

# Michigan Register

Issue No. 5 – 2024 (Published April 1, 2024)



## 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 19<sup>th</sup> century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

#### *East Elevation of the Michigan State Capitol:*

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

# Michigan Register

Published pursuant to § 24.208 of  
The Michigan Compiled Laws



Issue No. 5— 2024

(This issue, published April 1, 2024, contains  
documents filed from February 15, 2023 to March 15, 2024)

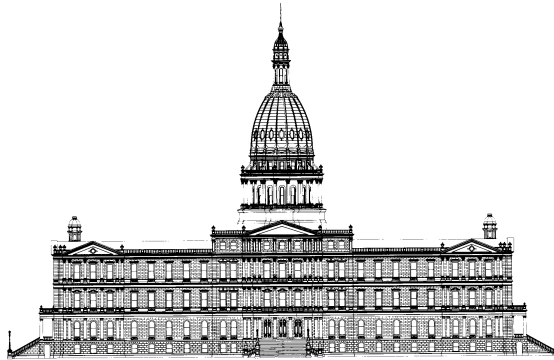
Compiled and Published by the  
Michigan Office of Administrative Hearings and Rules

© 2024 by Michigan Office of Administrative Hearings and Rules, State of Michigan  
All rights reserved.  
Printed in the United States of America

**Michigan Register (ISSN 0892-3124).** Published twice per month, with a cumulative index, by the Michigan Office of Administrative Hearings and Rules, pursuant to §24.208 of the Michigan Compiled Laws. Subscription \$400.00 per year, postpaid to points in the U.S. First class postage paid at Lansing, Michigan. Direct all mail concerning subscriptions to Michigan Office of Administrative Hearings and Rules, Ottawa Building – Second Floor, 611 W. Ottawa Street, Lansing, MI 48909.

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

**Gretchen Whitmer, Governor**



**Garlin Gilchrist, Lieutenant Governor**

---

## PREFACE

---

### PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

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

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

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

Sec. 8.

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

- (a) Executive orders and executive reorganization orders.
- (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
- (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
- (d) Proposed administrative rules.
- (e) Notices of public hearings on proposed administrative rules.
- (f) Administrative rules filed with the secretary of state.
- (g) Emergency rules filed with the secretary of state.
- (h) Notice of proposed and adopted agency guidelines.
- (i) Other official information considered necessary or appropriate by the office of regulatory reform.
- (j) Attorney general opinions.
- (k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.

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

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

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

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

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

Sec. 203.

- (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.
- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

**CITATION TO THE MICHIGAN REGISTER**

The *Michigan Register* is cited by year and issue number. For example, 2024 MR 1 refers to the year of issue (2024) 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](http://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



## 2024 PUBLICATION SCHEDULE

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

# CONTENTS

---

## ADMINISTRATIVE RULES FILED WITH SECRETARY OF STATE

---

### Licensing and Regulatory Affairs

Bureau of Professional Licensing (2022-8)	
Pharmacy-General Rules .....	2-33

---

## PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

---

### Licensing and Regulatory Affairs

Bureau of Professional Licensing (2022-67)	
Nursing Home Administrators—General Rules .....	35-45
Public Hearing Notice .....	46-46

### Education

Superintendent of Public Instruction (2023-76)	
Special Education Programs and Services .....	47-50
Public Hearing Notice .....	51-51

### Education

Superintendent of Public Instruction (2023-77)	
Teacher and School Administrator Evaluation Tools .....	52-53
Public Hearing Notice .....	54-54

### Education

Superintendent of Public Instruction (2023-78)	
School Social Worker Certification Code .....	55-66
Public Hearing Notice .....	67-67

### Education

Superintendent of Public Instruction (2023-79)	
Teacher Certification Code .....	68-95
Public Hearing Notice .....	96-96

---

## CERTIFICATION OF NEED REVIEW STANDARDS

---

### Department of Health and Human Services

Certificate of Need Review Standards Synopsis for Publication in the Michigan Register for Psychiatric Beds and Services .....	98-131
Certificate of Need Review Standards Synopsis for Publication in the Michigan Register for Computed Tomography (CT) Scanner Services .....	132-148

Certificate of Need Review Standards Synopsis for Publication in the Michigan Register for Nursing Home and Hospital Long Term Care Unit (HLTCU) Beds.....	149-183
--	---------

---

### **CUMULATIVE INDEX**

---

Cumulative Index (2024) .....	184-185
-------------------------------	---------

---

### **BILLS SIGNED INTO LAW OR VETOED**

---

Appendix Table 1 (2024 Session) (Legislative Service Bureau Pages (1-3)).....	186-186
---	---------

---

**ADMINISTRATIVE RULES  
FILED WITH THE SECRETARY OF STATE**

---

*MCL 24.208 states in part:*

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

\*       \*       \*

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

---

**ADMINISTRATIVE RULES**

---

**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**

**DIRECTOR'S OFFICE**

**PHARMACY - GENERAL RULES**

Filed with the secretary of state on February 29, 2024

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

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16141, 16145, 16148, 16174, 16175, 16178, 16182, 16186, 16204, 16205, 16215, 16287, 17707, 17721, 17722, 17731, 17737, 17739, 17742a, 17742b, 17744f, 17746, 17748, 17748a, 17748b, 17748e, 17751, 17753, 17754a, 17757, 17760, 17767, and 17775 of the public health code, 1978 PA 368, MCL 333.16141, 333.16145, 333.16148, 333.16174, 333.16175, 333.16178, 333.16182, 333.16186, 333.16204, 333.16205, 333.16215, 333.16287, 333.17707, 333.17721, 333.17722, 333.17731, 333.17737, 333.17739, 333.17742a, 333.17742b, 333.17744f, 333.17746, 333.17748, 333.17748a, 333.17748b, 333.17748e, 333.17751, 333.17753, 333.17754a, 333.17757, 333.17760, 333.17767, and 333.17775 and Executive Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.486, R 338.501, R 338.505, R 338.511, R 338.513, R 338.515, R 338.517, R 338.519, R 338.521, R 338.523, R 338.525, R 338.531, R 338.531a, R 338.532, R 338.533, R 338.534, R 338.535, R 338.536, R 338.537, R 338.538, R 338.551, R 338.555, R 338.557, R 338.559, R 338.563, R 338.569, R 338.571, R 338.575, R 338.577, R 338.583, R 338.583a, R 338.584, R 338.585, R 338.586, R 338.587, R 338.588, R 338.589, and R 338.590 of the Michigan Administrative Code are amended, and R 338.534a, R 338.588a, R 338.588b, and R 338.591 are added, as follows:

**PHARMACY SERVICES IN MEDICAL INSTITUTIONS**

R 338.486 "Medical institution" and "pharmacy services" defined; pharmacy services in medical institutions.

Rule 16. (1) As used in this rule:

(a) "Medical institution" means a hospital, skilled nursing facility, county medical care facility, nursing home, freestanding surgical outpatient facility, hospice, or other health facility that is licensed or approved by the state, which directly or indirectly provides or includes pharmacy services.

(b) "Pharmacy services" means the direct and indirect patient care services for patients in a medical institution, associated with the practice of pharmacy.

(2) Pharmacy services in a medical institution must be directed and provided by a licensed pharmacist.

(3) Pharmacy personnel who assist the pharmacist by performing delegated functions in the care of patients of a medical institution are supervised by a pharmacist who is on the premises of the medical institution.

(4) The pharmacist who directs the pharmacy services shall develop, implement, supervise, and coordinate the services provided, including, at a minimum, all of the following:

(a) Dispensing medications in a form that minimizes additional preparation before administration to the patient, including the admixture of parenterals.

(b) Obtaining the prescriber's original medication order, a direct carbonized copy, an electromechanical facsimile, or other electronic order transmission. Security measures must be in place to ensure that system access by unauthorized individuals is not allowed.

(c) Interpreting and reviewing the prescriber's medication orders and communicating problems with these orders to the prescriber before the administration of first doses. If the interpretation and review will cause a delay that would adversely affect a patient's medical condition, a limited number of medications may be stocked at the patient care areas for the administration of first doses. Medications must be provided in a manner that ensures security and immediate availability, including sealed or secured medication kits, carts, or treatment trays. A pharmacist shall routinely inspect the medications and, after use, shall verify the contents and replace the medications as necessary.

(d) Furnishing medications for administration to registered patients under R 338.588 and 338.588b.

(e) Monitoring medication therapy to promote positive patient outcomes while evaluating clinically significant chemical and therapeutic incompatibilities.

(f) Establishing the specifications for the procurement of all pharmaceuticals and related biologicals and chemicals approved for use in the medical institution.

(g) Inspecting all areas in the medical institution where medications are stored to verify compliance with the standards for the safe use and storage of the medications, not less than once every 6 months.

(h) Maintaining proper security for all medications stored or maintained within the medical institution.

(i) Providing educational programs that include, but are not limited to, medications used by the medical institution and their safe use.

(j) Providing a process by which medications can be obtained during the absence of a pharmacist in a medical institution where a pharmacist is not available 24 hours a day. The process must comply with all of the following:

(i) Minimize the potential for medication error.

(ii) During the absence of a pharmacist, the services of a pharmacist must be available on an on-call basis.

(iii) Only a limited number of medications that are packaged in units of use must be available.

(iv) The medications must be approved and reviewed periodically as determined necessary, but not less than once a year, by an appropriate interdisciplinary practitioner committee of the medical institution.

(v) The medication must be maintained in a securely locked, substantially constructed cabinet or its equivalent in an area of limited access in a centralized area outside the pharmacy.

(vi) Each medication must be labeled to include the name of the medication; the strength; the expiration date, if dated; and the lot number.

(vii) A written order and a proof of removal and use document are obtained for each medication unit removed and reviewed by the pharmacist within 48 hours of removing medication from the cabinet or its equivalent.

(viii) The pharmacist who directs pharmacy services in the medical institution shall designate the practitioners who are allowed to remove the medication.

(ix) A pharmacist shall audit the storage locations as often as needed to guarantee control, but not less than once every 30 days.

(5) On the recommendation of an interdisciplinary practitioners' committee, the pharmacist who directs pharmacy services in the medical institution shall adopt written policies and procedures to promote safe medication practices, to conduct medication utilization review, to approve medications for the medical

institution's formulary or medication list, and to promote positive patient outcomes. A pharmacist shall meet with the committee not less than quarterly to conduct assigned responsibilities.

(6) A pharmacy shall ensure that every medication dispensed is identified with its name and strength labeled on the container in which it is dispensed or on each single unit package. A pharmacy that is engaged in drug distribution to medical institutions which use unit-of-use packaging shall place identification on the label of its package to allow the package to be readily traced. The name of the patient, or a unique identifier, must be labeled on the medication container. The container may be the individual patient's assigned medication drawer. The directions for use must be on the label of the container if the directions are not communicated in another effective manner. If the medication is to be self-administered, then directions for use must be on the container. The provisions of this subrule are minimum labeling standards only and do not supersede other applicable laws or rules.

(7) A pharmacist shall supervise the destruction of unused portions of prescription medication, other than controlled substances under part 71 of the code, MCL 333.7101 to 333.7125, dispensed to patients. However, medications in single-unit packages and intravenous solutions that are designed to be tamper-evident, and show no evidence that tampering has occurred, may be returned to stock. Medications that leave the medical institution or its legal affiliates must not be returned to stock for dispensing.

(8) The licensed pharmacist that directs pharmacy services in the medical institution shall make the policies and procedures required by this rule available to an agent of the board, on request.

## PART 1. GENERAL PROVISIONS

### R 338.501 Definitions.

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

- (a) "ACPE" means Accreditation Council for Pharmacy Education.
- (b) "Approved education program" means a school of pharmacy that is accredited by or has candidate status by the ACPE.
- (c) "Board" means the Michigan board of pharmacy, created in section 17721 of the code, MCL 333.17721.
- (d) "Code" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.
- (e) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of a drug or device by a pharmacist under any of the following circumstances:
  - (i) On receipt of a prescription for a specific patient.
  - (ii) On receipt of a medical or dental order from a prescriber or agent for use in the treatment of patients within the course of the prescriber's professional practice.
  - (iii) In anticipation of the receipt of a prescription or medical or dental order based on routine, regularly observed prescription, or medical or dental order patterns.
  - (iv) For the purpose of or incidental to research, teaching, or chemical analysis and not for the purpose of sale or dispensing.
- (f) "Compounding" does not include any of the following:
  - (i) Except as provided in section 17748c of the code, MCL 333.17748c, the compounding of a drug product that is essentially a copy of a commercially available product.
  - (ii) The reconstitution, mixing, or other similar act that is performed under the directions contained in approved labeling provided by the manufacturer of a commercially available product.
  - (iii) The compounding of allergenic extracts or biologic products.
  - (iv) Flavoring agents added to conventionally manufactured and commercially available liquid medications. Flavoring agents must be nonallergenic and inert, not exceeding 5% of a drug product's total volume.

(g) “CPMP” means customized patient medication package that is prepared by a pharmacist for a specific patient and contains 2 or more prescribed solid oral dosage forms.

(h) “DEA” means the Federal Drug Enforcement Administration.

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

(j) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record. An electronic signature is a unique identifier protected by appropriate security measures that is only available for use by the intended individual and ensures non-repudiation so that the signature may not be rejected based on its validity.

(k) “Error prevention technology” means machinery and equipment used in a pharmacy setting to reduce dispensing medication errors including, but not limited to, barcode verification and radio frequency identification.

(l) “FDA” means the United States Food and Drug Administration.

(m) “FEIN” means a federal employer identification number.

(n) “FPGEC” means the Foreign Pharmacy Graduate Examination Committee.

(o) “GED” means a general education development certificate.

(p) “Manual signature” means a signature that is handwritten or computer-generated if a prescription is electronically transmitted, as that term is defined in section 17703 of the code, MCL 333.17703.

(q) “NABP” means the National Association of Boards of Pharmacy.

(r) “NABP-VPP” means the NABP Verified Pharmacy Program.

(s) “NAPLEX” means the North American pharmacist licensure examination.

(t) “PIC” means pharmacist in charge.

(u) “Practical experience” means professional and clinical instruction in, but not limited to, all of the following areas:

(i) Pharmacy administration and management.

(ii) Drug distribution, use, and control.

(iii) Legal requirements.

(iv) Providing health information services and advising patients.

(v) Pharmacist’s ethical and professional responsibilities.

(vi) Drug and product information.

(vii) Evaluating drug therapies and preventing or correcting drug-related issues.

(v) “USP” means the United States Pharmacopeia.

(w) “Virtual manufacturer” means a person who engages in the manufacture of prescription drugs or devices and meets all of the following:

(i) Owns either of the following:

(A) The new prescription drug application or abbreviated new prescription drug application number.

(B) The unique device identification number, as available, for a prescription device.

(ii) Contracts with a contract manufacturing organization for the physical manufacture of the drugs or devices.

(iii) Is not involved in the physical manufacture of the drugs or devices.

(iv) At no time takes physical possession of or stores the drugs or devices.

(v) Sells or offers for sale to other persons, for resale, compounding, or dispensing of, drugs or devices, salable on prescription only.

(x) “Written” includes both paper and electronic forms.

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

R 338.505 Inspection of applicants and licensees.



Rule 5. (1) The board, board inspector, board agent, or an entity approved under R 338.532, may enter at reasonable times, any building, place, or facility that is owned or controlled by any applicant for, or holder of, a license to inspect to enable the board to determine if the applicant possesses the qualifications and competence for the license sought or to determine whether a license holder is and has been complying with the code and rules. The inspection must concern only matters relevant to the applicant's or license holder's practice of pharmacy, manufacturing, and wholesale distribution of drugs and devices saleable by prescription only.

(2) Inspections in subrule (1) of this rule must not extend to any of the following information, however, the following information is subject to a disciplinary investigation:

- (a) Financial data.
  - (b) Purchasing data, other than shipment data, and the current and historical selling price of a drug.
  - (c) Personnel data, other than data as to the qualifications of personnel performing functions subject to the acts and rules enforced by the board.
  - (d) Research data, other than research data that confirms the appropriate use of controlled substances for research purposes, or research data for accountability for reconciliation of prescription drug inventories.
- (3) An applicant or license holder shall allow and cooperate with the inspection.

## PART 2. PHARMACIST LICENSES

R 338.511 Training standards for identifying victims of human trafficking; requirements.

Rule 11. (1) Under section 16148 of the code, MCL 333.16148, the individual seeking licensure or who is licensed shall have completed training in identifying victims of human trafficking that meets the following standards:

- (a) Training content must cover all of the following:
    - (i) Understanding the types and venues of human trafficking in the United States.
    - (ii) Identifying victims of human trafficking in healthcare settings.
    - (iii) Identifying the warning signs of human trafficking in healthcare settings for adults and minors.
    - (iv) Identifying resources for reporting the suspected victims of human trafficking.
  - (b) Acceptable providers or methods of training include any of the following:
    - (i) Training offered by a nationally recognized or state-recognized, health-related organization.
    - (ii) Training offered by, or in conjunction, with a state or federal agency.
    - (iii) Training obtained in an educational program that has been approved by the board for initial licensure, or by a college or university.
    - (iv) Reading an article related to the identification of victims of human trafficking that meets the requirements of subdivision (a) of this subrule and is published in a peer-review journal, healthcare journal, or professional or scientific journal.
  - (c) Acceptable modalities of training may include any of the following:
    - (i) Teleconference or webinar.
    - (ii) Online presentation.
    - (iii) Live presentation.
    - (iv) Printed or electronic media.
- (2) The department may select and audit an individual and request documentation of proof of completion of training. If audited by the department, 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 the individual. The certification statement must include the individual's name and 1 of the following:

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

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

**R 338.513 Educational limited license; application and renewal; practices.**

Rule 13. (1) An applicant for an educational limited license shall submit to the department a completed application on a form provided by the department with the requisite fee. In addition to satisfying the requirements of sections 16174 and 17737 of the code, MCL 333.16174 and 333.17737, the applicant shall establish 1 of the following:

(a) That the applicant is actively enrolled in, or is within 180 days of completing, an approved educational program.

(b) That the applicant has received a FPGEC certification from the NABP Foreign Pharmacy Graduate Examination Committee, 1600 Feehanville Drive, Mount Prospect, Illinois, 60056, <https://nabp.pharmacy/programs/fpgec/>.

(2) The educational limited license must be renewed annually as follows:

(a) At the time of renewal, the applicant shall submit verification to the department that the applicant is actively enrolled in, or is within 180 days of completing, an approved educational program. The educational limited license is valid for 1 year.

(b) If an applicant is a graduate of a non-accredited college or school of pharmacy at the time of renewal, the applicant shall submit verification to the department from his or her preceptor that the applicant is currently in an internship program under the preceptor's supervision. The educational limited license is valid for 1 year and may be renewed 1 time.

(3) An educational limited licensee may engage in the practice of pharmacy only under the personal charge of a pharmacist.

(4) An educational limited licensee shall verify that the licensee's pharmacy preceptor holds a valid preceptor license before engaging in the practice of pharmacy if the internship hours will be submitted to the department for credit.

(5) An educational limited licensee shall notify the board within 30 days if the licensee is no longer actively enrolled in an approved educational program.

(6) An applicant for an educational limited license shall meet the requirements of R 338.511 and R 338.7004.

**R 338.515 Internship requirements.**

Rule 15. (1) An applicant for a pharmacist license shall acquire a minimum of 1,600 internship hours, which may be completed through an educational program, under the personal charge of a preceptor, through a preapproved unconventional internship, or through an educational program outside of the United States under subrule (2) of this rule. An internship is subject to all of the following:

(a) Not more than 40 hours per week may be earned.

(b) An unconventional internship requires prior board approval and is limited to a maximum of 400 hours, with a maximum of 16 hours earned per week, and not more than 40 hours earned per week when the intern's pharmacy school is not in session. As used in this subdivision, "unconventional internship" means an educational program of professional and practical experience involving the pharmacy or related pharmaceutical experiences which, through on-the-job training, provides knowledge useful to the practice of the profession of pharmacy.

(c) The licensed pharmacy preceptor, an approved education program, or other individual previously approved by the board shall verify internship hours.

(d) An individual participating in a preapproved unconventional internship shall annually submit to the department an affidavit from the internship supervisor that includes the type of activities performed and the number of internship hours completed.

(e) The internship must provide professional and practical experience.

(2) An individual who graduated from a program outside the United States may petition the board for approval of a maximum of 1,400 internship hours if an internship is not completed through an approved educational program or under the personal charge of a preceptor licensed in this state. The internship hours must be obtained through an educational program experience.

(3) An individual shall obtain an educational limited license under R 338.513 before starting an internship that includes the practice of pharmacy in this state.

#### R 338.517 Preceptor license and responsibilities.

Rule 17. (1) An applicant for licensure as a pharmacist preceptor shall submit to the department a completed application on a form provided by the department.

(2) The applicant shall satisfy both of the following:

(a) Have an unrestricted pharmacist license from this state that is in good standing for the past year.

(b) Have been engaged in the practice of pharmacy in this state for at least 1 year.

(3) A preceptor shall do all of the following:

(a) Ensure that the pharmacist on duty is supervising not more than 2 pharmacist interns at the same time. The approved preceptor is responsible for the overall internship program at the pharmacy.

(b) Determine the degree of the intern's professional skill on the topics listed in R 338.501(1)(u) and develop a training program where the intern can improve the intern's skill in these areas.

(c) Ensure sufficient time to instruct the intern on the topics in R 338.501(1)(u) and review and discuss the intern's progress on the topics in R 338.501(1)(u).

(4) Unless the hours are completed in an educational program, the preceptor shall submit to the department a training affidavit that includes the number of internship hours completed by the intern in the practice of pharmacy.

#### R 338.519 Examinations adoption; passing scores; reexamination.

Rule 19. (1) The board adopts the NAPLEX developed and administered by the NABP.

(2) The passing score for the NAPLEX accepted for licensure is the passing score established by the NABP.

(3) An applicant that fails to pass the NAPLEX shall wait not less than 45 days to retest or comply with the current waiting period established by NABP, whichever is longer. An applicant that has not achieved a passing score on the NAPLEX may not take the NAPLEX more than 3 times in a 12-month period.

(4) If an applicant for licensure fails to pass the NAPLEX within 3 attempts, the applicant shall request preapproval from the department, after consultation with a board member, if necessary, of a live or interactive examination preparation course, or instruction with an instructor with expertise on the subject matter, for the examination that the applicant failed. After participating in the course or instruction the applicant shall provide the department with proof that the applicant completed the course or instruction.

(5) An applicant may not sit for the NAPLEX specified in subrule (4) of this rule more than 5 times, unless the applicant successfully repeats an approved education program, as specified in R 338.521(2)(a)(i) and provides proof of completion to the department.

#### R 338.521 Pharmacist licensure by examination.

Rule 21. (1) An applicant for licensure as a pharmacist by examination shall submit to the department a completed application on a form provided by the department with the requisite fee.

(2) In addition to meeting the requirements of section 16174 of the code, MCL 333.16174; R 338.7001 to R 338.7005; and any other rules promulgated under the code, an applicant for licensure shall satisfy all of the following requirements:

(a) Obtain one of the following:

(i) A professional degree from a school of pharmacy accredited by the ACPE.

(ii) A FPGEC certification from the NABP. An applicant that has an FPGEC certification from NABP has met the English proficiency requirement as the applicant's credentials and English proficiency have been evaluated and determined to be equivalent to the credentials required in this state.

(iii) A score transfer from NABP if the applicant has been licensed in another state for 1 day to 1 year.

(b) Pass the NAPLEX.

(c) Complete an internship as set forth in R 338.515.

(d) Complete a 1-time training identifying victims of human trafficking as required in R 338.511 and section 16148 of the code, MCL 333.16148.

(e) Complete a 1-time training in opioids and other controlled substances awareness as required in R 338.3135.

(f) Provide an attestation to the department that the applicant has sufficient knowledge of the code and the board's rules to competently practice pharmacy in this state.

(3) An applicant that is or has ever been licensed, registered, or certified in a health profession or specialty by another state, the United States military, the federal government, or another country, shall do both of the following:

(a) Disclose each license, registration, or certification on the application form.

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

R 338.523 Pharmacist license by endorsement; requirements.

Rule 23. (1) An applicant that has never held a pharmacist license in this state and is licensed in another state or Canada, may apply for licensure as a pharmacist by endorsement by submitting to the department a completed application on a form provided by the department with the requisite fee. An applicant that meets the requirements of this rule, R 338.7001 to R 338.7005, and any other rules promulgated under the code 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) Establish 1 of the following:

(i) The applicant holds a license in good standing as a pharmacist in another state and submits the NABP licensure transfer report to the department.

(ii) The applicant holds a pharmacy license in Canada that is in good standing and meets all of the following:

(A) The applicant has passed the NAPLEX or both part I and part II of the Pharmacy Examining Board of Canada Pharmacists Qualifying Examination.

(B) The applicant completed educational requirements for a pharmacist license from a school of pharmacy accredited by the ACPE or accredited by the Canadian Council for Accreditation of Pharmacy Programs.

(C) If the applicant held a pharmacist license for less than 1 year in Canada, the applicant had acquired a minimum of 1,600 hours of pharmacy practice either through an approved internship or hours engaged in the practice as a pharmacist.

