and the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(b) "Alcohol standard" means a certified alcohol standard.

(c) "Calendar week" means 12:01 a.m. Sunday to midnight Saturday.

(d) “Certified” means the operator completed the required training and possesses a certificate of training.

(e) "Class" means a classification of operator status as certified by the department, based on training and function as specified in R 325.2658.

(f) “Class I operator” means an operator certified to conduct a subject test with a preliminary breath testing instrument.

(g) “Class II operator” means an operator certified to calibrate a preliminary breath testing instrument.

(h) “Class III operator” means an operator certified to conduct a subject test with an evidential breath testing instrument.

(i) “Class IVA operator” means an operator certified to instruct the class I, II, and III certification courses.

(j) “Class IVB operator” means an operator certified to calibrate and repair an evidential breath testing instrument.

(k) "Department" means the department of state police.

(l) "Equipment" means evidential and preliminary breath alcohol test instruments, simulator devices, calibration stations, forms, and any accessories and supplies necessary to comply with the procedures in these rules or law.

(m) "Evidential breath alcohol analysis" means chemical analysis of an essentially alveolar breath sample that indicates a specific result in grams of alcohol per 210 liters of breath.

(n) "Evidential breath alcohol test instrument" means an evidential breath testing device that indicates a specific result in grams of alcohol per 210 liters of breath.

(o) "Preliminary breath alcohol analysis" means chemical analysis of essentially alveolar breath samples that indicates the presence or absence of alcohol in an individual's blood.

(p) "Preliminary breath alcohol test instrument" means a breath alcohol screening device that indicates the presence or absence of alcohol in an individual's blood.

(2) Terms used in the acts have the same meanings when used in these rules.

R 325.2652 Approved equipment.

Rule 2. (1) Except as provided in subrule (2) of this rule, evidential and preliminary breath alcohol test instruments must meet the existing model specifications for evidential breath alcohol analysis as established by the United States Department of Transportation, National Highway Traffic Safety Administration. The specifications are identified as "Model Specifications for Devices to Measure Breath Alcohol" 58 FR 48705, (September 17, 1993), as amended by 82 FR 50940 et seq., (November 2, 2017) and are adopted in these rules by reference. Copies of the specifications and a current conforming products list are available from the United States Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, D.C. 20590 and its website at nhtsa.gov, or from the Michigan State Police, Records Resource Section, 7150 Harris Drive, P.O. Box 30634, Lansing, MI, 48909 and its website at www.michigan.gov/msp/services/foia. A fee of $1.00 may be charged for each requested copy. A copy of the specifications and conforming products list may be inspected at the Michigan State Police, Training Division, 7426 N Canal Road, Lansing, MI, 48913 during normal business hours.

(2) If the United States Department of Transportation discontinues the testing of evidential breath alcohol test instruments or the issuance of model specifications for that test, only those instruments tested and approved by the department can be used.

(3) An application for equipment approval must be submitted to the department.

(4) Operators shall only use equipment approved by the department for evidential and preliminary breath alcohol analysis.

R 325.2653 Equipment accuracy evidential breath test instruments.

Rule 3. (1) For evidential breath test instruments that do not examine a known standard with each subject test, an appropriate class operator who has been certified in accordance with R 325.2658 shall verify an evidential breath alcohol test instrument for accuracy at least once each calendar week, or more frequently as the department may require. Alternatively, a pre-programmed self-test for accuracy may be initiated by the evidential breath alcohol test instrument and recorded by an appropriate class operator who has been certified in accordance with R 325.2658, if the instrument is so equipped and programmed. The tests for accuracy are not required to be performed within 7 days of each other. The test for accuracy must be made using an alcohol standard that is approved by the department. For the evidential breath alcohol test instrument to meet the requirements for accuracy, a test result must not exceed +/- 5% when using a controlled device. Controlled devices include both of the following:

(a) A wet bath device that delivers an alcohol vapor concentration test result of 0.080 grams of alcohol per 210 liters of vapor.

(b) A compressed alcohol gas device that delivers a test result of 0.080 grams of alcohol per 210 liters of vapor before applying applicable barometric pressure correction. To meet this requirement, the instrument must analyze the known ethanol gas standard within +/- 5% of the adjusted or corrected alcohol concentration based on the barometric correction.

(2) A weekly test is not required for evidential breath test instruments that examine a known alcohol standard, either wet bath or compressed gas, with each test subject. If an accuracy check is conducted, then the results must be retained either in log form by the agency where the instrument is installed or electronically within the instruments memory.

(3) Approved evidential breath alcohol test instruments that do not examine a known alcohol standard with each test subject must be inspected, verified for accuracy, and certified as to their proper working order within 120 days after the previous inspection by either an appropriate class operator who has been certified in accordance with R 325.2658, or a manufacturer-trained representative approved by the department.

(4) Approved evidential breath alcohol test instruments that examine a known alcohol standard with each subject test must be inspected, verified for accuracy, and certified as to their proper working order not less than 2 times annually by either an appropriate class operator who has been certified in accordance with R 325.2658, or a manufacturer-trained representative approved by the department.

R 325.2654 Rescinded.

R 325.2655 Techniques and procedures – evidential breath test instruments.

Rule 5. A procedure that is used in conjunction with evidential breath alcohol analysis must be approved by the department and comply with the following requirements:

(a) Except as provided otherwise in these rules, evidential breath alcohol test instruments must be operated by appropriate class operators who are certified in accordance with R 325.2658.

(b) All analyses must be conducted following procedures approved by the department and using forms approved by the department, as required.

(c) Records of operation, analyses, and results must be maintained at the evidential breath alcohol test instrument location as prescribed by the department, and copies must be forwarded to the department as required.

(d) The department shall test samples from each lot of alcohol standards used in this state, in conjunction with evidential breath alcohol test instruments. The department shall certify for use those lots of alcohol standards that are found to be proper in chemical composition.

(e) An individual shall be administered an evidential breath alcohol analysis on an evidential breath alcohol test instrument only after being observed for not less than 15 minutes before collection of the breath sample by at least 1 appropriate class operator that is certified in accordance with R 325.2658. The observation period may be conducted by more than 1 operator working in concert. During the observation period, the individual shall not have smoked, regurgitated, or placed anything in his or her mouth, except for the mouthpiece associated with the performance of the evidential breath alcohol analysis. The operator need not stare continuously at the individual, but shall be close enough to be aware of the individual’s actions and conditions. The operator may complete paperwork, enter data into the evidential breath alcohol test instrument, or conduct other reasonable tasks during the observation period, if the individual is within the operator's field of vision. Breaks in the observation period lasting only a few seconds do not invalidate the observation if the operator can reasonably determine that the individual did not smoke, regurgitate, or place anything in his or her mouth during the breaks in the observation.

(f) The operator shall request a second evidential breath sample from the subject after the first sample is provided and analyzed by the instrument, unless an item or a substance is found in the subject’s mouth

after the first evidential breath sample analysis that could interfere with the result. Obtaining the first breath sample result is sufficient to meet the requirements for evidentiary purposes prescribed in section 625c of the Michigan vehicle code, 1949 PA 300, MCL 257.625c. The purpose of obtaining a second breath sample result is to confirm the result of the first breath sample result.

(g) For instruments reporting 2 digits after the decimal, a second breath sample result must not vary from the first breath sample result by more than the allowable variation listed in Table 1. Tables 1 and 2 read as follows:

Table 1
Allowable variation of second breath result range from the first sample result.

