

Michigan Register

Issue No. 5 – 2023 (Published April 1, 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

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(This issue, published April 1, 2023, contains
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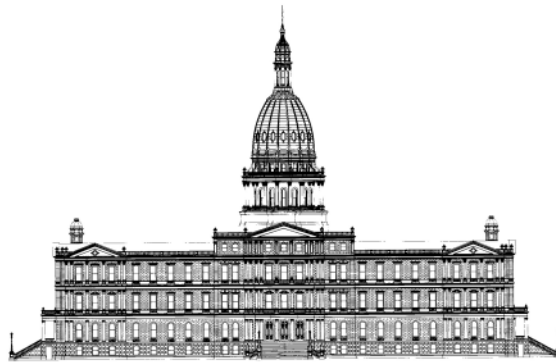
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Gretchen Whitmer, Governor



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
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**PROPOSED ADMINISTRATIVE RULES,
NOTICES OF PUBLIC HEARINGS**

MCL 24.242(3) states in part:

“... the agency shall submit a copy of the notice of public hearing to the Office of Regulatory Reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the Office of Regulatory Reform.”

MCL 24.208 states in part:

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

** * **

(d) Proposed administrative rules.

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

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

PHARMACY TECHNICIANS

Filed with the secretary of state on

These rules **become effective** ~~take effect~~ immediately ~~upon~~ **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, ~~17707~~**16184**, **16186**, **16201**, **16204**, **16205**, **16215**, **16287**, 17731, 17739, 17739a, 17739b, and 17739c; of **the public health code**, 1978 PA 368, ~~as amended~~, MCL 333.16145~~(3)~~, 333.16148, ~~333.17703~~, ~~333.17707~~, **333.16184**, **333.16186**, **333.16201**, **333.16204**, **333.16205**, **333.16215**, **333.16287**, 333.17731, 333.17739, 333.17339a, 333.17739b, and **333.17739c** and Executive Reorganization Order Nos. ~~1996-1~~**1991-9**, 1996-2, 2003-1, and 2011-4, MCL ~~330.3101~~**338.3501**, 445.2001, 445.2011, and 445.2030)

R 338.3651, R 338.3652, R 338.3653, R 338.3654, R 338.3655, R 338.3657, R 338.3659, R 338.3661, R 338.3662, R 338.3663, and R 338.3665 of the Michigan Administrative Code are amended, and R 338.3651a is added, as follows:

R 338.3651 ~~Pharmacy technician licensure; eligibility; examination~~**Definitions.**

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

(a) **“ASHP/ACPE” means the American Society of Health-System Pharmacists/Accreditation Council for Pharmacy Education.**

(b) **“Board” means the Michigan Board of Pharmacy.**

(c) **“CCAPP” means the Canadian Council for Accreditation of Pharmacy Programs.**

(d) **“Code” means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.**

(e) **“Department” means the department of licensing and regulatory affairs.**

(f) **“NHA” means the National Healthcareer Association.**

(g) **“PTCB” means the Pharmacy Technician Certification Board.**

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

~~(1) An applicant for licensure by examination as a pharmacy technician shall submit a completed application on a form provided by the department, together with the appropriate fee unless the applicant is exempt from filing under any of the following exemptions pursuant to section 17739a(4) of the code MCL 333.17739a:~~

~~—(a) A student enrolled in a pharmacy technician program approved by the board under R 338.3655.~~

~~—(b) A licensee who holds a temporary pharmacy technician license under R 338.3652 and section 17739b of the code, MCL 333.17739b.~~

~~—(c) A licensee who holds a limited pharmacy technician licensee under section 17739c of the code, MCL 333.17739c.~~

- ~~—(2) In addition to meeting the requirements of section 16174 of the code, MCL 333.16174, an applicant shall comply with all of the following requirements:~~
- ~~—(a) Have graduated from an accredited high school or comparable school or educational institution or passed the general educational development test or the graduate equivalency examination.~~
 - ~~—(b) Have passed and provided proof to the department of passing any of the following examinations:~~
 - ~~—(i) The certified pharmacy technician examination given by the Pharmacy Technician Certification Board (PTCB) or the National Healthcareer Association (NHA).~~
 - ~~—(ii) A nationally recognized and administered pharmacy technician certification examination that has been approved by the board under R 338.3654.~~
 - ~~—(iii) An employer-based training program examination that has been approved by the board under R 338.3654.~~
 - ~~—(c) Beginning March 16, 2021, an applicant shall submit proof of having completed training in identifying victims of human trafficking as required in R 338.3659.~~

R 338.3651a Pharmacy technician licensure; eligibility; examination.

Rule 1a. (1) An applicant for licensure by examination shall submit a completed application on a form provided by the department, together with the appropriate fee, unless the applicant is exempt from filing under any of the following exemptions pursuant to section 17739a(4) of the code, MCL 333.17739a:

- (a) A student, while the student is enrolled in a pharmacy technician program approved by the board under R 338.3655.**
- (b) A licensee who holds a temporary pharmacy technician license under R 338.3652 and section 17739b of the code, MCL 333.17739b.**
- (c) A licensee who holds a limited pharmacy technician license under section 17739c of the code, MCL 333.17739c.**

(2) In addition to meeting the requirements of R 338.7001 to R 338.7005, any other rule promulgated under the code, and section 16174 of the code, MCL 333.16174, an applicant shall comply with all of the following requirements:

- (a) Have graduated from an accredited high school or comparable school or educational institution or passed the general educational development test or the graduate equivalency examination.**
- (b) Have passed, and provided proof to the department of passing, any of the following examinations:**
 - (i) The certified pharmacy technician examination given by the PTCB or the NHA.**
 - (ii) A nationally recognized and administered pharmacy technician certification examination that has been approved by the board under R 338.3654.**
 - (iii) An employer-based training program examination that has been approved by the board under R 338.3654.**
- (c) An applicant shall submit proof of having completed the 1-time training in identifying victims of human trafficking as required in R 338.3659 and section 16148 of the code, MCL 333.16148.**

(3) 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, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.**

R 338.3652 Temporary license.

Rule 2. (1) Subject to the limitations in section 16181 of the code, MCL 333.16181, and under section 17739b, of the code, MCL 333.17739b, the department may issue a nonrenewable, temporary license to an applicant who is preparing for the proficiency examination and has completed all requirements for licensure as a pharmacy technician **under R 338.3651a** except passing the proficiency examination required under section 17739a(1)(d) of the code, MCL 333.17739a.

(2) An applicant applying for a pharmacy technician temporary license shall submit a completed application on a form provided by the department, together with the appropriate fee.

(3) The temporary license expires 1 year after the date the temporary license is issued.

R 338.3653 Licensure by endorsement.

Rule 3. (1) An applicant **who has never held a pharmacy technician license in this state, but who is licensed in another state, may apply** for licensure by endorsement ~~shall by submit~~**submitting** a completed application on a form provided by the department, together with the requisite fee.

(2) An applicant **is presumed to meet the requirements of section 16186 of the code, MCL 333.16186, who meets if they meet the requirements of R 338.7001 to R 338.7005, any other rule promulgated under the code, and section 16174 of the code, MCL 333.16174, as well as all of the following requirements:** ~~of this rule is presumed to meet the requirements of section 16186 of the code, MCL 333.16186.~~

~~(2) An applicant shall satisfy all of the following requirements:~~

(a) ~~Have~~**Has** graduated from an accredited high school or comparable school or educational institution, or passed the general educational development test or the graduate equivalency examination.

(b) ~~Satisfy~~**Satisfies** the requirements in section 16174(2) of the code, MCL 333.16174, **which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.**

(c) ~~Hold~~**Holds** a pharmacy technician license or registration by examination in another state that is active and in good standing.

(d) ~~Submit~~**Submits** proof that the applicant passed 1 of the approved examinations specified in R 338.3651a(2)(b).

(e) **Submits** proof of having completed **the 1-time** training in identifying victims of human trafficking as required in R 338.3659 **and section 16148 of the code, MCL 333.16148.**

~~(3) In addition to meeting the requirements of subrules (1) and (2) of this rule, an applicant's license must be verified, on a form provided by the department, by the licensing agency of any state in which the applicant holds a current license or ever held a license as a pharmacy technician. Verification must be sent directly to the department from the licensing agency and include the record of any disciplinary action taken or pending against the applicant.~~

(f) Discloses 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.

R 338.3654 Examination requirements; board approval; approval process.

Rule 4. (1) Except for the PTCB and NHA examinations, a nationally recognized pharmacy technician proficiency certification examination and an employer-based training program proficiency examination must be approved by the board.

(2) An employer-based training program proficiency examination must be offered in association with a specific employer-based training program and cover the topics specified in section 17739a(1)(d)(iv) of the code, MCL 333.17739a.

(3) An entity that offers a nationally recognized pharmacy technician proficiency certification examination shall submit to the department a completed application on a form provided by the department with proof of current national accreditation in order to be approved by the board. If the examination is nationally accredited, after the department processes the application, it ~~shall~~**must** be considered approved by the board. If national accreditation is lost, the examination will no longer be approved by the board.

(4) An entity that offers an employer-based training program proficiency examination shall submit to the department a completed application on a form provided by the department and a copy of the examination with the correct answers clearly identified for each question.

(5) An entity that offers an employer-based training program proficiency examination shall submit a modification to a proficiency examination during its approval term to the department on a form provided by the department pursuant to the requirements of this rule.

(6) ~~Beginning July 1, 2022, Except for PTCB and NHA,~~ a nationally recognized certification proficiency examination or employer-based training program proficiency examination approved by the board before July 1, 2022, shall submit an application consistent with this rule for approval **by December 31, 2023, or the program will no longer be listed as a board-approved program.**

(7) ~~Beginning July 1, 2022, the~~ **The** board's approval of an examination expires 5 years after the date of approval.

(8) One year after the effective date of this subrule, a board-approved proficiency examination must have a minimum passing score of 70%.

R 338.3655 Approved pharmacy technician programs.

Rule 5. (1) The following pharmacy technician programs are considered board-approved after a completed application on a form provided by the department along with proof of accreditation is submitted to and reviewed by the department:

(a) A pharmacy technician program including an employer-based training program that is accredited by the ~~American Society of Health-System Pharmacists/Accreditation Council for Pharmacy Education~~ **ASHP/ACPE Pharmacy Technician Accreditation Commission** (~~ASHP/ACPE~~).

(b) A pharmacy technician program that is offered by an education program that is accredited by the **ASHP/ACPE Pharmacy Technician Accreditation Commission** or by an agency accredited by the United States Department of Education.

(2) If ~~either~~**any** of the following pharmacy technician programs do not meet the requirements in subrule (1) of this rule, the program may apply for board approval by submitting an application to the department on a form provided by the department, along with an attestation form that verifies compliance with the information required in subrule (3) of this rule:•

(a) A comprehensive curriculum-based pharmacy technician education and training program conducted by a **community college under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195** or a school that is licensed ~~pursuant to~~**under** the proprietary schools act, 1943 PA 148, MCL 395.101 to 395.103.

(b) A pharmacy technician training program utilized by a pharmacy that includes training in the functions, specified in section 17739(1) of the code, MCL 333.17739, and R 338.3665, required to assist the pharmacist in the technical functions associated with the practice of pharmacy.

(3) The contents of the training programs offered under subrule (2) of this rule must include all of the following:

(a) The duties and responsibilities of the pharmacy technician and a pharmacist, including the standards of patient confidentiality, and ethics governing pharmacy practice.

(b) The tasks and technical skills, policies, and procedures related to the pharmacy technician’s position pursuant to the duties specified in section 17739(1) of the code, MCL 333.17739, and R 338.3665.

(c) The pharmaceutical-medical terminology, abbreviations, and symbols commonly used in prescriptions and drug orders.

(d) The general storage, packaging, and labeling requirements of drugs, prescriptions, or drug orders.

(e) The arithmetic calculations required for the usual dosage determinations.

(f) The essential functions related to drug, purchasing, and inventory control.

(g) The recordkeeping functions associated with prescriptions or drug orders.

(4) The pharmacy technician program shall maintain a record of a student’s pharmacy technician training and education, specified in this rule, for 3 years after a student completes or leaves the program, whichever is earlier, that must include all of the following:

(a) The full name and date of birth of the pharmacy technician student.

(b) The starting date of the pharmacy technician program and date the student successfully completed the program.

(c) The program syllabus and activities performed in the program.

(5) A student shall complete a board-approved pharmacy technician program within 2 years of beginning the program in order to maintain ~~his or her~~ **the student’s exemption** from licensure in subrule (6) of this rule, and R 338.3651a.

(6) A student in a board-approved pharmacy technician program is exempt from, and not eligible for, licensure while in the program.

(7) A student who is less than 18 years of age, in a board-approved pharmacy technician program, may participate in practical training in the pharmacy.

~~(78) Beginning July 1, 2022, a~~ A pharmacy technician program that was board approved before July 1, 2022, ~~must~~ **shall** reapply and meet the requirements of this rule **by December 31, 2023, or the program will no longer be listed as a board-approved program.** ~~Beginning July 1, 2022, the~~ The board’s approval of a program expires 5 years after the date of approval. After 5 years, upon review by the department, a pharmacy technician program may be reapproved if it has maintained its accreditation.