(b) Provide an attestation to the department that the applicant has sufficient knowledge of the code and the board's rules to competently practice pharmacy in this state.

(c) An applicant that 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:

(i) Disclose each license, registration, or certification on the application form.

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

(d) The applicant meets section 16174 of the code, MCL 333.16174, and submits his or her fingerprints to the department of state police to have a criminal background check conducted by the state police and the Federal Bureau of Investigation.

(e) The applicant completes a 1-time training identifying victims of human trafficking as required in R 338.511 and section 16148 of the code, MCL 333.16148.

(f) The applicant completes a 1-time training in opioids and other controlled substances awareness as required in R 338.3135.

(2) An applicant that has an FPGEC certification from NABP has met the English proficiency requirement. The applicant's credentials and English proficiency have been evaluated and determined to be equivalent to the credentials required in this state.

R 338.525 Relicensure of a pharmacist license; requirements.

Rule 25. (1) An applicant for relicensure whose pharmacist license has lapsed in this state, under sections 16201(3) or (4) and 17733 of the code, MCL 333.16201 and 333.17733, as applicable, may be relicensed by complying with the following requirements as noted by (x):

For a pharmacist who has let his or her license lapse in this state and is not currently licensed in another state or a province of Canada:	License lapsed 0-3 years.	License lapsed more than 3 years, but less than 8 years.	License lapsed 8 or more years.
(a) Submit to the department a completed application on a form provided by the department with the requisite fee.	X	X	X
(b) Establish that the applicant is of good moral character as that term is defined in, and determined under, 1974 PA 381, MCL 338.41 to MCL 338.47.	X	X	X
(c) Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174.		X	X
(d) Submit proof of completing 30 hours of continuing education that satisfy R 338.3041 to R 338.3045 in the 2 years immediately before the application for relicensure. However, if the continuing education hours submitted with the application are deficient, the applicant has 2 years after the date of the	X	X	X

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.			
(e) Provide an attestation to the department that the applicant has sufficient knowledge of the code and the board's rules to competently practice pharmacy in this state.		X	X
(f) Submit proof of completing a 1-time training in identifying victims of human trafficking as required in R 338.511, a 1-time training in opioids and other controlled substances awareness as required in R 338.3135, and implicit bias training as required in R 338.7004.	X	X	X
(g) Complete 200 hours of practical experience under the personal charge of a pharmacist currently licensed in this state who is located in or outside of this state, within 6 months after being granted a limited license.		X	
(h) Complete 400 hours of practical experience under the personal charge of a pharmacist currently licensed in this state who is located in or outside of this state, within 6 months after being granted a limited license.			X
(i) Retake and pass the NAPLEX within 2 years before applying for relicensure, as provided in R 338.519.			X
(j) An applicant that 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: (i) Disclose each license, registration, or certification on the application form. (ii) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.	X	X	X

(2) As used in subrule (1)(g) and (h) of this rule, an applicant may be granted a non-renewable limited license to complete the practical experience.

(3) To demonstrate compliance with subrule (1)(g) or (h), the supervising pharmacist shall provide verification to the department of the applicant's completion of the experience on a form provided by the department.

(4) For a pharmacist who has let his or her pharmacist license lapse in this state, but who holds a current and valid pharmacist license in good standing in another state or a Canadian province:	License lapsed 0-3 years.	License lapsed more than 3 years, but less than 8 years.	License lapsed 8 or more years.
(a) Submit to the department a completed application on a form provided by the department with the requisite fee.	X	X	X
(b) Establish that the applicant is of good moral character as that term is defined in, and determined under, 1974 PA 381, MCL 338.41 to MCL 338.47.	X	X	X
(c) Submit fingerprints as required under section 16174(3) of the code, MCL 333.16174.		X	X
(d) Submit proof of completing 30 hours of continuing education that satisfy R 338.3041 to R 338.3045 in the 2 years immediately before the application for relicensure. However, if the continuing education hours submitted with the application are deficient, the 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.	X	X	X
(e) Submit proof of completing a 1-time training in identifying victims of human trafficking as required in R 338.511, a 1-time training in opioids and other controlled substances awareness as required in R 338.3135, and implicit bias training as required in R 338.7004.	X	X	X
(f) Provide an attestation to the department that the applicant has sufficient knowledge of the code and the board's rules to competently practice pharmacy in this state.		X	X

<p>(g) An applicant that 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:</p> <p>(i) Disclose each license, registration, or certification on the application form.</p> <p>(ii) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.</p>	X	X	X
--	---	---	---

(5) 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.

### PART 3. PHARMACY LICENSES

R 338.531 Pharmacy license; remote pharmacy license; applications; requirements.

Rule 31. (1) An applicant for a pharmacy license or a remote pharmacy license shall submit to the department a completed application on a form provided by the department together with the requisite fee.

(2) An applicant shall submit all of the following information:

(a) Certified copies of articles of incorporation or partnership certificates and certified copies of assumed name certificates, if applicable.

(b) Submission of fingerprints for the purpose of a criminal history background check required under section 17748(6) of the code, MCL 333.17748.

(c) A FEIN certificate.

(d) The name and license number of the pharmacist in this state designated as the PIC under section 17748(2) of the code, MCL 333.17748, who must have a valid and unrestricted license. If a PIC is unable to fulfill his or her duties for 120 consecutive days, the pharmacy shall appoint a new PIC and notify the department as required in section 17748(4) of the code, MCL 333.17748.

(e) The identity and address of each partner, officer, or owner, as applicable.

(f) A completed self-inspection form.

(g) If the applicant is an out-of-state pharmacy that will not provide sterile compounding services, an inspection report that satisfies the requirements of R 338.534.

(h) If the applicant is an in-state pharmacy that intends to compound sterile pharmaceutical products, the applicant shall submit to an inspection under R 338.534a.

(i) If the applicant is a governmental entity, an individual shall be designated as the licensee. The licensee and the pharmacist on duty are responsible for complying with all federal and state laws regulating the practice of pharmacy and the dispensing of prescription drugs.

(j) If the applicant is applying for a remote pharmacy license, the applicant shall submit the following:

(i) Ownership documents to demonstrate to the satisfaction of the department that the parent pharmacy and the proposed remote pharmacy share common ownership.



(ii) Copies of the policies and procedure manual required in section 17742b of the code, MCL 333.17742b.

(iii) A map showing all of the existing pharmacies within 10 miles of the proposed remote pharmacy if the remote pharmacy will not be located at a hospital or mental health facility.

(k) If the applicant is or has ever been licensed, registered, or certified as a pharmacy by another state, the United States military, the federal government, or another country, the applicant shall do both of the following:

(i) Disclose each license, registration, or certification on the application form.

(ii) Submit 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.

(3) The department shall issue only 1 pharmacy license per address. If an applicant has more than 1 location at which drugs are prepared or dispensed, each address location must obtain a separate license.

#### R 338.531a Remote pharmacy waiver from mileage requirement.

Rule 31a. (1) An applicant seeking a remote pharmacy license may apply to the board for a waiver from the prohibition of locating a remote pharmacy within 10 miles of another pharmacy in section 17742a(2)(c) of the code, MCL 333.17742a, by submitting a completed application to the department, on a form provided by the department.

(2) The applicant shall submit the following with the application:

(a) A map showing the location of any existing pharmacies within 10 miles of the proposed remote pharmacy if the remote pharmacy will not be located at a hospital or mental health facility.

(b) A list and explanation of the services or availability of services that will be offered at the remote pharmacy or otherwise not readily available to patients that are different from the services offered at a pharmacy located within 10 miles of the proposed remote pharmacy.

(c) A statement of facts to support the statement of 1 or more of the following:

(i) The proposed remote pharmacy is located in an area where there is limited access to pharmacy services.

(ii) The proposed remote pharmacy will offer a service or the availability of a service that is unique from other pharmacies in the 10-mile radius from the remote pharmacy and the service will satisfy an unmet need of the surrounding community.

(iii) There exists a limitation on travel that justifies waiving the requirement.

(iv) There are other compelling circumstances that justify waiving the requirement.

(3) If the waiver is denied, the application is considered closed unless within 30 days after receipt of the denial, the applicant notifies the department that it is requesting a hearing on the matter.

#### R 338.532 Sterile compounding accrediting organizations; board approval; inspection entities.

Rule 32. (1) The board shall approve, under section 17748a of the code, MCL 333.17748a, accrediting organizations or inspection entities for pharmacies that compound pharmaceuticals according to standards adopted by reference in R 338.533.

(2) The department shall post on its website, the list of organizations approved under subrule (1) of this rule.

(3) An organization may petition the board for approval under subrule (1) of this rule. The petition must include, but is not limited to, all of the following:

(a) Requirements for accreditation or compliance.

(b) Requirements for inspectors.

(c) Training provided to inspectors.

(d) Copy of the most current inspection form.

- (e) The length of accreditation.
- (f) Agreement and plan to share results of inspections with the department.
- (4) If the board approves the petition, the approval is valid for 3 years after the date of approval. The organization may submit a petition that complies with subrule (3) of this rule to seek continuing approval.
- (5) The board may rescind approval of an organization upon just cause. The rescission will not immediately affect the compliance of a pharmacy using the accreditation. Within 12 months after the rescission date or by the next licensure renewal date, whichever is later, the accreditation is void, and a pharmacy shall obtain accreditation or an inspection from an organization that satisfies subrule (1) of this rule.

**R 338.533 Compounding standards and requirements; outsourcing facilities; requirements.**

Rule 33. (1) The board approves and adopts by reference the compounding standards of USP, published by the United States Pharmacopeial Convention, 12601 Twinbrook Parkway, Rockville, Maryland 20852-1790. This includes USP Chapters 795 (revised 2023) and 797 (revised 2023), with the exception of flavoring.

(2) The standards adopted by reference in subrule (1) of this rule are available at a cost of \$250.00 at <http://www.usp.org/compounding>, or can be viewed at the Bureau of Professional Licensing, Michigan Department of Licensing and Regulatory Affairs, Ottawa Building, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan 48909.

(3) A pharmacy that provides compounding services shall comply with the standards adopted in subrule (1) of this rule.

(4) An outsourcing facility located outside of this state that dispenses, provides, distributes, or otherwise furnishes compounded pharmaceuticals in this state shall be inspected and registered as an outsourcing facility by the FDA before applying for a pharmacy license in this state.

(5) An outsourcing facility located within this state that is applying for licensure as a pharmacy shall complete both of the following:

(a) Obtain an inspection from the department or its designee for the purpose of meeting R 338.536 and R 338.537 for initial licensure.

(b) Within 6 months after initial licensure under this subrule, a pharmacy shall obtain, and provide to the department, a subsequent inspection to assess adherence to the current and as amended good manufacturing practices for finished pharmaceuticals set forth in 21 CFR 211.1 to 211.208.

(6) An outsourcing facility shall do all of the following:

(a) Compound drugs by or under the supervision of a licensed pharmacist.

(b) Compound drugs under current good manufacturing practices for finished pharmaceuticals set forth in 21 CFR 211.1 to 211.208.

(c) Ensure that a pharmacist who conducts or oversees compounding at an outsourcing facility is proficient in the practice of compounding and has acquired the education, training, and experience to maintain that proficiency by doing any of the following:

(i) Participating in seminars.

(ii) Studying appropriate literature.

(iii) Consulting with colleagues.

(iv) Being certified by a compounding certification program approved by the board.

(d) Label compounded drugs and compounded drugs that are patient specific in compliance with the requirements in R 338.582 and include all of the following:

(i) Required drug and ingredient information.

(ii) Facility identification.

(iii) The following or similar statement: “This is a compounded drug. For office use only” or “Not for resale.”

(e) Ensure that bulk drug substances used for compounding meet specified FDA criteria.

(7) An outsourcing facility may compound drugs that appear on an FDA shortage list, if the bulk drug substances used to compound the drugs comply with the criteria specified in this rule.

**R 338.534 Out-of-state pharmacy licensure inspection; in-state pharmacy licensure renewal inspection.**

Rule 34. (1) A pharmacy located outside of this state that applies for licensure in this state as a pharmacy that will not ship compounded sterile pharmaceutical products into this state shall submit to the department a copy of its most recent resident state board of pharmacy inspection or an NABP-VPP inspection that was performed within the last 2 years before the date of application.

(2) Unless accredited by a national accrediting organization, recognized by the board, an applicant for renewal of an in-state pharmacy license, or an applicant for an initial or renewal of an out-of-state pharmacy license, that will provide sterile compounded pharmaceuticals in this state shall have an inspection and submit the inspection report to the department, completed no more than 18 months before the date of application, that demonstrates compliance with all applicable standards that are adopted by reference in R 338.533. The inspection must be conducted by 1 of the following:

(a) The department.

(b) The NABP-VPP.

(c) An accrediting organization according to R 338.532.

(d) A state licensing agency of the state in which the applicant is a resident and in accordance with the NABP’s multistate pharmacy inspection blueprint program.

**R 338.534a In-state initial pharmacy license inspections.**

Rule 34a. (1) An in-state pharmacy that will not compound sterile pharmaceutical products that is applying for initial licensure shall be inspected by the department or its designee before licensure.

(2) An applicant for an in-state pharmacy license that intends to compound sterile pharmaceutical products shall complete both of the following:

(a) Obtain an inspection from the department or its designee for the purpose of meeting R 338.536 and R 338.537 for initial licensure.

(b) Within 6 months after initial licensure under this subrule, a pharmacy shall obtain, and provide to the department, a subsequent inspection to assess USP compliance or achieve accreditation from 1 of the entities listed in R 338.534(2)(a) to (c).

(3) Approval to engage in sterile compounding will end 6 months after initial licensure if a subsequent inspection to assess USP compliance or accreditation is not successful.

**R 338.535 Discontinuing, starting, or resuming sterile compounding services; requirements to resume sterile compounding services.**

Rule 35. (1) A sterile compounding pharmacy or outsourcing facility that ceases to provide sterile compounding services in this state shall notify the department within 30 days after ceasing to provide sterile compounding services.

(2) A pharmacy shall apply for approval to start or resume sterile compounding services by submitting to the department an application on a form provided by the department together with the requisite fee.

(3) A pharmacy shall not start or resume sterile compounding services in this state until the pharmacy submits to the department an inspection report, as required in R 338.534(2), is approved by the department, and is accredited, or an organization satisfying the requirements of R 338.532(1) verifies that the pharmacy is USP compliant.

(4) An outsourcing facility shall not start or resume providing sterile compounding services in this state until the outsourcing facility is approved by the department, and the department verifies that it is compliant with the requirements of R 338.533(4) to (7).

**R 338.536 Housing of a pharmacy.**

Rule 36. (1) All professional and technical equipment and supplies and prescription drugs must be housed in a suitable, well-lighted, and well-ventilated room or department with clean and sanitary surroundings.

(2) All pharmacies shall have a prescription department that is devoted primarily to the practice of pharmacy that occupies not less than 150 square feet of space, and that includes a prescription counter that provides not less than 10 square feet of free working surface. For each additional pharmacist on duty at any 1 time, the free working space must be increased by not less than 4 square feet. The prescription counter must be orderly and clean. The space behind the prescription counter must be sufficient to allow free movement within the area and must be free of obstacles.

(3) Except as allowed in R 338.588a(2), pharmacies that occupy less than the entire area of the premises owned, leased, used, or controlled by the licensee shall be permanently enclosed by partitions from the floor to the ceiling. All partitions must be of substantial construction and must be securely lockable so that drugs and devices that can be sold only by a pharmacist are unobtainable during the absence of the pharmacist. Only the area of the premises owned, leased, used, or controlled by the licensee may be identified by the terms “drugstore,” “apothecary,” or “pharmacy,” or by use of a similar term or combination of terms as listed in section 17711(2) of the code, MCL 333.17711. A pharmacy department must be locked when the pharmacist is not on the premises.

**R 338.537 Professional and technical equipment and supplies.**

Rule 37. (1) A pharmacy shall be equipped with both of the following:

(a) The necessary facilities, apparatus, utensils, and equipment to allow the pharmacy to provide prompt and efficient services.

(b) Current print, electronic, or unabridged computerized versions of the pharmacy laws and rules of this state, and not less than 2 current pharmacy reference texts that pertain to pharmacology, drug interactions, or drug composition, or other information necessary for the delivery of safe and effective practice of pharmacy.

(2) In addition to subrule (1) of this rule, a pharmacy that dispenses drugs shall maintain, at a minimum, all of the following equipment:

(a) A sink with running water.

(b) A refrigerator for the exclusive use of prescription drugs. Personal or food items must not be stored in the refrigerator. Refrigeration must be capable of maintaining temperature within a range compatible with the proper storage of drugs requiring refrigeration or freezing. Temperatures must be monitored at all times for out-of-range temperatures during business closure.

(c) A telephone.

**R 338.538 Closing pharmacy.**

Rule 38. (1) A pharmacy that is ceasing operations shall provide the department with written notification of all of the following not less than 15 days before closing:

(a) The effective date of closing.

(b) How controlled substances will be disposed.

(c) How non-controlled substances will be disposed.

(d) The location where records and prescription files will be stored.

(2) A pharmacy shall comply with all applicable federal requirements for discontinuing operation as a pharmacy that dispenses controlled substances.

(3) Records must be maintained for the same amount of time that is required if the pharmacy remained open.

#### PART 4. MANUFACTURER LICENSE

R 338.551 Manufacturer license; application.

Rule 51. (1) An applicant for a manufacturer license shall submit to the department a completed application on a form provided by the department with the requisite fee.

(2) An applicant shall provide all of the following information:

(a) A criminal history background check required under section 17748(6) of the code, MCL 333.17748.

(b) A FEIN certificate.

(c) Certified copies of articles of incorporation or certificates of partnership and assumed name certificates, if applicable.

(d) The identity and address of each partner, officer, or owner, as applicable.

(e) A completed compliance checklist for manufacturers.

(f) A list or a catalog of all drug products or devices to be manufactured by the facility.

(g) Unless exempt under section 17748(2) of the code, MCL 333.17748, the name and license number of the pharmacist designated as the PIC or the name of the facility manager. If a PIC or facility manager is unable to fulfil his or her duties for 120 consecutive days, the pharmacy shall appoint a new PIC or facility manager and notify the department as required in section 17748(4) of the code, MCL 333.17748. For an individual who is designated as a facility manager, the applicant shall provide proof, in the form of an affidavit, that the facility manager has achieved the following:

(i) A high school equivalency education, or higher, defined as 1 of the following:

(A) A high school diploma.

(B) A GED.

(C) A parent-issued diploma for home schooled individuals.

(D) Completion of post-secondary education, including either an associate's, bachelor's, or a master's degree.

(ii) Completion of a training program that includes, but is not limited to, all of the following subjects:

(A) Knowledge and understanding of laws in this state and federal laws relating to the distribution of drugs and devices.

(B) Knowledge and understanding of laws in this state and federal laws relating to the distribution of controlled substances.

(C) Knowledge and understanding of quality control systems.

(D) Knowledge and understanding of the USP standards relating to the safe storage and handling of prescription drugs.

(E) Knowledge and understanding of pharmaceutical terminology, abbreviations, dosages, and format.

(iii) Experience equal to either of the following:

(A) A minimum of 1 year of work experience related to the distribution or dispensing of prescription drugs or devices where the responsibilities included, but were not limited to, recordkeeping.

(B) Previous or current employment as a designated representative of a manufacturer.

(iv) Employment with the applicant.

(h) A copy of the FDA certification for the site to be licensed, if an applicant is a manufacturer of biologicals.

(i) An inspection from the FDA, or manufacturer's resident state board of pharmacy, that is dated not more than 2 years before application or current NABP drug distributor accreditation.

(j) An applicant that is or has ever been licensed, registered, or certified as a manufacturer by another state, the United States military, the federal government, or another country, shall do both of the following:

(i) Disclose each license, registration, or certification on the application form.

(ii) Submit 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.

(3) A separate license is required for each location where prescription drugs or devices are manufactured.

(4) A manufacturer who changes its facility manager shall submit all of the information required in subrule (2)(g) of this rule to the department within 30 days after the change.

R 338.555 Federal regulation on good manufacturing practice for finished pharmaceuticals; adoption by reference; compliance.

Rule 55. (1) The board approves and adopts by reference the current and as amended good manufacturing practice for finished pharmaceuticals regulations set forth in 21 CFR 211.1 to 211.208 (2022).

(2) A manufacturer shall comply with the standards adopted in subrule (1) of this rule.

(3) The standards adopted by reference in subrule (1) of this rule are available at no cost at <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfCFR/CFRSearch.cfm?CFRPart=211>, or at 10 cents per page from the Board of Pharmacy, Bureau of Professional Licensing, Michigan Department of Licensing and Regulatory Affairs, Ottawa Building, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan 48909.

R 338.557 Closing of a manufacturer.

Rule 57. (1) A manufacturer that is ceasing operations shall return the manufacturer license and the controlled substance license, if applicable, to the department, and provide the department with written notification of all of the following not less than 15 days before closing:

(a) The effective date of closing.

(b) How controlled substances will be disposed.

(c) How non-controlled substances will be disposed.

(d) The location where records and prescription files will be stored.

(2) A manufacturer shall comply with all applicable federal requirements for discontinuing a controlled substance business.

(3) Records must be maintained for the same amount of time that is required if the manufacturer remains open.

R 338.559 Relicensure and renewal.

Rule 59. (1) An applicant with an expired license may apply for relicensure of a manufacturer license by submitting to the department a completed application on a form provided by the department, satisfying all the requirements for licensure in part 4 of these rules, R 338.551 to R 338.559, and paying the requisite fee.

(2) A manufacturer that renews its license during the license renewal period shall submit to the department a completed application on a form provided by the department together with the requisite fee.

**PART 5. WHOLESALE DISTRIBUTOR AND  
WHOLESALE DISTRIBUTOR-BROKER LICENSE**

R 338.563 Wholesale distributor, wholesale distributor-broker; application for licensure; requirements.

Rule 63. (1) An applicant for a wholesale distributor or wholesale distributor-broker license shall submit to the department a completed application on a form provided by the department with the requisite fee. A wholesale distributor includes virtual manufacturers.

(2) An applicant shall comply with all of the following:

(a) Provide a criminal history background check required under section 17748(6) of the code, MCL 333.17748.

(b) Disclose on the application form 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.

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

(d) Provide certified copies of articles of incorporation or certificates of partnership and assumed names if applicable.

(e) Provide the identity and address of each partner, officer, or owner as applicable.

(f) Provide a completed compliance checklist.

(g) Provide a FEIN certificate.

(h) Unless exempt under section 17748(2) of the code, MCL 333.17748, provide the name and the license number of the pharmacist designated as the PIC or the name of the facility manager. If a PIC or facility manager is unable to fulfil his or her duties for 120 consecutive days, the pharmacy shall appoint a new PIC or facility manager and notify the department as required in section 17748(4) of the code, MCL 333.17748. For individuals designated as a facility manager, the applicant shall provide proof, in the form of an affidavit, that the facility manager has achieved the following:

(i) A high school equivalency education, or higher, defined as 1 of the following:

(A) A high school diploma.

(B) A GED.

(C) A parent-issued diploma for home schooled individuals.

(D) Completion of post-secondary education, including an associate's, bachelor's, or master's degree.

(ii) Completion of a training program that includes, but is not limited to, all of the following subjects:

(A) Knowledge and understanding of laws in this state and federal laws relating to the distribution of drugs and devices.

(B) Knowledge and understanding of laws in this state and federal laws relating to the distribution of controlled substances.

(C) Knowledge and understanding of quality control systems.

(D) Knowledge and understanding of the USP standards relating to the safe storage and handling of prescription drugs.

(E) Knowledge and understanding of pharmaceutical terminology, abbreviations, dosages, and format.

(iii) Experience equal to either of the following:

(A) A minimum of 1 year of work experience related to the distribution or dispensing of prescription drugs or devices where the responsibilities included, but were not limited to, recordkeeping.

(B) Previous or current employment as a designated representative of a wholesale distributor certified by the NABP drug distributor accreditation or of a wholesale distributor-broker.

(iv) Current employment with the applicant.

(i) Provide a list or catalog of all drug products and devices to be distributed, if a wholesale distributor.

(j) If a wholesale distributor-broker, submit an affidavit, at the time of the application for initial licensure, that the applicant facilitates deliveries or trades for not less than 50 qualified pharmacies and that each pharmacy holds a license in good standing as a pharmacy from the state in which it is located at the time of application.

(3) A wholesale distributor or wholesale distributor-broker that changes its facility manager shall submit all of the information required in subrule (2)(h) of this rule to the department within 30 days after the change.

#### R 338.569 Wholesale distributor and wholesale distributor-broker recordkeeping and policy requirements.

Rule 69. (1) A wholesale distributor shall establish and maintain inventories and records of transactions regarding the receipt, if applicable, and the distribution or other disposition of prescription drugs or devices. These records must include all of the following information:

(a) The source of the prescription drugs or devices, including the name and principal address of the seller or transferor and the address from which the prescription drugs or devices were shipped.

(b) The identity and quantity of the prescription drugs or devices received, if applicable, and distributed or disposed of.

(c) The dates of receipt, if applicable, and distribution of the prescription drugs or devices.

(2) A wholesale distributor shall establish and maintain a list of officers, directors, managers, and other individuals who are in charge of wholesale drug distribution, storage, and handling, including a description of their duties and a summary of their qualifications.