First Sample	Allowable variation
0.00 - 0.14	+/- 0.01
0.15 - 0.24	+/- 0.02
0.25 - 0.34	+/- 0.03
0.35 - or more	+/- 0.04

For instruments reporting 3 digits after the decimal, the second breath sample result must not vary from the first sample result by more than the allowed variation listed in Table 2.

Table 2
Allowable variation of second breath sample result from the first breath sample result.

First Sample	Allowable Variation
0.000 - 0.149	+/- 0.010
0.150 – 0.249	+/- 0.020
0.250 – 0.349	+/- 0.030
0.350 or more	+/- 0.040

(h) If the variation is more than allowed in either table under subdivision (g) of this rule, the operator shall request a third breath sample from the subject and a third breath sample result may be obtained. If the third breath sample result does not conform to the allowable variations of either of the first 2 tests based on the allowable variation listed in either table under subdivision (g) of this rule, the subject shall be requested to submit a blood or urine sample for analysis in accordance with the acts and the procedures established in R 325.2671 to R 325.2677.

(i) The results of an evidential breath alcohol analysis of a subject's breath must be expressed in terms of grams of alcohol per 210 liters of breath, truncated to the second decimal place or expressed to 3 decimals if the instrument is programed to do so.

(j) If the instrument analyzes a known ethanol standard during a subject's breath test, the results of that analysis must be no lower than 0.074 g/210L and no higher than 0.084 g/210L of the nominal value of the standard. If the analysis is not within the prescribed standard the instrument must abort the test indicating the ethanol standard was not within the required range. The operator may attempt additional tests.

R 325.2656a Equipment Accuracy – Preliminary Breath Test Instrument.

Rule 6a. An appropriate class operator who has been certified in accordance with R 325.2658 shall verify for accuracy a preliminary breath alcohol test instrument at least monthly, or more frequently as the department may require. The test for accuracy must be made using an alcohol standard that is

approved by the department. For the preliminary breath alcohol test instrument to meet the requirements for accuracy, a test result not exceeding +/- 5% must be obtained when using a controlled device. Controlled devices include both of the following:

(a) A wet bath device that delivers an alcohol vapor concentration of 0.080 grams of alcohol per 210 liters of vapor.

(b) A compressed alcohol gas device that delivers a test result of 0.080 grams of alcohol per 210 liters of vapor before applying applicable altitude or topographic evaluation correction factor supplied by the manufacturer. The correction factor may be applied by the operator or by the preliminary breath alcohol test instrument calibration station, if pre-programmed.

R 325.2657a Techniques and Procedures – Preliminary Breath Test Instruments.

Rule 7a. (1) A procedure that is used in conjunction with preliminary breath alcohol analysis must be approved by the department and comply with all of the following:

(a) Except as provided otherwise in these rules, preliminary breath alcohol test instruments must only be operated by appropriate class operators who have been certified in accordance with R 325.2658.

(b) An individual may be administered a preliminary breath alcohol analysis on a preliminary breath alcohol test instrument only after the operator determines that the individual has not smoked, regurgitated, or placed anything in his or her mouth for not less than 15 minutes.

(c) Records must be maintained at the preliminary breath alcohol test instrument location as prescribed by the department and copies must be forwarded to the department as required.

(2) An individual's welfare must be protected by requesting medical assistance if the result of the evidential or preliminary breath alcohol analysis is 0.35 or more. Failure to request medical assistance does not affect the validity or evidential value of the result of an evidential or preliminary breath alcohol analysis.

R 325.2658 Operator training and certification.

Rule 8. (1) The department shall train and certify personnel of law enforcement agencies to perform various functions as described in this rule, and designate those individuals as class I, class II, class III class IVA, or class IVB operators. An operator may hold multiple and concurrent classifications. To maintain a class III certification, each class III operator certified after January 1, 2022 is required to re-certify every 2 years. Class III operators certified before January 1, 2022 are required to recertify before December 31, 2023, and every 2 years after that. Any class III operator who fails to re-certify before the current certification expires is required to attend and successfully complete the class III operator training as detailed in R 325.2658(2)(c). An operator whose certification has lapsed can testify about incidents that occurred during their valid certification period.

(2) The minimum training requirements and proficiency standards for operator certification are as follows:

(a) A class I operator shall complete a class I training course approved by the department, and obtain a minimum score of 70% on a written examination administered by the department. An individual that fails the examination is provided an opportunity to retake the written examination. An individual that fails the second attempt to pass the written examination shall retake the class I training course and successfully pass the examination to qualify for the class I certification.

(b) A class II operator shall complete a class II training course approved by the department, and obtain a minimum score of 70% on a written examination administered by the department. An individual that fails the examination is provided an opportunity to retake the written examination. An individual that fails the second attempt to pass the written examination shall retake the class I training course and successfully pass the examination to qualify for the class II certification.

(c) A class III operator shall be currently certified as a class II operator, complete a class III training course approved by the department, obtain a minimum score of 70% on a written examination administered by the department, and demonstrate proficiency in the use of an evidential breath testing instrument. An individual that fails the examination or fails to demonstrate the required proficiency is provided an opportunity to retake the written examination or demonstrate the required proficiency. An individual that fails the second attempt to pass the written examination or fails to demonstrate the required proficiency shall retake the class III training course and successfully pass the written examination and demonstrate the required proficiency to qualify for the class III certification.

(d) A class IVA operator shall be currently certified as a class III operator and complete a class IVA training course approved by the department.

(e) A class IVB operator shall be currently certified as a class IVA operator. Before class IVB certification, the class IVB operator shall receive additional training in the repair and service of evidential breath instruments from the manufacturer of the instruments or by a current class IVB operator, if the manufacturer is unavailable for training.

(3) The department shall develop and distribute to each certified operator a training manual for each of the operator's classifications. Training manuals must specify the functions performed by each class pursuant to this rule, as well as the knowledge and skills necessary to perform the appropriate functions.

(4) The primary functions of each class are described in Table 3. Additional functions not described in Table 3 may be designated by the department and described and explained in the appropriate training manual.

(5) An individual that meets the training requirements and proficiency standards for operator certification in accordance with this rule is issued a certificate for the appropriate class by the department. The certificate must remain the property of the department.

(6) A class I, class II, class III, class IVA, and class IVB operator shall comply with all applicable department rules, policies, and procedures or the department may suspend his or her operator certification. An individual may request for reinstatement of operator certification to the department in writing and, after approval, the department may require the individual to complete an operator training class, pass a written examination, demonstrate required proficiency, or any combination thereof.

(7) The requirements for each class of operators are included in Table 3 as follows:

Table 3

	Class I	Class II	Class III	Class IVA	Class IVB
Administer preliminary breath alcohol analyses using preliminary breath alcohol test instruments approved for use by the department.	X	X	X	X	X
Calibrate preliminary breath alcohol test instruments approved for use by the department.		X	X	X	X
Administer evidential breath alcohol analyses using an evidential breath instrument approved by the department.			X	X	X
Record weekly verification for approved evidential breath test instruments that do not examine a known standard with each subject test.			X	X	X
Train and certify all lower-level class operators.				X	X
Calibrate and service an evidential breath testing instrument approved for use by the department.					X

R 325.2659 Equipment Repair and Service.

Rule 9. (1) The repair and service of equipment provided by the department for evidential and preliminary breath alcohol analysis must be at the expense of the agency using the equipment.

(2) The department or the agency using the equipment may arrange to have this service provided either by an appropriate class operator who has been certified in accordance with R 325.2658 or a manufacturer-trained authorized representative approved by the department.

(3) After repair or service and before being placed in service, evidential and preliminary breath alcohol test instruments must be verified for accuracy in accordance with R 325.2653. Records of verification must be maintained as required by the department.