(9) If the department determines that a board-approved program is not meeting the standards of the code or these rules, the department may send written notice to the program stating which areas in the program are deficient. The program has 30 days to fix any deficiency and report back to the department. If the deficiencies are not resolved, the board may withdraw approval.

(10) Withdrawal of board approval of a program for stated deficiencies that were not remediated does not make any bona fide student enrolled in the program, at the time of withdrawal of approval, ineligible to sit for an approved licensure examination.

R 338.3657 Relicensure requirements for pharmacy technicians.

Rule 7. **(1)** An applicant for relicensure whose pharmacy technician license has lapsed **in this state** under ~~the provisions of~~ section 16201(3) or (4) of the code, MCL 333.16201, as applicable, may be relicensed by complying with the following requirements:

(a) For a pharmacy technician who has let his or her whose license lapse in this state has lapsed , and who is not currently licensed in another state:	License Lapsed 0-3 years.	Lapsed License lapsed more than 3 years.
(i) Application and fee: Submit Submit a completed application on a form provided by the department, together with the requisite fee.	√	√
(ii) Good moral character: Establish Establish that he		

or she the applicant is of good moral character as defined in, and determined under, sections 1 to 7 of 1974 PA 381, MCL 338.41 to 338.47.	√	√
(iii) Submit fingerprints: Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174.		√
(iv) Continuing education: Submit Submit proof of having completed 20 hours of continuing education specified in R 338.3661 (4)(c)(1) (1) that was completed within the 2-year period preceding before the date of the application for relicensure. If the continuing education hours submitted with the application are deficient, an applicant shall have has 2 years from after the date of the application to complete the deficient hours. The application will must be held, and the license will may not be issued until the continuing education requirements have been are met.	√	√
(v) Examination: Within 2 years of the period preceding the application for relicensure, pass pass 1 of the examinations specified in R 338.3651 a(2)(b)(i) to (iii).		√
(vi) Beginning March 16, 2021, an applicant shall submit Submit proof of having completed a 1-time training in identifying victims of human trafficking as required in R 338.3659 and implicit bias training as required in R 338.7004.	√	√
(vii) Verification: Submit verification from the licensing agency of all other states of the United States in which the applicant has ever held a license to practice as a pharmacy technician. Verification must include the record of any disciplinary action taken or pending against the applicant. 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, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.	√	√
(viii) Meet the English language requirement under R 338.7002b.	√	√
(b) For a pharmacy technician whose license in	License lapsed	License lapsed

this state has lapsed, but who holds a current and valid pharmacy technician license in another state:	0-3 years.	more than 3 years.
(i) Submit a completed application on a form provided by the department, together with the requisite 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 20 hours of substantially similar continuing education as required in R 338.3661(1) that were completed within the 2-year period before the application for relicensure. If the continuing education hours submitted with the application are deficient, an applicant has 2 years after the date of the application to complete the deficient hours. The application must be held, and the license may not be issued until the continuing education requirements are met.	√	√
(v) Submit proof of having completed a 1-time training in identifying victims of human trafficking as required in R 338.3659 and implicit bias training as required in R 338.7004.	√	√
(vi) Submit verification from the licensing agency of another state of the United States in which the applicant has ever held a license to practice as a pharmacy technician. Verification must include the record of any disciplinary action taken or pending against the applicant. 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, which includes verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.	√	√
(vii) Meet the English language requirement under R 338.7002b.	√	√

(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 338.3659- Training standards for identifying victims of human trafficking; requirements.

Rule 9. (1) Pursuant to ~~Under~~ section 16148 of the code, MCL 333.16148, ~~an~~**the** individual licensed or seeking licensure shall **have completed** ~~complete~~ training in identifying victims of human trafficking that meets the following standards:

(a) Training content covers all of the following:

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

(ii) Identifying victims of human trafficking in ~~health-care~~**healthcare** settings.

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

(iv) ~~Resources~~**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-review~~**peer-review** journal, ~~health-care~~**healthcare** journal, or professional or scientific journal.

(c) Acceptable modalities of training include any of the following:

(i) Teleconference or webinar.

(ii) Online presentation.

(iii) Live presentation.

(iv) Printed or electronic media.

(2) The department may select and audit ~~a sample of individuals~~**an individual** and request documentation of proof of completion of training. If audited by the department, ~~an~~**the** individual shall provide an acceptable proof of completion of training, including either of the following:

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

(b) A self-certification statement by ~~an~~**the** individual. The certification statement must include the individual's name and ~~either~~**1** of the following:

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

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

~~(3) Pursuant to section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule apply for license renewals beginning with the first renewal cycle after March 16, 2016, and for initial licenses issued after March 16, 2021.~~

R 338.3661 License renewals; continuing education requirements.

Rule 11. (1) ~~A licensee seeking renewal of a pharmacy technician's license, who has been licensed for the 2-year period preceding the end of the license cycle, shall during the 2 years immediately preceding the application for renewal, comply with all of the following:~~

This rule applies to applications for renewal of a pharmacy technician’s license and a special retired volunteer pharmacy technician’s license under sections 16184 and 16201 of the code, MCL 333.16184 and 333.16201. A licensee seeking renewal shall comply with all of the following:

- (a) Submit to the department a completed application for renewal on a form provided by the department together with the requisite fee.
- (b) Complete the training in identifying victims of human trafficking as required in R 338.3659.
- (c) ~~Except as otherwise provided in subrule (6) of this rule, comply with 1 of the following:~~
 - ~~—(i) Complete a proficiency examination as specified in R 338.3651(2)(b)(i) to (iii).~~
 - ~~—(ii) Complete not less than 20 hours of continuing education courses or programs approved by the board, during the 2 years preceding the application for renewal, that meet all of the following requirements:~~
 - ~~—(A) No more than 12 hours of continuing education credit may be earned during a 24 hour period.~~
 - ~~—(B) An applicant shall not earn credit for taking the same continuing education course or program twice during 1 renewal period.~~
 - ~~—(C) Not less than 5 of the continuing education credits must be earned by attending live courses, programs or activities that provide for direct interaction with instructors, peers, and participants, including but not limited to lectures, meetings, symposia, real-time teleconferences or webinars, and workshops.~~
 - ~~—(D) Continuing education credit must be earned as follows:~~

Subjects		Number of continuing education hours required or permitted for each activity
(I)	Pain and symptom management relating to the practice of pharmacy.	Minimum: 1 hour
(II)	Patient safety.	Minimum: 1 hour
(III)	Pharmacy law.	Minimum: 1 hour
(IV)	Pharmacy-related subject matter, including the following topics: Medication or drug distribution. Inventory control systems. Mathematics and calculations. Biology. Pharmaceutical sciences. Therapeutic issues. Pharmacy operations. Pharmacology, drug therapy, or drug products. Preparation of sterile products. Prescription compounding. Drug repackaging. Patient interaction, or interpersonal skills, and communication.	Minimum: 17 hours in any combination of the pharmacy-related subject matters included in this subparagraph. Instruction in each subject is not required.

- (2) ~~A continuing education course or program that is offered or approved by any of the following providers is approved by the board:~~
 - ~~—(a) A pharmacy technician educational program that has been approved by the board.~~

~~—(b) A course or program approved by another state board of pharmacy.~~

~~—(c) A program approved by the ASHP/ACPE.~~

~~—(d) A course or program approved by the board under R 338.3663.~~

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

~~—(4) A request for a waiver under section 16205 of the code, MCL 333.16205, must be received by the department before the expiration date of the license.~~

~~(5) If audited, a licensee shall submit to the department a copy of a letter or certificate of completion that includes all of the following:~~

~~—(a) The licensee's name.~~

~~—(b) The number of hours earned.~~

~~—(c) The sponsor name or the name of the organization that approved the program or activity.~~

~~—(d) The date on which the program was held or activity completed.~~

~~(6) Effective for applications for renewal that are filed for the renewal cycle that begins 1 year or more after the effective date of this subrule, an applicant shall meet the requirements of this subrule and the requirements in subrules (1)(a) and (b), (3), and (4) of this rule.~~

~~(c) An applicant for license renewal, who has been licensed for the entire 2-year period preceding the end of the license cycle, shall during the 2 years immediately preceding the application for renewal complete not less than 20 hours of continuing education approved by the board under R 338.3662 as follows:~~

~~(a)(i) An applicant for license renewal shall complete 1 hour in pharmacy ethics and jurisprudence, **which may be completed in 1 or more courses.**~~

~~(b)(ii) An applicant for license renewal shall complete 1 hour in pain and symptom management in the practice of pharmacy that includes, but is not limited to, courses in the following subjects:~~

~~(i)(A) Behavior management.~~

~~(ii)(B) Psychology of pain.~~

~~(iii)(C) Pharmacology.~~

~~(iv)(D) Behavior modification.~~

~~(v)(E) Stress management.~~

~~(vi)(F) Clinical applications as they relate to professional practice.~~

~~(e)(iii) An applicant for license renewal shall complete 1 hour in patient safety.~~

~~(d)(iv) An applicant for license renewal shall earn no more than 12 hours of continuing education during a 24-hour period.~~

~~(e)(v) **Except for the 1-time training in human trafficking and the implicit bias training, which may be used to comply with both the training requirement and the continuing education requirement in the same renewal period, an applicant for license renewal may not earn continuing education credit for a program or activity that is identical to a program or activity an applicant has already earned credit for during that renewal period.**~~

~~An applicant for license renewal shall not earn credit for taking the same continuing education course or program twice during 1 renewal period.~~

~~(f)(vi) An applicant for license renewal shall earn ~~not less than~~ **at least** 5 hours of continuing education in live, synchronous, courses or programs, in-person or virtual, that provide for the opportunity of direct interaction between faculty and participants, including, but not limited to, lectures, symposia, live teleconferences, and workshops. ACPE courses designated as live meet this requirement.~~

courses, programs, or activities that provide for direct interaction with instructors, peers, and participants including, but not limited to, lectures, meetings, symposia, real-time teleconferences or webinars, and workshops.

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

(3) **A request for a waiver under section 16205 of the code, MCL 333.16205, must be received by the department for the board’s consideration at least 30 days before the last regularly scheduled board meeting before the expiration date of the license. The public notice for the board meetings can be found here:**

<https://www.michigan.gov/lara/bureau-list/bpl/health/hp-lic-health-prof/pharmacy>.

(4) **Continuing education that is earned during the 60-day grace period may be included up to the date the application for renewal is filed.**

R 338.3662 Format of acceptable continuing education for licensees.

Rule 12. ~~Effective for applications for renewal that are filed for the renewal cycle that begins 1 year or more after the effective date of this subrule, the~~ **The** board shall consider all of the following as acceptable continuing education:

FORMAT OF ACCEPTABLE CONTINUING EDUCATION ACTIVITIES	
Type of Activity	Number/Maximum Hours Earned
<p>(a) Completion of an approved continuing education course or program related to the practice of pharmacy. A continuing education course or program is approved, regardless of the format in which it is offered, if it is approved or offered for continuing education credit by any of the following:</p> <ul style="list-style-type: none"> • A pharmacy program accredited by the ASHP/ACPE Pharmacy Technician Accreditation Commission or the Canadian Council for Accreditation of Pharmacy Programs (CCAPP). • A continuing education sponsoring organization, institution, or individual approved by the ASHP/ACPE. • Another state board of pharmacy. <p>If audited, a licensee shall submit to the department a copy of a letter or certificate of completion showing the licensee’s name, number of continuing education hours earned, sponsor name or the name of the organization that approved the program or</p>	<p>The number of continuing education hours earned will be the number of hours approved by the sponsor or the approving organization.</p> <p>If the activity was not approved for a set number of hours, then 1 credit hour for every 50 minutes of participation may be earned.</p> <p>No limitation on the number of hours earned.</p>

	activity for continuing education credit, and the date on which that the program was held, or activity completed.	
(b)	<p>Completion of pharmacy practice or administration courses offered for credit in a pharmacy program accredited by the ASHP/ACPE Pharmacy Technician Accreditation Commission or the CCAPP.</p> <p>If audited, a licensee shall submit to the department an official transcript that reflects completion of the postgraduate pharmacy practice or administration course and number of semester or quarter credit hours earned.</p>	<p>Twelve hours of continuing education will be credited for each academic quarter credit earned and 18 hours will be credited for each academic semester credit earned.</p> <p>No limitation on the number of hours earned.</p>
(c)	<p>Participation in a home study program offered through an ASHP/ACPE-approved provider or other instructional approaches that include an evaluation component including, but not limited to, on-lineonline continuing education programs and journal articles.</p> <p>If audited, a licensee shall submit to the department an affidavit attesting to the number of hours the licensee spent participating in the home study program that includes a description of the activity.</p>	<p>One hour of continuing education will be earned for each hour devoted to a home study program.</p> <p>A maximum of 20 hours may be earned per renewal period.</p>
(d)	<p>Renewal of a pharmacy technician license held in another state that requires continuing education for license renewal that is substantially equivalent in subject matter and total amount of required hours to that required in these rules if the licensee resides and practices in another state.</p> <p>If audited, a licensee shall submit to the department proof of current licensure in another state and a copy of a letter or certificate of completion showing all of the following: the licensee’s name, number of continuing education hours earned, the sponsor’s name or the name of the organization that approved the program or activity for continuing education credit, and the date on whichthat the program was held or the activity was completed.</p>	<p>Twenty hours of continuing education will be earned.</p> <p>A maximum of 20 hours may be earned in each renewal period.</p>
(e)	Initial publication of an article or a chapter related to the practice of pharmacy in either of the following:	Ten hours of continuing education will be earned per publication.