(3) A wholesale distributor shall have written policies and procedures that include all of the following:

(a) A procedure where the oldest stock of a prescription drug is distributed first. The procedure may allow deviation from this requirement if the deviation is temporary and appropriate.

(b) A procedure for handling recalls and withdrawals of the prescription drugs or devices. The procedure must deal with recalls and withdrawals due to any of the following:

(i) Any action initiated at the request of the FDA; other federal, state, or local law enforcement agency; or other governmental agency.

(ii) Any voluntary action by the manufacturer to remove defective or potentially defective prescription drugs or devices from the market.

(iii) Any action undertaken to promote public health and safety by replacing existing merchandise with an improved product or new package design.

(c) A procedure to ensure that a wholesale distributor prepares for, protects against, and handles any crises that affects security or operation of any facility, including employee strike, flood, fire, or other natural disaster, or other local, state, or national emergency.

(d) A procedure to ensure that any outdated prescription drugs or devices are segregated from other prescription drugs or devices and either returned to the manufacturer or destroyed. This procedure must include a provision for the written documentation of the disposition of outdated prescription drugs or devices that must be maintained for 2 years after the disposition of the outdated prescription drugs or devices.

(e) Procedures for identifying, recording, and reporting losses or thefts of prescription drugs or devices and for correcting errors and inaccuracies in inventory.



(4) A wholesale distributor-broker shall establish and maintain a list of officers, directors, managers, and other individuals who are in charge of wholesale drug delivery and trade, including a description of their duties and a summary of their qualifications.

(5) A wholesale distributor-broker shall maintain for not less than 7 years the transaction history, transaction statements, and transaction information required by section 17748e of the code, MCL 333.17748e.

(6) The records described in subrules (1) to (5), and (8) of this rule and section of 17748e of the code, MCL 333.17748e, must be made available for inspection and photocopying by the department, board, authorized federal, state, or local law enforcement agency officials. The records that are maintained on-site or that are immediately retrievable by computer or other electronic means must be readily available for an authorized inspection during the retention period described in subrules (5) and (7) of this rule. Records that are maintained at a central location apart from the site must be made available for inspection within 2 working days after a request.

(7) A wholesale distributor shall retain the records described in this rule for a minimum of 2 years after the disposition of the prescription drugs or devices.

(8) A purchasing pharmacy using a wholesale distributor-broker to facilitate a transaction from a pharmacy that is not licensed in this state shall request the transaction history, transaction statement, or transaction information for the drugs supplied.

#### R 338.571 Facility requirements.

Rule 71. (1) A wholesale distributor that has physical custody or control of the prescription drugs or devices shall satisfy all of the following facility requirements:

- (a) Be of suitable size and construction to facilitate cleaning, maintenance, and proper operations.
- (b) Have storage areas that are designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions.
- (c) Have a quarantine area for the storage of prescription drugs or devices that are outdated, damaged, deteriorated, misbranded, adulterated, or that are in immediate or sealed secondary containers that are opened.
- (d) Be maintained in a clean and orderly condition.
- (e) Be free from infestation by insects, rodents, birds, or vermin of any kind.
- (f) Be secure from unauthorized entry by complying with all of the following:
  - (i) Access from outside the premises must be kept to a minimum and be well-controlled. The outside perimeter of the premises must be well-lighted. Entry into areas where prescription drugs or devices are held must be limited to authorized personnel.
  - (ii) Be equipped with an alarm system to detect entry after hours.
  - (iii) Be equipped with a security system that provides protection against theft and diversion. If appropriate, the security system must provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

(2) All prescription drugs or devices must be stored at temperatures and under appropriate conditions under the label requirements pursuant to the requirements set forth in the current edition of the USP compendium. If storage requirements are not established for a prescription drug, the drug may be held at a controlled room temperature to help ensure that its identity, strength, quality, and purity are not adversely affected. Appropriate manual, electromechanical, or electronic temperature and humidity recording equipment devices, or logs must be utilized to document the proper storage of prescription drugs or devices.

#### R 338.575 Closing a wholesale distributor or wholesale distributor-broker.

Rule 75. (1) A wholesale distributor that is ceasing operations shall return the wholesale distributor license and controlled substance license, if applicable, to the department, and provide the department with written notification of all of the following not less than 15 days before closing:

- (a) The effective date of closing.
  - (b) How controlled substances will be disposed.
  - (c) How non-controlled substances will be disposed.
  - (d) The location where records and prescription files will be stored.
- (2) A wholesale distributor shall comply with all applicable federal requirements for discontinuing a business that handles a controlled substance.
- (3) A wholesale distributor-broker that is ceasing operations shall return the wholesale distributor-broker license and provide the department with written notification of the location where records will be stored not less than 15 days before closing.
- (4) Records must be maintained for the same amount of time that is required if the wholesale distributor or wholesale distributor-broker remained open.

R 338.577 Relicensure and renewal of wholesale distributor and wholesale distributor-broker.

Rule 77. (1) An applicant with an expired license may apply for relicensure of a license by submitting to the department a completed application on a form provided by the department, satisfying all the requirements for licensure in part 5 of these rules, R 338.563 to R 338.577, and paying the requisite fee.

(2) An applicant that renews its license during the license renewal period shall submit to the department a completed application on a form provided by the department together with the requisite fee.

(3) A wholesale distributor-broker seeking renewal shall submit an affidavit, at the time of the application for renewal that the applicant facilitates deliveries or trades for not less than 50 qualified pharmacies and that each pharmacy holds a license in good standing as a pharmacy from the state in which it is located at the time of renewal.

## PART 6. PRACTICE OF PHARMACY

R 338.583 Prescription drug receipts.

Rule 83. (1) The purchaser of a prescription drug shall receive, when the drug is delivered to the purchaser, a receipt that contains all of the following information:

- (a) The brand name of the drug dispensed, if applicable, unless the prescriber indicates "do not label."
  - (b) The name of the manufacturer or supplier of the drug if the drug has no brand name, unless the prescriber indicates "do not label."
  - (c) The strength of the drug, if significant, unless the prescribed indicates "do not label."
  - (d) The quantity dispensed, if applicable.
  - (e) The name and address of the pharmacy.
  - (f) The serial number of the prescription.
  - (g) The date the prescription was dispensed.
  - (h) The name of the prescriber.
  - (i) The name of the patient for whom the drug was prescribed.
  - (j) The price for which the drug was sold to the purchaser.
- (2) Notwithstanding R 338.582, the information required in this rule must appear on either the prescription label or on a combination label and receipt.

(3) For prescription services that are covered by a third-party pay contract, the price included in the receipt is the amount paid by the patient.

(4) A pharmacist shall retain a copy of the receipt for a period of 90 days. The inclusion of the information required in this rule in the automated data processing system or on the written prescription form and the retention of the form constitutes retaining a copy of the receipt. The physical presence of the prescription form in the pharmacy or the ability to retrieve the information from the automated data processing system constitutes compliance with the requirement of having the name and address of the pharmacy on the form.

(5) This rule does not apply to pharmacy services provided in a medical institution.

#### R 338.583a Pharmacy acquisition and distribution records.

Rule 83a. (1) A pharmacy shall keep and make available for inspection all acquisition and distribution records for prescription drugs and devices, including invoices, packing slips or receipts, for 5 years. All records, which may be electronic, must be readily retrievable within 48 hours.

(2) Acquisition and distribution records must include the following information:

(a) The source of the prescription drugs or devices, including the name and principal address of the seller or transferor and the address from which the prescription drugs or devices were shipped.

(b) The identity and quantity of the prescription drugs or devices received, if applicable, and distributed or disposed of.

(c) The dates of receipt, if applicable, and distribution of the prescription drugs or devices.

#### R 338.584 Non-controlled prescriptions.

Rule 84. (1) A prescriber who issues a prescription for a non-controlled prescription drug shall date the prescription; provide a manual signature on the prescription; and ensure that the prescription contains all of the following information:

(a) The full name of the patient for whom the drug is being prescribed.

(b) The prescriber's preprinted, stamped, typed, or manually printed name and address.

(c) The drug name and strength, and dosage form if necessary.

(d) The quantity prescribed.

(e) The directions for use.

(f) The number of refills authorized.

(g) The date the prescription was issued.

(h) If the prescription is for an animal, the species of the animal and the full name of the owner.

(2) A prescriber shall ensure that a prescription is legible, and that the information specified in subrule (1)(c) to (h) of this rule is clearly separated.

(3) A prescriber shall not prescribe more than 1 of the following on a single prescription form as applicable:

(a) For a prescription prescribed in handwritten form, up to 4 prescription drug orders.

(b) For a prescription prescribed on a computer-generated form or a preprinted list or produced on a personal computer or typewriter, up to 6 prescription drug orders.

(4) A prescription is valid for 1 year after the date the prescription was issued.

(5) A pharmacy shall keep the original prescription record for 5 years. Two years after the date of the prescription's issue date, a pharmacy may make an electronic duplicate of the original non-controlled paper prescription, which becomes the original prescription. A pharmacy shall present a paper copy of the electronic duplicate of the prescription to an authorized agent of the board on request.

(6) This rule does not apply to pharmacy services provided in a medical institution.

#### R 338.585 Customized patient medication package.

Rule 85. (1) A pharmacist may, with the consent of the patient, the patient's caregiver, or a prescriber, provide a CPMP. The CPMP is designed and labeled to indicate the day and time or period of time that the contents within each CPMP are to be taken. The individual that dispenses the medication shall instruct the patient or caregiver on the use of the CPMP.

(2) If medication is dispensed in a CPMP, all of the following conditions must be met:

(a) Each CPMP must bear a readable label that states all of the following information:

(i) A serial number for the CPMP and a separate identifying serial number for each of the prescription orders for each of the drug products contained in the CPMP.

(ii) The name, strength, physical description, and total quantity of each drug product contained in the CPMP.

(iii) The name of the prescriber for each drug product.

(iv) The directions for use and cautionary statements, if any, contained in the prescription order for each drug product in the CPMP.

(v) The date of the preparation of the CPMP.

(vi) An expiration date for the CPMP. The date must not be later than the earliest manufacturer's expiration date for any medication included in the CPMP or 60 days after the date of dispensing.

(vii) The name, address, and telephone number of the dispenser.

(viii) Any other information, statements, or warnings required for any of the drug products contained in the CPMP.

(b) A CPMP must be accompanied by any mandated patient information required under federal law. Alternatively, required medication information may be incorporated by the pharmacist into a single educational insert that includes information regarding all of the medications in the CPMP.

(c) At a minimum, each CPMP must comply with the USP and National Formulary, for moisture permeation requirements for a class b single-unit or unit-dose container. Each container must be either non-reclosable or so designed as to show evidence of being opened. Each CPMP must comply with all of the provisions of the poison prevention packaging act of 1970, 15 USC 1471 to 1477.

(d) If preparing a CPMP, the dispenser shall consider any applicable compendial requirements or guidelines, the physical and chemical compatibility of the dosage forms placed within each container, and any therapeutic incompatibilities that may attend the simultaneous administration of the medications. Medications must not be dispensed in CPMP packaging in any of the following situations:

(i) The USP monograph or official labeling requires dispensing in the original container.

(ii) The drugs or dosage forms are incompatible with packaging components or each other.

(iii) The drugs are therapeutically incompatible when administered simultaneously.

(iv) The drug products require special packaging.

(e) If 2 medications have physical characteristics that make them indistinguishable from each other, then the medication must not be packaged together in the same CPMP.

(f) Medications that are dispensed in CPMP packaging may not be returned to stock or dispensed to another patient when returned to the pharmacy for any reason. If a prescription for any drug contained in the CPMP is changed, then a new appropriately labeled CPMP must be prepared for the patient.

(g) In addition to all individual prescription filing requirements, a record of each CPMP dispensed must be made and filed. At a minimum, each record must contain all of the following information:

(i) The name and address of the patient.

(ii) The serial number of the prescription order for each drug product contained in the CPMP.

(iii) Information identifying or describing the design, characteristics, or specifications of the CPMP sufficient to allow subsequent preparation of an identical CPMP for the patient.

(iv) The date of preparation of the CPMP and the expiration date assigned.

(v) Any special labeling instructions.

(vi) The name or initials of the pharmacist who prepared the CPMP.

R 338.586 Prescription records; nonapplicability to inpatient medical institution service.

Rule 86. (1) Each prescription must be chronologically numbered, and the pharmacist performing final verification before dispensing shall record, manually or electronically, the prescription number, dispensing date, and the pharmacist's initials when the prescription is first filled at the pharmacy.

(2) If final product verification is completed by a pharmacy intern under the supervision of a pharmacist, both the initials of the pharmacy intern and the delegating pharmacist must be recorded.

(3) If final product verification is completed by a pharmacy technician, under R 338.3665(b), both the initials of the pharmacy technician and delegating pharmacist must be recorded.

(4) If the drug that is dispensed is other than the brand prescribed or if the prescription is written generically, the name of the manufacturer or supplier of the drug dispensed must be indicated on the prescription.

(5) This rule does not apply to pharmacy services provided in a medical institution.

R 338.587 Prescription refill records; manual systems; profile systems; automated pharmacy data systems; nonapplicability to medical institution service; record confidentiality; and access.

Rule 87. (1) A pharmacist shall record prescription refills using only 1 of the systems described in subrule (2), (3), or (4) of this rule and in compliance with the provisions of subrule (2), (3), or (4) of this rule, as applicable.

(2) A pharmacy may utilize a manual system of recording refills if the system complies with both of the following criteria:

(a) The amount and date dispensed must be entered on the prescription in an orderly fashion and the dispensing pharmacist initials the entry. If the pharmacist only initials and dates the prescription, then the full-face amount of the prescription must be considered dispensed.

(b) If the drug that is dispensed is other than the brand prescribed or if the prescription is written generically, then the name of the manufacturer or supplier of the drug dispensed must be indicated on the prescription.

(3) A pharmacy may utilize a uniform system of recording refills if the system complies with all of the following criteria:

(a) Records must be created and maintained in written form. All original and refill prescription information for a particular prescription appears on single documents in an organized format. The records are subject to inspection by the board or its agents.

(b) The following information for each prescription must be entered on the record:

(i) The prescription number.

(ii) The patient's name and address.

(iii) The prescriber's name.

(iv) The prescriber's DEA number, if appropriate.

(v) The number of refills authorized.

(vi) The "dispense as written" instructions, if indicated.

(vii) The name, strength, dosage form, quantity, and name of the manufacturer of the drug prescribed, and the drug dispensed originally and after each refill. If the drug dispensed is other than the brand prescribed or if the prescription is written generically, then the name of the manufacturer or supplier of the drug dispensed must be indicated.

(viii) The date of issuance of the prescription.

(ix) The date and identifying designation of the dispensing pharmacist for the original filling and for each refill. If a pharmacy technician performs final product verification, the identification of the delegating pharmacist and pharmacy technician must be recorded.

(c) Prescription entries must be made on the record when the prescription is first filled and at each refill, except that the format of the record may be organized so that information already entered on the record may appear for a prescription or refill without reentering the information. The dispensing pharmacist is responsible for the completeness and accuracy of the entries and shall initial the record each time a prescription is filled or refilled.

(d) The information required by subdivision (b) of this subrule must be entered on the record for all prescriptions filled at a pharmacy, including nonrefillable prescriptions. This requirement is in addition to the requirements set forth in R 338.586.

(4) A pharmacy may utilize a uniform automated data processing system of recording refills if the system complies with all of the following criteria:

(a) All information that is pertinent to a prescription must be entered on the record, including all of the following information:

(i) The prescription number.

(ii) The patient's name and address.

(iii) The prescriber's name.

(iv) The prescriber's DEA number, if appropriate.

(v) The number of refills authorized.

(vi) Whether the drug must be dispensed as written.

(vii) The name, strength, dosage form, quantity, and name of the manufacturer of the drug prescribed and the drug dispensed originally and after each refill. If the drug dispensed is other than the brand prescribed or if the prescription is written generically, then the name of the manufacturer or supplier of the drug dispensed must be indicated.

(viii) The date of issuance of the prescription.

(ix) The date and identifying designation of the dispensing pharmacist for the original filling and for each refill. If a pharmacy technician performs final product verification, the identification of the delegating pharmacist and pharmacy technician must be recorded.

(b) Prescription entries must be made on the record when the prescription is first filled and at each refill, except that the format of the record may be organized so that information already entered on the record may appear for a prescription or refill without reentering the information. The dispensing pharmacist is responsible for the completeness and accuracy of the entries. A pharmacy shall keep the original prescription record on site for 5 years. Two years after the date of the prescription's issue date, a pharmacy may make an electronic duplicate of the original non-controlled paper prescription, which becomes the original prescription. The records are subject to inspection by the board or its agents. A procedure must be established to facilitate inspections.

(c) The required information must be entered on the record for all prescriptions filled at the pharmacy, including nonrefillable prescriptions. This requirement is in addition to the requirements set forth in R 338.586.

(d) The recording system must provide adequate safeguards against improper manipulation, the alteration of records, and the loss of records.

(e) The recording system must have the capability of producing a printout of all original and refilled prescription data, including a prescription-by-prescription and refill-by-refill audit trail for any specified strength and dosage form of a controlled substance by either brand or generic name or an audit trail of controlled substance prescriptions written for a particular patient or by a particular practitioner. A printout of an audit trail or other required information must be made available to an authorized agent of the board on request. The prescription data must be maintained for 5 years. Data older than 2 years must be provided within 72 hours of the time the request is first made by the agent. Prescription data for the most current 2 years must be readily retrievable on site and available for immediate review.

(f) If the automated data processing system is inoperative for any reason, then the pharmacist shall ensure that all refills are authorized and that the maximum number of refills is not exceeded. When the automated data processing system is restored to operation, the pharmacist shall enter the information regarding prescriptions filled and refilled during the inoperative period into the automated data processing system within 48 hours.

(g) A pharmacy shall make arrangements with the supplier of data processing services or materials to ensure that the pharmacy continues to have adequate and complete prescription and dispensing records if the relationship with the supplier terminates for any reason. A pharmacy shall ensure continuity in the maintenance of records.

(h) The automated data processing system must be an integrated system that complies with all of the requirements of these rules.

(5) This rule does not apply to pharmacy services provided in a medical institution.

(6) Records that are created under subrule (2), (3), or (4) of this rule are subject to the same requirements regarding confidentiality and access that apply to original prescriptions.

#### R 338.588 Automated devices.

Rule 88. (1) “Automated device” means a mechanical system that performs an operation or activity, other than compounding or administration, relating to the storage, packaging, dispensing, or delivery of a drug and that collects, controls, and maintains transaction information.

(2) An automated device may be used only in the following locations:

(a) A pharmacy, or at the same physical address as the pharmacy if the location of the automated device is owned and operated by the same legal entity as the pharmacy.

(b) A hospital.

(c) A county medical care facility.

(d) A hospice.

(e) A nursing home.

(f) Other skilled nursing facility, as that term is defined in section 20109 of the code, MCL 333.20109.

(g) An office of a dispensing prescriber, where the device is operated by the dispensing prescriber, not a pharmacy.

(h) A location affiliated with a hospital, but not at the same physical address as the pharmacy, which is owned and operated by the hospital, consistent with section 17760 of the code, MCL 333.17760.

(i) A location other than subdivisions (a) to (h) of this subrule, where the automated device acts as an extension of a pharmacy. In addition to the requirements in this rule, the automated device must meet the requirements in R 338.588a.

(3) Records and electronic data maintained by automated devices must meet all of the following requirements:

(a) All events involving access to the contents of the automated devices must be recorded electronically.

(b) Records must be maintained for 5 years by the pharmacy or dispensing prescriber and must be retrievable on demand for review by an agent of the board. The records must include all of the following information:

(i) The unique identifier of the automated device accessed.

(ii) Identification of the individual accessing the automated device.

(iii) The type of transaction.

(iv) The name, strength, dosage form, quantity, and name of the manufacturer of the drug accessed.

(v) The name of the patient for whom the drug was ordered.

(vi) Identification of the pharmacist responsible for the accuracy of the medications to be stocked or restocked in the automated device.

(4) Except for devices allowed under R 388.588a(2), policy and procedures for the use of the automated device must include a requirement for pharmacist review of the prescription or medication order before removal of any medication. This subrule does not apply to the following situations:

(a) The system is being used as an after-hours cabinet for medication dispensing in the absence of a pharmacist as provided in R 338.486(4)(j). A pharmacist shall review the orders and authorize any further dispensing within 48 hours.

(b) The system is being used in place of an emergency kit as provided in R 338.486(4)(c). A pharmacist shall review the orders and authorize any further dispensing within 48 hours.

(c) The system is being accessed to remove medication required to treat the emergent needs of a patient as provided in R 338.486(4)(c). A sufficient quantity to meet the emergent needs of the patient may be removed until a pharmacist is available to review the medication order. A pharmacist shall review the orders and authorize any further dispensing within 48 hours.

(d) The automated device is located in a dispensing prescriber's office to facilitate dispensing by the dispensing prescriber.

(5) A copy of all policies and procedures related to the use of an automated device must be maintained at the pharmacy responsible for the device's specific location or at the dispensing prescriber's office and be available for review by an agent of the board.

#### R 338.588a Automated devices in non-inpatient settings.

Rule 88a. (1) A pharmacy that operates an automated device to deliver prescription medication directly to an ultimate user that is not included in R 338.588(2)(a) to (h) shall comply with all of the following requirements:

(a) The automated device may only deliver non-controlled drugs.

(b) The automated device is operated as an extension of a pharmacy, under the control of a pharmacist.

(c) The automated device is secured, lockable, and privacy enabled.

(d) Prescriptions must contain a label that identifies the automated device where the medication was dispensed.

(e) In order for the automated device to be operable, a pharmacist shall be available to provide patient consultation through real-time audio and visual communication. The pharmacist may provide consultation from a remote location.

(f) Before the automated device is put into service, the pharmacy shall notify the department of the location of the automated device on a form provided by the department.

(g) Dispensing activities through the automated device must comply with all recordkeeping, drug utilization review, and patient counseling requirements that are applicable to a pharmacy.

(2) A pharmacy licensee may locate a non-dispensing storage and pick up device inside of the pharmacy that is used for a patient or agent of the patient to pick up prescription medication if the automated device is secured, lockable, and privacy enabled.

(3) If an automated device is used in a dispensing prescriber's office, and the automated device is not affiliated with a pharmacy, the device must be used only to dispense medications to the dispensing prescriber's patients and only under the control of the dispensing prescriber. All of the following apply to the use of an automated device in a dispensing prescriber's office:

(a) If a dispensing prescriber delegates the stocking of the automated device, then technologies must be in place and utilized to ensure that the correct drugs are stocked in their appropriate assignment utilizing a board-approved error prevention technology that complies with R 338.3154.

(b) A dispensing prescriber operating an automated device is responsible for all medications that are stocked and stored in that device, as well as removed from that device.

(c) If any medication or device is dispensed from an automated device in a dispensing prescriber's office, then documentation as to the type of equipment, serial numbers, content, policies, procedures,



and location within the facility must be maintained by the dispensing prescriber for review by an agent of the board. This documentation must include all of the following information:

- (i) Manufacturer name and model.
- (ii) Quality assurance policy and procedure to determine continued appropriate use and performance of the automated device.
- (iii) Policy and procedures for system operation that addresses, at a minimum, all of the following:
  - (A) Accuracy.
  - (B) Patient confidentiality.
  - (C) Access.
  - (D) Data retention or archival records.
  - (E) Downtime procedures.
  - (F) Emergency procedures.
  - (G) Medication security.
  - (H) Quality assurance.

**R 338.588b Automated devices in medical institutions.**

Rule 88b. (1) An automated device used by staff to store medications intended for patient administration in any hospital, county medical care facility, nursing home, hospice, or another skilled nursing facility, as that term is defined in section 20109 of the code, MCL 333.20109, must comply with all of the following:

- (a) The automated device must be stocked, maintained, and controlled by a pharmacy that is licensed in this state.
- (b) If the stocking of the automated device is performed by non-pharmacist personnel, then technologies must be in place and utilized to ensure that the correct drugs are stocked in their appropriate assignment utilizing bar-coding or another board-approved error-prevention technology that complies with R 338.3154.
- (c) A pharmacy operating an automated device is responsible for all medications that are stocked and stored in that device, as well as removed from that device.
- (d) If any medication or device is dispensed from an automated device, then documentation as to the type of equipment, serial numbers, content, policies, procedures, and location within the facility must be maintained by the pharmacy for review by an agent of the board. The documentation must include all of the following information:
  - (i) Name and address of the pharmacy responsible for the operation of the automated device.
  - (ii) Name and address of the facility where the automated device is located.
  - (iii) Manufacturer name and model number.
  - (iv) Quality assurance policy and procedure to determine continued appropriate use and performance of the automated device.
  - (v) Policy and procedures for system operation that address, at a minimum, all of the following:
    - (A) Accuracy.
    - (B) Patient confidentiality.
    - (C) Access.
    - (D) Data retention or archival records.
    - (E) Downtime procedures.
    - (F) Emergency procedures.
    - (G) Medication security.
    - (H) Quality assurance.
  - (I) Ability to provide on demand to an agent of the board a list of medications qualifying for emergency dose removal without pharmacist prior review of the prescription or medication order.