ADMINISTRATIVE RULES

DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

DRINKING WATER AND ENVIRONMENTAL HEALTH DIVISION

GROUNDWATER QUALITY CONTROL

Filed with the secretary of state on May 26, 2023

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of environment, Great Lakes, and energy by section 12714 of the public health code, 1978 PA 368, MCL 333.12714, and Executive Reorganization Order Nos. 1996-1, 2011-1, and 2019-1, MCL 330.3101, 324.99921, and 324.99923)

R 325.1603a, R 325.1610, R 325.1633a, and R 325.1640 of the Michigan Administrative Code are amended, as follows:

PART 1. WELL CONSTRUCTION CODE

R 325.1603a Definitions; N, O.

Rule 103a. (1) "Neat cement" means a mixture of 1 bag of Portland or Portland Limestone cement, 94 pounds, and not more than 6 gallons of fresh water. Drilling fluid bentonite that is not more than 5% by weight of cement and additional water that is not more than 0.6 gallons for each 1% of bentonite may be added to neat cement. Other additives and admixtures must be approved by the department before use.

(2) "Overburden" means unconsolidated geologic material, such as gravel, sand, silt, and clay, that overlies bedrock.

R 325.1610 Adoption of standards and specifications.

Rule 110. (1) These rules refer to the following standards and specifications of nationally recognized organizations or associations that are in effect and adopted by reference in these rules:

(a) The following ASTM International standards, which are available for purchase from ASTM International, 100 Bar Harbor Drive, PO Box C700, West Conshohocken, Pennsylvania 19428-2959:

(i) ASTM specification A 53-90b, “Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless."

(ii) ASTM specification A 106-91, "Standard Specification For Seamless Carbon Steel Pipe for High Temperature Service."

(iii) ASTM specification A 589-89a, "Standard Specification for Seamless and Welded Carbon Steel Water-Well Pipe."

(iv) ASTM specification F 480-90, “Standard Specification for Thermoplastic Water Well Casing Pipe and Couplings Made in Standard Dimension Ratios (SDR)."

(v) ASTM specification D 1785-91, "Standard Specification for Poly (Vinyl Chloride) (PVC) Plastic Pipe Schedules 40, 80, and 120."

(vi) ASTM specification D 2239-89, “Standard Specification for Polyethylene (PE) Plastic Pipe (SIDR-PR) Based on Controlled Inside Diameter."

(vii) ASTM specification D 2241-89, “Standard Specification for Poly(Vinyl Chloride) (PVC) Pressure-Rated Pipe (SDR Series)."

(viii) ASTM specification D 2662-89, “Standard Specification for Polybutylene (PB) Plastic Pipe Based on Controlled Inside Diameter."

(ix) ASTM specification D 2666-89, "Standard Specification for Polybutylene (PB) Plastic Tubing."

(x) ASTM specification D 2737-89, "Standard Specification for Polyethylene (PE) Plastic Tubing."

(xi) ASTM specification C 150-89, "Standard Specification for Portland Cement."

(xii) ASTM specification C 595/C 595M-21, “Standard Specification for Blended Hydraulic Cements.”

(b) American petroleum institute (API) specification 5L, 1990, "Specification for Line Pipe," and the API “Specification for Materials and Testing for Well Cements," API specification 10, 1990, which are available for purchase from the American Petroleum Institute, 1220 L Street, Northwest, Washington, DC 20005.

(c) American national standards institute (ANSI)/NSF "Standard Number 60 for Drinking Water Treatment Chemicals - Health Effects," 1988, and ANSI/NSF "Standard Number 61 for Drinking Water System Components - Health Effects," 1990, and ANSI/NSF "Standard Number 14 for Plastic Piping Components and Related Materials," 1989, which are available for purchase from the NSF, 3475 Plymouth Road, P. O. Box 1468, Ann Arbor, Michigan 48106.

(2) The standards and specifications adopted by reference in subrule (1) of this rule are available for inspection at the office of the Michigan Department of Environment, Great Lakes, and Energy, Drinking Water and Environmental Health Division, 525 West Allegan, PO Box 30817, Lansing, Michigan 48909-8311.

R 325.1633a Construction of wells; grouting.

Rule 133a. (1) Shale traps, cementing baskets, packers, or other devices must not be used to suspend grout above an open annular space. Excessive development, washing, shoveling of cuttings, or other similar activities must not be used to induce collapse of the borehole wall or to reduce the amount of open annular space surrounding a permanent casing.

(2) Neat cement or bentonite grout must be placed through the permanent casing or a grout pipe from the bottom of the annular space upward to the ground surface in a continuous operation without interruption. The density of grout flowing from the annular space at the ground surface must be the density of the grout being pumped in.

(3) A permanent casing must be installed in a borehole that has a diameter of not less than 2 inches larger than the nominal size of the permanent casing, except as provided in subrule (4) of this rule and R 325.1635.

(4) When grout is placed through a grout pipe outside the permanent casing, the borehole diameter must be not less than 2-7/8 inches larger than the nominal casing size.

(5) An annular space between a permanent casing and temporary casing must be grouted during temporary casing removal by pumping neat cement or bentonite grout, or by pouring bentonite chips, bentonite pellets, or granular bentonite, into the annular space. Granular bentonite must not be poured into an annular space that contains drilling fluid or water.

(6) Neat cement must be allowed to set a minimum of 24 hours when standard type I, type IL, type Ia, type ILA, high-early type III, or type ILHE cement is used. If bentonite is added to neat cement, the grout must be allowed to set a minimum of 48 hours before drilling operations are resumed.

R 325.1640 Certification of water well components.

Rule 140. (1) Water supply system components that are in contact with groundwater must be free of materials that may adversely affect the aquifer or water pumped from the well and must not support microbiological growth.

(2) After the effective date of this rule, an individual shall not use the following water well components unless they are in compliance with or surpass ANSI/NSF standard 14, 60, or 61, ASTM specification C 150, ASTM Specification C 595, or section 10 of API specification 10, as adopted by reference in R 325.1610:

(a) Drilling fluids, grouts, and casing sealing materials.

(b) Additives to drilling fluids, grouts, and casing sealing materials.

(c) Pipe joint compounds, thread cutting oils, gasket sealants, or coatings on steel pipe.

(d) Solvent cements, primers, cleaners, or other compounds that are used with PVC pipe.

(e) Bladders, diaphragms, coatings, or lining materials that are in contact with water in a pressure or storage tank.

(f) Chemicals that are used for the development, maintenance, treatment, disinfection, or rehabilitation of a water well, except for sodium hypochlorite or calcium hypochlorite.

(3) Acceptable water well components under ASTM specification C 595 are limited to the classification of product commonly known as Type IL-Portland-limestone cement.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

OPTOMETRY - GENERAL RULES

Filed with the secretary of state on May 19, 2023

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16145, 16148, 16174, 16287, and 17431 of the public health code, 1978 PA 368, MCL 333.16145, 333.16148, 333.16174, 333.16287, and 333.17431 and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.301, R 338.303, R 338.306, and R 338.321 of the Michigan Administrative Code are amended, R 338.302, R 338.305, R 338.307, R 338.309, R 338.311, R 338.313, R 338.315, R 338.317, R 338.319, and R 338.320 are rescinded, and R 338.322, R 338.323, R 338.325, R338.327, R 338.328, R 338.329, R 338.330, R 338.331, R 338.332, and R 338.333 are added, as follows:

PART 1. GENERAL PROVISIONS

R 338.301 Definitions.

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

(a) “AAO” means the American Academy of Optometry.

(b) “ACOE” means the Accreditation Council on Optometric Education.