	<ul style="list-style-type: none"> • A pharmacy textbook. • A peer-reviewedpeer-reviewed journal. <p>If audited, a licensee shall submit to the department a copy of the publication that identifies the licensee as the author or a publication acceptance letter.</p>	<p>A maximum of 10 continuing education hours may be earned in each renewal period.</p>
(f)	<p>Presentation of a continuing education program approved by the board under R 338.3663 or subdivision (a) of this rule that is not a part of the licensee’s regular job description.</p> <p>If audited, a licensee shall submit to the department a copy of the curriculum and a letter from the program sponsor verifying the length and date of the presentation.</p>	<p>Two continuing education hours will be earned for every 50 minutes devoted to presenting the program.</p> <p>A maximum of 402 hours may be earned in each renewal period. This change is effective starting with the next full license cycle after promulgation of this rule.</p>
(g)	<p>Attendance at a pharmacy-related program, that is approved by the board pursuant to R 338.3663.</p> <p>If audited, a licensee shall submit to the department a copy of a letter or certificate of completion showing the licensee’s name, number of hours earned, sponsor name or the name of the organization that approved the program or course for continuing education credit, and the date on whichthat the program was held or the activity was completed.</p>	<p>The number of continuing education hours earned will be the number of hours approved by the sponsor or the approving organization.</p> <p>If the activity was not approved for a set number of hours, then 1 credit hour for every 50 minutes of participation may be earned.</p> <p>No limitation on the number of hours earned.</p>

R 338.3663 Continuing education **courses and programs**; standards for approval.

Rule 13. ~~(4)~~ A continuing education course or program that is not pre-approved under R 338.3661(2) or 338.3662(a) may be approved by the board **pursuant to the standards in R 338.3043.** ~~by the course or program sponsor submitting to the department a completed application on a form provided by the department, no later than 70 days before the course or program date, and no later than 70 days before the next regularly scheduled board meeting. A course or program conducted before board consideration and approval shall be denied approval. The application and supporting documentation must include all of the following information:~~

- ~~—(a) A course or program schedule that includes all of the following:~~
 - ~~—(i) The date of the course or program.~~
 - ~~—(ii) The topics to be covered in the course or program.~~
 - ~~—(iii) The names of all of the speakers.~~
 - ~~—(iv) Break times.~~
- ~~—(b) An explanation of how the course or program is designed to further educate pharmacy technicians, including a short narrative describing the program content and the criteria for the selection of this topic.~~
- ~~—(c) Copies of instructional objectives that have been developed.~~

- ~~—(d) Copies of all promotional and advertising materials for the course or program.~~
- ~~—(e) The name, title, and address of the course or program director and a description of his or her qualifications to direct the course or program.~~
- ~~—(f) A description of how the amount of continuing education credit to be awarded for this course or program was determined.~~
- ~~—(g) A description of how participants will be notified that continuing education credit has been earned.~~
- ~~—(h) A description of the physical facilities, lab, or pharmacy available to ensure a proper learning environment.~~
- ~~—(i) A copy of the curriculum vitae for each instructional staff member.~~
- ~~—(j) A description of the delivery method to be used and the techniques that will be employed to assure active participation.~~
- ~~—(k) A copy of the post test instrument that will be used for participant evaluation.~~
- ~~—(l) A description of how post tests will be administered, corrected, and returned to participants.~~
- ~~—(m) A description of how post-test performance will influence the awarding of continuing education credit.~~
- ~~—(n) A description of how attendance will be monitored, including sample documents, and the name of the person monitoring attendance.~~
- ~~—(2) A course or program must meet the standards and criteria for an acceptable category of continuing education in effect at the time of application and must be relevant to health care and advancement of the licensee's pharmacy technician education.~~
- ~~—(3) The continuing education course or program approved under subrule (1) of this rule must meet all of the following:~~
 - ~~—(a) Be an organized course or program of learning that contributes to the advancement and enhancement of professional competency and scientific knowledge in the practice of pharmacy and be designed to reflect the educational needs of pharmacy technicians.~~
 - ~~—(b) Have a scientific and educational integrity and contain generally accepted pharmacy practices.~~
 - ~~—(c) Have an outline that demonstrates consistency with the course or program description and reflects the course or program content.~~
 - ~~—(d) Be taught in a manner appropriate to the educational content, objectives, and purpose of the course or program and allow suitable time to be effectively presented to the audience.~~
 - ~~—(e) Provide instructors who have the necessary qualifications, training, and experience to teach the course or program.~~
 - ~~—(f) Provide for active participation and involvement from the participants.~~
 - ~~—(g) Offer educational materials for each continuing education activity that enhances the participant's understanding of the content and foster applications to pharmacy practice.~~
 - ~~—(h) Include learning assessments in each activity that allow pharmacy technicians to assess their achievement of the learned content. Completion of a learning assessment is required for continuing education content.~~
- ~~—(4) Board approval is valid for a 3-year term from the date of the board's approval.~~
- ~~—(5) The board shall reevaluate a course or program before any changes are made during the approval term, including but not limited to, changes to either of the following:~~
 - ~~—(a) Instructors and speakers.~~
 - ~~—(b) Course or program content, title, and number of continuing education hours to be awarded to participants.~~
- ~~—(6) All of the following apply regarding changes to a previously approved course or program:~~
 - ~~—(a) Subject to subdivision (b) of this rule, all changes to a previously approved course or program must be submitted on required department forms at least 70 days before the date the course or program is offered to participants and at least 70 days before the next regularly scheduled board meeting to be~~

~~considered for approval by the board. Any changes to a submitted and previously approved course or program, other than those approved under subdivision (b) of this subrule, must not be made to the course or program without prior approval.~~

~~—(b) Emergency changes to instructors and speakers that cannot be submitted to the board at least 70 days before the date of the course or program or at least 70 days before the next regularly scheduled board meeting may be reviewed by the department in consultation with the board chair or a continuing education board committee member if proof that is acceptable to the department and that supports the nature of the emergency is submitted with the change.~~

~~—(c) The specific dates that the course or program will be offered do not require further board approval and may be changed without review by the board if the presentation dates are within the board's original 3-year term of approval.~~

~~—(7) The provider or sponsor of a course or program shall issue certificates or letters of attendance that include all of the following:~~

~~—(a) The name of the sponsor.~~

~~—(b) The name of the course or program.~~

~~—(c) The name of the attendee.~~

~~—(d) The date of the course or program.~~

~~—(e) The continuing education approval number assigned by the department and current approval term.~~

~~—(f) The signature of the person responsible for attendance monitoring and his or her title.~~

~~—(g) The number and type of hours awarded.~~

~~—(8) The provider or sponsor of a course or program shall maintain records of the information contained in subrule (7) of this rule for 5 years after the course or program is offered to participants.~~

~~—(9) The board may revoke the approval status of any approved course or program at any time the course or program fails to comply with these rules.~~

R 338.3665 Performance of activities and functions; delegation.

Rule 15. In addition to performing the functions described in section 17739(1) of the code, MCL 333.17739, a licensed pharmacy technician may also engage in the following tasks, under the delegation and supervision of a licensed pharmacist:

(a) ~~Reconstituting~~**Reconstitute** non-sterile dosage forms consistent with approved labeling provided by the manufacturer of a commercially available product.

(b) ~~Technology-assisted~~**Provide technology-assisted** final product verification, which includes all the following:

(i) **A properly trained pharmacy technician performing final product verification with the use of bar coding or another error prevention technology.** ~~A second licensed pharmacy technician verifies the work of the first licensed pharmacy technician to perform final product verification.~~

~~—(ii) The first licensed pharmacy technician processes a medication order or prescription.~~

~~—(iii) The first licensed pharmacy technician processes the medication order or prescription using bar coding or another board-approved error prevention technology.~~

~~—(iv) A pharmacist verifies the first licensed pharmacy technician's processing of the medication order or prescription.~~

(vii) ~~The second licensed pharmacy technician~~ **providing technology-assisted** final product verification is subject to all of the following requirements:

(A) The licensed pharmacy technician holds a current full pharmacy technician license in this state, not a temporary ~~or limited~~ license.

(B) ~~The licensed pharmacy technician performing technology-assisted final product verification has completed a board-approved pharmacy technician program under R 338.3655.~~

~~(C)~~ **Before performing final product verification the licensed pharmacy technician performing technology-assisted final product verification has meets 1 of the following:**

(1) Has accrued not less than 1,000 hours of pharmacy technician work experience in the same kind type of pharmacy practice site in which where the technology-assisted final product verification is will be performed while he or she the pharmacy technician holds a current full pharmacy technician license, in this state, not a temporary or limited license, or is in training in this state.

(2) Has completed a final product verification training program that includes at least all of the following:

- (i) The role of a pharmacy technician in the product verification process.**
- (ii) The legal requirements and liabilities of a final verification technician.**
- (iii) The use of technology assisted verification systems.**
- (iv) The primary causes of medication errors and misfills.**
- (v) The identification and resolution of dispensing errors.**

~~(D)~~ The practice setting where a licensed pharmacy technician performs technology-assisted final product verification has in place policies and procedures including a quality assurance plan governing pharmacy technician technology-assisted final product verification.

~~(E)~~ The licensed pharmacy technician uses a technology-enabled verification system to perform final product verification.

~~(F)~~ The technology enabled verification system must document and electronically record each step of the prescription process including which individuals complete each step.

~~(G)~~ A licensed pharmacy technician shall not perform technology-assisted final product verification for sterile or nonsterile compounding.

~~(H)~~ Technology-assisted final product verification by a licensed pharmacy technician is not limited to a practice setting.

~~(I)~~ Except for a remote pharmacy that is regulated under sections 17742a and 17742b of the code, MCL 333.17742a and MCL 333.17742b, a pharmacy technician shall not participate in technology-assisted final product verification remotely. Technology-assisted product verification must be done on-site.

~~(J)~~ A pharmacist using his or her professional judgment may choose to delegate technology-assisted final product verification after ensuring licensed pharmacy technicians have completed and documented relevant training and education **or work experience.**

(c) Access the electronic database of a pharmacy from inside or outside of the pharmacy to perform the delegated tasks in paragraph (iii) of this subdivision related to prescription processing functions outside of the personal charge of a pharmacist.

(i) A pharmacy technician remotely performing the tasks in paragraph (iii) of this subdivision must be supervised by a licensed pharmacist.

(ii) The remote supervision in paragraph (i) of this subdivision means that a pharmacist directs and controls the actions of the remote technician using technology to ensure the supervising pharmacist does all the following:

(A) Is readily and continuously available to answer questions, review the practice of the supervised pharmacy technician, provide consultation, review records, and educate the pharmacy technician in the performance of functions.

(B) Is fully responsible for the practice and accuracy of the remote technician.

(C) Has established predetermined procedures and drug protocol governing any activity performed remotely including protection of patient confidentiality.

(iii) Delegated tasks relating to prescription processing functions include, but are not limited to, the following:

(A) Verification of a patient's medication history.

- (B) Data entry regarding processing prescription data and patient data.**
- (C) Claims adjudication.**
- (D) Handling phone calls regarding processing prescription data and patient data.**
- (E) Processing refill requests.**
- (F) Technology-assisted final product verification.**
- (G) Transferring prescriptions for non-controlled substances.**

NOTICE OF PUBLIC HEARING

Department of Licensing and Regulatory Affairs
Bureau of Professional Licensing
Administrative Rules for Pharmacy Technicians
Rule Set 2022-2 LR

NOTICE OF PUBLIC HEARING

Thursday, April 6, 2023
09:00 AM

Location: 611 W. Ottawa Street, UL-5, Lansing, Michigan
611 W. Ottawa Street, UL-5, Lansing, Michigan

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

The proposed rules include the following modifications: all existing board approved pharmacy technician examinations and programs in this state will be required to be reviewed by the board before December 31, 2023; all board approved pharmacy technician examinations in this state will have a 70% passing score; the board will review comprehensive curriculum-based pharmacy technician education and training programs conducted by a community college; a student in a pharmacy technician program who is less than 18 years of age may participate in practical training in a pharmacy; a deficient pharmacy technician program will not accept students until the deficiency is fixed; licensees may meet the pharmacy ethics and jurisprudence continuing education (CE) requirement by taking more than 1 course or program; licensees may use the human trafficking training and implicit bias training toward the required 20 CE hours; a licensee must apply for a waiver of CE pursuant to the required time requirements; a licensee will be able to use CE earned up to the date of the filing of the renewal of their license; the 5 hours of CE in live, synchronous, courses or programs may be earned in-person or virtual; a licensee may only earn 2 CE hours for the presentation of a CE program that is not a part of the licensee's regular job description; the review of pharmacy technician CE courses and programs and pharmacist CE courses and programs will be the same; a pharmacy technician may qualify to perform final product verification by either work experience or training; and a pharmacy technician will be allowed to work remotely in a limited capacity outside of the personal charge of a pharmacist.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16145, 16148, 16184, 16186, 16201, 16204, 16205, 16215, 16287, 17731, 17739, 17739a, 17739b, and 17739c of the public health code, 1978 PA 368, MCL 333.16145, 333.16148, 333.16184, 333.16186, 333.16201, 333.16204, 333.16205, 333.16215, 333.16287, 333.17731, 333.17739, 333.17739a, 333.17739b, and 333.17739c and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501,445.2001,445.2011, and 445.2030).