(2) An automated device that is operated at a location affiliated with a hospital, but not at the same physical address as the pharmacy, which is owned and operated by the hospital, must comply with section 17760 of the code, MCL 333.17760.

R 338.589 Professional responsibility; patient counseling; “caregiver” defined.

Rule 89. (1) A pharmacist has a professional responsibility for the strength, quality, purity, and the labeling of all drugs and devices dispensed under a prescription. In discharging this responsibility, a pharmacist shall utilize only those drugs and devices that are obtained from manufacturers and wholesale distributors licensed under section 17748 of the code, MCL 333.17748, or from other lawful channels of distribution.

(2) A pharmacist shall not fill a prescription order if, in the pharmacist’s professional judgment, any of the following provisions apply:

- (a) The prescription appears to be improperly written.
- (b) The prescription is susceptible to more than 1 interpretation.
- (c) The pharmacist has reason to believe that the prescription could cause harm to the patient.
- (d) The pharmacist has reason to believe that the prescription may be used for other than legitimate medical purposes.

(3) A prescription drug must be dispensed only when the pharmacy is open and under the personal charge of a pharmacist.

(4) To encourage intended, positive patient outcomes, a pharmacist shall communicate to the patient, or the patient’s caregiver, necessary and appropriate information regarding safe and effective medication use when a prescription is dispensed. As used in this subrule, “caregiver” means the parent, guardian, or other individual who has assumed responsibility for providing a patient’s care. All of the following provisions apply to communicating medication safety and effectiveness information:

(a) The information must be communicated orally and in person, except when the patient or patient’s caregiver is not at the pharmacy or when a specific communication barrier prohibits oral communication. In either situation, providing printed or electronic/digital material designed to help the patient use the medication safely and effectively satisfies the requirements of this subrule.

(b) The information must be provided with each prescription for a drug not previously prescribed for the patient.

(c) If the pharmacist determines it appropriate, the information must be provided with prescription refills.

(d) The information must be provided if requested by the patient or patient’s caregiver or agent for any prescription dispensed by the pharmacy. This subrule does not require that a pharmacist provide consultation if a patient or a patient’s caregiver refuses consultation. This subrule does not apply to prescriptions dispensed for administration to a patient while the patient is in a medical institution.

(5) Pharmacist delegation of acts, tasks, or functions must comply with section 16215 of the code, MCL 333.16215, and be under the personal charge of the delegating pharmacist, except as provided in section 17742b of the code, MCL 333.17742b, R 338.486, and R 338.3665(c). A pharmacist that delegates acts, tasks, or functions to a licensed or unlicensed individual shall do all of the following:

(a) Determine the knowledge and skill required to safely and competently complete the specific act, task, or function to be delegated.

(b) Before delegating an act, task, or function, determine whether the delegate has the necessary knowledge and skills to safely and competently complete the act, task, or function.

(c) Provide written procedures or protocols, or both, to be followed by the delegatee in the performance of the delegated act, task, or function.

(d) Supervise and evaluate the performance of the delegatee.

(e) Provide remediation of the performance of the delegatee, if indicated.

(6) A delegating pharmacist bears the ultimate responsibility for the performance of delegated acts, tasks, and functions performed by the delegatee within the scope of the delegation.

(7) A pharmacist may remotely access a pharmacy database as well as any other necessary databases that are routinely accessed to perform their functions. In accessing any database, a pharmacist shall provide adequate security to protect the confidentiality and integrity of a patient's protected health information.

**R 338.590 Hospice emergency drug box.**

Rule 90. (1) A pharmacy that establishes a medication box exchange program for hospice emergency care services rendered in patients' homes under section 17746 of the code, MCL 333.17746, shall establish drug boxes that comply with this rule. Before providing drug boxes for a hospice emergency care system, the pharmacist in charge shall ensure that the hospice has developed policies and procedures that require all of the following:

(a) Maintenance by the hospice of a drug box exchange log that accounts for the hospice's receipt of the boxes from the pharmacy, assignment of the boxes to registered nurses or physicians' assistants, and return of the boxes to the pharmacy for restocking.

(b) A procedure to ensure that the drug boxes are inspected not less than weekly to determine if they have expired or have been opened.

(c) Procedures for the storage and control of a drug box while it is assigned to, and being used by, the prescriber, a registered nurse, or a physician's assistant.

(d) A procedure for implementing the hospice medical director's responsibility for ensuring that prescriptions for drugs removed from the drug boxes are obtained from an appropriate prescriber.

(2) A pharmacy shall stock drug boxes for a hospice emergency care system in accordance with the policies and procedures developed by the hospice and approved by the hospice medical director.

(3) The drugs contained in each drug box must be listed inside the front cover of the box. Each box must be equipped with only 1 nonreusable, tamper-evident seal or sealing system that is a color that designates that the box has not been opened and several nonreusable, tamper-evident seals or sealing systems that are a different color that designates that the box has been opened.

(4) A drug box must be numbered. A permanent record of all drug boxes must be maintained at the pharmacy.

(5) A label that contains all of the following information must be attached to the drug box so that it is visible from the outside of the box:

(a) The name and address of the pharmacy.

(b) The name and address of the hospice.

(c) The name of the pharmacist who last inspected and restocked the drug box.

(d) The date the drug box was last restocked.

(e) The date the drug box must be returned to the pharmacy for the replacement of expired drugs.

(f) The number of the drug box.

(6) After the drug box has been stocked and labeled, the pharmacist shall seal it with the nonreusable, tamper-evident seal or sealing system that is the color that designates that the box has not been opened.

(7) A drug box must be maintained in a substantially constructed, securely locked storage compartment when not under the direct control of the pharmacist, prescriber, registered nurse, or physician's assistant. The box must be stored under conditions that maintain the stability, integrity, and effectiveness of the drugs. Access to the storage compartment and to the drug box must be limited to individuals who are authorized to stock the drug box or to dispense drugs from the drug box on the order of an appropriate prescriber.

(8) The drug box must remain sealed at all times, except when in use. All drugs removed from the box must be recorded on a medication use form. After completing the form, the physician, registered nurse,

or physician's assistant who removed the drug must place the form in the drug box and seal the box with a nonreusable, tamper-evident seal or sealing system that is a color that designates that the box has been opened.

(9) Each drug box under the control of the pharmacy must be examined not less than weekly to ensure that the seal, which designates that the box has not been opened is still intact and the expiration date, has not been exceeded. If the expiration date has been exceeded or the box has been opened, the box must be returned to the pharmacy. The written prescription for all drugs that have been administered from the drug box must accompany the drug box when it is returned to the pharmacy after opening.

(10) The pharmacy shall maintain a permanent record of drug box exchanges on a drug box exchange log. The record must contain all of the following information:

- (a) The number of the box.
- (b) The name of the hospice to which the box is released.
- (c) The date the box is released to the hospice.
- (d) The name and signature of the pharmacist who releases the box to the hospice.
- (e) The expiration date assigned.
- (f) The date the box is returned to the pharmacy for restocking.
- (g) The name and signature of the pharmacist who received the box for restocking.

(11) On the return of the drug box to the pharmacy, the pharmacist shall reconcile the drugs dispensed from the drug box with the prescriptions of the appropriate prescriber or medical director of the hospice. The pharmacist shall note that the prescriptions were dispensed from the hospice drug box on the back of the prescriptions. The prescriptions must be filed in the same manner as other prescriptions are maintained at the pharmacy.

#### R 338.591 Dispensing emergency supply of insulin.

Rule 91. (1) A pharmacist may dispense an emergency supply of insulin to an individual if the pharmacist complies with all of the following:

- (a) The requirements in section 17744f of the code, MCL 333.17744f.
- (b) An emergency supply of insulin may only be dispensed from a pharmacy with real time access to the qualified prescription for insulin.
- (c) Only 1 emergency supply, as that term is defined in MCL 333.17744f, per patient, may be dispensed for each of 3 qualified prescriptions per year.

(2) If the smallest single package of insulin available exceeds a 30-day supply, dispensing the package of insulin that is available complies with this rule and section 17744f of the code, MCL 333.17744f.

---

**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

NURSING HOME ADMINISTRATORS

GENERAL RULES

Filed with the secretary of state on

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

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16145, 16148, 16178, 16287, and 17309 of the public health code, 1978 PA 368, MCL 333.16145, 333.16148, 333.16178, 333.16287, and 333.17309 and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL- 338.3501, 445.2001, 445.2011, and 445.2030)

R 339.14001, R 339.14011, R 339.14012, R 339.14020, R 339.14020a, R 339.14026, R 339.14032 of the Michigan Administrative Code are amended, R 339.14005, R 339.14007, R 339.14008, R 339.14009, R 339.14022, R 339.14024, R 339.14024a, R 339.14026a, and R 339.14029 are rescinded, and R 339.14006, R 339.14014, R 339.14017, and R 339.14021 are added, as follows:

PART 1. GENERAL PROVISIONS

R 339.14001 Definitions.

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

(a) "Accredited institution" means a college or university that meets the standards set forth in R ~~339.14005~~**339.14011**.

(b) "Board" means the Michigan board of nursing home administrators.

(c) **“CHEA” means the Council of Higher Education Accreditation.**

(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.

(~~ef~~) “Life Safety Code” means the National Fire Protection Association 101 Life Safety Code, **2018 edition**.

(g) **“NAB” means the National Association of Long Term Care Administrator Boards.**

(h) **“NAB CORE” means the NAB core of knowledge examination for long term care administrators.**

(i) **“NAB NHA LOS” means the NAB nursing home administrators line of service examination.**

(~~f~~) ~~“Sponsor” means a person or an organization offering continuing education courses relating to the practice of nursing home administration.~~

(2) The terms defined in the code have the same meanings when used in these rules.

**PART 2. EDUCATION**

R 339.14005 Accreditation standards; adoption by reference. **Rescinded.**

~~Rule 5. (1) The department, in consultation with the board, adopts by reference the procedures and criteria for recognizing accrediting organizations of the council of higher education accreditation (CHEA), effective September 24, 2018, and the procedures and criteria for recognizing accrediting agencies of the United States Department of Education, effective July 1, 2010, as contained in 34 CFR part 602 (2010). The CHEA recognition standards may be obtained from the council's website at <http://www.chea.org> at no cost. The federal recognition criteria may be obtained at no cost from the United States Department of Education's website at: <http://www.ed.gov>.~~

~~(2) Copies of the standards and criteria recognizing accrediting agencies used by CHEA and the department of education are available for inspection and distribution at cost of 10 cents per page from the Board of Nursing Home Administrators, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan 48909.~~

**R 339.14006 Training standards for identifying victims of human trafficking; requirements.**

**Rule 6. (1) Under section 16148 of the code, MCL 333.16148, an individual seeking licensure or who is licensed or registered shall have completed training in identifying victims of human trafficking that satisfies the following standards:**

**(a) Training content must cover all of the following:**

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

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

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

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

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

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

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

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

**(iv) Reading an article related to the identification of victims of human trafficking that meets the requirements of subdivision (a) of this subrule and is published in a peer-reviewed journal, 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 an individual and request documentation of proof of completion of training. If audited by the department, 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 the individual. The self-certification statement must include the individual's name and either of the following:**

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

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

R 339.14007 ~~Approved course of instruction and training.~~**Rescinded.**

~~Rule 7. The department, in consultation with the board, approves a course of instruction and training that meets all of the following:~~

~~—(a) Complies with section 17309(2) of the code, MCL 333.17309(2).~~

~~—(b) Includes, at a minimum, a total of 9 semester credits or 144 clock hours of instruction. The instruction provided shall include all of the following subjects:~~

~~—(i) Administrative management of a nursing home.~~

~~—(ii) Human resources management in a nursing home.~~

~~—(iii) Financial management of a nursing home.~~

~~—(iv) State and federal laws and regulations regarding the nursing home industry, operation of a nursing home, emergency preparedness, including Medicare and Medicaid provider compliance with the requirements of the Life Safety Code, and the protection of patients' health, safety, and welfare in a nursing home.~~

~~—(v) Gerontology or the aging process.~~

~~—(vi) Identification of elder abuse and neglect.~~

~~—(c) Is offered by an accredited institution that meets the standards in R 339.14005.~~

### PART 3. LICENSURE

R 339.14008 ~~Application for nursing home administrator license; requirements.~~

**Rescinded.**

~~Rule 8. (1) The department shall issue a nursing home administrator license to an applicant who, in addition to satisfying the requirements of the code, satisfies all of the following:~~

~~—(a) Submits a completed application on a form provided by the department.~~

~~—(b) Pays the required fee to the department.~~

~~—(c) Complies with either of the following:~~

~~—(i) Completed a course of instruction and training that meets the requirements of R 339.14007.~~

~~(ii) Had been employed as a chief executive or administrative officer at a state-licensed hospital for not less than 5 of the 7 years immediately preceding the date of applying for a nursing home administrator license, as provided in section 17309(3) of the code, MCL 333.17309.~~

~~(2) In addition to meeting the requirements of subrule (1) of this rule, an applicant shall, within 2 years after the date of the application, pass both of the following examinations:~~

~~—(a) The National Association of Long-term Care Administrator Board's (NAB) Core of Knowledge Examination for Long Term Care Administrators (CORE) administered by the professional examination service of the NAB or its successor organization, pursuant to R 339.14011.~~

~~—(b) The NAB National Nursing Home Administrators Line of Service Examination (NHA LOS) administered by the professional examination service of the NAB or its successor organization, pursuant to R 339.14011.~~

~~(3) An applicant may sit for the CORE and the NHA LOS examinations a maximum of 4 times each.~~

R 339.14009 ~~Eligibility for examinations.~~**Rescinded.**



~~Rule 9. (1) An applicant may take the CORE and the NHA LOS examinations required under R 339.14008(2) after the applicant has received authorization from the department to take the examinations.~~

~~(2) The department shall authorize the applicant to take the examinations when it has received the required fee and a completed application on a form provided by the department and either of the following:~~

~~—(a) Documentation sent directly to the department from an accredited institution verifying that the applicant has met the educational requirements specified in R 339.14008(1)(c)(i).~~

~~—(b) Documentation sent directly to the department that the applicant has met the employment requirements specified in R 339.14008(1)(c)(ii).~~

## **PART 2. EDUCATION, EXAMINATIONS, AND LICENSURE**

**R 339.14011 ~~Passing examination scores.~~ Accreditation standards; adoption by reference.**

~~Rule 11. The passing score for the CORE and for the NHA LOS examinations is the passing score recommended by the NAB.~~

**(1) The department, in consultation with the board, adopts by reference the standards and procedures for recognition of accrediting organizations of CHEA, effective January 1, 2022, and the procedures and criteria for recognizing accrediting agencies of the United States Department of Education, effective July 1, 2020, as contained in 34 CFR part 602. The CHEA recognition standards may be obtained from the council's website at <http://www.chea.org>, at no cost. The federal recognition criteria may be obtained at no cost from the United States Department of Education's website at: <http://www.ed.gov>.**

**(2) Copies of the standards and criteria recognizing accrediting agencies used by CHEA and the department of education are available for inspection and distribution at a cost of 10 cents per page from the Board of Nursing Home Administrators, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa Street, P.O. Box 30670, Lansing, Michigan 48909.**

**R 339.14012 ~~Training standards for identifying victims of human trafficking; requirements.~~ Educational requirements; approved course of instruction and training.**

**Rule 12. (1) An applicant for licensure shall have earned either of the following from an accredited college or university that satisfies the requirements of R 339.14011:**

**(a) If the applicant holds a valid, active license as a registered nurse, an associate degree or higher in nursing.**

**(b) A bachelor's degree.**

**(2) An applicant for licensure shall have earned not less than 9 semester hours or 144 clock hours of instruction in courses approved under subrule (3) of this rule. The instructional hours required by this subrule may be earned as a part of the applicant's degree program that satisfied the educational requirement of subrule (1) of this rule.**

**(3) The department, in consultation with the board, approves a course of instruction and training offered by an institution that meets the accreditation standards in R 339.14011 and includes all of the following subjects:**

**(a) Administrative management of a nursing home.**

**(b) Financial management of a nursing home.**

**(c) Gerontology or the aging process.**

**(d) Human resources management in a nursing home.**

**(e) Identification of elder abuse and neglect.**

**(f) State and federal laws and regulations regarding the nursing home industry, operation of a nursing home, emergency preparedness, including Medicare and Medicaid provider compliance with the requirements of the Life Safety Code, and the protection of patients' health, safety, and welfare in a nursing home.**

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

~~— (a) Training content must cover all of the following:~~

~~— (i) Understanding the types and venues of human trafficking in Michigan or the United States.~~

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

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

~~(iv) Resources for reporting the suspected victims of human trafficking.~~

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

~~— (i) Training offered by a nationally recognized or state recognized, health related organization.~~

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

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

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

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

~~— (i) Teleconference or webinar.~~

~~(ii) Online presentation.~~

~~(iii) Live presentation.~~

~~(iv) Printed or electronic media.~~

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

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

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

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

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

~~— (3) Pursuant to section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule apply to all license renewals and for initial licenses issued on or after March 17, 2021.~~

### **R 339.14014 Examination approval and adoption; passing score; limitations.**

**Rule 14. (1) The board approves and adopts the NAB CORE and the NAB NHA LOS examinations developed, administered, and scored by the NAB or its successor organization.**

**(2) The accepted passing score for the NAB CORE and the NAB NHA LOS examinations is the passing score established by the NAB or its successor organization.**

**(3) An applicant may retake the NAB CORE and the NAB NHA LOS in compliance with the limitations established by the NAB or its successor organization.**

**R 339.14017 Application for initial nursing home administrator license; requirements.**

**Rule 17. The department shall issue a license to an applicant who, in addition to satisfying the requirements of the code and these rules, satisfies all of the following:**

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

**(b) Pays the required fee to the department.**

**(c) Complies with either of the following:**

**(i) Has completed the educational requirement and the course of instruction and training that meets the requirements of R 339.14012.**

**(ii) Has been employed as a chief executive or administrative officer at a state-licensed hospital for not less than 5 of the 7 years immediately preceding the date of applying for a nursing home administrator license, as provided in section 17309(3) of the code, MCL 333.17309.**

**(d) Passes both of the following examinations:**

**(i) The NAB CORE administered by the professional examination service of the NAB or its successor organization.**

**(ii) The NAB NHA LOS administered by the professional examination service of the NAB or its successor organization.**

**R 339.14020 Relicensure.**

**Rule 20. (1) An applicant for relicensure whose Michigan license has lapsed, under the provisions of 16201(3) or (4) of the code, MCL 333.16201, as applicable, may be relicensed by complying with the following requirements as noted by (√):**

<del>(1)(a)</del> <b>(a) An applicant who has let his or her whose Michigan license has lapse lapsed and who does not hold a current and valid nursing home administrator license in another state of the United States or province of Canada:</b>	<b>Lapsed 0-3 Years years.</b>	<b>Lapsed More more than 3 Years years.</b>
<del>(a)(i)</del> <b>(i) Submits a completed application on a form provided by the department, together with the requisite fee.</b>	√	√
<del>(b)(ii)</del> <b>(ii) Establishes that the applicant is of good moral character as that term is defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.</b>		√
<del>(c)(iii)</del> <b>(iii) Submits fingerprints as set forth in section 16174(3) of the code, MCL 333.16174.</b>		√
<del>(d)(iv)</del> <b>(iv) Passed the NAB CORE and the NAB NHA LOS examinations within 2 years of application for relicensure.</b>		√
<del>(e)(v)</del> <b>(v) Completed 36 hours of approved continuing education credits as required by R 339.14022 and R 339.14024 339.14021 during the 2 years immediately preceding the application for relicensure.</b>	√	√
<del>(f)(vi)</del> <b>(vi) If applicable, provide proof of any nursing home administrator license previously held: An applicant who is or has ever been licensed,</b>	√	√

<p>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:</p> <p>(A) Disclose each license, registration, or certification on the application form.</p> <p>(B) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.</p> <p><del>An applicant's nursing home administrator license in good standing must be verified by the licensing agency of any state of the United States or province of Canada in which the applicant has ever held a nursing home administrator license.</del></p> <p><del>Verification must include the record of any disciplinary action taken or pending against the applicant.</del></p>		
--	--	--

<p><del>(2)(b)</del> An applicant <del>who has let his or her Michigan</del> whose license <del>has lapse</del> <b>lapsed</b> and who is currently licensed or registered in another state of the United States or province of Canada may be relicensed under section 16201(4) of the code, MCL 333.16201, if the applicant satisfies all of the following:</p>	Lapsed 0-3 Years years.	Lapsed <b>More more</b> than 3 Years years.
<p><del>(a)(i)</del> Submits a completed application on a form provided by the department, together with the requisite fee.</p>	√	√
<p><del>(b)(ii)</del> Establishes that the applicant is of good moral character <b>as that term is defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.</b></p>		√
<p><del>(c)(iii)</del> Submits fingerprints as set forth in section 16174(3) of the code, MCL 333.16174.</p>		√
<p><del>(d)(iv)</del> Completed 36 hours of approved continuing education credits as required by R <del>339.14022 and R 339.14024</del> <b>339.14021</b> during the 2 years immediately preceding the application for relicensure.</p>	√	√
<p><del>(e)</del> Provides proof of a current and valid nursing home administrator license:</p> <p><b>(v) An applicant who is or has ever been licensed, registered, or certified in a health profession or</b></p>	√	√

<p>specialty by another state, the United States military, the federal government, or another country, shall do both of the following:</p> <p>(A) Disclose each license, registration, or certification on the application form.</p> <p>(B) Satisfy the requirements of section 16174(2) of the code, MCL 333.16174, including verification from the issuing entity showing that disciplinary proceedings are not pending against the applicant and sanctions are not in force at the time of application.</p> <p><del>An applicant's nursing home administrator license in good standing must be verified by the licensing agency of any state of the United States or province of Canada in which the applicant holds or has ever held a nursing home administrator's license.</del></p> <p><del>Verification must include the record of any disciplinary action taken or pending against the applicant.</del></p>		
--	--	--

**(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 339.14020a Licensure by endorsement.

Rule 20a. (1) An applicant for ~~a nursing home administrator license~~ **licensure** by endorsement, in addition to meeting the requirements of the code and these rules, shall submit the required fee and a completed application on a form provided by the department.

**(2) If an applicant holds a current, valid health services executive designation granted by the NAB, the applicant is presumed to meet the requirements of section 16186(1)(b) of the code, MCL 333.16186.**

~~(2)(3) If an applicant does not satisfy subrule (2) of this rule but has been registered or licensed as a nursing home administrator in 1 or more state states for 5 years or more immediately preceding the date of filing an application for a Michigan nursing home administrator license, then the applicant is presumed to meet the requirements of section 16186(1)(b) of the code, MCL 333.16186.~~

~~(3)(4) If an applicant does not satisfy subrule (2) or (3) of this rule has been registered or licensed as a nursing home administrator in 1 or more state for less than 5 years immediately preceding the date of filing an application for a Michigan nursing home administrator license, then the applicant shall meet the requirements for initial licensure as specified in R 339.14008 339.14017.~~

~~(4)(5) Additionally, An the applicant shall have his or her license or registration in good standing verified by the licensing agency of any state of the United States in which the applicant holds or ever held a license or registration as a nursing home administrator. Verification must include the record of any disciplinary action taken or pending against the applicant. comply with both of the following:~~

**(a) Disclose each license, registration, or certification in a health profession or specialty issued by another state, the United States military, the federal government, or another country on the application form.**

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

### **PART 3. CONTINUING EDUCATION AND LICENSE RENEWAL**

**R 339.14021 License renewal; continuing education requirements; limitations. documentation; waiver.**

**Rule 21. (1) An applicant for license renewal shall accumulate not less than 36 hours of continuing education credits approved by the board during each license cycle.**

**(2) Not less than 2 continuing education credit hours must be earned in pain and symptom management during each renewal cycle, as required under section 16204 of the code, MCL 333.16204.**

**(3) A licensee's renewal submission is the certification that the licensee has accumulated the required continuing education during the preceding 2-year licensing cycle. The department may select and audit a licensee and request that the licensee produce documentation proving that the licensee complied with the continuing education requirements.**

**(4) A licensee shall retain documentation of the approved continuing education credit hours earned for a period of 4 years after renewal of the license.**

**(5) The continuing education credit hours earned during 1 renewal cycle must not be carried forward to the next renewal cycle.**

**(6) Except for the implicit bias training required under R 338.7004 that may be used to comply with R 338.7004 and a continuing education requirement, an applicant may not earn continuing education for a continuing education program that is identical to a program the applicant has already earned credit for during that renewal period.**

**(7) A request for a waiver under section 16205 of the code, MCL 333.16205, must be received by the department not less than 30 days before the last regularly scheduled board meeting before the expiration date of the license.**

### **PART 4. CONTINUING EDUCATION**

~~R 339.14022 Required continuing education; certification; documentation. **Rescinded.**~~

~~R 339.14022 Required continuing education; certification; documentation.~~

~~—Rule 22. (1) A licensee shall accumulate not less than 36 hours of continuing education credits during each license cycle from courses approved pursuant to R 339.14026 or R 339.14026a.~~

~~—(2) A licensee's renewal submission is the certification that he or she has accumulated 36 hours of continuing education during the preceding, 2-year licensing cycle.~~

~~—(3) The board may require an applicant or licensee to submit evidence to demonstrate compliance with this rule.~~

~~—(4) The licensee shall retain documentation of the approved continuing education credit hours earned for a period of 4 years after renewal of the license.~~

~~—(5) The department may select and audit a sample of renewal applications and request a licensee to produce documentation proving that the licensee complied with continuing education requirement in subrule (1) of this rule.~~

~~—(6) The department shall receive a request for a waiver under section 16205 of the code, MCL 333.16205, before the expiration date of the license.~~

~~R 339.14024 Credits earned; limit on distance learning credits; required~~

~~credits. Rescinded.~~

~~Rule 24. (1) As used in this rule, “participation” means education time, exclusive of any break.~~

~~(2) One continuing education credit hour is earned for each 50 to 60 minutes of participation in an approved continuing education course. After completion of the initial 60 minutes, continuing education credit may be earned in tenth of an hour increments for each additional 6 minutes of participation in an approved continuing education course.~~

~~(3) Fifteen continuing education credit hours are earned for each semester credit hour earned from an accredited college or university.~~

~~(4) Ten continuing education credit hours are earned for each academic quarter credit hour earned from an accredited college or university.~~

~~(5) A maximum of 20 continuing education credit hours may be earned through online or electronic media, such as videos, internet web-based seminars, video conference, online continuing education programs, or through any other media that do not permit live interaction between the presenter and the licensee.~~

~~(6) A minimum of 2 continuing education credit hours must be earned in pain and symptom management during each renewal cycle, as required under section 16204 of the code, MCL 333.16204.~~

~~(7) A minimum of 1 continuing education credit hour must be earned in state specific laws and regulations pertaining to licensed nursing home and nursing care facilities during each renewal cycle.~~

R 339.14024a ~~Carry over credit; duplicate continuing education credit; limitation. Rescinded.~~

~~Rule 24a. (1) The continuing education credit hours earned during 1 renewal cycle shall not be carried forward to the next renewal cycle.~~

~~(2) A licensee shall not earn continuing education credit for completing the same course twice within the same renewal cycle.~~

R 339.14026 Approved continuing education courses.