(c) “Adverse drug reaction" means an adverse physical or psychological reaction experienced by an individual resulting from a diagnostic therapeutic agent administered by an optometrist that occurs within 24 hours after the therapeutic agent was administered. An adverse drug reaction includes any of the following:

(i) Red eye.

(ii) Painful eye.

(iii) Decrease in vision.

(iv) Pale or red swelling of the periocular or periorbital tissues.

(v) Nausea.

(vi) Vomiting.

(vii) Fainting.

(viii) Mental confusion.

(ix) Cessation of respiration.

(d) “AOA” means the American Optometric Association.

(e) "Board" means the Michigan board of optometry.

(f) "Classroom hour," for the purpose of determining whether a course of study meets the requirements of section 17412(2)(a) or 17435(2)(b) of the code, MCL 333.17412 and 333.17435, means a 50 to 60 minute period of lecture, group discussion, or laboratory directly associated with a course in pharmacology. Time spent working in a clinic other than as part of a laboratory directly associated with a course in pharmacology does not qualify as a "classroom hour."

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

(h) "COPE" means the Council on Optometric Practitioner Education.

(i) "Course of study in general and clinical pharmacology" means a course of study that is completed in a board-approved school or college, in general and clinical pharmacology as it relates to optometry, with the characteristics described in section 17412(2)(a) of the code, MCL 333.17412. Not less than 30 of the 60 classroom hours of the course of study must be allocated to ocular pharmacology and must emphasize the systemic effects of, and reactions to, topical ocular diagnostic pharmaceutical agents, including the emergency management and referral of any adverse reactions that may occur.

(j) "Course of study relating to the didactic and clinical use of therapeutic pharmaceutical agents" means a course of study that is comprised of a minimum of 10 quarter hours or 7 semester hours of credit or 100 classroom hours of study, is completed in a board-approved school or college**,** and is in subjects relating to the didactic and clinical use of therapeutic pharmaceutical agents related to optometry.

(k) "CPDO" means the Continued Professional Development in Optometry.

(l) "CPR" means cardiopulmonary resuscitation.

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

(n) "Established patient" means an individual who has received a professional service from a provider within the optometrist's practice group within the preceding 3 years and 1 day.

(o) "Informed consent for an established patient" means consent by a patient or a patient's legal representative for treatment, medication, or services after there has been full disclosure of the facts needed for the patient or the patient's legal representative to make a voluntary decision based on the elements of knowledge, comprehension, and willingness to receive the treatment, medication, or service.

(p) "Informed consent for a new patient" means a written agreement or documentation of a verbal agreement by a patient or a patient's legal representative for treatment, medication, or services after there has been full disclosure of the facts needed for the patient or the patient's legal representative to make a voluntary decision based on the elements of knowledge, comprehension, and willingness to receive the treatment, medication, or service.

(q) "MOA" means the Michigan Optometric Association.

(r) "NBEO" means the National Board of Examiners in Optometry.

(s) "New patient" means a patient who has not received a professional service from a provider in the optometrist's practice group within the preceding 3 years and 1 day.

(t) "TMOD" means Treatment and Management of Ocular Disease.

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

R 338.302 Rescinded.

R 338.303 Training standards for identifying victims of human trafficking; requirements.

Rule 3. (1) Pursuant to section 16148 of the code, MCL 333.16148, an individual who is licensed or seeking licensure shall have completed training in identifying victims of human trafficking that meets the following standards:

(a) Training content that covers all of the following:

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

(ii) Identifying victims of human trafficking in healthcare settings.

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

(iv) Identifying resources for reporting the suspected victims of human trafficking.

(b) Acceptable providers or methods of training include any of the following:

(i) Training offered by a nationally recognized or state-recognized health-related organization.

(ii) Training offered by, or in conjunction with, a state or federal agency.

(iii) Training obtained in an educational program that has been approved by the board for initial licensure, or by a college or university.

(iv) Reading an article related to the identification of victims of human trafficking that meets the requirements of subdivision (a) of this subrule and is published in a peer-reviewed journal, healthcare 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 the individual. The certification statement must include the individual's name and 1 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-reviewed journal, healthcare journal, or professional or scientific journal, and the date, volume, and issue of publication, as applicable.

R 338.305 Rescinded.

R 338.306 Telehealth services; requirements.

Rule 6. (1) An optometrist who provides telehealth services shall obtain informed consent for an established patient or a new patient before providing a telehealth service pursuant to section 16284 of the code, MCL 333.16284.

(2) An optometrist who provides a telehealth service shall maintain evidence of the informed consent in the patient record in compliance with section 16213 of the code, MCL 333.16213.

(3) An optometrist who provides a telehealth service shall comply with section 16285 of the code, MCL 333.16285.

(4) An optometrist providing a telehealth service may prescribe a drug if the optometrist is a prescriber acting within the scope of the optometrist's practice and in compliance with section 16285 the code, MCL 333.16285, if the optometrist does both of the following:

(a) If medically necessary, refers the patient to a provider that is geographically accessible to the patient.

(b) Makes himself or herself available to provide follow-up care services to the patient or to refer the patient to another provider for follow-up care.

(5) An optometrist may provide a telehealth service only when the optometrist complies with all of the following:

(a) Part 174 of the code, MCL 333.17401 to 333.17437.

(b) The eye care consumer protection law, part 55A of the code, MCL 333.5551 to 333.5571, including the duty to perform an examination and evaluation, under sections 5551 to 5559 of the code, MCL 333.5551 to 333.5559.

(6) An optometrist who provides a telehealth service shall exercise the same standard of care applicable to a traditional, face-to-face healthcare service, including any necessary face-to-face appointments with a patient to assess, reassess, and update the patient's medical condition and the effectiveness of treatment modalities.

R 338.307 Rescinded.

R 338.309 Rescinded.

R 338.311 Rescinded.

R 338.313 Rescinded.

R 338.315 Rescinded.

R 338.317 Rescinded.

R 338.319 Rescinded.

R 338.320 Rescinded.

PART 2. EDUCATIONAL PROGRAMS, EXAMINATIONS, LICENSES AND CERTIFICATIONS

R 338.321 Professional optometric degree program; approval standards.

Rule 21. (1) The board approves and adopts by reference the standards of ACOE set forth in the publication entitled, "Accreditation Council on Optometric Education Policy and Procedure Manual," published June 2022, which provides for the accreditation of professional optometric degree programs. A copy of the Accreditation Manual of ACOE is available free of charge from the AOA's website at https://www.aoa.org/AOA/Documents/Education/ACOE/ACOE_Policy_and_Procedure_Manual_07_2021.pdf. Printed copies also are available for inspection and distribution at a cost of 10 cents per page from the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, Ottawa Building, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan 48909.

(2) A professional optometric degree program accredited by ACOE is considered approved by the board.

R 338.322 Examination approval and adoption; limitations; passing score.

Rule 22. (1) The board approves and adopts the NBEO examinations developed, administered, and scored by the NBEO or its successor.

(2) An applicant applying for licensure shall have achieved a passing score on all of the following parts of the NBEO examinations:

(a) Part I.

(b) Part II, including a passing score on the TMOD examination imbedded in Part II.

(c) Part III.

(3) An applicant for licensure is limited to attempting to achieve a passing score on the NBEO examination to no more than 6 attempts. A licensee shall not sponsor an applicant for licensure that is attempting to achieve a passing score on the NBEO examination if the applicant has previously attempted to pass the examination 6 or more times.

(4) The accepted passing score for each part of the NBEO examination for licensure is the passing scores established by the NBEO or its successor.

R 338.323 Initial licensure by examination.