The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan's website at www.michigan.gov/ARD and in the 4/1/2023 issue of the Michigan Register. Copies of these proposed rules may also be obtained by mail or electronic mail at the following email address: BPL-BoardSupport@michigan.gov.

Comments on these proposed rules may be made at the hearing, by mail, or by electronic mail at the following addresses until 4/6/2023 at 05:00PM.

Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing-Boards and Committees Section, Attention: Departmental Specialist

2023 MR 5 – April 1, 2023

P.O Box 30670, Lansing, Michigan 48909-8170

BPL-BoardSupport@michigan.gov

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 711-to make arrangements.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF TREASURY

EXECUTIVE DIRECTOR OF THE MICHIGAN GAMING CONTROL BOARD

MILLIONAIRE PARTIES

Filed with the secretary of state on

These rules become effective immediately ~~upon~~ 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 executive director of the Michigan gaming control board by section 49 of the Traxler-McCauley-Law-Bowman bingo act, 1972 PA 382, MCL 432.149)

R 432.101, R 432.103, R 432.105, R 432.106, R 432.109, R 432.110, R 432.112, R 432.201, R 432.203, R 432.204, R 432.205, R 432.206, R 432.302, R 432.304, R 432.305, R 432.306, R 432.309, R 432.310, R 432.311, R 432.314, R 432.315, R 432.316, R 432.317, R 432.318, R 432.319, R 432.403, and R 432.404 of the Michigan Administrative Code are amended, and R 432.102, R 432.202, and R 432.301 are rescinded, as follows:

PART 1. GENERAL PROVISIONS

R 432.101 Definitions.

Rule 101. (1) As used in these rules:

(a) “Act” means **the Traxler-McCauley-Law-Bowman bingo act, 1972 PA 382, MCL 432.101 to 432.152432.120.**

(b) “Administrative procedures act” means **the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.**

~~(c) “Bona fide member” means a member, according to an organization's established membership criteria, who participates in the organization to further its lawful purposes.~~

~~(cd)~~ “Charitable purpose” means 1 or more of the following causes, deeds, or activities that are beneficial to the general public:

(i) Relief of poverty.

(ii) Advancement of education.

(iii) Advancement of religion.

(iv) Protection of health or relief from disease, suffering, or distress.

(v) Advancement of civic, governmental, or municipal purposes.

(vi) Protection of the environment and conservation of wildlife.

(vii) Defense of human rights and the elimination of prejudice and discrimination.

(viii) Any other purpose that the executive director determines to be beneficial to the general public.

~~(de)~~ “Compliance meeting” means a meeting as prescribed by the administrative procedures act, conducted by the executive director, ~~at which~~ **where** the licensee has an opportunity to show compliance

with the act, these rules, terms of probation, directives, public policy of ~~the~~**this** state of Michigan, or any other local, state, or federal law or regulation.

(~~ef~~) “Compliance meeting notice” means the document issued by the executive director before the compliance meeting to inform a licensee of the date, time, and location of the compliance meeting.

(~~fg~~) “Contested case hearing” means a formal hearing before a hearing officer conducted as prescribed by the administrative procedures act.

(~~gh~~) “Contested case hearing notice” means the document issued by the executive director before the contested case hearing to inform a licensee of the date, time, and location of the contested case hearing.

(~~hi~~) “Day” means the standard 24-hour period, except when referring to the issuance of a millionaire party license, when it means the time period from 8 a.m. of 1 day to 2 a.m. of the following day.

(~~j~~) “Dealer” means ~~the person performing the act of dealing, assisting in the supervision of the dealers, or providing technical advice to the millionaire party chairperson on an executive director approved game in accordance with the approved rules of the game and in accordance with the act and these rules during a licensed millionaire party.~~

(~~k~~) “Demarcated area” means ~~the physical area in which licensed millionaire party gaming will be conducted, the boundaries of which are marked with rope or tape or separated in an access-controlled area of the location.~~

(~~l~~) “Executive director” means ~~the executive director of the Michigan gaming control board under the authority granted in Executive Reorganization Order No. 2012-3, MCL 432.91.~~

(~~im~~) “General public” means society as a whole or any considerable part of society.

(~~ja~~) “Gross profit” means total revenue less chip redemptions and prizes. **This amount Gross profit** does not include the license fee.

(~~ke~~) “Gross revenue” means the monetary value received by the licensee for all fees charged to participate in the millionaire party before any deductions for prizes or ~~any~~ other expenses.

(l) “Imitation money or chips” means imitation money or chips that have a nominal value equal to or greater than the value of the currency that they can be exchanged for.

(~~mp~~) “Informal meeting” means a meeting conducted by the executive director, at his or her discretion, ~~at which~~**where** the executive director discusses the failure of the licensee to comply with the act, these rules, terms of probation, directives, public policy of ~~the~~**this** state of Michigan, or any other local, state, or federal law or regulation.

(~~q~~) “Lawful purpose” means ~~1 or more of the authorized purposes stated in a qualified organization's written bylaws, constitution, charter, or articles of incorporation on file with the executive director.~~

(~~r~~) “Lessor” means ~~a person, or that person's agents, who rents a location to a licensee for the purpose of the licensee conducting a millionaire party.~~

(~~ns~~) “License” means ~~only~~ a millionaire party or supplier license that is issued by the executive director.

(~~t~~) “Licensee” means ~~a qualified organization issued a license to conduct millionaire party or an organization or persons licensed under section 4a(2) or (3) of the act. Licensee also means a supplier licensed under the act.~~

(~~u~~) “Location owner” means ~~the owner, or the owner's agents, who own the building, enclosure, part of a building or enclosure, or a distinct portion of real estate that is used for the purpose of conducting events licensed under the act.~~

(~~ov~~) “Millionaire party equipment” means any authorized item used to conduct authorized games at a millionaire party.

(p) “Millionaire party licensee” means the qualified organization that has been issued a license to conduct a millionaire party.

(~~w~~) “Occasion” means ~~the hours of the day for which a license is issued.~~

(qx) “Privately held corporation” means a corporation that does not trade its stock in a stock exchange or in over-the-counter transactions.

(ry) “Probation” means a license status requiring strict compliance with the act, these rules, directives, public policy of ~~the~~**this** state of Michigan, and specific conditions as established by the executive director.

(sz) “Probation violation” means failure to abide by any of the terms of probation.

(taa) “Probationary period” means the time interval of probation.

(ubb) “Terms of probation” means the conditions established at the discretion of the executive director that ~~shall~~**must** be complied with during the probationary period.

(vee) “Violation notice” means a document issued by the executive director, at his or her discretion, to a licensee charging a violation of the act, these rules, terms of probation, directives, public policy of ~~the~~**this** state of Michigan, or any other local, state, or federal law or regulation.

(wdd) “Week” means a period of 7 days beginning with Sunday and ending with Saturday.

(xee) “Worker” means **an individual person** who assists or participates in the management, conduct, or operation of a millionaire party. ~~At a Worker does not include licensed millionaire party event, an individual person employed by or an agent of a lessor, location owner, or licensed supplier, is not considered a worker. at a licensed millionaire party event.~~

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

R 432.102 ~~Compliance with other laws, regulations, and ordinances.~~

~~Rule 102. A licensee shall comply with public policy of the state of Michigan and any other local, state, or federal law or regulation.~~

R 432.103 Permanent dissolution; utilization of assets; report.

Rule 103. Upon permanent dissolution of a qualified organization, all assets, real property, and personal property ~~shall~~**must** be utilized for the lawful purposes ~~of as stated in~~ the qualified organization's bylaws, constitution, charter, or articles of incorporation that are filed with the executive director ~~as prescribed by R 432.201~~ and ~~shall~~**must** not be distributed to any private individual or shareholder. All remaining assets upon dissolution ~~shall~~**must** be distributed to the local government or another nonprofit organization as stated in the qualified organization's bylaws, constitution, charter, or articles of incorporation. The disbursement of remaining assets ~~shall~~**must** be reported to the executive director in writing.

R 432.105 Violation notice.

Rule 105. (1) The executive director may issue a violation notice to a licensee for failure to maintain compliance with the act, these rules, terms of probation, directives, public policy of ~~the~~**this** state of Michigan, or any other local, state, or federal law or regulation.

(2) The licensee shall respond to the violation notice in writing within the time period specified in the notice and ~~shall~~ inform the executive director what action has been taken to correct the violation cited. The response ~~shall~~**must** be signed by the principal officer of the qualified organization or the owner ~~or owners or top officer~~ of the licensed supplier cited for the violation.

(3) The executive director may initiate further administrative action if a response to the notice is not received or the response does not resolve the violation.

R 432.106 Informal meeting.

Rule 106. (1) The executive director may require the principal officer of the qualified organization or the owner or ~~owners top officer~~ of the licensed supplier to attend an informal meeting to discuss violations of the act, these rules, terms of probation, directives, public policy of ~~the~~**this** state of

~~Michigan~~, or any other local, state, or federal law or regulation. The purpose of this meeting ~~shall be~~ to assist the licensee in achieving compliance with the act, these rules, terms of probation, directives, public policy of ~~the this state of Michigan~~, or any other local, state, or federal law or regulation.

(2) A licensee may agree to be placed on probation as a result of the meeting described in subrule (1) of this rule.

(3) The purpose of the meeting described in subrule (1) of this rule is to forestall the need to take further action, up to, and including, the conduct of a contested case hearing.

(4) The meeting described in subrule (1) of this rule is not required if the executive director determines that the violations of the act, these rules, terms of probation, directives, public policy of ~~the this state of Michigan~~, or any other local, state, or federal law or regulation warrants action prescribed by R 432.108 to R 432.110.

R 432.109 Suspension or revocation of license; refusal to renew license.

Rule 109. (1) If the executive director determines that a licensee, location owner, or lessor is not in compliance with the requirements of the act, these rules, terms of probation, directives, public policy of ~~the this state of Michigan~~, or any other local, state, or federal law or regulation, then the executive director may suspend or revoke, refuse to renew, or suspend the right to obtain a license of a qualified organization or supplier.

(2) The executive director may suspend or revoke, ~~a license~~, refuse to renew, ~~a license~~, or suspend the right to obtain a license in accordance with the administrative procedures act for any of the following reasons:

(a) ~~Failure~~ **The failure** to ensure full accountability for all gaming assets including, but not limited to, cash, prizes, millionaire party chips or imitation money, and all ~~funds~~ **money** derived from the millionaire party.

(b) The lack of honesty and integrity of the licensee, location owner, or lessor.

(c) The lack of veracity and accuracy concerning the information submitted on the application.

(d) The indebtedness of the licensee, location owner, or lessor to the federal, state, or local government.

(e) A pending lawsuit or bankruptcy proceeding that involves the licensee, location owner, or lessor and is related to the millionaire party.

(f) The current or past history of compliance of the licensee, location owner, lessor or any of its agents, or owners, shareholders of the privately held corporation, partners, officers, or agent of the licensee with the act, these rules, terms of probation, directives, public policy of ~~the this state of Michigan~~, or any other local, state, or federal law or regulation.

(g) Evidence that the licensee, location owner, or lessor possesses illegal gambling equipment, that illegal gambling equipment is on any of its premises, or that illegal gambling has occurred at any of its premises.

(h) The submission of a check in payment of a fee that is not paid by the financial institution ~~on which~~ **from** which it is drawn.

(i) ~~The hinderance or obstruction of~~ **Hindering or obstructing** an authorized representative of the executive director in the performance of official duties.

(j) The use or submission of false or misleading information by any of the following means:

(i) An application for ~~a license~~ or renewal of a license.

(ii) Any document that is submitted to the executive director.

(iii) All records completed in conjunction with the millionaire party.

(iv) Verbal statements to an authorized representative of the executive director by any owner, shareholder of the privately held corporation, partner, officer, or agent of the licensee, location owner, or lessor.

- (k) ~~The failure~~ Failure to submit complete and accurate financial statements.
- (l) ~~The failure~~ Failure or refusal to provide an authorized representative of the executive director access to the location.
- (m) ~~The failure~~ Failure to promptly produce any book, record, or document as required by the act, these rules, terms of probation, or directives for review by an authorized representative of the executive director.
- (n) Allowing any ~~person~~ **individual** who has been convicted of, becomes convicted of, has forfeited bond upon a charge of, or has pled guilty to any of the offenses in R 432.203(f) to work in the operation or management of a millionaire party or to be an officer or agent of the qualified organization.
- (o) Allowing any ~~person~~ **individual** who has been convicted of, becomes convicted of, has forfeited bond upon a charge of, or has pled guilty to any of the offenses in R 432.203(f) to work in the operation or management of a licensed supplier, location, or lessor, or to be an owner, shareholder of the privately held corporation, partner, officer, or agent of the licensed supplier, location, or lessor.
- (p) ~~The failure~~ Failure to continuously operate as a qualified organization as defined by the act and as represented to the executive director by means of the information submitted to the executive director as required by R 432.201, or ~~the failure~~ to continuously operate as an organization or persons issued a license under section ~~34 4a(2) or (3)~~ of the act, **MCL 432.134**.
- (q) For activities similar to those enumerated which, at the discretion of the executive director, merit enforcement action.
- ~~(3) If a license is suspended, then the executive director may determine that the licensee is ineligible to conduct any millionaire party during the period of suspension.~~

R 432.110 Summary suspension proceedings.