Rule 26. If a continuing education course covers a qualifying subject specified in R 339. 14032, the following continuing education courses are approved by the board:

(a) A **continuing education** course approved by the NAB.

(b) ~~A~~ **An academic or continuing education** course offered by a college or university that meets the accreditation standards adopted in R 339.14005 **339.14011**.

R 339.14026a ~~Application for board approval of continuing education course.~~

**Rescinded.**

~~Rule 26a. (1) If a continuing education course is not approved pursuant to R 339.14026, the sponsor of the course may seek board approval by complying with both of the following:~~

~~—(a) Completing and submitting an application on the form provided by the department not less than 120 days before the first date of instruction.~~

~~—(b) Submitting with the application all of the following materials:~~

~~—(i) A detailed course outline that must include the length of time designated for each topic.~~

~~—(ii) A list of instructional materials.~~

~~—(iii) A copy of each instructor’s résumé.~~

~~—(iv) A description of the methodology to be used to monitor and verify attendance and the sponsor’s policy for retention of documents verifying course completion.~~

~~—(v) A written policy describing the sponsor’s refund policy.~~

~~(2) If the sponsor of the course is seeking approval for credits that may be used to satisfy the pain and symptom management continuing education required by R 339.14024(6), the board may approve credit~~

~~or credits that could be applied toward that requirement based on the length of time the topic will be covered in the course.~~

~~—(3) At the conclusion of each board approved course, the sponsor of the course shall award to each participant a certificate or written evidence of attendance that indicates all of the following:~~

~~—(a) The participant's name.~~

~~—(b) The date the course was offered.~~

~~—(c) The location of where the course offered.~~

~~—(d) The sponsor approval number.~~

~~—(e) The number of hours of continuing education earned.~~

~~—(f) If applicable, the hours of continuing education earned that may satisfy the pain and symptom management continuing education required by R 339.14024(6).~~

~~—(4) The sponsor of the course shall maintain attendance records for 4 years from the date of the course.~~

~~—(5) The board shall not approve any application that was filed after the first date of instruction.~~

R 339.14029 ~~Withdrawal of board approval of continuing education course.~~ **Rescinded.**

~~—Rule 29. Approval of a continuing education course may be withdrawn by the board for failure to comply with the requirements of R 339.14026a.~~

R 339.14032 Qualifying continuing education subjects.

Rule 32. One or more qualifying subjects ~~shall~~ **must** be covered in a course for the participant to receive continuing education credit. Qualifying subjects are those that contribute to the professional competency of a licensee, including 1 or more of the following:

(a) Behavioral science.

(b) ~~Economics, finance, marketing, or management.~~ **Communications or information technology.**

(c) ~~Geriatrics, gerontology, or aging.~~ **Economics, finance, marketing, or management.**

(d) ~~Health care, patient care, or elder abuse and neglect identification.~~ **Geriatrics, gerontology, or aging.**

(e) ~~Pharmacology and toxicology.~~ **Healthcare, patient care, or elder abuse and neglect identification.**

(f) Human resources.

(g) ~~State and federal laws and regulations regarding the nursing home industry.~~ **Implicit bias training.**

(h) ~~Communications or information technology.~~ **Pain and symptom management.**

(i) ~~Pain and symptom management.~~ **Pharmacology and toxicology.**

(j) **State and federal laws and regulations regarding the nursing home industry.**



---

**NOTICE OF PUBLIC HEARING**

---

Department of Licensing and Regulatory Affairs  
Bureau of Professional Licensing  
Administrative Rules for Nursing Home Administrators—General Rules  
Rule Set 2022-67 LR

**NOTICE OF PUBLIC HEARING**

Tuesday, April 9, 2024  
09:00 AM

UL-5

611 W. Ottawa Street, Lansing, Michigan

The Department of Licensing and Regulatory Affairs will hold a public hearing to receive public comments on proposed changes to the Nursing Home Administrators—General Rules rule set.

The proposed rules add and clarify definitions, amend and clarify requirements for licensure and continuing education requirement, clarify that a licensee who completes implicit bias training under R 338.7004 may also use that training toward fulfillment of continuing education requirements, remove the application for board approval of a continuing education course, and rescind and relocate the content of some rules to comply with current drafting standards and to provide better organization.

By authority conferred on the Department of Licensing and Regulatory Affairs by MCL 333.16145, 333.16148, 333.16178, 333.16287, and 333.17309 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](http://www.michigan.gov/ARD) and in the 4/1/2024 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](mailto: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 4/9/2024 at 05:00PM.

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

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

[BPL-BoardSupport@michigan.gov](mailto: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 EDUCATION

SUPERINTENDENT OF PUBLIC INSTRUCTION

SPECIAL EDUCATION PROGRAMS AND SERVICES

Filed with the secretary of state on

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

(By the authority of ~~conferred on~~ the superintendent of public instruction ~~under~~ by sections 1701 and 1703 of the revised school code, 1976 PA 451, MCL 380.1701 and 380.1703, and Executive Reorganization Order No. 1996-7, MCL 388.994)

R 340.1721b, R 340.1723c, and R 340.1733 of the Michigan Administrative Code are amended, as follows:

R 340.1721b ~~Time lines~~ **Public agency responsibilities and timelines.**

Rule 21b. (1) ~~Within 10 school days of receipt of a written request for any evaluation~~ **When a written request for an evaluation is made for a student attending a public school, all of the following apply:**

(a) **Within 10 school days of receipt of the written request**, the public agency shall provide the parent with written notice consistent with 34 CFR § 300.503 and ~~shall request written parental consent to evaluate. The time from receipt of parental consent for an evaluation to the notice of an offer of a free appropriate public education or the determination of ineligibility shall~~ **must not be more than 30 school days. This time line timeline begins upon on receipt of the signed parental consent by the public agency requesting the consent. This time line may be extended if agreed to by the** ~~The parent and the public agency may agree to extend this timeline. Any extension to this time line shall be~~ **must comply with** both of the following:

(i)(a) ~~In~~ **Be in writing.**

(ii)(b) ~~Measured~~ **Be measured** in school days.

(b)(2) ~~The parent has 10 school days after receipt of the notice of an initial offer of a free appropriate public education to~~ **shall provide the public agency with written parental consent to provide initial special education programs and services within 10 school days of receipt of the notice of an initial offer of a free appropriate public education.**

(c)(3) ~~Within 7 school days from~~ **of the date of the individualized education program team meeting, the public agency shall provide the parent with the notice of an offer of a free appropriate public education or determination of ineligibility. The public agency shall document the mode and date of delivery of the notice. The notice shall must identify where the programs and services are to will be provided and when the individualized education program begins will begin.**

(d)(4) ~~Unless a parent has filed an appeal~~ **a due process complaint to request a hearing** under R 340.1724f, the public agency, as defined ~~under in~~ 34 CFR § 300.33 **300.33**, shall initiate a proposed special education individualized education program as soon as possible and ~~not more than~~ **within 15**

school days ~~after~~ of the parent's receipt of written notification under ~~R 340.1721b(3)~~ **subdivision (c) of this subrule**, or ~~not more than~~ **within 15 school days after** of receipt of written parental consent under ~~R 340.1721b(2)~~ **subdivision (b) of this subrule**. The parties may agree to a later initiation date if ~~the later date is clearly identified in the individualized education program~~ **clearly identifies the later date**. ~~An A later initiation date later than 15 school days shall~~ **must** not be used to deny or delay programs or services because they are unavailable and ~~shall~~ **must** not be used for purposes of administrative convenience.

(e)(5) For ~~students~~ **a student** with an individualized education program ~~in effect~~ **effective** at a ~~previous public agency who transfer public agencies within~~ **transfers to a different public agency during** the same school year, the new public agency shall immediately provide a free appropriate public education. A decision regarding implementation of an individualized education program in accordance with 434 CFR § 300.323 ~~shall~~ **must** be made within 30 school days of enrollment.

**(2) When a written request for an initial evaluation is made for a student who is parentally-placed in a private school, the public agency shall do all of the following:**

**(a) Within 10 school days of receipt of the written request, provide written notice consistent with 34 CFR 300.503 and request written parental consent to evaluate, when appropriate.**

**(b) Within 30 school days of receipt of written parental consent for an evaluation, determine eligibility and provide notice consistent with 34 CFR 300.503. The parent and the public agency may agree to extend this timeline. Any extension must comply with both of the following:**

**(i) Be in writing.**

**(ii) Be measured in school days.**

**(c) Comply with the requirements of 34 CFR 300.130 to 300.147.**

R 340.1723c Right to independent educational evaluation.

Rule 23c. (1) Each public agency shall provide parents with information about independent educational evaluations at public expense. The information must include all of the following:

(a) Criteria regarding credentials for qualified examiners.

(b) Suggested sources and locations.

(c) Procedures for reimbursement.

(d) Reasonable expected costs.

(e) Notification that the parent is not restricted to choosing from sources suggested by the public agency.

(2) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. A parent is entitled to only 1 independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees. ~~The parent shall submit the parent's disagreement and request in written, signed, and dated form. However~~

**(3) When a parent requests an independent educational evaluation at public expense, the public agency shall, without unnecessary delay, either provide an independent educational evaluation at public expense or may initiate a hearing under R 340.1724f to show that its evaluation is appropriate.**

**(4) The public agency shall respond, in writing, with written notice consistent with 34 CFR 300.503 to the a request for an independent educational evaluation under this rule within 7 calendar days of its receipt by indicating the public agency's intention to honor the request or to initiate the hearing procedure under R 340.1724f. If there is a hearing under R 340.1724f and the hearing officer determines that the evaluation is appropriate, then the parent still has retains the right to an independent educational evaluation, but not at public expense.**

~~(5)(3)~~ The public agency shall disclose to the parent, before evaluation, whether the examiner who was contracted to provide an independent educational evaluation provides services to the public agency that are in addition to the independent educational evaluation.

~~(6)(4)~~ Unless agreeable to the parent, an examiner ~~or examiners who otherwise or regularly contract~~ **contracts** with the public agency to provide services shall not conduct an independent educational evaluation.

R 340.1733 Program and service requirements.

Rule 33. An intermediate school district, local school district, public school academy, and any other agency shall ~~adhere to~~ **comply with** all of the following general requirements for all programs and services for students with disabilities:

(a) Special education classrooms or areas where related services are provided ~~shall~~ **must** have at least the same average number of square feet per student, ~~and the same~~ light, ventilation, and heat conditions as provided for general education students in the school district.

(b) Programs for students with severe cognitive impairment and severe multiple impairments ~~which that~~ have students under 16 years of age ~~shall~~ **must** not exceed a 6-year age span at any 1 time.

(c) All other special education programs ~~which that~~ have students under 16 years of age and ~~which~~ are operated in separate facilities ~~shall~~ **must** not exceed a 4-year age span at any 1 time.

(d) The age span for students who are assigned to special education programs, except for programs for students with severe cognitive impairment and severe multiple impairments, operated in elementary buildings attended by children who are nondisabled, ~~shall~~ **must** not exceed, at any 1 time, ~~a 6-year age span or the age span of the students who are nondisabled in the building, whichever is less.~~

(e) The age span for students who are assigned to special education programs, except for programs for students with severe cognitive impairment and severe multiple impairments, operated in secondary buildings attended by students who are nondisabled, ~~shall~~ **must** not exceed, at any 1 time, the age span of the students who are nondisabled in the building, except in high school buildings where students up to 26 years of age may be served. ~~As used in this subdivision, The term "nondisabled" shall~~ **does** not include ~~persons~~ **individuals** participating in adult education programs.

(f) Programs for students with severe cognitive impairment, severe multiple impairments, and moderate cognitive impairment ~~shall~~ **must** comply with subdivisions (b), (c), (d), and (e) of this rule unless a program is operated in accordance with an approved intermediate school district plan where, due to the low incidence of eligible students, expanded age ranges may be necessary for programmatic feasibility and meeting the needs of students.

(g) Students with disabilities qualifying for special education programs and services ~~shall~~ be provided with supplies and equipment at least equal to those provided to other students in general education programs, in addition to those supplies and equipment necessary to implement ~~a student's~~ **the students'** individualized education ~~program~~ **programs**.

(h) Intermediate school districts, local school districts, public school academies, or a combination of ~~such these~~ agencies in cooperation with public and private entities, shall provide or contract for the provision of transition services. Special education teachers shall be assigned to supervise ~~such these~~ services. Professional special education personnel, a transition coordinator, or both, shall coordinate transition services.

(i) For worksite-based learning, ~~there must be a written agreement/plan agreement is required and shall be signed by the student, parent, school representative, and worksite representative that includes. The agreement shall set forth~~ all of the following information:

(i) Expectations and standards of attainment.

(ii) Job activities.

(iii) Time and duration of the program.

(iv) Wages to be paid to the student, if applicable.

(v) Related instruction, if applicable.

(vi) ~~The superintendent of the school district shall designate~~ **The name of** a staff member **designated by the superintendent or chief administrator of the public agency** to visit the student's worksite at least once every 30 calendar days for the duration of the program to check attendance and student progress and assess the placement in terms of health, safety, and welfare of the student.

(j) ~~Substitute instructional aides specified in~~ **When an assigned instructional aide or teacher aide required by R 340.1738, R 340.1739, and or R 340.1748 is absent, an instructional aide or teacher aide, as appropriate,** shall be provided ~~when assigned instructional aides are absent~~. In addition, ~~teacher aides specified in R 340.1739 and~~ **when an assigned aide required by R 340.1740 is absent, an appropriate aide** shall be provided ~~when assigned teacher aides are absent~~.

---

**NOTICE OF PUBLIC HEARING**

---

Department of Education  
Superintendent of Public Instruction  
Administrative Rules for Special Education Programs and Services  
Rule Set 2023-76 ED

**NOTICE OF PUBLIC HEARING**

Tuesday, April 9, 2024

09:00 AM

Tuesday, April 9, 2024 9:00 a.m.-11:00 a.m. <http://tinyurl.com/kkstktmtv>; Thursday, April 11, 2024 3:30 p.m.-5:30 p.m. <http://tinyurl.com/4y3jyu6n>  
Tues, April 9, 2024 1:00-5:00 p.m. Mich Library & Hist Ctr, 1st Floor Forum 702 W. Kalamazoo St.,  
Lansing, MI 48915 or <http://tinyurl.com/5cpy55vu>

The Department of Education will hold a public hearing to receive public comments on proposed changes to the Special Education Programs and Services rule set.

R 340.1721b, R 340.1723c, and R 340.1733 are proposed to be amended. The general purpose of the proposed R 340.1721b is to align the rule with the requirements of the Individuals with Disabilities Education Act (IDEA), 42 US 1400 to 1482, regarding students who are parentally placed in nonpublic schools. The general purpose of the proposed R 340.1723c is to remove the requirement that a parent's request for an independent educational evaluation of their child be in writing. The general purpose of the proposed R 340.1733 is to revise the age span of preschool programs located in elementary school buildings.

Online Public Written Comment Tool: <http://tinyurl.com/34c658yv>

By authority conferred on the superintendent of public instruction by sections 1701 and 1703 of the revised school code, 1976 PA 451, MCL 380.1701 and 380.1703, and Executive Reorganization Order 1996-7, MCL 388.994.

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](http://www.michigan.gov/ARD) and in the 4/1/2024 issue of the Michigan Register. Copies of these proposed rules may also be obtained by mail or electronic mail at the following email address: [mde-ose@michigan.gov](mailto:mde-ose@michigan.gov).

Comments on these proposed rules may be made at the hearing, by mail, or by electronic mail at the following addresses until 4/19/2024 at 05:00PM.

Include in subject line: "Rule set 2023-76 ED."

Department of Education Office of Special Education 608 W. Allegan Avenue P.O. Box 30008 Lansing,  
MI 48933

[MDE-OSE-Public-Comment@michigan.gov](mailto:MDE-OSE-Public-Comment@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 517-241-1235 to make arrangements.

---

**PROPOSED ADMINISTRATIVE RULES**

---

DEPARTMENT OF EDUCATION

SUPERINTENDENT OF PUBLIC INSTRUCTION

TEACHER AND SCHOOL ADMINISTRATOR EVALUATION TOOLS

Filed with the secretary of state on

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

(By authority conferred on the superintendent of public instruction by sections 1249 and 1249b of **the revised school code**, 1976 PA 451, MCL 380.1249 and ~~MCL 380.1249b~~, and Executive Reorganization Order No. 1996-6, MCL 388.993)

R 380.21 and R 380.22 of the Michigan Administrative Code are amended, as follows:

R 380.21 Definitions.

Rule 1. As used in these rules:

- (a) “Act” means the revised school code, 1976 PA 451, MCL 380.1 to ~~380.1853~~ **380.1852**.
- (b) “Department” means the department of education.
- (c) “District” means a school district, intermediate school district, or public school academy as defined in the act.
- (d) “Educator” means a teacher or school administrator whose performance is evaluated as required by the act.
- (e) “Efficacy” means the extent to which an evaluation tool provides information that improves professional practice.
- (f) “Evaluation tool” means a written instrument used to assess the performance of educators as required by the act.
- (g) “List” means the compilation of evaluation tools by the department as required by the act and maintained on the department’s website.
- (h) “Reliability” means the extent to which an evaluation tool is consistent and stable in yielding similar results under varying conditions, including, but not limited to, different evaluators and observers or different observation windows.
- (i) “Scoring guide” means the scoring instrument developed by the department and reviewed by the department’s technical advisory committee ~~prior to~~ **before** initial implementation and subsequent modification that is available on the department’s website and that defines the minimum requirements for placement of an evaluation tool on the list using the following criteria: research base, qualifications of the author or authors, reliability, validity, and efficacy.
- (j) “Validity” means the extent to which an evaluation tool measures what it is intended to measure.

R 380.22 Placement of evaluation tool on list.

Rule 2. (1) **The department may place an** ~~An evaluation tool may be placed~~ on the list under this rule.

(2) A district may request placement of ~~any~~ **an** evaluation tool that it has adopted for use on the list by submitting an online application available on the department's website and all of the following:

- (a) Evidence of the evaluation tool's research base.
- (b) The identity and qualifications of the author or authors of the evaluation tool.
- (c) Evidence of the evaluation tool's reliability, validity, and efficacy.
- (d) All frameworks and rubrics used with the evaluation tool, with detailed descriptors for each performance level on key summative indicators.
- (e) A description of the processes for conducting observations, collecting evidence, conducting evaluation conferences, developing performance ratings, and developing performance improvement plans.
- (f) A description of the plan for providing evaluators and observers with training in the use of the evaluation tool.

(3) A public or private organization other than a district may request placement of an evaluation tool on the list by submitting an online application available on the department's website and all of the following:

- (a) ~~Either~~ **One** of the following:
  - (i) Evidence that **at least 2 state education agencies have approved or adopted** the evaluation tool ~~has been approved or adopted for use by at least 2 state education agencies.~~
  - (ii) Evidence that not less than 10 districts in this state will consider adopting the evaluation tool if **the department adds** it ~~is added~~ to the list.
- (b) Evidence of the evaluation tool's research base.
- (c) The identity and qualifications of the author or authors of the evaluation tool.
- (d) Evidence of the evaluation tool's reliability, validity, and efficacy.
- (e) All frameworks and rubrics used with the evaluation tool, with detailed descriptors for each performance level on key summative indicators.
- (f) A description of the processes for conducting observations, collecting evidence, conducting evaluation conferences, developing performance ratings, and developing performance improvement plans.
- (g) A description of the plan for providing evaluators and observers with training in the use of the evaluation tool.

(4) The department shall review an evaluation tool submitted under this rule using the scoring guide and examining all information required under subrule (2) or (3) of this rule.

(5) ~~Not more than 90 days after receipt of a request under this rule~~ **After receiving a request under this rule**, the department shall notify the district or organization if the **department will place the** evaluation tool ~~will be placed~~ on the list. If the department determines that **it will not place** the evaluation tool ~~will not be placed~~ on the list, the notice ~~shall~~ **must** include the reasons for denial of the request.

(6) **The department shall place an** ~~An~~ evaluation tool submitted under this rule ~~shall be placed~~ on the list if it satisfies the minimum requirements set forth in the scoring guide.



---

**NOTICE OF PUBLIC HEARING**

---

Department of Education  
Superintendent of Public Instruction  
Administrative Rules for Teacher and School Administrator Evaluation Tools  
Rule Set 2023-77 ED

**NOTICE OF PUBLIC HEARING**

Tuesday, April 9, 2024

01:00 PM

1:00 p.m.-5:00 p.m. Michigan Library & Historical Center, 1st Floor Forum or  
<http://tinyurl.com/5cpy55vu> 702 W. Kalamazoo St., Lansing, MI 48915 or  
<http://tinyurl.com/5cpy55vu>

The Department of Education will hold a public hearing to receive public comments on proposed changes to the Teacher and School Administrator Evaluation Tools rule set.

The general purpose of the proposed Teacher and School Administrator Evaluation Tools rules is to remove a timeline for the Department of Education to provide notice of the department's response to a request to add an evaluation tool to the list required by sections 1249 and 1249b of the revised school code, 1976 PA 451, MCL 380.1249 and 380.1249b.

Online Public Written Comment Tool: [https://mde.qualtrics.com/jfe/form/SV\\_73asZyiB1OCezk](https://mde.qualtrics.com/jfe/form/SV_73asZyiB1OCezk)

By authority conferred on the superintendent of public instruction by sections 1249 and 1249b of the revised school code, 1976 PA 451, MCL 380.1249 and 380.1249b, and Executive Reorganization Order No. 1996-6, MCL 388.993.

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](http://www.michigan.gov/ARD) and in the 4/1/2024 issue of the Michigan Register. Copies of these proposed rules may also be obtained by mail or electronic mail at the following email address: [MDE-EducatorHelp@Michigan.gov](mailto:MDE-EducatorHelp@Michigan.gov).

Comments on these proposed rules may be made at the hearing, by mail, or by electronic mail at the following addresses until 4/19/2024 at 05:00PM.

Include in subject line: "Rule set 2023-77 ED."

Department of Education Office of Educator Excellence 608 W. Allegan Avenue P.O. Box 30008  
Lansing,

MI 48933

[MDE-EducatorHelp@Michigan.gov](mailto:MDE-EducatorHelp@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 517-241-1235 to make arrangements.

---

**PROPOSED ADMINISTRATIVE RULES**

---

DEPARTMENT OF EDUCATION

SUPERINTENDENT OF PUBLIC INSTRUCTION

**SCHOOL SOCIAL WORKER CERTIFICATION CODE**

Filed with the secretary of state on

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

(By the authority conferred on the superintendent of public instruction by sections ~~6~~, 1701 and 1703 of **the revised school code**, 1976 PA 451, ~~MCL 380.6~~, MCL 380.1701 and ~~MCL 380.1703~~, and Executive Reorganization Order Nos. ~~1996-6~~ and No. 1996-7, ~~MCL 388.993~~ and MCL 388.994):

R 340.1001, R 340.1002, R 340.1003, R 340.1004, R 340.1005, R 340.1006, R 340.1007, R 340.1008, R 340.1009, and R 340.1010 are added to the Michigan Administrative Code, R 340.1011, R 340.1012, R 340.1013, R 340.1014, R 340.1015, and R 340.1016 are amended, and R 340.1017 and R 340.1018 are rescinded, as follows:

**R 340.1001 Definitions.**

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

(a) “Accredited” means accredited by an accreditation agency recognized by the Council for Higher Education Accreditation or by the United States Department of Education.