Rule 23. An applicant for initial licensure by examination shall submit a completed application on the form provided by the department, together with the requisite fee. In addition to meeting the requirements of the code and the administrative rules promulgated under the code, an applicant shall satisfy all of the following requirements:

(a) Have graduated from a professional optometric degree program approved by the board under R 338.321, and hold the doctor of optometry degree.

(b) Have achieved a passing score on parts I, II, and III of the NBEO examinations approved under R 338.322, including a passing score on the TMOD examination imbedded in part II.

(c) Have achieved a minimum scaled score of 75 on the optometry jurisprudence examination developed and administered by the department or an entity approved by the department.

R 338. 325 Licensure by endorsement.

Rule 25. An applicant for licensure by endorsement shall hold an active license in good standing in another state or province of Canada and submit a completed application on a form provided by the department, together with the requisite fee. In addition to meeting the requirements of the code and the administrative rules promulgated under the code, an applicant shall comply with all of the following requirements as noted by (√):

(a) For an applicant who is licensed in another state:		Licensed for less than 3 years.	Licensed 3 years or more.
(i)	Establish that the applicant is of good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.	√	√
(ii)	Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174.	√	√
(iii)	Graduate from a school of optometry approved by the board under R 338.321.	√	
(iv)	Achieve a passing score on parts I, II, and III of the NBEO examination, including a passing score on the TMOD examination given by	√	

	NBEO or its successor organization.		
(v)	Achieve a minimum scaled score of 75 on the optometry jurisprudence examination developed and administered by the department or an entity approved by the department.	√	√
(vi)	Hold a license in good standing granting therapeutic prescriptive certification at the highest level authorized in the state of the United States where the applicant is currently licensed.	√	√
(vii)	Hold a valid CPR certificate issued by any of the following: (A) The Red Cross. (B) The American Heart Association. (C) An accredited hospital. (D) An organization or institution comparable to those identified in subparagraphs (A) to (C) of this paragraph.	√	√
(viii)	Comply with both of the following: (A) Disclose each license, registration, or certification in a health profession or specialty issued by another state, the United States military, the federal government, or another country on the application form. (B) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174,	√	√

	including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.		
(b) For an applicant who is licensed in a province of Canada:		Licensed less than 10 years.	Licensed 10 years or more.
(i)	Establish that the applicant is of good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.	√	√
(ii)	Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174.	√	√
(iii)	Graduate from a school of optometry approved by the board under R 338.321.	√	√
(iv)	Achieve a passing score on parts I, II, and III of the NBEO examination, including a passing score on the TMOD examination given by NBEO or its successor organization.	√	
(v)	Achieve a minimum scaled score of 75 on the optometry jurisprudence examination of developed and administered by the department or an entity approved by the department.	√	√
(vi)	Hold a license in good standing granting therapeutic prescriptive certification at the highest level authorized	√	√

	in the province of Canada where the applicant is currently licensed.		
(vii)	Hold a valid CPR certificate issued by any of the following: (A) The Red Cross. (B) The American Heart Association. (C) An accredited hospital. (D) An organization or institution comparable to those identified in subparagraphs (A) to (C) of this paragraph.	√	√
(viii)	Comply with both of the following: (A) Disclose each license, registration, or certification in a health profession or specialty issued by another state, the United States military, the federal government, or another country on the application form. (B) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.	√	√

R 338.327 Limited licenses.

Rule 27. (1) The board may issue an educational limited license, under section 16182(2)(a) of the code, MCL 333.16182, to an individual that meets the requirements of the code and the administrative rules promulgated under the code and who meets both of the following:

(a) Has graduated from a board-approved professional optometric degree program, or who will graduate from the program not more than 3 months after applying for an educational limited license.

(b) Is enrolled in a postgraduate course of study or participates in a residency program that is offered by the United States Department of Veterans Affairs or an institution approved by the ACOE.

(2) The board may issue a clinical academic limited license, under section 16182(2)(c) of the code, MCL 333.16182, to an individual who meets the requirements of the code and the administrative rules promulgated under the code and who is a graduate of a board-approved professional optometric degree program and who is employed as a faculty member at a board-approved professional optometric degree program. An optometrist who is licensed under this subrule may perform procedures on patients while employed as a faculty member at a board-approved professional optometric degree program, if these procedures are performed under the general supervision of a faculty member who is fully licensed as an optometrist. An individual who is licensed under this subrule shall not do either of the following:

(a) Hold himself or herself out to the public as being engaged in the practice of optometry other than as a faculty member.

(b) Provide optometric services outside of his or her employment as a faculty member.

(3) An individual who applies for a limited license under section 16182(2)(a) or (c) of the code, MCL 333.16182(2), shall meet all of the following requirements:

(a) Comply with section 16174 of the code, MCL 333.16174.

(b) Submit proof of graduation from an accredited professional optometric degree program that is approved by the board under R 338.321.

(c) Submit proof of appointment to either of the following:

(i) A postgraduate course of study or a residency program, under subrule (1) of this rule.

(ii) A faculty position at a board-approved professional optometric degree program, under subrule (2) of this rule.

(4) A limited license may be renewed 1 time. When applying for renewal, the limited licensee shall submit evidence of having completed 10 hours of board-approved continuing education in pharmacological management of ocular conditions.

R 338.328 Relicensure.

Rule 28. (1) An applicant whose license has lapsed may be relicensed under section 16201(3) or (4) of the code, MCL 333.16201, as applicable, if the applicant meets the requirements of the code and the administrative rules promulgated under the code and satisfies the following requirements as noted by (√):

(a) For an applicant who has let his or her Michigan license lapse and is not currently licensed in another state or in Canada:		Lapsed 3 years or less.	Lapsed more than 3 years, but less than 6 years.	Lapsed 6 years or more.
(i)	Submit a completed application on a form provided by the department, together with the required fee.	√	√	√
(ii)	Establish that the applicant is of good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.	√	√	√
(iii)	Submit fingerprints as			

	required under section 16174(3) of the code, MCL 333.16174.		√	√
(iv)	Submit proof of having completed 40 hours of continuing education as required under R 338.331, that was earned within the 2-year period immediately preceding the date of relicensure, subject to both of the following: (A) At least 2 of the 40 hours of continuing education must be in pain and symptom management, as provided under R 338.331(3). (B) If certified to administer therapeutic pharmaceutical agents, at least 20 of the 40 hours of continuing education must be in pharmacological management of ocular conditions, as provided under R 338.331(2), and the applicant shall hold a current CPR certificate.	√	√	√
(v)	Achieve a minimum scaled score of 75 on the optometry jurisprudence examination developed and administered by the department, or an entity approved by the department.		√	√
(vi)	Achieve a passing score on parts I, II, and III of the NBEO examination, including a passing score on the CPDO examination given by NBEO or its successor organization.			√
(vii)	An applicant who is or			

	has ever been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country, shall do both of the following: (A) Disclose each license, registration, or certification on the application form. (B) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.	√	√	√
(b) For an applicant who has let his or her Michigan license lapse and is currently licensed in another state or in Canada:		Lapsed 3 years or less.	Lapsed more than 3 years, but less than 6 years.	Lapsed 6 years or more.
(i)	Submit a completed application on a form provided by the department, together with the required fee.	√	√	√
(ii)	Establish that the applicant is of good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.	√	√	√
(iii)	Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174.		√	√
(iv)	Submit proof of having completed 40 hours of continuing education as	√	√	√

	required under R 338.331, that was earned within the 2-year period immediately preceding the date of relicensure, subject to both of the following: (A) At least 2 of the 40 hours of continuing education must be in pain and symptom management, as provided under R 338.331(3). (B) If certified to administer therapeutic pharmaceutical agents, at least 20 of the 40 hours of continuing education must be in pharmacological management of ocular conditions, as provided under R 338.331(2), and the applicant shall hold a current CPR certificate.			
(v)	Achieve a minimum scaled score of 75 on the optometry jurisprudence examination developed and administered by the department, or an entity approved by the department.		√	√
(vi)	An applicant who is or has ever been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country, shall do both of the following: (A) Disclose each license, registration, or certification on the application form. (B) Satisfy the	√	√	√

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

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

R 338.329 Certification to administer topical ocular diagnostic pharmaceutical agents; application; qualifications; adoption of standards; prohibitions.