Rule 110. (1) To advance the public policy of prohibition against all gambling activities not conducted in strict conformance with expressed legislative exceptions, including the regulatory framework established by the act, the executive director may summarily order the suspension of a license as provided by section ~~50(1) +6(1)~~ of the act, **MCL 432.150**, and in accordance with section 92 of the administrative procedures act, **MCL 24.292**, ~~upon~~ **on** a determination that any 1 or more of the following circumstances exist:

- (a) The licensee has obtained the license by fraud, misrepresentation, or concealment.
- (b) The decision to issue the license was a product of a material mistake of law or fact.
- (c) The licensee, location owner, or lessor has engaged in an act, practice, or course of conduct that would operate as a fraud or deceit on an **individual or individuals** ~~person or persons~~, or has employed a device, scheme, or artifice to defraud an **individual or individuals** ~~person or persons~~.
- (d) The licensee, location owner, or lessor has repeatedly violated, or repeatedly failed or refused to comply with, any of the provisions, requirements, limitations, or duties imposed by the act, these rules, terms of probation, directives, public policy of ~~the~~ **this** state of ~~Michigan~~, or any other local, state, or federal law or regulation.
- (e) The licensee, location owner, lessor, or any owner, shareholder of the privately held corporation, partner, officer, or agent of the licensee, location owner or lessor, has been charged with or convicted of a violation of the act.
- (f) The licensee, location owner, or lessor has or there is reasonable cause to believe the licensee, location owner, or lessor has engaged in illegal gambling, or a fraud or larceny offense.
- (g) ~~That the~~ **The** immediate cessation of the millionaire party by the licensee is necessary for the protection or preservation of the welfare of the community ~~within which~~ **that** these activities are being conducted **in**, or for the protection or preservation of public policy of ~~the~~ **this** state of ~~Michigan~~, or any other local, state, or federal law or regulation respecting unlawful gaming activity.

(2) If the executive director summarily suspends a license, then the licensee shall be afforded a prompt hearing before the executive director on the question forming the basis of the suspension of the license.

R 432.112 Contested case hearing.

Rule 112. (1) A contested case hearing notice ~~shall~~**must** be issued in accordance with section 71 of the administrative procedures act, **MCL 24.271**.

(2) The executive director may establish procedures for the conduct of contested case hearings, including the submission of evidence by written interrogatory, deposition, request for admissions, or by ~~such~~ other means established by the hearing officer.

(3) There ~~shall~~**must** be no discovery other than that allowed by the administrative procedures act.

(4) When an appearance is made at a contested case hearing, it ~~shall~~**must** be made in person by the principal officer of the qualified organization, ~~the owner, principal shareholder of the privately held corporation, partner, or owner~~~~stop officer~~ of the licensed supplier, ~~or~~ by counsel.

(5) The person or persons ~~who~~**that** have been served with a contested case hearing notice may file a written answer before the date set for the contested case hearing or may appear at the contested case hearing and present an oral statement on the charges contained in the contested case hearing notice. If written briefs or arguments are presented, then a copy shall be served ~~upon~~ **on** the hearing officer **not less than at least** 5 days before the date set for the contested case hearing.

(6) If the person or persons ~~who~~**that** have been previously served with a contested case hearing notice fail to appear at the contested case hearing, then the hearing officer may proceed with the contested case hearing and may, on the evidence presented, make a decision.

(7) A contested case hearing ~~shall~~**must** not be adjourned or continued except by the hearing officer. All motions and requests for an adjournment or a continuance ~~shall~~**must** be in writing. The motion or request ~~shall~~**must** state concisely the reasons why the requested relief is necessary.

(8) The parties to any contested case hearing may, by stipulation, in writing, **and** filed with the hearing officer, agree ~~upon~~ **on** the facts or any portion of the facts involved in the controversy. The stipulation ~~shall~~**must** be regarded and used as evidence in the contested case hearing. Parties are requested to agree ~~upon~~ **on** the facts ~~when~~**if** practicable.

PART 2. GAMING LICENSING

R 432.201 Qualification requirements.

Rule 201. (1) Each applicant applying for a millionaire party license who has not previously qualified shall first submit qualification information as required by the executive director.

(2) ~~Except as provided in the act, each~~ **Each** applicant shall provide proof that its bylaws, constitution, articles of incorporation, or the bylaws or constitution of its parent organization, include a statement of dissolution. The statement of dissolution ~~shall~~**must** state that all assets of the qualifying organization remaining upon dissolution, after satisfying its debts, be distributed to the local government or another nonprofit organization.

(3) The executive director may require a previously qualified organization to submit updated qualification information to assure the organization's continued eligibility under the act.

(4) In addition to the requirements of the act, the executive director shall consider certain factors when determining if an applicant or licensee qualifies as a branch, lodge, or chapter. These factors include, but are not limited to, the following:

(a) Charter or a similar document issued by the national or state organization upon acceptance as a branch, lodge, or chapter.

(b) Conditions established by the national or state organization for the revocation or suspension of the charter or relationship.

(c) Dues or financial support submitted to the national or state organization by the branch, lodge, or chapter.

(d) Degree of control exerted by the national or state organization over the activities of the branch, lodge, or chapter.

(e) Oversight and control provided by the national or state organization over the financial affairs of the branch, lodge, or chapter, including the audit of financial records of the branch, lodge, or chapter.

(f) Standard bylaws adopted by the branch, lodge, or chapter or bylaws submitted to the national or state organization for approval.

(g) Appointed or elected officers of the branch, lodge, or chapter who are responsible for the activities of the branch, lodge, or chapter.

(h) Ability of the branch, lodge, or chapter to influence activities, normally demonstrated by voting privileges, at the state or national level.

R 432.202 ~~Rescinded.~~ Applications.

~~Rule 202. (1) A qualified organization, unless ineligible under the act, may apply for a millionaire party license.~~

~~A qualified organization shall submit an application for a millionaire party license on a form provided by or approved in writing by the executive director.~~

~~In addition to the millionaire party license application, the applicant shall submit additional information as directed by the executive director.~~

~~The millionaire party license application shall be accompanied by the appropriate fee.~~

~~If a millionaire party license application is cancelled or denied, then the executive director may retain a portion of the original statutory fee submitted to cover processing costs.~~

~~An applicant shall disclose to the executive director whether any individual, officer, or agent of the applicant has ever been convicted or becomes convicted of, or forfeited bond upon a charge of, or pled guilty to any of the following offenses:~~

~~A felony.~~

~~A gambling offense.~~

~~Criminal fraud.~~

~~Forgery.~~

~~Larceny.~~

~~Filing a false report with a governmental agency.~~

~~Any changes to the information provided on or attached to the millionaire party license application shall be immediately reported to the executive director in writing.~~

R 432.203 Additional eligibility factors.

Rule 203. In addition to the requirements of the act, the executive director shall consider the following factors when reviewing a millionaire party license application:

(a) The honesty and integrity of the applicant.

(b) The veracity and accuracy of any information supplied to the executive director by the applicant.

(c) The applicant's indebtedness to local, state, or federal government.

(d) A pending lawsuit or bankruptcy proceeding involving the applicant.

(e) The applicant's current or past history of compliance with the act, these rules, terms of probation, directives, public policy of ~~the~~**this** state of Michigan, or any other local, state, or federal law or regulation.

(f) Criminal convictions of the applicant or any individual, officer, or agent of the applicant for any of the following offenses:

(i) A violation of the act.

- (ii) A felony.
- (iii) A gambling offense.
- (iv) Criminal fraud.
- (v) Forgery.
- (vi) Larceny.
- (vii) Filing a false report with a governmental agency.

(g) ~~Beginning January 1, 2015, the~~ **The** executive director may consider whether the organization has raised sufficient funds in the previous calendar year independent and apart from any raised from gaming under the act. Raising ~~\$500.00~~ funds unrelated to gaming under the act in the previous calendar year will satisfy this ~~requirement~~ **criteria** automatically as follows: ~~evidence of \$500.00 of unrelated funding for 1 license and an additional \$500.00 for each license thereafter.~~ Satisfying this requirement does not entitle the organization to a millionaire party license.

(h) Any other information considered advisable by the executive director.

R 432.204 Millionaire party license; terms and conditions.

Rule 204. (1) ~~Upon~~ **On** the issuance of a millionaire party license, the qualified organization shall agree to all of the following ~~terms and conditions~~:

(a) To be bound by and comply with the ~~act, these rules,~~ terms of probation, directives, public policy of ~~the~~ **this** state of Michigan, and any other local, state, and federal laws and regulations.

(b) ~~To not assign or transfer the millionaire party license.~~ **To provide all information requested by the executive director.**

(c) To maintain current and accurate records of all operations in conjunction with millionaire parties in conformity with the act, these rules, terms of probation, and directives.

(d) To conduct the millionaire party in accordance with the information submitted on the application approved by the executive director.

(e) To conduct the millionaire party only during the hours and the date or dates stated on the license.

(f) ~~To immediately report to the executive director in writing any change in the information stated on or attached to the millionaire party license application.~~

(~~f~~h) To hold the executive director and the state harmless from any liability, including, but not limited to, taxes and legal expenses.

(2) ~~A person~~ **An individual** shall not refuse to cooperate with, hinder, or obstruct in any way, an authorized representative of the executive director while the representative is in the performance of official duties.

R 432.205 Changes to qualification **or application** information.

Rule 205. (1) A qualified organization shall immediately report to the executive director in writing any change to the organization's qualification documentation.

(2) A qualified organization shall immediately submit a copy of the appropriate amended document to the executive director if there is a change in any of the following:

(a) Constitution.

(b) Bylaws.

(c) Articles of incorporation.

(d) ~~Any other~~ **Other** qualification ~~document~~ **documents** previously submitted to the executive director.

(e) Internal revenue service tax-exempt status.

(3) Changes to the information provided on or attached to the millionaire party license application must be immediately reported to the executive director in writing.

R 432.206 Request for millionaire party license changes; cancellations.

Rule 206. (1) To change the location, day, date, dates, or time of a millionaire party, a qualified organization shall submit a request to the executive director in writing not ~~fewer~~less than 20 days before the proposed change takes effect.

(2) If a millionaire party cannot be held on the date approved by the executive director because of inclement weather or other emergency conditions, ~~then~~the qualified organization may submit a request to the executive director in writing for a new millionaire party date. The qualified organization ~~must~~shall also notify the executive director immediately ~~upon~~on event cancellation.

(3) If the qualified organization chooses to cancel a millionaire party, it shall give the executive director written notice of the cancellation ~~at least~~not less than 10 days before the scheduled date of the event.

(4) If a millionaire party license application is cancelled or denied, the executive director may retain a portion of the original statutory fee submitted to cover processing costs.

PART 3. MILLIONAIRE PARTY

R 432.301 ~~Rescinded.~~Licensing requirements.

~~—Rule 301. (1) A qualified organization applying for a millionaire party license shall meet the requirements of R 432.202.~~

~~—(2) An organization applying for a license shall include with its application a description of the proposed location, the specific area of that location in which gaming will be conducted, and a description how that area will be demarcated. The demarcated area must be approved by the executive director before issuance of millionaire party event licenses.~~

R 432.302 Licensing and approval.

Rule 302. (1) An application for a license under this act and these rules is a request by the applicant for the discretionary license. The license is a revocable privilege and is not a property right. No ~~person~~individual, including a qualified organization, supplier, lessor, or location owner, shall have any expectation **that** the executive director will issue a license.

~~(2) Subject to subrule (3) of this rule, the executive director may authorize up to 2 millionaire party event per location per day.~~

~~(3) The executive director may set the maximum number of days that a millionaire party can be held at a particular location. There shall not be more than 4 event days per week.~~

(24) The executive director may set a maximum number of licenses that will be issued to qualified organizations and may set a maximum number of days that a millionaire party license may be issued **for**.

~~(35) The executive director may stop issuing licenses at any time or for any reason.~~

R 432.304 Millionaire party chairperson; qualifications and duties.

~~Rule 304. (1) The officers of the qualified organization shall designate at least 1 chairperson to be in charge of and responsible for ensuring the millionaire party is conducted in accordance with the act, these rules, terms of probation, directives, public policy of the state of Michigan, and any other local, state, and federal laws.~~(12) The chairperson shall be a worker who is a bona fide member of the

qualified organization for **not less than**at least 6 months and only serves as a millionaire party chairperson for 1 qualified organization in a calendar year ~~unless otherwise approved by the executive director.~~

~~(3) The chairperson shall be listed on the license application.~~

(24) The chairperson shall be familiar with the act, these rules, terms of probation, and directives.

~~(35) The chairperson shall be present on the premises continuously during the occasion.~~

(46) The chairperson shall be readily identifiable to all millionaire party attendees by wearing a name badge with the word “chairperson” followed by the name of the licensee and the chairperson's name.

(57) The chairperson shall be in charge of the millionaire party, supervise and direct all workers, and be responsible for assuring the proper receipting, recording, and depositing of all money derived from the millionaire party.

(68) The chairperson shall attempt to resolve, in accordance with the act, these rules, and directives, disputes that may occur during the conduct of the millionaire party.