(b) “Act” means the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, unless otherwise indicated.

(c) “Approved school social worker preparation program” means a state-approved program in an institution that prepares school social workers, or their equivalent, in accordance with the state law of the program’s location.

(d) “Department” means the department of education, unless otherwise indicated.

(e) “Education-related professional learning” means an educational opportunity that improves a school social worker’s practice and capacity to perform the work within the profession of education that is 1 or more of the following:

(i) Satisfactory college semester credit hours at an accredited college or university, with 1 semester credit hour being equivalent to 25 education-related professional learning hours.

(ii) State continuing education clock hours.

(iii) Michigan annual district provided professional development hours.

(f) “Individualized education program” means a program described in R 340.1721e.

(g) “Listed offense” means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(h) “Michigan annual district provided professional development” means Michigan annual district provided professional development as required by sections 1526 and 1527 of the act, MCL 380.1526 and 380.1527.

(i) “Out-of-state” means of a political subdivision of the United States, other than this state, of a federally recognized Native American tribe, or of a foreign country or a political subdivision of a foreign country.

(j) “School social worker credential” means 1 of the following issued under these rules:

(i) Preliminary school social worker certificate.

(ii) Professional school social worker certificate.

(iii) School social worker permit.

(k) “State board” means the Michigan state board of education.

(l) “Valid” means within the time period of the credential and not suspended, revoked, rescinded, or nullified.

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

#### **R 340.1002 Individuals required to hold school social worker credential.**

**Rule 2. (1)** An individual who provides social work services, either as an employee of a public school or on a contractual basis in a public school, to students with disabilities whose individualized education programs require social work services shall hold a valid school social worker credential issued under these rules.

(2) Issuance of a school social worker credential under these rules constitutes approval for purposes of R 340.1799f.

(3) Only an individual who holds a valid school social worker credential under these rules shall use the title of school social worker.

(4) A public school may support a social worker position with funds under the Individuals with Disabilities Education Act, 20 USC 1400 to 1482, and state statutes governing funding for special education programs and services only if the position is held by an individual who holds a valid school social worker credential issued under these rules and only for the portion of time the individual provides social work services to 1 or more students with disabilities whose individualized education programs require social work services.

(5) Except as provided in these rules regarding placement of individuals who provide social work services to students with disabilities whose individualized education programs require social work services, these rules do not prohibit a public school from employing, contracting with, or otherwise using the services of a licensed social worker who does not hold a valid school social worker credential issued under these rules.

#### **R 340.1003 Preliminary school social worker certificate.**

**Rule 3. (1)** The superintendent of public instruction may issue a preliminary school social worker certificate to an applicant who pays the applicable evaluation fee and who meets all of the following requirements at the time of application:

(a) Holds an earned master of social work degree, or its equivalent or higher, from an accredited college or university.

(b) Completed an approved school social worker preparation program.

(c) Completed a minimum of a 500-clock-hour supervised social work practice that reflects and supports state standards for the preparation and practice of school social workers.

(d) Holds a valid limited master’s social worker license (LLMSW) or valid master’s social worker license (LMSW) issued by the department of licensing and regulatory affairs.

(2) The superintendent of public instruction may issue 1 renewal of a preliminary school social worker certificate to an applicant who pays the applicable evaluation fee if both of the following requirements are satisfied at the time of application:

(a) The applicant holds a valid LLMSW or valid LMSW issued by the department of licensing and regulatory affairs.

(b) During the validity of the initial preliminary school social worker certificate, an individual who held a valid professional school social worker certificate issued under these rules or a valid full approval under former R 340.1012 supervised the applicant while the applicant provided social work services to students with disabilities whose individualized education programs required those services.

(3) The superintendent of public instruction shall issue no more than 1 renewal of a preliminary school social worker certificate.

**R 340.1004 Professional school social worker certificate.**

**Rule 4. (1)** The superintendent of public instruction may issue a professional school social worker certificate to an applicant who pays the applicable evaluation fee and who meets all of the following requirements at the time of application:

(a) Holds a valid LMSW issued by the department of licensing and regulatory affairs.

(b) Completed an approved school social worker preparation program.

(c) While holding a valid preliminary school social worker certificate issued under these rules or while working under a valid school social worker permit issued under R 340.1009, and while under the supervision of an individual holding a valid professional school social worker certificate issued under these rules or a valid full approval under former R 340.1012, completed 1 full school year as a school social worker providing social work services to students with disabilities whose individualized education programs required those services.

(2) The superintendent of public instruction may issue a renewal of a professional school social worker certificate to an applicant who pays the applicable evaluation fee if both of the following requirements are satisfied at the time of application:

(a) The applicant holds a valid LMSW issued by the department of licensing and regulatory affairs.

(b) Since the issuance of the most recent professional school social worker certificate or renewal, the applicant completed 75 education-related professional learning hours.

**R 340.1005 Preliminary and professional school social worker certificate issuance and expiration.**

**Rule 5. (1)** The validity of a preliminary school social worker certificate or professional school social worker certificate, or renewal, is determined by its issue date and expiration date as set forth in this rule and by action taken under R 340.1010 to R 340.1016. An applicant for and the holder of a preliminary school social worker certificate or a professional school social worker certificate and the employer shall be familiar with the specific requirements and expiration date of the certificate.

(2) A preliminary school social worker certificate or renewal issued under these rules expires 3 years after June 30 of the calendar year of issuance.

(3) A professional school social worker certificate or renewal issued under these rules expires 5 years after June 30 of the calendar year of issuance.

(4) The superintendent of public instruction shall not issue a preliminary school social worker certificate or a professional school social worker certificate, or renewal, until the department receives the evaluation fee required by section 1538 of the act, MCL 380.1538.

**R 340.1006 Members of the armed forces and uniformed services, veterans, and dependents.**

**Rule 6. (1) As used in this rule:**

(a) “Armed forces” means the United States Army, Air Force, Navy, Marine Corps, Space Force, Coast Guard, or other military force designated by the United States Congress as a part of the Armed Forces of the United States, including the reserve components.

(b) “Dependent” means a spouse, surviving spouse, child who is less than 26 years of age, or surviving child who is less than 26 years of age.

(c) “Uniformed services” means the Commissioned Corps of the United States Public Health Service and the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

(d) “Veteran” means that term as defined in section 1 of 1965 PA 190, MCL 35.61.

(2) If 1 of the following individuals serves a period of active duty during the time period of a certificate issued under these rules, the individual may file a request with the department that the superintendent of public instruction determine that all or part of the period of active duty satisfies some or all of the requirements for renewal of the certificate:

(a) A member of the armed forces or uniformed services.

(b) A veteran.

(3) The following individuals may apply to the department for refund of a fee paid pursuant to these rules under section 1538 of the act, MCL 380.1538:

(a) A member of the armed forces or uniformed services.

(b) A veteran.

(c) A dependent of a member of the armed forces or of the uniformed services.

(d) A dependent of a veteran.

**R 340.1007 Out-of-state applicants.**

**Rule 7. (1)** The superintendent of public instruction may issue a school social worker certificate under subrule (2) or (3) of this rule to an applicant who completed an out-of-state approved school social worker preparation program upon verification of the applicant’s satisfaction of the requirements, or their equivalent, established for issuance of a school social worker certificate to an individual who completes an approved school social worker preparation program in this state.

(2) The superintendent of public instruction may issue a preliminary school social worker certificate to an individual described in subrule (1) of this rule who pays the applicable evaluation fee and who satisfies the requirements of R 340.1003, or their equivalent, at the time of application.

(3) The superintendent of public instruction may issue a professional school social worker certificate to an individual described in subrule (1) of this rule who pays the applicable evaluation fee if, at the time of application, 1 of the following is satisfied:

(a) The individual satisfies the requirements of R 340.1004, or their equivalent.

(b) All of the following:

(i) The individual holds a valid LMSW issued by the department of licensing and regulatory affairs.

(ii) The individual holds a valid out-of-state certificate that is equivalent to a professional school social worker certificate issued by the department.

(iii) The individual completed 1 full school year as a social worker in a school setting providing social work services to students with disabilities whose individualized education programs required those services.

**R 340.1008 Approval of school social worker preparation programs.**

**Rule 8. (1) The state board shall approve standards for reviewing school social worker preparation programs.**

**(2) The superintendent of public instruction shall approve school social worker preparation programs in accordance with the state board approved standards.**

**(3) Continued approval by the superintendent of public instruction requires that the school social worker preparation provider be accredited or that a state review process recommend approval by the superintendent of public instruction.**

**R 340.1009 School social worker permit.**

**Rule 9. (1) If a public school is unable to employ or contract with a certified school social worker, the public school may apply to the department for a school social worker permit under this rule.**

**(2) On application and payment of the applicable evaluation fee, the superintendent of public instruction may issue a school social worker permit to a public school that verifies all of the following:**

**(a) At the time of application, the individual holds an earned master of social work degree or higher, or equivalent, from an accredited college or university.**

**(b) At the time of application, the individual holds a valid LLMSW or valid LMSW issued by the department of licensing and regulatory affairs.**

**(c) At the time of application, the individual was accepted for enrollment in an approved school social worker preparation program.**

**(d) During the validity of the permit, while under the supervision of an individual holding a valid professional school social worker certificate issued under these rules or a valid full approval under former R 340.1012, the individual will provide social work services to students with disabilities whose individualized education programs require those services.**

**(3) On application and payment of the applicable evaluation fee, the superintendent of public instruction may issue 1 renewal of a school social worker permit to a public school that verifies all of the following:**

**(a) One of the following at the time of application:**

**(i) The individual is enrolled in, and demonstrates progress toward completion of, an approved school social worker preparation program after issuance of the initial school social worker permit.**

**(ii) The individual holds a valid or expired preliminary school social worker certificate issued under these rules.**

**(b) At the time of application, the individual holds a valid LLMSW or valid LMSW issued by the department of licensing and regulatory affairs.**

**(c) During the validity of the initial permit, while under the supervision of an individual holding a valid professional school social worker certificate issued under these rules or a valid full approval under former R 340.1012, the individual provided social work services to students with disabilities whose individualized education programs required those services.**

**(d) During the validity of the renewal, while under the supervision of an individual holding a valid professional school social worker certificate issued under these rules or a valid full approval under former R 340.1012, the individual will provide social work services to students with disabilities whose individualized education programs require those services.**

**(4) The superintendent of public instruction shall issue no more than 1 renewal of a school social worker permit under this rule.**

(5) A school social worker permit issued under this rule is valid from the issue date through August 31 immediately following the academic year listed on the permit.

(6) Subject to subrule (8) of this rule, the superintendent of public instruction may revoke, refuse to grant, or refuse to renew a school social worker permit or renewal for any of the following reasons:

(a) Fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of the school social worker permit or renewal.

(b) Conviction of the individual for whom a public school requests a school social worker permit or renewal, or who is working under a school social worker permit or renewal, of a crime described in section 1535a of the act, MCL 380.1535a.

(c) Failure to meet the requirements for the school social worker permit or renewal.

(d) Action taken by an out-of-state certificating authority against an educator credential issued at any time to the individual by that authority.

(7) The superintendent of public instruction may rescind a school social worker permit or renewal at the request of the employing or contracting public school.

(8) The superintendent of public instruction shall revoke, refuse to grant, or refuse to renew a school social worker permit or renewal if the individual working under the permit or renewal, or if the individual for whom a public school requests the permit or renewal, was convicted of a listed offense.

**R 340.1010 Suspension of, revocation of, imposition of conditions on, or denial of renewal of preliminary or professional school social worker certificate.**

**Rule 10.** The superintendent of public instruction may suspend, revoke, impose reasonable conditions on, or deny renewal of a preliminary school social worker certificate or professional school social worker certificate for either of the following reasons:

(a) The holder of the preliminary school social worker certificate or professional school social worker certificate engaged in fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of any credential issued by the superintendent of public instruction.

(b) The holder of the preliminary school social worker certificate or professional school social worker certificate was convicted of a crime described in section 1539b of the act, MCL 380.1539b.

**R 340.1011 ~~Role of school social worker~~ Notice of basis for action; notice of right to hearing; informal conference; referral for hearing.**

~~Rule 11.~~ A school social worker may function in any of the following roles:

~~(a) Provide individual and group counseling to students and their families in need of assistance utilizing an ecological framework addressing variations in development and learning, as well as reciprocal influences of home, school, and community.~~

~~(b) Provide consultation, collaboration, and advisement services to students, their family members and school staff regarding students' social, emotional, and behavioral status impacting learning, development, mental health, and school success. Encourage developmentally appropriate student self-determination and self-advocacy.~~

~~(c) Implement school social work services within a multi-tiered intervention model for programs and services.~~

~~(d) Provide instruction, modeling, and coaching to students, parents, and school staff in the implementation of effective behavior intervention strategies and techniques. Provide ongoing guidance and training services to parents and school staff on topics pertinent to the development, mental health, and learning needs of students.~~

- ~~–(e) Provide liaison, coordination, and case management services with schools, families, community agencies, and other resources to influence positive school outcomes for students.~~
- ~~–(f) Develop functional behavior assessments and behavior intervention plans to facilitate successful learning and socialization opportunities. Provide services and disseminate information to encourage school wide positive behavior supports.~~
- ~~–(g) Identify and coordinate accommodations and modifications of school environment for a student to obtain access to general education curriculum and instruction.~~
- ~~–(h) Provide support to facilitate successful transitions in areas that affect students' learning opportunities.~~
- ~~–(i) Provide crisis prevention, planning, and intervention services, including assessments of the impact of trauma on development, learning, and school performance.~~
- ~~–(j) Provide comprehensive written reports of assessments and evaluations of students that specifically address the reasons for referral. Utilize multiple methods of collecting data, and provide appropriate measurable goals for intervention and anticipated outcomes from service.~~
- ~~–(k) Provide and interpret assessments and evaluations to determine eligibility for special education, and identify needs for programs and services.~~
- ~~–(l) Utilize home and community settings, as appropriate, to collect assessment information, collaborate with parents, and provide interventions.~~
- ~~–(m) Collaborate with parents, multidisciplinary evaluation team members, school administrators, and other community agencies to develop an accurate understanding of a student's disability, the impact of the disability on students' educational performance, and provide information regarding whether behaviors and school performance are attributable to manifestations of the disability.~~
- ~~–(n) Conduct needs assessments and advocate for policies, programs, and services to meet educational and mental health needs of all students, and to support safe school climates conducive to learning.~~
- ~~–(o) Identify issues that may interfere with student development, learning, and school success.~~
- ~~–(p) Identify and work to prevent bias, prejudice, discrimination, and oppression that interfere with individual rights in the educational process.~~
- ~~–(q) Ensure that prevention, assessment, evaluation, and intervention services are sensitive to the diverse needs of the student's multi-cultural differences.~~
- ~~–(r) Consult, collaborate, and supervise school social work students and colleagues.~~

**Subject to summary suspension under section 1539b(2) of the act, MCL 380.1539b, all of the following apply to action taken under R 340.1010:**

**(a) Not more than 7 calendar days after receiving notice that the criminal history of the holder of a preliminary school social worker certificate or professional school social worker certificate includes conviction of a crime described in section 1539b of the act, MCL 380.1539b, the department shall request from the court a certified copy of the judgment of conviction and sentence or other document regarding disposition of the case.**

**(b) On receipt of notice of a basis for action under R 340.1010(a), or not later than 10 business days after receiving documentation of a conviction under subdivision (a) of this rule, the department shall notify the holder of the preliminary school social worker certificate or professional school social worker certificate in writing of all of the following:**

**(i) Because of the conviction or because of the identified reason under R 340.1010(a), the superintendent of public instruction may suspend, revoke, impose conditions on, or deny renewal of the preliminary school social worker certificate or professional school social worker certificate.**



- (ii) The holder has the right to a hearing.
- (iii) If the holder does not request a hearing within 15 business days after receipt of notice of the right to a hearing, the superintendent of public instruction shall suspend or deny renewal of the preliminary school social worker certificate or professional school social worker certificate.
- (iv) If the holder requests a hearing within 15 business days after receipt of the notice, there must be an informal conference.
- (c) The notice under subdivision (b) of this rule must include a copy of applicable statutes and rules.
- (d) Not later than 15 business days after receipt of the notice under subdivision (b) of this rule, the holder of the preliminary school social worker certificate or professional school social worker certificate shall request a hearing. If the holder does not timely request a hearing, the superintendent of public instruction shall suspend or deny renewal of the preliminary school social worker certificate or professional school social worker certificate.
- (e) If the holder of the preliminary school social worker certificate or professional school social worker certificate timely requests a hearing under subdivision (d) of this rule, the department shall immediately notify the holder of the date and time of an informal conference. Unless otherwise agreed, the informal conference is a telephone conference with an authorized representative of the department.
- (f) After the informal conference and consideration of the documentation and other information presented, the department may recommend that the superintendent of public instruction take no action against or grant renewal of the preliminary school social worker certificate or professional school social worker certificate or that there be a settlement or conditional agreement. The superintendent of public instruction shall approve, modify, or deny the recommendation of the department.
- (g) If the superintendent of public instruction or designee decides to refer the case to the Michigan office of administrative hearings and rules for hearing following the informal conference, the department shall make the referral.

**R 340.1012 ~~Qualifications of school social worker~~ Denial or rescission of preliminary or professional school social worker certificate.**

- Rule 212. (1) ~~For temporary approval, a school social worker shall meet all of the following:~~
- ~~–(a) A master's degree from a graduate school of social work program.~~
  - ~~–(b) Completion of an approved graduate school social work program.~~
  - ~~–(c) A minimum of a 500 clock hour supervised social work practicum completed through the process of earning a master's degree in social work and completing a program for school social worker approval.~~
  - ~~–(2) Temporary approval shall be granted to a school social worker for the initial year of service.~~
  - ~~–(3) For full approval, a school social worker shall possess the following minimum qualifications:~~
    - ~~–(a) Temporary approval as a school social worker.~~
    - ~~–(b) Written documentation from the employing school district of satisfactory completion of 1 year as a temporary approved school social worker working with direction from a fully approved school social worker.~~
  - ~~–(4) A previously approved school social worker who has not been employed by a public school in Michigan for 5 or more consecutive years shall seek recommendation from a Michigan institution of higher education to obtain reapproval from the department of education as a condition of~~

~~reemployment.~~ **The superintendent of public instruction may deny an individual's application for a preliminary school social worker certificate or professional school social worker certificate for any of the following reasons:**

**(a) The applicant engaged in fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of any credential issued to the individual by the superintendent of public instruction.**

**(b) The applicant was convicted of a crime described in section 1539b of the act, MCL 380.1539b.**

**(c) The applicant does not meet the requirements for the certificate.**

**(d) An out-of-state certificating authority took action against an educator credential issued at any time to the applicant by that authority.**

**(2) After notice and an opportunity to show compliance, the superintendent of public instruction may rescind a preliminary school social worker certificate or professional school social worker certificate for failure of the holder to meet the requirements for the preliminary school social worker certificate or professional school social worker certificate.**

**R 340.1013 Approval of training programInvestigation.**

~~Rule 313. A school social work training program maintained by an institution of higher education in this state shall be approved by the department of education. An approved program shall be in compliance with the competency requirements under R 340.1014. An authorized representative of the department shall perform the investigatory and prosecutorial functions regarding cases pertaining to school social worker certification. On receipt of information that may serve as the basis for suspension, revocation, denial, refusal to renew, or rescission of a preliminary school social worker certificate or professional school social worker certificate, the authorized representative shall initiate an investigation of that information.~~

**R 340.1014 Competencies of school social workerReinstatement of suspended or revoked preliminary or professional school social worker certificate.**

~~Rule 414. (1) A candidate seeking school social worker approval shall possess all of the following competencies:~~

~~–(a) Knowledge of theoretical foundations and history of the school social work profession and service delivery.~~

~~–(b) Knowledge of legal and ethical standards necessary for social work practice in school settings.~~

~~–(c) Knowledge of federal and state special education laws and other legal aspects of the role of the school social worker.~~

~~–(d) Knowledge of organizational components and structural dynamics of public school agencies at local, state, and national levels, as well as identification of methods useful to analyze and influence these in order to maximize student success.~~

~~–(e) Knowledge of other professional educational roles to promote successful collaboration.~~

~~–(f) Knowledge of a broad range of experiences, personal characteristics, and background variables that influence student learning and development, including the reciprocal and diverse influences of home, school, and community.~~

~~–(g) Knowledge and skills for identifying factors that enhance strengths, resilience, and protection from adversity, and that diminish educational and developmental risks.~~

~~–(h) Knowledge and skills to provide crisis prevention, planning, and intervention services, and the impact of trauma on development, learning, and~~

~~school performance.~~

~~–(i) Knowledge and skills to promote positive behavior supports for individuals and schoolwide programs.~~

~~–(j) Knowledge and skills in development of behavior intervention plans collaboratively with family members, educational staff, and outside resources, personnel, and agencies.~~

~~–(k) Knowledge and skills in mediation, conflict resolution, and collaborative problem solving models.~~

~~–(l) Knowledge and skills in comprehensive and systematic assessment and evaluation.~~

~~–(m) Knowledge and skills in effective written communication of the assessment and evaluation results that include educationally relevant recommendations and, where appropriate, measurable goals and anticipated outcomes from service delivery.~~

~~–(n) Knowledge of normative expectations for infant, child, adolescent, and young adult emotional, behavioral, social, cultural, communicative, cognitive, learning, and physical development.~~

~~–(o) Knowledge regarding similarities and differences between clinically based definitions of psychiatric disorders and educational disabilities.~~

~~–(p) Knowledge and skills to evaluate effectiveness of programs and services and modify these based upon individual student need.~~

~~–(q) Knowledge and skills for locating, selecting, and applying empirically supported, evidence-based prevention and intervention methods appropriate for use with individuals, groups, families, school personnel, and communities to enhance student learning, development, and school success.~~

~~–(r) Knowledge and skills to facilitate and coordinate student access to medical, health, mental health, social services, and other community resources, and to promote collaboration among school personnel and other community agencies.~~

~~–(s) Ability to verbally communicate in terms understandable to students, parents, school staff, and agencies.~~

~~–(t) Awareness of curriculum, teaching theories, and methodologies.~~ Unless the superintendent of public instruction suspended or revoked an individual's preliminary school social worker certificate or professional school social worker certificate based on conviction of a listed offense, the individual may file with the department a request for reinstatement of the preliminary school social worker certificate or professional school social worker certificate that was suspended or revoked under these rules.

**(2) If the superintendent of public instruction suspended or revoked the preliminary school social worker certificate or professional school social worker certificate under R 340.1010(a), all of the following apply:**

**(a) The individual shall provide to the department documentation and other information that demonstrates that the individual is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the individual's preliminary school social worker certificate or professional school social worker certificate will not adversely affect the health, safety, and welfare of pupils.**

**(b) If the superintendent of public instruction suspended the preliminary school social worker certificate or professional school social worker certificate pursuant to an agreement between the department and the individual, the individual shall provide to the department documentation and other information that establishes satisfaction of the conditions set forth in the agreement.**

**(c) Not more than 30 calendar days after receipt of the request for reinstatement, the department shall notify the individual in writing of all of the following:**

**(i) The individual has the right to a hearing.**

**(ii) If the individual does not request a hearing within 30 calendar days after receipt of notice of the right to a hearing, the superintendent of public instruction shall dismiss the request for**

reinstatement of the preliminary school social worker certificate or professional school social worker certificate.

(iii) If the individual requests a hearing within 30 calendar days after receipt of the notice, there must be an informal conference on the request for reinstatement.

(d) Not later than 30 calendar days after receipt of the notice, the individual shall request a hearing. If the individual does not timely request a hearing, the superintendent of public instruction shall dismiss the request for reinstatement of the preliminary school social worker certificate or professional school social worker certificate.

(e) If the individual timely requests a hearing, the department shall immediately notify the individual of the date and time of an informal conference on the request for reinstatement. Unless otherwise agreed, the informal conference is a telephone conference with an authorized representative of the department.

(f) After the informal conference and consideration of the documentation and other information presented, the department shall recommend that the superintendent of public instruction reinstate or deny reinstatement of the preliminary school social worker certificate or professional school social worker certificate. Based on consideration of the recommendation and the documentation and other information presented, the superintendent of public instruction shall reinstate or deny reinstatement of the preliminary school social worker certificate or professional school social worker certificate. The superintendent of public instruction shall not reinstate the preliminary school social worker certificate or professional school social worker certificate unless the superintendent of public instruction finds that the individual is currently fit to serve in an elementary or secondary school in this state and that reinstatement will not adversely affect the health, safety, and welfare of pupils.

(g) If the superintendent of public instruction does not reinstate the preliminary school social worker certificate or professional school social worker certificate under subdivision (f) of this subrule, the department shall refer the request to the Michigan office of administrative hearings and rules for hearing.