Rule 29. (1) An applicant for certification to administer a topical ocular diagnostic pharmaceutical agent in the practice of optometry shall submit a completed application, on a form provided by the department, together with the requisite fee. In addition to meeting the other requirements of the code and the administrative rules promulgated under the code, an applicant shall satisfy all of the following requirements:

(a) Successfully complete a course of study in general and clinical pharmacology related to the practice of optometry as required in section 17412(2)(a) of the code, MCL 333.17412. The course of study must include passing an examination on general and ocular pharmacology. The applicant has successfully completed the required course of study when the applicant has been granted the credit hours designated for the course of study by the teaching institution where the course is offered.

(b) Establish a board-approved emergency plan, under section 17412(2)(d) of the code, MCL 333.17412, for the management and referral of patients who experience any adverse drug reaction. To be board-approved, the emergency plan must include all of the following:

(i) Patient instructions related to an adverse drug reaction.

(ii) A referral procedure for a patient reporting an adverse drug reaction.

(iii) The names and contact information of not less than 3 physicians, clinics, or hospitals to whom the patient reporting an adverse drug reaction may be referred.

(iv) A documentation procedure for the information to be included in the patient's medical record regarding the report of an adverse drug reaction.

(c) Successfully complete a course in CPR as required by section 17412(2)(c) of the code, MCL 333.17412, approved by the department of health and human services, and offered or approved by any of the following:

(i) The Red Cross.

(ii) The American Heart Association.

(iii) An accredited hospital.

(iv) An organization or institution comparable to those identified in paragraphs (i) to (iii) of this subdivision.

(2) A licensed optometrist shall not use diagnostic pharmaceutical agents in the practice of optometry unless the optometrist has been certified by the board as being qualified to administer topical ocular diagnostic pharmaceutical agents.

R 338.330 Certification to administer and prescribe therapeutic pharmaceutical agents; application; qualifications.

Rule 30. (1) An applicant for certification to administer and prescribe a therapeutic pharmaceutical agent in the practice of optometry shall submit a completed application, on a form provided by the department, together with the requisite fee. In addition to meeting the other requirements of the code and the administrative rules promulgated under the code, an applicant shall satisfy all of the following requirements:

(a) Meet the certification requirements to administer diagnostic pharmaceutical agents under R 338.315.

(b) Successfully complete a course of study relating to the didactic and clinical use of therapeutic pharmaceutical agents as required in section 17435(2)(b) of the code, MCL 333.17435.

(c) Establish a board-approved management plan that complies with section 17435(2)(c) of the code, MCL 333.17435.

(2) A licensed optometrist shall not administer or prescribe therapeutic pharmaceutical agents in the practice of optometry unless the optometrist has been certified by the board as being qualified to administer and prescribe therapeutic pharmaceutical agents.

PART 3. CONTINUING EDUCATION AND LICENSE RENEWAL

R 338.331 License renewal; continuing education, requirements, limitations.

Rule 31. (1) An applicant for license renewal shall satisfy the requirements of the R 338.7001 to R 338.7005 and accumulate not less than 40 continuing education hours approved by the board under R 338.332 or R 338.333 during the 2 years immediately preceding the date of application for renewal.

(2) An applicant for license renewal who holds certification to administer topical ocular diagnostic pharmaceutical agents or certification to administer and prescribe therapeutic pharmaceutical agents, or both, shall do both of the following:

(a) Accumulate not less than 20 hours of board-approved continuing education in pharmacological management of ocular conditions. The 20 required hours are part of, and not in addition to, the 40 hours required in subrule (1) of this rule. A continuing education program that falls within COPE categories listed in R 338.332(7)(n)(iii)(A) to (I) meets the requirements of this subdivision.

(b) Hold a valid CPR certificate issued by any of the following:

(i) The Red Cross.

(ii) The American Heart Association.

(iii) An accredited hospital.

(iv) An organization or institution comparable to those identified in paragraphs (i) to (iii) of this paragraph.

(3) An applicant for license renewal shall accumulate not less than 2 hours of board approved continuing education in pain and symptom management related to the practice of optometry. A continuing education program that falls within COPE categories listed in R 338.332(6)(n)(iv)(A) to (C) meets the requirements of this subrule. Continuing education hours in pain and symptom management, as they relate to the practice of optometry, may include, but are not limited to, the following:

(a) Ethics and health policy related to pain.

(b) Pain definitions.

(c) Basic sciences related to pain, including pharmacology, psychology, sociology, and anthropology.

(d) Clinical sciences related to pain, including specific pain conditions and pain in special contexts and settings.

(e) Clinician-patient communications related to pain.

(f) Management of pain, including evaluation and treatment and non-pharmacological and pharmacological management.

(g) Ensuring quality pain care.

(h) Michigan programs and resources relevant to pain.

(4) A minimum of 20 of the required continuing education hours must be completed in a live, synchronous learning format. The remaining hours may be completed in any other format.

(5) An applicant for license renewal may earn a maximum of 9 continuing education hours per licensure cycle in practice management. A continuing education program that falls within COPE categories listed in R 338.332(6)(n)(ii)(A) and (B) meets the requirements of this subrule.

(6) Submission of an application for renewal constitutes the applicant's certificate of compliance with the requirements of this rule.

(7) An optometrist shall retain documentation of meeting the requirements of this rule for a period of 4 years after the date of applying for license renewal. The licensee's documentation must show the licensee's name, number of credits earned per program or activity, the sponsor's name or the name of the organization that approved the program or activity, and the date that the program was held or activity was completed. The board may require an applicant or licensee to submit evidence to demonstrate compliance with this rule. Failure to comply with this rule is a violation of section 16221(h) of the code, MCL 333.16221.

(8) A request for a waiver under section 16205 of the code, MCL 333.16205, must be received by the department at least 30 days before the last regularly scheduled board meeting before the expiration date of the license.

R 338.332 Adoption of standards and criteria by reference; board approval of continuing education programs.

Rule 32. (1) The board approves and adopts by reference the standards and criteria of COPE for accreditation of an activity or qualification of a course that are set forth in the publications entitled "Activity Accreditation Manual," revised July 2022, and "Course Qualification Manual," revised July 2022. A copy of the publications may be obtained at no cost from the Association of Regulatory Boards of Optometry's website at http://www.arbo.org. Printed copies also are available for inspection and distribution at a cost of 10 cents per page from the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, Ottawa Building, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan 48909.

(2) A continuing education program related to the practice of optometry that has been accredited by COPE is considered approved by the board.

(3) A course or continuing education program related to the practice of optometry offered by a college or university program approved by the board under R 338.321 is considered approved by the board.

(4) A continuing education program related to the practice of optometry that has been approved or sponsored by the AAO, the AOA, or the MOA is considered approved by the board.

(5) A continuing education program related to the practice of optometry that has been approved by another state board of optometry is considered approved by the board.