(79) Any change in the chairperson or ~~persons~~ **individuals** who are listed on the millionaire party license application must be immediately submitted to the executive director in writing. The notification ~~shall~~**must** be signed by the principal officer of the qualified organization.

R 432.305 Minimum age.

Rule 305. (1) ~~Persons~~**Individuals** under 18 years of age shall not be ~~permitted~~**allowed** to participate in the millionaire party as players and shall not be ~~permitted~~**allowed** to operate millionaire party games or assist in the conduct of the millionaire party.

(2) ~~Persons~~**Individuals** under 18 years of age shall not be ~~permitted~~**allowed** to play with, operate, handle, collect, or distribute any kind of millionaire party equipment.

(3) ~~Persons~~**Individuals** under 18 years of age shall not be ~~permitted~~**allowed** to sell or purchase raffle tickets, charity game tickets, or numeral game tickets.

~~(4) Persons under 18 years of age shall not be permitted in the demarcated area of a millionaire party when gaming is being conducted.~~

~~(5) At events where alcoholic beverages are served, persons in the demarcated area who are 18 years of age or older, but less than 21 years of age, shall be identified by wearing a mark indicating the qualified organization has verified his or her age and identification.~~

R 432.306 Raffles; ~~charity game tickets; numeral game tickets.~~

Rule 306. ~~(4)~~ Raffles held in conjunction with a millionaire party license ~~must~~**shall** be conducted as prescribed by rules promulgated pursuant to the act.

~~Charity game tickets may be sold at a millionaire party as prescribed by rules promulgated pursuant to the act.~~

~~Numeral game tickets may be sold at a millionaire party as prescribed by rules promulgated pursuant to the act.~~

R 432.309 Imitation money and chips.

Rule 309. (1) During the conduct of a millionaire party, only imitation money or chips ~~shall~~**must** be used by the participants. Imitation money or chips ~~shall~~**must** be used solely for wagering or redemption purposes.

(2) Imitation money or chips ~~shall~~**must** not be used for tipping or the purchase of food, beverages, raffle tickets, charity game tickets, numeral game tickets, or non-gaming items.

(3) Imitation money or chips ~~shall~~**must** only be sold by the **millionaire party licensee** ~~qualified organization.~~

(4) Imitation money or chips ~~shall~~**must** not be sold by dealers.

(5) Imitation money or chips ~~shall~~**must** only be redeemed at authorized redemption areas.

(6) Only imitation money and chips that have received the executive director's prior approval may be used at a millionaire party.

(7) The executive director may set the maximum amount of chips or imitation money that a ~~qualified organization~~**millionaire party licensee** may sell to an individual at a millionaire party.

(8) ~~Unless otherwise permitted by law, each millionaire party licensee shall not have more than \$15,000.00~~ **each millionaire party licensee shall not have more than \$20,000.00 in imitation money or chips in a demarcated area.** ~~may be sold in 1 day of a millionaire party.~~

~~(9) Not more than \$15,000.00 in imitation money or chips shall be permitted in a demarcated area.~~

R 432.310 Millionaire party conduct.

Rule 310. (1) A millionaire party licensee may conduct only those games approved by the executive director. All games ~~shall~~ **must** be conducted pursuant to the rules set by the executive director. **If approved by the executive director, only games marked on the application can be conducted at an event.**

(2) The qualified organization shall perform the duties concerning the millionaire party as directed by the executive director.

(3) Millionaire parties ~~shall~~ **must** only be conducted during the hours and the date or dates stated on the license.

~~(4) The millionaire party license shall be on site and posted in a conspicuous place during the millionaire party occasion.~~

~~(45)~~ A copy of the current license application and any changes ~~shall~~ **must** be ~~on site~~ **onsite** and available for review.

~~(56) The executive director shall determine the number of bona fide members of the qualified organization to staff the event but that number shall not be less than 3 at all times. One of the bona fide members shall be the millionaire party chairperson. A bona fide member acting as a dealer does not count towards the required number of persons staffing the event.~~ **Unless approved by the executive director, 2 bona fide members shall be present at all times during an event.**

~~(7) If for any reason the number of bona fide members described in subrule (6) of this rule is fewer than the number set by the executive director, the qualified organization shall report this to the executive director immediately and may be required to cease conducting the licensed millionaire party.~~

~~(68)~~ A qualified organization shall provide the names of its bona fide members who will be participating in the millionaire party to the executive director with its license application.

~~(9) All bona fide members of the qualified organization shall wear vests, buttons, or other distinctive apparel to define them as members of the qualified organization and not employees or agents of the location or licensed supplier.~~

~~(710) Unless permitted~~ **allowed** by the act, these rules, or by written authorization of the executive director, only **bona fide** members of the **millionaire party licensee** ~~qualified organization holding the millionaire party license~~ may perform any of the following duties **at an event conducted under the license:**

- (a) Counting, distributing, handling, selling, or redeeming chips.
- (b) Receiving, handling, or counting cash.
- (c) Collecting the house rake.
- (d) Paying out cash prizes.
- (e) Completing the millionaire party game records and financial statement.
- (f) Ensuring only authorized persons are present in the demarcated area.
- (g) Monitoring the games and verifying all games have been conducted in conformance with the rules of the game.
- (h) Verifying **the** age of the players.
- (i) Any other duty authorized by the executive director.

~~(11) A bona fide member of the qualified organization shall not play millionaire party games at an event where he or she is working or assisting.~~

~~(12) A bona fide member of the qualified organization shall not share in a prize, or purchase, play, or accept charity game tickets or numeral game tickets offered for sale by the licensee at any time during the day he or she is working or assisting.~~

~~(13) A bona fide member of the qualified organization shall not split a prize with a player or accept tips of any kind.~~

~~(814) Except for disputed prizes, all winners shall be determined, and all prizes shall **must** be awarded, within the hours stated on the license.~~

~~(15) All winners of raffle prizes shall be determined and all prizes awarded as prescribed by the charitable gaming rules.~~

~~(16) A wager shall not be placed on an athletic event.~~

~~(17) A wager shall not be placed on a game, contest, or activity other than an approved game taking place at the location within the hours stated on the license.~~

~~(918) A location owner or lessor, a shareholder of a privately held corporate owned or leased location, partner, **member, director,** officer, agent, or employee of a location owner or lessor, **a shareholder of a privately held corporation that is a location owner or lessor,** or an ~~person~~**individual** residing in the same household as **any of these** a location owner or lessor, shareholder of a privately held corporate owned or leased location, partner, officer, agent, or employee of a location owner or lessor shall not do any of the following:~~

~~(a) Be an officer of a qualified organization conducting a millionaire party at the location in which he or she owns, leases, represents, or works.~~

~~(b) Participate as a player in any gaming event being conducted under the millionaire party license at the location in which he or she owns, leases, represents, or works.~~

~~(c) Share in a prize, purchase, play, or accept charity game tickets or numeral game tickets offered for sale **at the location** by the **qualified organization** licensee at any time during the day he or she is working or assisting.~~

~~(d) Split a prize with a player.~~

~~(e) Participate in any aspect of a millionaire party **an event conducted at the location,** including but not limited to, providing dealers, equipment, or workers-, **unless all of the following conditions exist:**~~

~~(19) The executive director may waive subrule 18 (a), (b), and (c) of this rule subject to all of the following conditions:~~

~~(ia) A qualified organization is using a **The location is owned or rented by the qualified organization and used by the qualified organization** it owns, rents, or leases on a continual basis for the regular use of its members.~~

~~(iib) The qualified organization is **the millionaire party licensee and is conducting the event** using that location to conduct its own licensed millionaire party events.~~

~~(iiie) The **executive director has** waiver is granted **a waiver for the participation.** for not more than 16 millionaire party events in a calendar year at that location.~~

R 432.311 Hours of operation.

Rule 311. The executive director has sole discretion to set the permissible hours of the day during which a millionaire party may be conducted. ~~The executive director may not permit a millionaire party to begin before 8:00 a.m. or continue past 2:00 a.m.~~

R 432.314 Dealers.

Rule 314. ~~(1) A qualified organization is responsible for the actions of the dealers including compliance with the act, these rules, directives, and any other local, state, and federal laws and regulations.~~ (12) A qualified organization may have bona fide members of the qualified organization serve as dealers at a millionaire party or it may hire dealers. A dealer shall not be an employee of the

location owner or lessor, unless that ~~person~~ **individual** is a bona fide member of the qualified organization and is dealing during an event at that organization's location.

~~(3) A qualified organization applying for a license shall include with its application a list of the dealers who will work at the proposed event. The qualified organization shall provide information to show the dealers have never been convicted of, or forfeited bond upon a charge of, or pled guilty to any of the following offenses:~~

- ~~(a) A felony.~~
- ~~(b) A gambling offense.~~
- ~~(c) Criminal fraud.~~
- ~~(d) Forgery.~~
- ~~(e) Larceny.~~
- ~~(f) Filing a false report with a governmental agency.~~

~~(24) Only those persons~~ **individuals** authorized by the executive director may serve as a dealer at the licensed millionaire party event.

R 432.315 Game records; retention.

Rule 315. (1) Game records pertaining to the millionaire party ~~shall~~ **must** be completed and maintained in a current and accurate manner in accordance with the act, these rules, terms of probation, and directives. A licensee may be required to complete game records on forms prescribed by the executive director.

(2) Game records ~~shall~~ **must** include a copy of the current license application and any changes.

(3) Game records and all documents supporting entries made in the records ~~shall~~ **must** be available and ~~on-site~~ **onsite** at the occasion and at other times to authorized representatives of the executive director for review.

(4) Game records and all documents and supporting entries made in the records ~~shall~~ **must** be accessed, entered, amended, ~~stored,~~ and submitted by the qualified organization only.

(5) Game records and all documents supporting entries made in the records ~~shall~~ **must** be kept **maintained by the qualified organization** for at least the current calendar year plus 3 years or as directed in writing by the executive director.

(6) An invoice showing the cost per item for all millionaire party equipment ~~shall~~ **must** be available and ~~on-site~~ **onsite** at the occasion to authorized representatives of the executive director for review.

(7) Game records and all documents supporting entries made in the records may be removed by authorized representatives of the executive director for review.

(8) Game records may be maintained using a computer if they ~~can not~~ **cannot** be remotely accessed and are maintained in accordance with the act, these rules, and directives.

R 432.316 Accountability; lawful use of proceeds; reasonable expenditures; deposit of proceeds.

Rule 316. (1) The millionaire party licensee is accountable for all cash, prizes, imitation money or chips, raffle tickets, charity game tickets, and numeral game tickets.

(2) ~~In accordance with the act, the~~ **The** entire net proceeds of the millionaire party ~~shall~~ **must** be devoted exclusively to the lawful purposes of the qualified organization.

(3) To ensure that all proceeds are used for the lawful purposes of the qualified organization, each qualified organization shall maintain a separate checking account ~~which shall~~ **that must** be under its exclusive control. The organization shall only deposit its millionaire party proceeds in the account and shall only make expenditures as authorized under the act and these rules.

~~(4) The financial account into which proceeds from the millionaire party are deposited shall be open for review by authorized representatives of the executive director.~~

~~(5) The financial accounts into which proceeds from the millionaire party are transferred to shall be open for review by authorized representatives of the executive director.~~

(46) Each check written from the checking account under the qualified organization's exclusive control into which proceeds from the millionaire party are deposited ~~shall~~**must** meet all of the following requirements:

- (a) Be preprinted with the name of the licensee.
- (b) Be signed by an authorized **individual or individuals**.
- (c) Be made payable to a specific person, business, partnership, corporation, or account.
- (d) Not be made payable to cash or bearer and ~~shall~~**must** not be drawn in blank.
- (e) Contain a brief description of the expense on the memo line.

(57) Electronic transfers of funds derived from the conduct of the millionaire party ~~shall~~**must** be done in accordance with directives issued by the executive director.

(68) Cancelled checks written from the checking account under the qualified organization's exclusive control into which proceeds from the millionaire party are deposited ~~shall~~**must** be returned on a monthly basis to the account holder. Copies of the checks are acceptable, if legible, and if originals can be made available ~~upon~~**on** request by the executive director.

(79) All ~~monies~~**money** derived from the conduct of the millionaire party ~~shall~~**must** be deposited into the checking account under the qualified organization's exclusive control within 2 business days ~~after~~**of** the millionaire party or as directed in writing by the executive director.

(810) Checks ~~shall~~**must** not be cashed out of the millionaire party start cash or gross revenue.

~~(11) Each expense that the millionaire party licensee pays concerning the millionaire party must be in compliance with all of the following:~~

- ~~(a) Incurred in connection with the conduct of the millionaire party.~~
- ~~(b) Necessary and reasonable.~~
- ~~(c) Itemized.~~

~~(d) Approved by the executive director in writing before the licensed millionaire party. The executive director may disapprove an expense submitted pursuant to section 42 of the act an expenditure for any reason.~~

~~(12) A qualified organization shall not accept any compensation in connection with a millionaire party unless expressly authorized by the act or these rules.~~

~~(13) The payment of expenses incurred in connection with the conduct of the licensed millionaire party event shall be necessary and reasonable, but shall not exceed 45 % of the event gross profits.~~

R 432.317 Rent and rental location agreement.