(3) If the superintendent of public instruction suspended or revoked the preliminary school social worker certificate or professional school social worker certificate under R 340.1010(b), not more than 30 calendar days after receipt of a request for a hearing on reinstatement, the department shall refer the request to the Michigan office of administrative hearings and rules under section 1539b(5) of the act, MCL 380.1539b.

**R 340.1015 ~~Out-of-state applicants~~ Removal of suspension or revocation of preliminary or professional school social worker certificate after conviction set aside, expunged, or dismissed.**

~~Rule 515. (1) An applicant for temporary approval as a school social worker who has been educated in an accredited school of social work in another state shall present evidence of having fulfilled all of the requirements established for applicants who have been educated at a Michigan college or university approved by the department of education.~~

~~–(2) Temporary approval as a school social worker may be granted to an applicant from another state who presents evidence of graduation from an institution of higher education in the area of school social work.~~

~~–(3) Full approval will be granted in accordance with R 340.1012(3). The superintendent of public instruction shall remove the suspension or revocation of a preliminary school social worker certificate or professional school social worker certificate if all of the following requirements are met:~~

(a) The suspension or revocation was based solely on a criminal conviction under section 1539b of the act, MCL 380.1539b.

(b) The holder of the credential files with the department a request for removal of the suspension or removal that includes documentation satisfactory to the department that the conviction was set aside under 1965 PA 213, MCL 780.621 to 780.624, or otherwise expunged or dismissed by a court of competent jurisdiction.

(c) If the conviction was set aside under section 1g of 1965 PA 213, MCL 780.621g, and the judgment of sentence included an order of restitution, the request for removal includes verification that the individual has fully paid court-ordered restitution or has made a good faith effort to do so.

(2) Removal of a suspension or revocation under this rule does not relieve the holder of the preliminary school social worker certificate or professional school social worker certificate of the responsibility to comply with all legal requirements for renewal of the preliminary school social worker certificate or professional school social worker certificate.

(3) This rule does not preclude the superintendent of public instruction from taking action against a preliminary school social worker certificate or professional school social worker certificate under R 340.1010, or from denying or rescinding a preliminary school social worker certificate or professional school social worker certificate under R 340.1012, for a reason other than a conviction that was set aside or otherwise expunged or dismissed.

R 340.1016 ~~Presently employed school social worker~~ **Action of superintendent of public instruction on proposal for decision.**

~~Rule 616. A person employed by a school district and fully approved as a school social worker on the effective date of these rules shall retain full approval status.~~ (1) The superintendent of public instruction may adopt, modify, or reverse a proposal for decision of the Michigan office of administrative hearings and rules or may remand a case to the Michigan office of administrative hearings and rules for further proceedings.

(2) A party shall not directly or indirectly communicate with the superintendent of public instruction or individuals involved in the review of a proposal for decision regarding issues of fact or law except on notice and opportunity for all parties to participate, unless provided by law.

R 340.1017 ~~Use of title "school social worker."~~ **Rescinded.**

~~Rule 7. Only those persons approved by the department of education as school social workers, in accordance with these rules, shall use that title.~~

R 340.1018 ~~Rescission~~ **Rescinded.**

~~Rule 8. The rules of the state board of education entitled "State Aid for School Social Work Programs," being R 340.1001 to R 340.1010 of the Michigan Administrative Code and appearing on pages 4218 and 4219 of the 1967 Annual Supplement to the Code, are rescinded.~~

---

**NOTICE OF PUBLIC HEARING**

---

Department of Education  
Superintendent of Public Instruction  
Administrative Rules for School Social Worker Certification Code  
Rule Set 2023-78 ED

NOTICE OF PUBLIC HEARING  
Tuesday, April 9, 2024  
01:00 PM

1:00 p.m.-5:00 p.m. Michigan Library & Historical Center, 1st Floor Forum or  
<http://tinyurl.com/5cpy55vu> 702 W. Kalamazoo St., Lansing, MI 48915 or  
<http://tinyurl.com/5cpy55vu>

The Department of Education will hold a public hearing to receive public comments on proposed changes to the School Social Worker Certification Code rule set.

The general purpose of the proposed School Social Worker Certification Code rules is to provide a pathway into the profession, along with temporary staffing options, by replacing the system of approval of school social workers with a certification and permit process for these educators who provide social work services to students with disabilities in accordance with individualized education programs requiring those services. The new process will be similar to the process in place for other professional educators.

Online Public Written Comment Tool: [https://mde.qualtrics.com/jfe/form/SV\\_73asZyiB11OCezk](https://mde.qualtrics.com/jfe/form/SV_73asZyiB11OCezk)

By authority conferred on the superintendent of public instruction by sections 1701 and 1703 of the revised school code, 1976 PA 451, MCL 380.1701 and 380.1703, and Executive Reorganization Order 1996-7, MCL 388.994.

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](http://www.michigan.gov/ARD) and in the 4/1/2024 issue of the Michigan Register. Copies of these proposed rules may also be obtained by mail or electronic mail at the following email address: [MDE-EducatorHelp@Michigan.gov](mailto:MDE-EducatorHelp@Michigan.gov).

Comments on these proposed rules may be made at the hearing, by mail, or by electronic mail at the following addresses until 4/19/2024 at 05:00PM.

Include in subject line: "Rule set 2023-78 ED."

Department of Education Office of Educator Excellence 608 W. Allegan Avenue P.O. Box 30008  
Lansing,

MI 48933

[MDE-EducatorHelp@Michigan.gov](mailto:MDE-EducatorHelp@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 517-241-1235 to make arrangements.

---

**PROPOSED ADMINISTRATIVE RULES**

---

DEPARTMENT OF EDUCATION

SUPERINTENDENT OF PUBLIC INSTRUCTION

TEACHER CERTIFICATION CODE

Filed with the secretary of state on

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

(By authority conferred on the superintendent of public instruction by **section 1 of article I of 1937 (Ex. Sess.) PA 4, MCL 38.71, and** sections 1157, 1531, 1531i, ~~4534k~~, 1535a, and 1539b of the revised school code, 1976 PA 451, MCL 380.1157, 380.1531, 380.1531i, ~~380.1534k~~, 380.1535a, and 380.1539b, and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and 388.994)

R 390.1101, R 390.1103, R 390.1105, R 390.1111, R 390.1115, R 390.1117, R 390.1118, R 390.1122a, R 390.1123, R 390.1125, R 390.1129, R 390.1129b, R 390.1130, R 390.1133, R 390.1135, R 390.1137, R 390.1138, R 390.1141, R 390.1142, R 390.1143, R 390.1145, R 390.1151, R 390.1152, R 390.1153, R 390.1161, R 390.1165, R 390.1167, R 390.1201, R 390.1203, and R 390.1204 of the Michigan Administrative Code are amended, R 390.1119, R 390.1144, R 390.1205, R 390.1208, and R 390.1211 are added, and R 390.1163 and R 390.1164a are rescinded, as follows:

PART 1. GENERAL PROVISIONS

R 390.1101 Definitions.

Rule 1. As used in this code:

(a) **“Accredited” means accredited by an accreditation agency recognized by the Council for Higher Education Accreditation or by the United States Department of Education.**

(b) **“Act” means the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.**

(c) **“Alternative route program provider” means an entity approved by the superintendent of public instruction to provide teacher certification alternative route programs under section 1531i of the revised school code, 1976 PA 451act, MCL 380.1531i.**

(d) **“Appropriate placement” means placement within a grade level and discipline area as determined appropriate by the superintendent of public instruction.**

(e) **“Clinical experience” means structured, supervised activity in an instructional setting in which a teacher certification candidate may gain experience in the practice of teaching, as determined by the superintendent of public instruction.**

~~(b) “Annual district provided professional development” means Michigan annual district provided professional development required by section 1527 of the revised school code, 1976 PA 451, MCL 380.1527.~~

~~(c)~~ “~~Certificate endorsement~~” means a discipline area that a teacher may teach at specific grade levels based on completion of an appropriate program and passing the examination or examinations required by section 1531 of the revised school code, 1976 PA 451, MCL 380.1531.

~~(f)~~~~(d)~~ “Course of study” means a cohesive, standards-based planned program that provides knowledge and skill for specialization in a discipline area or areas and supports the practice of teaching or the professional career development of the teacher.

~~(g)~~~~(e)~~ “CTE” means career and technical education ~~and includes vocational and occupational education.~~

**(h) “CTE classification of instructional programs (CIP) code” means the code of a career development area or a CTE program under the taxonomy published by the National Center for Education Statistics, or its successor agency, of the United States Department of Education.**

~~(i)~~~~(f)~~ “Department” means the Michigan department of education unless otherwise indicated.

~~(j)~~~~(g)~~ “Discipline area” means a content area, a subject area, or an education field, **including a CTE classification of instructional programs (CIP) code**, for which endorsement is available.

~~(k)~~~~(h)~~ “Education-related professional learning” means an educational opportunity ~~intended to improve~~ **that improves** a teacher’s practice and capacity to perform the work within the profession of education, including time spent engaging with local employers or technical centers, that is 1 or more of the following:

(i) Satisfactory college semester credit hours at ~~a regionally~~ **an** accredited college or university, with 1 semester credit hour being equivalent to 25 education-related professional learning hours.

(ii) State continuing education clock hours.

(iii) ~~Annual Michigan annual~~ district provided professional development hours.

(iv) **Valid certification by the National Board for Professional Teaching Standards (NBPTS) or its successor agency, with valid NBPTS certification being equivalent to 150 education-related professional learning hours.**

**(l) “Educator preparation institution” means a baccalaureate degree-, or higher, granting institution that is approved to recommend applicants for certificates and endorsements under this code.**

**(m) “Educator preparation provider” means an educator preparation institution or an alternative route program provider.**

~~(n)~~~~(i)~~ “~~Elementary grade-level authorization endorsement~~” means an ~~authorization on a certificate endorsement to teach designated a specified discipline area areas in any grade or a specified grade range band from prekindergarten birth to grade 8 6.~~

~~(j)~~ “~~Field experience~~” means ~~structured, supervised activity in an instructional setting in which a teacher certification candidate may gain experience in the practice of teaching.~~

**(o) “Endorsement” means a discipline area that a teacher may teach, as specified on a certificate, in the specific grade band, if any, specified on the certificate, based on completion of an appropriate program and passing the appropriate available examination as required by section 1531 of the act, MCL 380.1531.**

~~(p)~~~~(k)~~ “~~Listed offense~~” means that term as defined in section 1535a of the ~~revised school code, 1976 PA 451act, MCL 380.1535a.~~

**(q) “Michigan annual district provided professional development” means Michigan annual district provided professional development as required by sections 1526 and 1527 of the act, MCL 380.1526 and 380.1527.**

~~(r)~~~~(l)~~ “Michigan teaching certificate” means any of the following:

(i) An interim teaching certificate.

(ii) A standard teaching certificate.

(iii) A professional teaching certificate.



- (iv) An advanced professional teaching certificate.
- (v) A standard CTE certificate, **formerly**.—~~(Formerly the temporary vocational authorization and the interim occupational certificate. (No longer issued.)~~
- (vi) A professional CTE certificate, **formerly**.—~~(Formerly the occupational education certificate. (No longer issued.)~~
- (vii) A temporary teaching certificate.
- (viii) A continuing certificate. (No longer issued.)
- (ix) A life certificate. (No longer issued.)
- (x) A permanent certificate. (No longer issued.)
- (xi) A temporary or full vocational authorization. (No longer issued.)
- (xii) An initial certificate entitled “provisional certificate.” (No longer issued.)
- (xiii) A certificate entitled “interim occupational certificate.” (No longer issued.)
- ~~—(m) “Nationally accredited” means accredited as a teacher preparation provider by an accrediting body with which the department has a state agreement and that the Council for Higher Education Accreditation or the United States Department of Education recognizes.~~
- ~~(s)(n)~~ “Nonpublic school” means a private, denominational, or parochial school.
- (t) “Out-of-state” means of a political subdivision of the United States, other than this state, of a federally recognized Native American tribe, or of a foreign country or a political subdivision of a foreign country.**
- ~~(u)(o)~~ **“PK-12 grade-level authorization endorsement”** means an authorization on a certificate endorsement to teach designated a specified discipline area areas in any grade or the grade range from band of prekindergarten to grade 12.
- ~~—(p) “Provider” means a teacher preparation institution or an agency that provides an approved alternative route program.~~
- ~~—(q) “Regionally accredited” means accredited by 1 of the regional accrediting agencies recognized and published by the Council for Higher Education Accreditation or its successor agency.~~
- ~~(v)(r)~~ “Satisfactory college semester credit hours” means a grade of C or better or the equivalent.
- ~~—(s) “Satisfactory teaching performance” means performance rated as effective or highly effective in year-end evaluations under section 1249 of the revised school code, 1976 PA 451, MCL 380.1249.~~
- ~~(w)(t)~~ “School district” means a local school district established under the revised school code, 1976 PA 451act, MCL 380.1 to 380.1852, an intermediate school district established under part 7 of the revised school code, 1976 PA 451act, MCL 380.601 to 380.705, a public school academy established under part 6a of the revised school code, 1976 PA 451act, MCL 380.501 to 380.507, an urban high school academy established under part 6c of the revised school code, 1976 PA 451act, MCL 380.521 to 380.529, a school of excellence established under part 6e of the revised school code, 1976 PA 451act, MCL 380.551 to 380.561, and a strict discipline academy established under sections 1311b to 1311m of the revised school code, 1976 PA 451act, MCL 380.1311b to 380.1311m.
- ~~(x)(u)~~ **“Secondary grade-level authorization endorsement”** means an authorization on a certificate endorsement to teach designated a specified discipline area areas in any grade or a specified grade range band from grade 6 5 to grade 12.
- ~~(y)(v)~~ “Standard teaching certificate” means the provisional certificate that the superintendent of public instruction issues to an individual who holds at least a bachelor’s degree, has completed a state approved teacher educator preparation program, and has met all requirements set forth in this code and the revised school code, 1976 PA 451, MCL 380.1 to 380.1852 act.
- ~~(z)(w)~~ “State board” means the Michigan state board of education.
- ~~—(x) “State board approval” means a license, certificate, approval not requiring a teaching certificate, or other evidence of qualifications to hold a particular position in a school district or nonpublic school, other than a teaching certificate, that the superintendent of public instruction issues to an individual.~~

~~(aa)(y)~~ “State continuing education clock hours” means hours of professional development issued through a process established and approved by the superintendent of public instruction.

~~–(z) “Teacher preparation institution” means a baccalaureate or higher degree granting institution that is state approved to recommend applicants for the several certificates and certificate endorsements under this code.~~

~~(bb)(aa)~~ “**Validity Valid**” means **within** the time period, ~~grade level, and discipline area of the credential and not suspended, revoked, rescinded, or nullified~~ a certificate, permit, or authorization.

R 390.1103 Successful teaching.

Rule 3. ~~The determination of successful~~ **(1) Successful** teaching ~~specified in this code is according to all of the following:~~

~~–(a) Successful experience must be with~~ **is teaching for 1 or more employers in an appropriate placement or appropriate placements** a teaching capacity within the validity of a **with instructional responsibilities while holding a valid standard level** teaching certificate.

~~(2)(b) A~~ **For purposes of determining successful teaching, 1** year of employment is a minimum of 150 instructional days and may be either an academic or a calendar year, but an individual ~~shall~~ **may** not earn more than 1 year of employment during an academic or a calendar year. An individual may accumulate ~~a~~ **1** year of employment over a period of years.

~~(3)(c) A~~ **For purposes of determining successful teaching, an** instructional day is 6 or more hours during which teachers provide instruction to or have contact with students. A combination of 2 partial instructional days of not less than 3 hours equals 1 day.

R 390.1105 ~~Individuals required to hold certificates or permits~~ **Credential requirements.**

Rule 5. (1) Unless otherwise provided in the ~~revised school code, 1976 PA 451, MCL 380.1 to 380.1852 act,~~ **a school district or nonpublic school shall not assign** an individual employed as a teacher in **any of** grades K to 12 ~~with instructional responsibilities shall hold unless both of the following are satisfied:~~

**(a) One of the following:**

**(i) The individual holds a valid teaching certificate,**

**(ii) The school district or nonpublic school holds a valid permit allowing the individual’s placement.**

**(iii) The school district or nonpublic school holds a valid, or authorization valid for the assignment allowing the individual’s placement.**

**(b) The assignment is an appropriate placement.**

(2) A teacher of a program reimbursed from CTE funds shall meet the minimum qualifications for endorsement or authorization in the particular occupational education field as the superintendent of public instruction specifies.

(3) A teacher in a reimbursed program in special education shall meet the minimum qualifications for certification, endorsements, or approvals when law requires in the particular special education field, as the superintendent of public instruction specifies.

~~–(4) A teacher aide, instructional support paraprofessional, classroom assistant, secretary to instructional personnel, or other paraprofessional legally employed in a non-instructional capacity does not require certification as a teacher.~~

R 390.1111 ~~Equality of~~ **Fair** opportunity.

Rule 11. ~~(4)~~ All students in educational programs at any level **and irrespective of their English language proficiency** shall have ~~equal~~ **fair** access to opportunities to maximize their full development in a democratic society. Each ~~Michigan teacher educator preparation institution~~ **provider in this state** shall provide

prospective teachers access to theoretical knowledge and practical experiences supporting the vision and principles for universal education and for the **appreciation, care, and respect** development of cultural competence needed to ~~respect differences and to avert disparate treatment based on race~~ **ensure fair opportunities regardless of the prospective educator's individual identities, including identities based on ethnicity**, religion, ~~color~~, national origin or ancestry, age, gender ~~preference~~ **identity, sexual orientation**, physical attributes, marital status, and **visible or invisible disability status**.

~~(2) An applicant for certification who is otherwise qualified has the right to certification by the superintendent of public instruction, to receive training for the purpose of becoming a teacher, and to engage in supervised directed teaching in any school regardless of whether the applicant is a person with a disability. A school district or nonpublic school shall not refuse to engage a teacher who is a person with a disability on such grounds if the teacher is able to carry out the duties of the position for which the teacher applies.~~

R 390.1115 Examination scores.

Rule 15. For the purpose of initial certification, ~~authorization~~, or endorsement, passing scores on the examinations ~~under~~ **as required by** section 1531 of the ~~revised school code, 1976 PA 451, act~~, MCL 380.1531, are valid for 5 years ~~from~~ **after** the date of testing.

R 390.1117 Certificate **issuance**, restrictions, and expiration.

Rule 17. (1) A Michigan teaching certificate has certain restrictions as to ~~grade level and discipline area~~ **appropriate placement**. The applicant **or holder** and the employer shall be familiar with the specific provisions regarding the validity of the certificate ~~these restrictions~~.

(2) Subject to subrules (3); ~~and (4), and (5)~~ of this rule, a Michigan teaching certificate ~~or renewal of a Michigan teaching certificate~~ expires 5 years ~~from~~ **after** June 30 of the calendar year of issuance.

(3) A temporary teaching certificate expires 1 year ~~from~~ **after** the date of issuance.

(4) Continuing, life, and permanent certificates and full vocational authorizations do not expire.

(5) ~~An initial certificate entitled "provisional certificate" and a certificate entitled "interim occupational certificate" expire 6 years from June 30 of the calendar year of issuance.~~

**The superintendent of public instruction shall not issue a Michigan teaching certificate until after payment of the applicable evaluation fee as required by section 1538 of the act, MCL 380.1538.**

R 390.1118 Nullification of teaching certificate **or endorsement**.

Rule 18. ~~(4)~~ The holder of a Michigan teaching certificate may request **that** the superintendent of public instruction ~~to~~ nullify the teaching certificate or certificate endorsement or endorsements under section 1532 of the ~~revised school code, 1976 PA 451 act~~, MCL 380.1532, **by submitting a request to the department in the manner established by the department**.

~~(2) Any nullification approved by the superintendent of public instruction takes effect immediately.~~

~~(3) The holder of a certificate shall submit a request for nullification in writing to the department. An individual who requests nullification may withdraw the request at any time before the superintendent of public instruction grants it.~~

~~(4) The superintendent of public instruction shall not reinstate a nullified certificate, endorsement, or grade level authorization.~~

R 390.1119 Members of the armed forces and uniformed services, veterans, and dependents.

Rule 19. (1) As used in this rule:

(a) "Armed forces" means the United States Army, Air Force, Navy, Marine Corps, Space Force, Coast Guard, or other military force designated by the United States Congress as a part of the Armed Forces of the United States, including the reserve components.

(b) “Dependent” means a spouse, surviving spouse, child who is less than 26 years of age, or surviving child who is less than 26 years of age.

(c) “Uniformed services” means the Commissioned Corps of the United States Public Health Service and the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

(d) “Veteran” means that term as defined in section 1 of 1965 PA 190, MCL 35.61.

(2) If 1 of the following individuals serves a period of active duty during the time period of a certificate issued under these rules, the individual may file a request with the department that the superintendent of public instruction determine that all or part of the period of active duty satisfies some or all of the requirements for renewal of the certificate:

(a) A member of the armed forces or uniformed services.

(b) A veteran.

(3) The following individuals may file a request with the department for refund of an evaluation fee paid during the immediately preceding 1-year period under section 1538 of the act, MCL 380.1538, and for a voucher in the amount of the cost of an examination under section 1531 of the act, MCL 380.1531, to be presented at the time of registration for the examination:

(a) A member of the armed forces or uniformed services.

(b) A veteran.

(c) A dependent of a member of the armed forces or of the uniformed services.

(d) A dependent of a veteran.

## PART 2. STANDARD TEACHING CERTIFICATE AND INTERIM TEACHING CERTIFICATE

R 390.1122a Interim teaching certificate.

Rule 22a. (1) The superintendent of public instruction may ~~grant~~ **issue** an interim teaching certificate **with an appropriate endorsement or endorsements** to an applicant who **pays the applicable evaluation fee and** meets all of the requirements ~~of an alternative route program~~ under section 1531i(2) of the ~~revised school code, 1976 PA 451 act,~~ MCL 380.1531i, ~~including demonstration of satisfactory teaching performance.~~

(2) **Subject to subrule (3) of this rule, an** ~~An~~ interim teaching certificate expires 5 years ~~from~~ **after** June 30 of the calendar year **of issuance** ~~that the superintendent of public instruction issues the certificate.~~

(3) **An interim teaching certificate expires if** ~~or upon notification by the alternative route program provider to the superintendent of public instruction that the candidate has exited~~ **exits** the program before completion. **The superintendent of public instruction may reinstate an interim teaching certificate that expired under this subrule on request by the alternative route program provider if the candidate returns to the same program. On reinstatement under this subrule, an interim teaching certificate is valid for the amount of time that was left in the validity period under subrule (2) of this rule at the time of expiration under this subrule.**

~~–(3) The superintendent of public instruction shall add no additional endorsements to an interim teaching certificate after issuing the certificate.~~

(4) **On request by an alternative route program provider, the superintendent of public instruction may issue an endorsement on a valid interim teaching certificate held by an individual who meets the requirements of section 1531i of the act, MCL 380.1531i, in the discipline area and grade range of the alternative additional endorsement program in which the individual is participating.**

(5)(4) The superintendent of public instruction may ~~grant~~ **issue** an interim teaching certificate to an ~~individual~~ **applicant** who holds a Michigan teaching certificate other than an interim teaching certificate and is seeking an additional endorsement through an alternative route program under section 1531i of

the ~~revised school code, 1976 PA 451, act~~, MCL 380.1531i. The individual may hold the Michigan teaching certificate and the interim teaching certificate at the same time.

~~(6)(5)~~ An interim teaching certificate is nonrenewable.

R 390.1123 Standard teaching certificate; preparation program requirements.

Rule 23. (1) Subject to ~~subrule (2) of this rule~~ **R 390.1161**, the superintendent of public instruction may issue a standard teaching certificate to an applicant ~~for a standard teaching certificate shall who~~ **has paid the applicable evaluation fee if the department has received the recommendation of an educator preparation institution under R 390.1125 based on the applicant's satisfactory completion of** ~~satisfactorily complete~~ an approved program in ~~teacher~~ **educator** preparation that includes all of the following:

(a) At least 20 semester credit hours of instruction in theoretical and practical knowledge reflecting state board approved standards and related proficiencies required of entry level teachers.

(b) Supervised directed teaching. All of the following apply:

(i) Supervised directed teaching must engage applicants in practical experiences that reflect and support the standards and related proficiencies for entry level teachers.

(ii) Supervised directed teaching ~~must be for a minimum duration of 12 weeks and for a minimum of 6 semester credit hours, with 30 clock hours of classroom teaching and observation under the supervision of a teacher preparation institution being equivalent to 1 semester credit hour of supervised directed teaching~~ **engage a candidate in a minimum of 300 hours of student contact as defined by the department.**

(iii) Supervised directed teaching must be in the grade range ~~and discipline area~~ for which the superintendent of public instruction is to ~~grant~~ **issue** an endorsement.