(6) A continuing education program that is not approved by the board under subrules (1) to (5) of this rule, or as provided in R 338.333, may apply for board approval by submitting an application to the department. The application must be received not less than 90 calendar days before the program presentation. An application received less than 90 days before the program presentation will be denied as untimely.

(7) An application for approval of a continuing education program must include all the following:

(a) The sponsor's name.

(b) The sponsor's address.

(c) The program name.
(d) The date of the next scheduled program.
(e) The program location.
(f) The program outline, including all of the following:
(i) An explanation of how the program is designed to further educate the licensee through acquisition and application of knowledge, that results in improved patient outcomes.
(ii) The topics and the name of the speaker of each topic.
(iii) The times of the specific topics and breaks included in the program.
(g) The résumé of each speaker or instructor for the program.
(h) A description of the delivery method, or methods to be used, and the techniques that will be employed to ensure active participation.
(i) A brief description of the sponsoring organization.
(j) The name, title, and address of the program director and a description of his or her qualifications to direct the program.
(k) A description of how participants will be notified that continuing education credit has been earned.
(l) A description of the physical facilities or laboratory available to ensure a proper learning environment.
(m) A description of how attendance is monitored and the name of the individual monitoring attendance.
(n) The number of hours of course instruction including all of the following:
(i) The number of hours related to clinical optometry, which may include any of the following COPE categories:
(A) Contact lenses (CL).
(B) Functional vision/pediatrics (FV).
(C) General optometry (GO).
(D) Low vision/vision impairment & rehabilitation (LV).
(E) Public health (PB).
(ii) The number of hours related to practice management, which may include the following COPE categories:
(A) Practice management (PM).
(B) Ethics/jurisprudence (EJ).
(iii) The number of hours related to pharmaceutical management, which may include any of the following COPE categories:
(A) Glaucoma (GL).
(B) Injection skills (IS).
(C) Laser procedures (LP).
(D) Peri-operative management of ophthalmic surgery (PO).
(E) Surgery procedures (Optometric) (SP).
(F) Treatment and management of ocular disease (TD).
(G) Neuro-optometry (NO).
(H) Pharmacology (PH).
(I) Systemic diseases (SD).
(iv) The number of hours related to pain management, which may include any of the following COPE categories:
(A) Pharmacology (PH).
(B) Treatment and management of ocular disease (TD).
(C) Functional vision/pediatrics (FV).

R 338.333 Approved continuing education activities; limitations; documentation.

Rule 33. The board approves all of the following as continuing education if the subject matter falls within an approved COPE category as listed in R 338.331(7)(n):

	Activity and Proof of Completion	Number of Continuing Education Hours Granted or Permitted for Activity
(a)	Attendance at a continuing education program related to optometric topics approved for category 1 continuing education by the Michigan board of medicine or the Michigan board of osteopathic medicine and surgery. If audited, a licensee shall submit a copy of a letter or certificate of completion showing the licensee's name, number of credits earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date or dates that the program was held or activity completed.	One continuing education hour in clinical optometry is earned for each 50 to 60 minutes of program attendance. A maximum of 8 continuing education hours may be earned for this activity in each renewal period.
(b)	Attendance at a continuing education program related to optometric pharmacological topics approved for continuing education by the Michigan board of pharmacy. If audited, a licensee shall submit a copy of a letter or certificate of completion showing the licensee's name, number of credits earned, sponsor name or the name of the organization that approved the program or activity for continuing education credit, and the date or dates that the program was held or activity completed.	One continuing education hour in pharmacological management is earned for each 50 to 60 minutes of program attendance. A maximum of 8 continuing education hours may be earned for this activity in each renewal period. Applicants for renewal who hold certification to administer topical ocular diagnostic pharmaceutical agents or certification to administer and prescribe therapeutic pharmaceutical agents, or both, may earn continuing education hours without limitation.
(c)	Initial presentation of or at a continuing education program approved by the board. If audited, a licensee shall submit a letter from the program's sponsor, verifying the licensee's presentation of educational materials and lecture at the continuing education program.	One continuing education hour in the appropriate COPE category is earned for each 50 to 60 minutes of program presentation, without limitation.
(d)	Initial presentation of a scientific exhibit, poster, or paper to a professional optometric organization.	Two hours of continuing education in clinical optometry are earned for each presentation. No additional credit is granted for

	If audited, the licensee shall submit a copy of the document presented with evidence of presentation or a letter from the program sponsor verifying the date of the presentation.	preparation of the presentation.
(e)	Initial publication of either of the following: (i) A scientific article relating to the practice of optometry in a peer-reviewed journal or periodical. (ii) A chapter or a portion of a chapter related to the practice of optometry in either a professional healthcare textbook or peer-reviewed textbook. If audited, the licensee shall submit a copy of the publication that identifies the licensee as the author or a publication acceptance letter and documentation of the peer-review process.	Six hours of continuing education in clinical optometry are earned for serving as the primary author. Three hours of continuing education in clinical optometry are earned for serving as a secondary author.
(f)	Participating on either of the following: (i) A peer review committee dealing with quality of patient care as it relates to the practice of optometry. (ii) A national or state committee, board, council, or association related to the practice of optometry. Participation on a committee, board, council, or association is considered acceptable by the board if it enhances the participant's knowledge and understanding of the field of optometry. If audited, the licensee shall submit a letter from an organization official verifying the licensee's participation in at least 50% of the regularly scheduled meetings of the committee, board, council, or association.	Six hours of continuing education in clinical optometry are earned for participating on a committee. A maximum of 6 continuing education hours may be earned for this activity in each renewal period.
(g)	Taking and passing any nationally recognized advanced competency examination in optometry.	Every 2 years, 12 hours of continuing education in pharmacology management or clinical optometry are earned.

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ADMINISTRATIVE RULES
ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2023 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."

2023 Michigan Public Acts Table

Legislative Service Bureau
Legal Division, Statutory Compiling and Law Publications Unit
124 W. Allegan, Lansing, MI 48909

June 13, 2023
Compiled through PA 42 of 2023

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0001		0007	Yes	1/31/2023	1/31/2023	1/31/2023	***Appropriations**; supplemental*; appropriations for multiple departments and branches for fiscal years 2021-2022 and 2022-2023; provide for. ***(Sen. Sarah Anthony)***
0002		0013	No	2/1/2023	2/1/2023	**	***Elections**; presidential primary*; presidential primary election date; revise. ***(Sen. Jeremy Moss)***
0003		0008	Yes	2/14/2023	2/14/2023	2/14/2023	***Appropriations**; supplemental*; supplemental appropriations in the school aid act for fiscal years 2021-2022 and 2022-2023; provide for. ***(Sen. Sarah Anthony)***
0004	4001		No	3/7/2023	3/7/2023	**	***Individual income tax**; retirement or pension benefits*; limitations and restrictions on deductions of certain retirement or pension benefits, revenue distributions, earned income tax credit, rebate payments, rebate and revitalization and placemaking funds; revise, increase, and provide for. ***(Rep. Angela Witwer)***
0005	4016		Yes	3/8/2023	3/8/2023	3/8/2023	***Appropriations**; supplemental*; appropriations for multiple departments for fiscal years 2021-2022 and 2022-2023; provide for. ***(Rep. Angela Witwer)***
0006		0004	No	3/16/2023	3/16/2023	**	***Civil rights**; general discrimination*; sexual orientation and gender identity or expression; include as categories protected under the Elliott-Larsen civil rights act. ***(Sen. Jeremy Moss)***
0007		0012	No	3/24/2023	3/24/2023	**	***Education**; elementary*; requirements related to the retention of certain grade 3 pupils; modify. ***(Sen. Dayna Polehanki)***
0008		0034	No	3/24/2023	3/24/2023	**	***Labor**; collective bargaining*; collective bargaining rights; revise to restore former provisions. ***(Sen. Darrin Camilleri)***