Rule 317. ~~(1) A qualified organization shall not rent a location for a millionaire party unless all the terms and conditions of rental, including the fee, are in a written agreement approved by the executive director.~~ (12) A qualified organization shall not pay a location owner or a lessor more than \$250.00 per day to rent a location for a millionaire party. The rental fee ~~cannot~~**must not** include any consideration or commission from revenues raised from the millionaire party gaming.

(23) A qualified organization shall not enter into agreements with the location owner or lessor other than those addressed in the written rental agreement approved by the executive director.

(34) A location owner or lessor shall not make any payments to, or accept any payments from, a supplier for anything directly or indirectly related to a millionaire party.

(45) A location owner or lessor shall not make the lease or rental of its demarcated area dependent ~~upon~~**on** the use of a particular supplier or particular dealers and shall not vary the rental or lease fee that it charges based on an organization's use of a particular supplier or particular dealers.

R 432.318 Security.

Rule 318. ~~(1) The qualified organization shall ensure that access to the demarcated area is controlled.~~ (2) The qualified organization may hire security officers. Any security services the location provides ~~will~~**must** be included in the rental fee as approved by the executive director.

R 432.319 Advertising.

Rule 319. (1) Expenditures by the millionaire party licensee for advertising the millionaire party ~~shall~~**must** be necessary and reasonable.

(2) A **millionaire party** licensee may advertise a millionaire party **by** using current and accurate information. The advertising ~~shall~~**must** include all of the following:

(a) Name of the licensee.

(b) License number.

(c) Purpose for which the net proceeds will be used.

(3) Advertising ~~shall~~**must** cease once the millionaire party license has expired.

(4) Advertising via the internet, printed matter, signs, or billboards ~~shall~~**must** be in the following format:

(a) Information in subrule (2) of this rule ~~shall~~**must** appear in the top half of the advertisement.

(b) Excluding location name, information in subrule (2) of this rule ~~shall~~**must** be prominently displayed in the same size font, or larger, as the largest font of ~~any~~ **the** other information contained in the advertisement.

(5) Information in subrule (2) of this rule ~~shall~~**must** be continuously visible and readable in television advertising.

(6) The lessor, location owner, or licensee shall not advertise the dates or times the location is open for the purpose of conducting a millionaire party or the games that will be played at that location, unless all the information required in subrule (2) of this rule is contained in the advertising.

(7) The following items are not considered advertising:

(a) A message on an answering machine or voicemail by the lessor, location owner, or licensee at a location where a millionaire party will occur.

(b) Video, audio, or other means of communication that is broadcast solely within the interior of a location where the millionaire party occurs.

(c) Printed matter contained within the interior of a location where a millionaire party occurs and that is intended to be visible only from the interior of the location where the millionaire party will occur.

(d) An internet webpage that does not mention days, dates, times, specific games played, or program information.

(e) A sign located on the property of a location where a millionaire party occurs that does not mention days, dates, times, specific games played, or game program information.

PART 4. SUPPLIERS

R 432.403 Supplier license ~~renewal expiration~~; supplier license void on ownership change.

Rule 403. (1) A supplier license ~~shall expire at midnight on September 30 and~~ is renewable annually upon the submission of a renewal application, provided by, or approved in writing by the executive director, unless summarily suspended, suspended, denied, or revoked by the executive director.

(2) If the ownership changes or any portion of ownership of the privately held corporation, partnership, or sole proprietorship acting as a licensed supplier changes, except for deletion of owners or changes in percentage of ownership, then the license issued to that privately held corporation, partnership, or sole proprietorship ~~shall be~~ **is** void and **must be** returned to the executive director without delay.

R 432.404 Supplier license terms and conditions.

Rule 404. (1) Upon the issuance of a supplier license, the licensed supplier agrees to all of the following terms and conditions:

(a) To be bound by and comply with the act, these rules, terms of probation, directives, public policy of ~~the~~**this** state of Michigan, and any other local, state, and federal laws and regulations.

(b) To not assign or transfer the supplier license. A privately held corporation, partnership, or sole proprietorship acting as a licensed supplier shall not attempt to sell or transfer an interest in the business without the prior written approval of the executive director.

(c) To immediately report to the executive director in writing any change in the information stated on, or attached to, the supplier license application.

(d) To only accept checks from a licensee's account for the payment of equipment or dealers.

(e) To not reveal investigative information to any licensee.

(f) To hold the executive director and ~~the~~**this** state harmless from any liability, including, but not limited to, taxes and legal expenses.

(2) The location at ~~which~~ the licensed supplier does business, including supplemental storage locations or at ~~which~~**where** an applicant or licensed supplier intends to do business or store equipment, ~~shall~~**must** be open to inspection by an authorized representative of the executive director during reasonable business hours.

(3) ~~A person~~**An individual** shall not refuse to cooperate with, hinder, or obstruct in any way, an authorized representative of the executive director while the representative is performing official duties.

(4) A licensed supplier shall not require any licensee to enter into an exclusive purchase agreement with that licensed supplier.

(5) A licensed supplier may rent or sell authorized equipment to qualified organizations for a reasonable rate as approved by the executive director.

(6) A licensed supplier may provide dealers to a qualified organization.

(7) A licensed supplier shall not make a payment to, or accept a payment from, either directly or indirectly, a location owner or lessor for anything related to a millionaire party.

(8) Notwithstanding R 432.314(2), if a licensed supplier provides the dealers, the licensed supplier shall be responsible for the actions of the dealers, including compliance with the act, these rules, terms of probation, directives, public policy of ~~the~~**this** state of Michigan, and any other local, state, and federal laws and regulations.

(9) The executive director may deny, summarily suspend, suspend, revoke, or refuse to renew a supplier license as prescribed by R 432.108 to R 432.110.

~~(10) A person convicted of a criminal offense under the act or any other gambling offense is ineligible to participate in a supplier license as an owner, shareholder of a privately held corporation, partner, officer, agent, or employee for 5 years after the conviction becomes final.~~

NOTICE OF PUBLIC HEARING

Department of Treasury
Michigan Gaming Control Board
Administrative Rules for Millionaire Parties
Rule Set 2022-31 TY

NOTICE OF PUBLIC HEARING
Wednesday, April 12, 2023
10:00AM

Board Hearing Room
Michigan Gaming Control Board, 3062 W. Grand Blvd, Suite L-700, Detroit, Michigan

The Department of Treasury will hold a public hearing to receive public comments on proposed changes to the Millionaire Parties rule set.

When the Legislature amended the Bingo Act in December 2019 and codified parts of the rules into the statute, it created duplicity and conflict with the rules. The proposed changes to the rules will eliminate the duplicity and conflict between the Bingo Act and the rules.

(By authority conferred on the executive director of the Michigan gaming control board by section 49 of the Traxler-McCauley-Law-Bowman bingo act, 1972 PA 382, MCL 432.149).

The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan's website at www.michigan.gov/ARD and in the 4/1/2023 issue of the Michigan Register. Copies of these proposed rules may also be obtained by mail or electronic mail at the following email address: MGCB-Rules@michigan.gov.

Comments on these proposed rules may be made at the hearing, by mail, or by electronic mail at the following addresses until 4/12/2023 at 05:00PM.

Wendy Harns

Michigan Gaming Control Board, P.O. Box 30786, Lansing, MI 48909

MGCB-Rules@michigan.gov

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 313-456-4205 to make arrangements.

**CERTIFICATE OF NEED
REVIEW STANDARDS**

MCL 24.208 states in part:

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

* * *

(k) All of the items in section 7(l) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.2217.

MCL 24.207 states in part:

Sec. 7. “Rule” means an agency regulation, statement, standard, policy, ruling, or instruction of general applicability that implements or applies law enforced or administered by the agency, or that prescribes the organization, procedure, or practice of the agency, including the amendment, suspension, or rescission of the law enforced or administered by the agency. Rule does not include any of the following:

* * *

(l) All of the following, after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217:

- (i) The designation, deletion, or revision of covered medical equipment and covered clinical services.*
- (ii) Certificate of need review standards*
- (iii) Data reporting requirements and criteria for determining health facility viability.*
- (iv) Standards used by the department of community health in designating a regional certificate of need review agency.*
- (v) The modification of the 100 licensed bed limitation for short-term nursing care programs set forth in section 22210 of the public health code, 1978 PA 368, MCL 333.22210.*

CERTIFICATE OF NEED REVIEW STANDARDS

**CERTIFICATE OF NEED (CON) REVIEW STANDARDS
SYNOPSIS FOR PUBLICATION IN THE MICHIGAN REGISTER
PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT, 1969 PA 306, MCL
24.208(1)(k)**

**NEONATAL INTENSIVE CARE SERVICES/BEDS (NICU) AND SPECIAL NEWBORN
NURSING SERVICES
Final Approval by the CON Commission 12/7/22 and Effective 3/6/23**

The language changes include the following:

1. Section 9(1): Clarified meaning of “continuously available and on-site”:

(b) The hospital has the following capabilities and personnel continuously available and on-site,
24 HOURS PER DAY/7 DAYS PER WEEK:

2. Other technical edits.

Complete Standards

A complete set of the approved language can be found at https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Doing-Business-with-MDHHS/Health-Care-Providers/Certificate-of-Need/CON-Review-Standards/NICU_Standards.pdf. A hard copy may be obtained, for a fee, by sending a written request to:

Michigan Department of Health and Human Services
Policy, Planning and Operational Support Administration
Office of Policy and Planning
P.O. Box 30195
Lansing, MI 48909
(517) 420-1273
Email address: MDHHS-ConWebTeam@michigan.gov

CERTIFICATE OF NEED REVIEW STANDARDS

**CERTIFICATE OF NEED (CON) REVIEW STANDARDS
SYNOPSIS FOR PUBLICATION IN THE MICHIGAN REGISTER
PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT, 1969 PA 306, MCL
24.208(1)(k)**

**PSYCHIATRIC BEDS AND SERVICES
Final Approval by the CON Commission 12/7/22 and Effective 3/6/23**

The language changes include the following:

1. Section 2(1): Modified/added definitions as follows:

(g) “COMMON OWNERSHIP AND CONTROL,” AS DEFINED BY THE DEPARTMENT, MEANS ANY LICENSED PSYCHIATRIC HOSPITAL OR UNIT DETERMINED TO BE OWNED BY THE SAME LEGAL ENTITY AS EVIDENCED BY THE SAME CORPORATE IDENTIFICATION NUMBER (CID) ISSUED BY THE MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS, CORPORATE DIVISION, AND/OR THE SAME FEDERAL EMPLOYER IDENTIFICATION NUMBER (EIN). THE PARENT CORPORATION IN A PARENT-SUBSIDIARY RELATIONSHIP DOES NOT OWN OR CONTROL THE LICENSED PSYCHIATRIC HOSPITALS OR UNITS OF THE SUBSIDIARY IF THEY HAVE SEPARATE CID AND/OR EIN FROM THE SUBSIDIARY.

2. New Section 5(6): Added exception for hospitals in areas currently meeting or exceeding bed need that can demonstrate an unmet need through inability to place child/adolescent patients requiring inpatient psychiatric treatment:

(6) AN APPLICANT SHALL NOT BE REQUIRED TO BE IN COMPLIANCE WITH SUBSECTION (1) IF THE APPLICANT DEMONSTRATES IN ITS CON APPLICATION COMPLIANCE WITH ALL OF THE FOLLOWING:

(a) THE NUMBER OF EXISTING CHILD/ADOLESCENT PSYCHIATRIC BEDS IN THE PLANNING AREA IS EQUAL TO OR EXCEEDS THE BED NEED;

(b) THE APPLICANT IS AN EXISTING HOSPITAL LICENSED UNDER PART 215 OF THE CODE PROPOSING TO INITIATE CHILD/ADOLESCENT INPATIENT PSYCHIATRIC SERVICES WITH 10 CHILD/ADOLESCENT BEDS;

(c) THERE IS AN UNMET NEED FOR CHILD/ADOLESCENT PSYCHIATRIC BEDS AS DEMONSTRATED BY SUBMISSION OF DOCUMENTATION BY THE APPLICANT SATISFACTORY TO THE DEPARTMENT SHOWING ALL OF THE FOLLOWING:

(i) WITHIN THE PREVIOUS 12 MONTHS, A SUFFICIENT NUMBER OF CHILD/ADOLESCENT PATIENTS, AS DEFINED IN APPENDIX A, WERE EVALUATED IN THE EMERGENCY DEPARTMENT OF THE APPLICANT HOSPITAL AND/OR ANY OTHER HOSPITAL LOCATED WITHIN 30 RADIAL MILES OF THE PROPOSED SITE OF THE CHILD/ADOLESCENT PSYCHIATRIC BEDS IF THE PROPOSED SITE IS LOCATED IN A METROPOLITAN STATISTICAL AREA COUNTY, OR WITHIN 90 RADIAL MILES IF THE PROPOSED SITE IS LOCATED IN A RURAL OR MICROPOLITAN STATISTICAL AREA COUNTY; AND

(ii) EACH CHILD/ADOLESCENT PATIENT UNDER SUBSECTION 6(c)(i) REQUIRED AN INPATIENT PSYCHIATRIC HOSPITAL ADMISSION BUT WAS NOT ADMITTED TO AN INPATIENT PSYCHIATRIC BED LOCATED WITHIN 30 MINUTES DRIVE TIME OF THE PROPOSED SITE WITHIN 36 HOURS AFTER COMING TO THE EMERGENCY ROOM OF THE HOSPITAL(S) UNDER SUBSECTION 6(c)(i); AND