* - I.E. means Legislature voted to give the Act immediate effect.
** - Act takes effect on the 91st day after sine die adjournment of the Legislature.
*** - See Act for applicable effective date.
+ - Line item veto.
++ - Pocket veto.
# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0009	4004		No	3/24/2023	3/24/2023	**	***Labor***; *collective bargaining*; requirement for agency fee for nonunion members; allow in bargaining agreements and as condition of employment in public sector. ***(Rep. Regina Weiss)***
0010	4007		No	3/24/2023	3/24/2023	**	***Labor***; *hours and wages*; prevailing wage; reenact. ***(Rep. Brenda Carter)***
0011	4006		No	4/5/2023	4/5/2023	**	***Crimes***; *abortion*; penalty for administering with intent to procure miscarriage and advertisement or sale of certain drugs; repeal. ***(Rep. Laurie Pohutsky)***
0012		0002	No	4/5/2023	4/5/2023	**	***Crimes***; *abortion*; provision related to publication of cures for conceptive preventatives; repeal. ***(Sen. Erika Geiss)***
0013	4032		No	4/5/2023	4/5/2023	** #	***Criminal procedure***; *sentencing guidelines*; reference to crime of administering drugs to procure miscarriage; remove to reflect repeal. ***(Rep. Stephanie A. Young)***
0014		0082	No	4/13/2023	4/13/2023	**	***Use tax***; *exemptions*; firearm safety devices; exempt. ***(Sen. Kevin Hertel)***
0015		0081	No	4/13/2023	4/13/2023	**	***Sales tax***; *exemptions*; firearm safety devices; exempt. ***(Sen. Jeff Irwin)***
0016		0080	No	4/13/2023	4/13/2023	** #	***Crimes***; *weapons*; sentencing guidelines reference; update. ***(Sen. Kristen McDonald Rivet)***
0017		0079	No	4/13/2023	4/13/2023	**	***Crimes***; *weapons*; penalties for storing or leaving a firearm where it may be accessed by a minor; provide for. ***(Sen. Rosemary Bayer)***
0018	4142		No	4/13/2023	4/13/2023	** #	***Weapons***; *firearms*; references to pistol in penal code; update. ***(Rep. Brenda Carter)***

* - 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					
0019	4138		No	4/13/2023	4/13/2023	**	***Weapons***; *firearms*; license or background check for purchase of firearms; require. ***(Rep. Jaime Churches)***
0020	4039		Yes	4/26/2023	4/26/2023	4/26/2023	***Sales tax***; *exemptions*; delivery and installation; exempt from sales tax. ***(Rep. Pat Outman)***
0021	4253		Yes	4/26/2023	4/26/2023	4/26/2023	***Use tax***; *exemptions*; delivery and installation; exempt from use tax. ***(Rep. Kevin Coleman)***
0022	4143		No	4/26/2023	4/26/2023	** #	***Weapons***; *firearms*; references in sentencing guidelines; update. ***(Rep. Kristian Grant)***
0023	4045		Yes	4/26/2023	4/26/2023	5/1/2023	***Law enforcement***; *background check*; volunteer employee criminal history system; establish. ***(Rep. Kathy Schmaltz)***
0024	4219		Yes	4/26/2023	4/26/2023	4/26/2023	***Economic development***; *Michigan strategic fund*; membership on the Michigan strategic fund board; modify. ***(Rep. Matt Hall)***
0025		0259	Yes	5/1/2023	5/1/2023	5/1/2023	***Elections***; *absent voters*; tabulating absent voter ballots received up to 6 days after an election from an absent uniformed services voter or overseas voter; provide for. ***(Sen. Paul Wojno)***
0026		0063	Yes	5/8/2023	5/8/2023	8/6/2023	***Education***; *financing*; use of school sinking fund; allow for school transportation. ***(Sen. Dayna Polehanki)***
0027		0097	Yes	5/8/2023	5/8/2023	5/8/2023 #	***Use tax***; *exemptions*; industrial processing exemption; clarify. ***(Sen. Joseph Bellino)***
0028		0101	Yes	5/8/2023	5/8/2023	5/8/2023	***Insurance***; *other*; procedures for electronic meetings of private insurance companies; eliminate sunset. ***(Sen. Sarah Anthony)***

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*** - See Act for applicable effective date.
+ - Line item veto.
++ - Pocket veto.
# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0029		0160	Yes	5/8/2023	5/8/2023	5/8/2023	***Taxation***; *other*; reporting estimate of amount of use tax forgone; modify to reflect change in use tax act. ***(Sen. Sam Singh)***
0030	4054		Yes	5/8/2023	5/8/2023	5/8/2023 #	***Sales tax***; *exemptions*; industrial processing exemption; clarify. ***(Rep. Greg VanWoerkom)***
0031		0147	No	5/17/2023	5/17/2023	**	***Civil rights***; *other*; certain references to nontherapeutic abortions in the Elliott-Larsen civil rights act; remove. ***(Sen. Erika Geiss)***
0032		0018	Yes	5/17/2023	5/17/2023	8/15/2023	***Holidays***; *other*; "Fred Korematsu Day"; designate as January 30 of each year. ***(Sen. Stephanie Chang)***
0033	4199		Yes	5/20/2023	5/22/2023	5/22/2023	***Military affairs***; *other*; Michigan National Guard tuition assistance program; expand eligibility for spouses and dependants. ***(Rep. Jennifer Conlin)***
0034	4166		No	5/22/2023	5/22/2023	**	***Education***; *school districts*; letter grade system for ranking public schools; eliminate. ***(Rep. Matt Koleszar)***
0035	4147		No	5/22/2023	5/22/2023	** #	***Civil procedure***; *service of process*; service of process for extreme risk protection order actions; provide for, and waive court fees. ***(Rep. Julie Brixie)***
0036	4148		No	5/22/2023	5/22/2023	** #	***Criminal procedure***; *sentencing guidelines*; guidelines for offenses under the extreme risk protection order act; enact. ***(Rep. Stephanie A. Young)***
0037	4146		No	5/22/2023	5/22/2023	** #	***Weapons***; *firearms*; purchase of firearms or obtaining a concealed pistol license; prohibit if individual has an extreme risk protection order. ***(Rep. Kelly Breen)***
0038		0083	No	5/22/2023	5/22/2023	** #	***Civil procedure***; *injunctions*; extreme risk protection order act; enact. ***(Sen. Mallory McMorrow)***

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	HB	SB					
0039	4251		Yes	6/7/2023	6/7/2023	6/30/2023 #	***Traffic control***; *driver license*; penalties for operating a vehicle while sending or receiving a message on an electronic wireless device; enhance. ***(Rep. Tyrone Carter)***
0040	4252		Yes	6/7/2023	6/7/2023	6/30/2023 #	***Traffic control***; *violations*; forwarding abstract of record or report to secretary of state for penalties for operating a vehicle while sending or receiving a message on an electronic wireless device; enhance. ***(Rep. Mike Mueller)***
0041	4250		Yes	6/7/2023	6/7/2023	6/30/2023 #	***Traffic control***; *violations*; penalties for operating a vehicle while sending or receiving a message on an electronic wireless device; enhance. ***(Rep. Matt Koleszar)***
0042	4555		Yes	6/12/2023	6/12/2023	6/12/2023	***Holidays***; *other*; "Women Veterans Recognition Day"; designate as June 12 of each year. ***(Rep. Julie M. Rogers)***

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