(iii) FOR THOSE PATIENTS NOT ADMITTED TO AN INPATIENT PSYCHIATRIC BED, THE APPLICANT MUST DEMONSTRATE THEY ATTEMPTED PLACEMENT AT A MINIMUM OF 6 FACILITIES OVER AT LEAST A 36-HOUR PERIOD TO SECURE ADMISSION OF THE PATIENT TO A CHILD/ADOLESCENT PSYCHIATRIC BED OR THE CHILD/ADOLESCENT PATIENT LEFT THE HOSPITAL AGAINST MEDICAL ADVICE BEFORE EXPIRATION OF THE 36-HOUR PERIOD. (d) ALL HOSPITALS WHOSE CHILD/ADOLESCENT EMERGENCY DEPARTMENT DATA ARE USED UNDER SUBSECTION 6(c) HAVE COMPLETED THE REQUIRED DEPARTMENTAL FORM(S), INCLUDING SIGNATURE BY AN AUTHORIZED REPRESENTATIVE, VERIFYING ALL OF THE FOLLOWING:

(i) THE LICENSED HOSPITAL SITE IS ADMITTING PATIENTS REGULARLY AS OF THE DATE THE APPLICATION IS SUBMITTED TO THE DEPARTMENT; AND

(ii) THE LICENSED HOSPITAL SITE IS LOCATED WITHIN 30 RADIAL MILES OF THE PROPOSED CHILD/ADOLESCENT INPATIENT PSYCHIATRIC UNIT IF THE PROPOSED SITE IS LOCATED IN A METROPOLITAN STATISTICAL AREA COUNTY, OR WITHIN 90 RADIAL MILES IF THE PROPOSED SITE IS LOCATED IN A RURAL OR MICROPOLITAN STATISTICAL AREA COUNTY; AND

(iii) THE LICENSED HOSPITAL SITE HAS NOT COMMITTED DATA TO AN APPLICATION FOR BEDS UNDER THIS SUBSECTION WITHIN 5 YEARS OF THE FILING DATE OF THE CON APPLICATION UNLESS THE CHILD/ADOLESCENT PSYCHIATRIC SERVICE APPROVED UNDER THAT APPLICATION IS NO LONGER IN SERVICE; AND

(e) THE APPLICANT HOSPITAL DOES NOT HAVE LICENSED CHILD/ADOLESCENT BEDS APPROVED UNDER THIS SUBSECTION.

3. New Section 7(4) and Section 7(5): Restricts ability to relocate beds approved under Section 5(6) until they have been licensed and operationalized for at least 5 years:

(4) THE INPATIENT PSYCHIATRIC HOSPITAL OR UNIT FROM WHICH THE BEDS ARE BEING RELOCATED, SHALL NOT HAVE ANY PSYCHIATRIC BEDS OF THE SAME TYPE THAT WERE APPROVED UNDER SECTION 8(3) AND ARE NOT YET LICENSED AND OPERATIONAL.

(5) IF THE BEDS BEING RELOCATED WERE APPROVED UNDER SECTION 5(6), THEN THE BEDS MUST HAVE BEEN LICENSED AND OPERATIONAL FOR AT LEAST 5 YEARS AS OF THE DATE THE APPLICATION IS SUBMITTED TO THE DEPARTMENT, AND THE BEDS MUST BE RELOCATED TO A HOSPITAL LICENSED UNDER PART 215.

4. Section 8(3): Added restriction to relocation of beds approved under Section 8(3) until the high occupancy beds have been licensed and operationalized:

(3) An applicant may apply for the addition of new beds if all of the following subsections are met. Further, an applicant proposing new beds at an existing licensed psychiatric hospital or unit site shall not be required to be in compliance with the needed psychiatric hospital bed supply if the

application meets all other applicable CON review standards and agrees and assures to comply with all applicable project delivery requirements.

- (a) The number of existing adult or child/adolescent psychiatric beds in the planning area is equal to or exceeds the bed need.
- (b) The beds are being added at the existing licensed site.
- (c) The average occupancy rate for the applicant's facility was at least 75% for facilities with 19 beds or less and 80% for facilities with 20 beds or more, as applicable, during the most recent, consecutive 12-month period, as of the date of the submission of the application, for which verifiable data are available to the Department.
 - (i) For a facility with flex beds,
 - (A) calculate the average occupancy rate as follows:
 - (1) For adult beds:
 - (a) Adult bed days are the number of licensed adult beds multiplied by the number of days they were licensed during the most recent consecutive 12-month period.
 - (b) Flex bed days are the number of licensed flex beds multiplied by the number of days the beds were used to serve a child/ adolescent patient.
 - (c) Subtract the flex bed days from the adult bed days and divide the adult patient days of care by this number, then multiply the result by 100.
 - (d) **THE HIGH OCCUPANCY BEDS APPROVED PURSUANT TO SUBSECTION (3) MUST BE LICENSED AND OPERATIONAL AT THE SAME LICENSED SITE AS THE PROPOSED PROJECT. THE APPLICANT SHALL NOT RELOCATE ANY EXISTING PSYCHIATRIC BEDS OF THE SAME TYPE FROM THIS LICENSED INPATIENT PSYCHIATRIC HOSPITAL OR UNIT, PRIOR TO THE HIGH OCCUPANCY BEDS BEING LICENSED AND OPERATIONAL.**

5. Section 8(11): Modified requirements to initiate a new child/adolescent psychiatric service for the receiving licensed inpatient psychiatric hospital or unit for consistency with regard to updated Section 2(1) and the added definition of "common ownership and control":

- (11) An applicant proposing to initiate a new child/adolescent psychiatric service, as the receiving licensed inpatient psychiatric hospital or unit under Section 7(678), shall demonstrate that it meets all of the requirements of this subsection and shall not be required to be in compliance with the bed need if the application meets all other applicable CON review standards and agrees and assures to comply with all applicable project delivery requirements.
 - (a) The approval of the proposed new inpatient psychiatric beds shall not result in an increase in the number of licensed inpatient psychiatric beds in the planning area.
 - (b) The applicant meets the requirements of subsections (4), (5), and (6) above.
 - (c) The applicant is requesting a minimum of 10 child/adolescent psychiatric beds to a maximum of 20 beds.
 - (d) The applicant:
 - (i) is related through common ownership, in whole or in part, or through common control, **HAS AN AGREEMENT** with an acute-care hospital that has an emergency department that provides 24-hour emergency care services and where child/adolescent patients with a psychiatric and/or developmental disability diagnosis present at an average of at least 100 visits per year for each of the three most recent years in which there is data verifiable by the Department; and

6. Section 11(3): Added subsection to award 3 points for certain number of bariatric rooms based on size of proposed project:

(1) A QUALIFYING PROJECT WILL BE AWARDED THREE (3) POINTS IF THE PROPOSED PROJECT INCLUDES BARIATRIC ROOMS AS FOLLOWS: A PROJECT PROPOSING 0-49 BEDS WILL RESULT INCLUDE IN AT LEAST ONE (1) BARIATRIC ROOM OR A PROJECT PROPOSING 50 OR MORE BEDS WILL RESULT INCLUDE IN AT LEAST TWO (2) BARIATRIC ROOMS. “BARIATRIC ROOM” MEANS THE CREATION OF PATIENT ROOM(S) INCLUDED AS PART OF THE CON PROJECT, AND IDENTIFIED ON THE FLOOR PLANS, THAT ARE DESIGNED TO ACCOMMODATE THE NEEDS OF BARIATRIC PATIENTS WEIGHING OVER 350 POUNDS. THE BARIATRIC PATIENT ROOMS SHALL HAVE A LARGER ENTRANCE WIDTH FOR THE ROOM AND BATHROOM TO ACCOMMODATE OVER-SIZED EQUIPMENT, AND SHALL INCLUDE A MINIMUM OF A BARIATRIC BED, BARIATRIC TOILET, BARIATRIC WHEELCHAIR, AND A DEVICE TO ASSIST PATIENT MOVEMENT (SUCH AS A PORTABLE OR BUILT IN LIFT). IF AN IN-ROOM SHOWER IS NOT INCLUDED IN THE BARIATRIC PATIENT ROOM, THE MAIN/CENTRAL SHOWER ROOM THAT IS LOCATED ON THE SAME FLOOR AS THE BARIATRIC PATIENT ROOM(S) SHALL INCLUDE AT LEAST ONE (1) SHOWER STALL THAT HAS AN OPENING WIDTH AND DEPTH THAT IS LARGER THAN MINIMUM MI CODE REQUIREMENTS.

7. New Appendix A: Required number of patients to document for those applying under Section 5(6) and criteria for updating the required number of patients to be documented every 2 years:

APPENDIX A

(1) UNTIL CHANGED BY THE DEPARTMENT, THE NUMBER OF PATIENTS REQUIRED TO BE DOCUMENTED UNDER SECTION 5(6)(c) SHALL BE 170.

(2) THE DEPARTMENT SHALL AMEND APPENDIX A EVERY TWO YEARS BY REVISING THE NUMBER OF PATIENTS IN SUBSECTION (1) IN ACCORDANCE WITH THE FOLLOWING STEPS:

(a) STEPS FOR DETERMINING THE NUMBER OF PATIENTS REQUIRED TO BE DOCUMENTED UNDER SECTION 5(6)(c):

(i) MULTIPLY 10 BEDS BY MINIMUM OCCUPANCY FOR CHILD/ADOLESCENT BEDS TO DETERMINE THE AVERAGE DAILY CENSUS.

(ii) MULTIPLY THE AVERAGE DAILY CENSUS CALCULATED IN (2)(a)(i) BY 365 TO CALCULATE THE PATIENT DAYS.

(iii) CALCULATE THE AVERAGE LENGTH OF STAY FOR THE PREVIOUS THREE (3) YEARS USING THE THREE (3) MOST RECENTLY AVAILABLE CON ANNUAL SURVEYS BY DIVIDING THE TOTAL PATIENT DAYS FOR THE THREE (3) YEARS BY TOTAL DISCHARGES FOR THE SAME THREE (3) YEARS.

(iv) DIVIDE THE PATIENT DAYS CALCULATED IN (2)(a)(ii) BY THE AVERAGE LENGTH OF STAY CALCULATED IN (2)(a)(iii) TO DETERMINE THE NUMBER OF PATIENTS REQUIRED TO BE COMMITTED UNDER SECTION 5(6)(c)(i).

9. Other technical edits.

Complete Standards

A complete set of the approved language can be found at <https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Doing-Business-with-MDHHS/Health-Care-Providers/Certificate-of->

[Need/CON-Review-Standards/PB_Standards.pdf](#). A hard copy may be obtained, for a fee, by sending a written request to:

Michigan Department of Health and Human Services
Policy, Planning and Operational Support Administration
Office of Policy and Planning
P.O. Box 30195
Lansing, MI 48909
(517) 420-1273
Email address: MDHHS-ConWebTeam@michigan.gov

CERTIFICATE OF NEED REVIEW STANDARDS

**CERTIFICATE OF NEED (CON) REVIEW STANDARDS
SYNOPSIS FOR PUBLICATION IN THE MICHIGAN REGISTER
PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT, 1969 PA 306, MCL
24.208(1)(k)**

**POSITRON EMISSION TOMOGRAPHY SCANNER SERVICES
Final Approval by the CON Commission 12/7/22 and Effective 3/6/23**

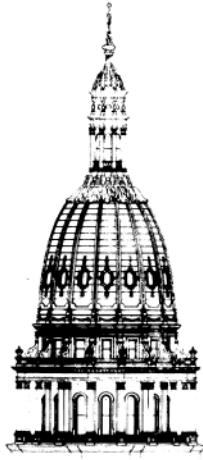
The language changes include the following:

1. Section 13(1): Modified methodology for computing the projected PET data units.
 - (a) Combine the number of cancer cases for lung (site codes C340-C349), esophagus (site codes C150-C159), colorectal (site codes C180-C209), lymphoma (morphology codes 9590-9729), melanoma (morphology codes 8720-8790), PROSTATE (SITE CODE C619), NEUROENDOCRINE TUMORS (SMALL INTESTINE: SITE CODES C170-C179; PANCREAS: SITE CODES C250-C259; AND INTESTINAL TRACT, NOS: SITE CODE C260; WHICH HAVE ANY OF THE FOLLOWING MORPHOLOGY CODES: 8240/3, 8574/3, 8249/3, 8246/3, 8013/3, 8041/3, 8151/3, 8152/3, AND 8150/3), and head & neck [site codes C000-C148, C300-C329, C410, C411, C470 or C490 excluding C440-C444 (skin of head and neck), and additional codes approved by national coverage determination]. Use the name “combined” for this grouping.
2. Other technical edits.

Complete Standards

A complete set of the approved language can be found at https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Doing-Business-with-MDHHS/Health-Care-Providers/Certificate-of-Need/CON-Review-Standards/PET_Standards.pdf. A hard copy may be obtained, for a fee, by sending a written request to:

Michigan Department of Health and Human Services
Policy, Planning and Operational Support Administration
Office of Policy and Planning
P.O. Box 30195
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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

March 27, 2023
Compiled through PA 10 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)

* - 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.
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