(iv) ~~Based on the recommendation of the superintendent of an employing school district or nonpublic school and the teacher preparation institution, the superintendent of public instruction may waive up to 6 semester credit hours of supervised directed teaching for the initial standard teaching certificate if the applicant satisfies either of the following:~~

~~—(A) Holds a master's or higher degree and has 3 years of successful teaching at the appropriate level.~~

~~—(B) Has 5 years of successful teaching at the appropriate level.~~ **regular observation by the employer and review by the educator preparation institution, the educator preparation institution may substitute 3 years of teaching in an appropriate placement for the supervised directed teaching required by this subdivision for a standard teaching certificate or endorsement. For purposes of this paragraph, R 390.1103(2) and (3) apply.**

(c) An approved course of study in a certificate endorsement area that includes preparation in discipline area knowledge, pedagogy, and ~~field~~ **clinical** experiences ~~as defined in state board approved standards and~~ appropriate to the grade level the applicant proposes to teach. All of the following apply:

(i) The approved course of study must include early and ongoing structured ~~field~~ **clinical** experiences with diverse student populations and in diverse instructional settings.

(ii) The superintendent of public instruction may issue ~~a an initial~~ standard teaching certificate with ~~an elementary grade-level authorization upon~~ **endorsement on** satisfaction of ~~all~~ **both** of the following:

(A) Completion of an approved course of study in base knowledge appropriate for elementary education, ~~as specified in state board approved standards.~~

~~(B) Completion of an approved course of study in a discipline area appropriate to the elementary grade level, methods coursework appropriate to that area, and appropriate field-clinical experiences as specified in state board approved standards.~~

~~(B)(C)~~ A minimum of 6 semester credit hours in the teaching of literacy with appropriate ~~field~~ **clinical** experiences ~~as specified in state board approved standards.~~

(iii) The superintendent of public instruction may issue ~~a an initial~~ standard teaching certificate with a secondary **or PK-12** grade-level authorization ~~upon endorsement on~~ satisfaction of both of the following:

(A) Completion of an approved course of study in a discipline area appropriate to the secondary grade level, methods coursework appropriate to that area, and appropriate ~~field-clinical~~ experiences as ~~specified in state board approved standards.~~

(B) A minimum of 3 semester credit hours in literacy instruction appropriate to the discipline area and appropriate ~~field-clinical~~ experiences as ~~specified in state board approved standards.~~

(2) **Subject to R 390.1161, the superintendent of public instruction may issue a standard teaching certificate** ~~Under section 1531i of the revised school code, 1976 PA 451, MCL 380.1531i, to an applicant for a standard teaching certificate shall who has paid the applicable evaluation fee if the department has received the recommendation of an alternative route program provider under R 390.1125 based on the applicant's satisfactory completion of a program offered by the complete an alternative route program provider that includes all of the following: a minimum of 12 weeks of teaching appropriate to each endorsement recommended by the alternative route program provider.~~

~~—(a) An initial 4 weeks of employment supported by intensive observation, mentoring or coaching, and feedback provided by an assigned mentor or coach with experience and expertise in the candidate's certificate endorsement area or appropriate level of certification.~~

~~—(b) An additional 8 weeks of continued supervision, mentoring or coaching, and evaluation.~~

~~—(c) A minimum of 12 weeks of teaching appropriate to each endorsement recommended by the alternative route program provider.~~

~~—(d) Satisfaction of all other requirements in section 1531i of the revised school code, 1976 PA 451, MCL 380.1531i, including three years of satisfactory teaching performance~~

R 390.1125 Degree; recommendations; rules as minimum requirements.

Rule 25. (1) An applicant for a standard teaching certificate ~~or standard CTE certificate~~ shall possess a bachelor's degree and ~~shall have the recommendation of a Michigan teacher~~ **an educator** preparation institution ~~or approved alternative route program provider.~~ A Michigan ~~teacher~~ **educator** preparation institution may accept a degree from a ~~regionally~~ **an** accredited institution if the accepting Michigan ~~teacher~~ **educator** preparation institution determines that the degree is equivalent to that awarded by that institution.

(2) ~~A teacher~~ **An educator** preparation institution ~~or approved alternative route program provider~~ that recommends candidates for teaching certificates shall establish selection ~~techniques~~ **criteria** that ensure that it admits only qualified candidates to its ~~teacher~~ **approved educator** preparation ~~program~~ **programs** and ~~that it recommends only qualified candidates for certification or additional certificate endorsements.~~

(3) ~~A teacher~~ **An educator** preparation institution ~~or approved alternative route program provider~~ shall not recommend candidates for certification or endorsement in discipline areas in which it does not have approved programs. ~~The superintendent of public instruction may determine the criteria for accepting certification of candidates prepared by out-of-state teacher preparation providers in accordance with the law of this state.~~

(4) ~~A teacher~~ **An educator** preparation institution ~~or approved alternative route program provider~~ shall make recommendations concerning all certificates for which the superintendent of public instruction approves the ~~teacher~~ **educator** preparation institution ~~or approved alternative route program provider.~~ ~~A teacher~~ **An educator** preparation institution ~~or approved alternative route program provider~~ shall not make a recommendation concerning a certificate before satisfaction of ~~all~~ **both** of the following:

(a) The applicant's satisfactory completion of **an approved program of the educator preparation provider** ~~the teacher preparation program or the approved alternative route program.~~

~~—(b) The applicant's presentation to the teacher preparation institution or alternative route program provider of a valid certificate of completion of a course approved by the superintendent of public instruction in first aid and cardiopulmonary resuscitation as required by section 1531d of the revised school code, 1976 PA 451, MCL 380.1531d.~~

(b)(e) The applicant's passing of **appropriate available** examinations as required by section 1531 of the ~~revised school code act~~, MCL 380.1531.

(5) The requirements in these rules are minimum requirements. ~~A teacher~~ **An educator** preparation institution-provider may have additional requirements that exceed the requirements of these rules.

(6) **The superintendent of public instruction may determine the criteria for evaluating certification of candidates prepared by out-of-state providers in accordance with the law of this state, including R 390.1130.**

R 390.1129 Additional endorsements.

Rule 29. (1) ~~An applicant for an initial standard teaching certificate or a~~ **Subject to R 390.1161, the superintendent of public instruction may issue an additional endorsement on holder of a valid or expired Michigan teaching certificate, except an interim teaching certificate, may qualify for another certificate endorsement by presenting evidence of completion of an additional endorsement program with a minimum of 20 semester credit hours. to an applicant who has paid the applicable evaluation fee if both of the following are satisfied:**

(a) **The department has received the recommendation of an educator preparation institution under R 390.1125 based on the applicant's satisfactory completion of an approved additional endorsement program that included**

~~(2) An additional endorsement program includes preparation in theoretical and practical knowledge, discipline area knowledge, pedagogy, and field-clinical experience, as defined in state board approved standards. If, for a particular additional endorsement program, state board approved standards do not specify pedagogy and field-clinical experience, the additional endorsement program must require pedagogy and field-clinical experience no later than the beginning of the fall 2019 semester.~~

(b)(3) **The applicant passed** ~~Upon passing the~~ **appropriate available** examination ~~under as required by section 1531 of the revised school code, 1976 PA 451 act, MCL 380.1531, if an examination is available and successfully completing credit requirements at a Michigan teacher preparation institution, a candidate may apply for the additional certificate endorsement.~~

(2)(4) ~~With the approval of a Michigan teacher-educator preparation institution, an individual who is already certified and who wishes to qualify for an additional endorsement may combine coursework to meet preparation standards in the discipline area with already earned semester credit hours to bring the total up to the minimum number of required credits as specified in this rule. When the candidate has completed the required credits and passed the~~ **appropriate available** examinations ~~under as required by section 1531 of the revised school code, 1976 PA 451 act, MCL 380.1531, the teacher educator preparation institution shall recommend the candidate for the additional endorsement.~~

(3)(5) ~~The holder of a Michigan teaching certificate except an interim teaching certificate may qualify for an additional endorsement by presenting evidence of completion of an approved Michigan alternative route program under R 390.1122a.~~ **Subject to R 390.1161, the superintendent of public instruction may issue an additional endorsement on a Michigan teaching certificate, except an interim teaching certificate, to an applicant who has paid the applicable evaluation fee if both of the following are satisfied:**

(a) The department has received the recommendation of an alternative route program provider based on the applicant's satisfactory completion of a program offered by the alternative route program provider that included both of the following:

(i) Satisfaction of all requirements in section 1531i of the act, MCL 380.1531i.

(ii) A minimum of 12 weeks of teaching appropriate to each endorsement recommended by the alternative route program provider.

(b) The applicant passed the appropriate available examination as required by section 1531 of the act, MCL 380.1531.

R 390.1129b ~~Procedures at expiration~~ **Renewal** of standard teaching certificate;  
**progression to professional teaching certificate.**

Rule 29b. (1) ~~An applicant with a standard teaching certificate may progress to the professional teaching certificate at any time if the applicant has met the requirements of R 390.1133.~~

~~–(2) Subject to subrules (4) and (5) of this rule and subject to section 1233(6) to (8) of the revised school code, 1976 PA 451, act, MCL 380.1233, if the~~ **an applicant who holds a standard teaching certificate** does not qualify for the professional teaching certificate, the superintendent of public instruction may **grant issue to the applicant** a 5-year renewal of the standard teaching certificate **if the applicant has paid the applicable evaluation fee and the department has received documentation based upon evidence** that, since the issue date of the most recent certificate, the applicant ~~has completed any~~ a combination of education-related professional learning hours totaling 150 hours.

**(2) Additional hours beyond the 150 hours required under subrule (1) of this rule that a certificate holder earns during the time period of a certificate do not apply toward subsequent renewals.**

~~(3)–A~~ **The superintendent of public instruction** ~~teacher may obtain issue~~ additional 5-year renewals of a standard teaching certificate **to an applicant** under subrule ~~(2)~~ **(1)** of this rule on or after January 1 of the year in which the certificate expires.

(4) Subject to section 1233(6) to (8) of the ~~revised school code, 1976 PA 451, act, MCL 380.1233,~~ the superintendent of public instruction may ~~grant issue~~ one 5-year renewal of a standard teaching certificate **to an applicant who has paid the applicable evaluation fee if the department has received documentation that the applicant** ~~based upon the holder's submission of evidence of having earned at any time an education-related master's or higher degree.~~

(5) Subject to section 1233(6) to (8) of the ~~revised school code, 1976 PA 451, act, MCL 380.1233,~~ **the superintendent of public instruction may issue one 5-year renewal of a standard teaching certificate to an applicant** ~~a teacher who has paid the applicable evaluation fee holds an expired standard teaching certificate~~ **if the department has received documentation that the applicant and holds a valid out-of-state teaching certificate from another state is eligible for one 5-year renewal of the standard teaching certificate.**

**(6) An individual who holds a valid or expired standard teaching certificate may progress to the professional teaching certificate at any time after satisfaction of the requirements of R 390.1133.**

R 390.1130 ~~Reciprocity agreements, foreign programs, and~~ **Out-of-state teaching certificate and program;** temporary teaching certificate.

Rule 30. (1) ~~The~~ **Subject to subrule (5) of this rule and R 390.1204,** the superintendent of public instruction may **issue a standard teaching certificate to an applicant who has paid the applicable evaluation fee if the department has received documentation of both of the following:** ~~enter into written agreements with the states for the mutual acceptance of 1 or more types of teaching certificates issued by each state.~~

**(a) One of the following:**



(i) **An out-of-state certifying authority issued a standard level, or higher, teaching certificate to the applicant at any time based on satisfaction of requirements for certification the superintendent of public instruction considers equivalent to those in effect in this state.**

(ii) **The applicant satisfactorily completed an out-of-state program the requirements of which the superintendent of public instruction considers equivalent to those in effect in this state that lead to teacher certification.**

(b) **The applicant passed the appropriate available examinations as required by section 1531 of the act, MCL 380.1531.**

(2) ~~Under a reciprocity agreement described in Subject to subrule (4)(5) of this rule and R 390.1204,~~ the superintendent of public instruction may issue a ~~standard~~ **professional** teaching certificate to an ~~individual applicant who has paid the applicable evaluation fee if the department has received documentation of meets-all of the following requirements:~~

(a) **An out-of-state certifying authority issued a standard level, or higher, teaching certificate to the applicant at any time based on satisfaction of** ~~The applicant holds, or is eligible for, a standard level teaching certificate issued by the certifying authority of any other state whose requirements for certification the superintendent of public instruction considers equivalent to those in effect in this state.~~

(b) **The applicant satisfies the requirements of R 390.1123(1)(c)(ii)(B) or (iii)(B)** ~~holds valid first aid and adult and pediatric cardiopulmonary resuscitation certificates as required by section 1531d of the revised school code, 1976 PA 451, MCL 380.1531d.~~

(c) ~~The applicant has passed examinations under~~ **satisfies all requirements of section 1531(6) of the revised school code, 1976 PA 451 act, MCL 380.1531.**

(3) ~~Under a reciprocity agreement described in Subject to subrule (4)(5) of this rule,~~ the superintendent of public instruction may issue a **an endorsement on a valid or expired Michigan professional** teaching certificate to an ~~individual applicant who has paid the applicable evaluation fee if the department has received documentation of who meets both of the following requirements:~~

(a) ~~A minimum of 6 satisfactory college semester credit hours of literacy instruction for a certificate with elementary grade level authorization or a minimum of 3 satisfactory college semester credit hours of literacy instruction as appropriate to the discipline area for a certificate with secondary or PK-12 grade level authorization. One of the following:~~

(i) **The applicant holds a valid or expired out-of-state teaching certificate with the endorsement or its equivalent.**

(ii) **The applicant completed an out-of-state program with requirements the superintendent of public instruction considers equivalent to those in effect in this state that lead to the endorsement.**

(b) ~~All requirements set forth in~~ **The applicant passed appropriate available examinations as required by section 1531(6) 1531 of the revised school code, 1976 PA 451 act, MCL 380.1531.**

(4) ~~An Subject to subrule (5) of this rule and R 390.1204,~~ the superintendent of public instruction may issue a **nonrenewable 1-year temporary teaching certificate to an applicant who has completed an alternative route program approved by an appropriate out-of-state agency may present evidence of successful completion of that program and a valid standard level teaching certificate from that state. has paid the applicable evaluation fee and satisfies the requirements of section 1531(13) of the act, MCL 380.1531.**

(5) ~~An organization approved by the United States Department of Education and by the superintendent of public instruction shall evaluate teacher preparation programs completed in foreign countries in determining eligibility for certification.~~

~~(6) The superintendent of public instruction may issue a nonrenewable 1-year temporary teaching certificate to an individual who satisfies the requirements of section 1531(6) of the revised school code, 1976 PA 451, MCL 380.1531, except for the literacy instruction requirements set forth in this code, or who satisfies the requirements of 1531(16) of the revised school code, 1976 PA 451, MCL 380.1531.~~

~~Such individual shall hold a teaching certificate issued by another state, by a United States territory, or by a Canadian province that satisfies standards established by the department.~~ **An application for a Michigan teaching certificate or endorsement based on a foreign teaching credential must include documentation of credential review by a current member in good standing of an international credential review association approved by the department.**

~~(6)(7) The superintendent of public instruction may issue a Michigan teaching certificate to an individual who satisfies the requirements of section 1531(6) of the revised school code, 1976 PA 451, MCL 380.1531. Such individual shall hold a teaching certificate issued by another state, by a United States territory, or by a Canadian province that satisfies standards established by the department.~~ **enter into a written reciprocity agreement with an out-of-state certifying authority for the mutual acceptance of 1 or more types of teaching certificates.**

### PART 3. PROFESSIONAL TEACHING CERTIFICATE

R 390.1133. Professional teaching certificate.

Rule 33. (1) The superintendent of public instruction may issue a professional teaching certificate to an applicant who **has paid the applicable evaluation fee if the department has received documentation** ~~presents evidence at the time of the application of satisfaction of all of the following:~~

(a) ~~Met the successful teaching requirement as specified in section 1531j of the revised school code, 1976 PA 451, MCL 380.1531j, and as defined.~~ **The applicant successfully completed 3 full years of classroom teaching as described in R 390.1103.**

(b) ~~The applicant completed~~ **Completed** the reading requirements of section ~~1531(4)~~ **1531(3)** of the revised school code, ~~1976 PA 451 act,~~ MCL 380.1531.

(c) ~~The applicant completed~~ **Completed** a minimum of 6 satisfactory college semester credit hours of literacy instruction for a certificate with ~~an elementary grade-level authorization~~ **endorsement** or a minimum of 3 satisfactory college semester credit hours of literacy instruction as appropriate to the discipline area for a certificate with ~~another endorsement secondary or PK-12 grade-level authorization.~~ The applicant may have completed this course credit at any time before ~~application~~ **applying** for the professional teaching certificate.

(d) ~~Earned at any time an education-related master's or higher degree or, subject~~ **Subject** to section 1233(6) to (8) of the revised school code, ~~1976 PA 451, act,~~ MCL 380.1233, since the issue date of the most recent standard teaching certificate ~~or renewal,~~ **the applicant** completed ~~any~~ **a** combination of education-related professional learning hours totaling 150 hours.

(2) An individual who meets the requirements of this rule may apply for ~~a the initial~~ professional teaching certificate at any time.

R 390.1135 ~~Professional~~ **Renewal of professional** teaching certificate; ~~renewal.~~

Rule 35. (1) Subject to **subrule (3) of this rule and subject to** section 1233(6) to (8) of the ~~revised school code, 1976 PA 451 act,~~ MCL 380.1233, the superintendent of public instruction may renew a professional teaching certificate that has expired or will expire within the calendar year of application **if the applicant has paid the applicable evaluation fee and the department has received documentation that, upon the applicant's completion** since the issue date of the most recent ~~professional teaching certificate or renewal of,~~ **the applicant completed any** a combination of education-related professional learning hours totaling 150 hours.

(2) Additional hours beyond the 150 hours required under subrule (1) of this rule that a certificate holder earns during **the time period of a any** ~~certificate validity~~ do not apply toward ~~any~~ subsequent renewals.

(3) Subject to section 1233(6) to (8) of the ~~revised school code, 1976 PA 451 act~~, MCL 380.1233, **the superintendent of public instruction may issue one 5-year renewal of a teacher who holds a valid or expired Michigan professional teaching certificate to an applicant who has paid the applicable evaluation fee if the department has received documentation that the applicant and holds a valid out-of-state teaching certificate from another state is eligible for one 5 year renewal of the Michigan professional teaching certificate.**

R 390.1137 Advanced professional teaching certificate.

Rule 37. The superintendent of public instruction may issue an advanced professional teaching certificate at any time to an applicant who ~~satisfies~~ **has paid the applicable evaluation fee if the department has received documentation of both** all of the following:

(a) ~~The applicant holds~~ **Holds** a professional teaching certificate or a life, continuing, or permanent certificate.

(b) ~~Meets one~~ **One** of the following:

(i) ~~Holds~~ **The applicant holds valid national-board certification by the National Board for Professional Teaching Standards or its successor agency.**

(ii) ~~Has~~ **The applicant** completed a teacher leader training or preparation program approved by the superintendent of public instruction, with such completion being indicated on the certificate required in subdivision (a) of this ~~subrule~~ **rule**.

(iii) ~~Has~~ **The applicant** completed a successful term as Michigan teacher of the year as determined by the superintendent of public instruction.

(iv) **The applicant completed a specialist preparation program approved by the superintendent of public instruction, with such completion being indicated on the certificate required in subdivision (a) of this rule.**

~~—(c) On annual year-end evaluations under section 1249 of the revised school code, 1976 PA 451, MCL 380.1249, received ratings required by section 1531k of the revised school code, 1976 PA 451, MCL 380.1531k.~~

R 390.1138 Advanced professional teaching certificate; renewal.

Rule 38. (1) The superintendent of public instruction may renew an advanced professional teaching certificate that has expired or ~~will expire~~ **expires** within the calendar year of renewal application if the applicant **has paid the applicable evaluation fee and the department has received documentation that, since** satisfies both of the following:

~~—(a) On annual year-end evaluations under section 1249 of the revised school code, 1976 PA 451, MCL 380.1249, received ratings required by section 1531k of the revised school code, 1976 PA 451, MCL 380.1531k.~~

~~—(b) Since~~ the issue date of the most recent advanced professional teaching certificate ~~or renewal~~, subject to section 1233(6) to (8) of the ~~revised school code, 1976 PA 451, act~~, MCL 380.1233, **the applicant** completed ~~any~~ a combination of education-related professional learning hours totaling 150 hours.

(2) Additional hours beyond the 150 hours required under subrule ~~(1)(b)~~ **(1)** of this rule that a certificate holder earns during **the time period of a any** certificate ~~validity~~ do not apply toward ~~any~~ subsequent renewals.

~~—(3) An applicant who does not receive ratings on annual year-end evaluations under section 1249 of the revised school code, 1976 PA 451, act, MCL 380.1249, as required in section 1531k of the revised school code, 1976 PA 451, act, MCL 380.1531k, is not eligible to renew the advanced professional teaching certificate. This does not preclude renewal of a professional teaching certificate under R 390.1135.~~

#### PART 4. SUBSTITUTE PERMITS

R 390.1141 Substitute permits; general provisions.

Rule 41. (1) ~~A~~**On approval of an application and payment of the applicable evaluation fee, the superintendent of public instruction may issue to a school district or nonpublic school shall obtain a substitute permit or renewal of a substitute permit to assign an for any individual or teacher who meets the requirements of statute and this part. does not hold the valid and appropriate endorsement or certificate, including an individual employed under section 505, 1233b, 1233c, or 1531f of the revised school code, 1976 PA 451, MCL 380.505, 380.1233b, 380.1233c, and 380.1531f.**

(2) ~~Upon approval of an application and payment of the appropriate fee, the superintendent of public instruction may issue to~~ **Subject to subrule (9) of this rule, before assigning an individual who cannot be appropriately placed in the assignment, a school district or nonpublic school shall apply to the department for a substitute permit or renewal of a substitute permit under this part, pay the applicable evaluation fee, verify satisfaction of the requirements of statute and this part, and hold the substitute permit or renewal for placement of the to employ an individual. Subject to the act, the school district or nonpublic school shall verify that an individual with a valid certificate under which appropriate placement is possible is not available for the assignment in accordance with the established hiring practice of the school district or nonpublic school. who meets the requirements of statute and this part when an appropriately certificated and endorsed teacher is not available for employment. The substitute permit is a full-year, daily, or expert substitute permit.**

(3) ~~The superintendent of public instruction may issue a full-year, daily, or expert substitute permit or renewal of a substitute permit to the recommending superintendent or school administrator, who~~ **An individual shall not apply for a substitute permit or renewal of a substitute permit on behalf of a school district or nonpublic school for the individual's own placement unless the board of the school district or the governing body of the nonpublic school approves the application in the manner directed by the department. be the individual whom the school district will employ under the substitute permit or renewal, and who shall apply for the substitute permit or renewal on behalf of the school district or nonpublic school. The recommending superintendent or school administrator receiving the substitute permit or renewal shall hold the substitute permit or renewal for the individual.**

~~(4) The department shall receive the fee for an approved substitute permit before the first instructional day the individual is in the assignment.~~

~~(5)~~**(4) A substitute permit issued under this part is valid from the issue date to August 31 immediately following the academic year listed on the permit. or the last day of the school district's or nonpublic school's academic year, whichever date comes first.**

~~(6)~~**(5)(6) Subject to subrule (8)(7) of this rule, the superintendent of public instruction may revoke, refuse to grant, refuse to renew, or refuse to extend a substitute permit pursuant to under this code part for 1 any of the following reasons:**

(a) Fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of the substitute permit.

(b) Conviction of the individual for a crime described in section 1535a of the revised school code, 1976 PA 451, act, MCL 380.1535a.

(c) Failure to meet the requirements for the substitute permit.

**(d) Action taken by an out-of-state certificating authority against an educator credential issued at any time to the individual by that authority.**

~~(6)(7)~~ The superintendent of public instruction may rescind a substitute permit at the request of the school district or nonpublic school.

~~(7)(8)~~ The superintendent of public instruction shall revoke, refuse to grant, refuse to renew, or refuse to extend a substitute permit if the criminal history of the individual for whom a school district or nonpublic school requests the permit includes conviction of a listed offense.

~~(8)(9)~~ **Subject to subrule (9) of this rule, a** A school district **employing an individual who is not appropriately placed under a valid certificate, valid substitute permit, valid authorization, or valid approval issued under rules promulgated by the department** placing a noncertified, inappropriately certified, or unlicensed individual in an assignment without obtaining a permit or authorization under this code is subject to section 163 of the state school aid act of 1979, 1979 PA 94, MCL 388.1763.

**(9) If an individual holds a valid Michigan teaching certificate, a school district or nonpublic school may place the individual outside the grade levels and discipline areas listed on the certificate for not more than 90 consecutive calendar days without obtaining a substitute permit.**

R 390.1142 Full-year**Daily** substitute permit.

Rule 42. ~~(1) The superintendent of public instruction may issue a full-year substitute permit to a school district or nonpublic school if a properly certificated and endorsed teacher is unavailable for the assignment.~~

~~(2) All of the following apply to a full-year substitute permit:~~

~~—(a) The individual for whom the school district or nonpublic school requests the full-year substitute permit has satisfactorily completed the credit requirement of section 1233(5) of the revised school code, 1976 PA 451, MCL 380.1233.~~

~~—(b) When a school district or nonpublic school requests a full-year substitute permit for an assignment to teach a core academic discipline, as defined by the superintendent of public instruction, the school district or nonpublic school shall present evidence that the individual has completed an academic major in the discipline, or obtained a passing score on the appropriate available discipline area examination approved by the superintendent of public instruction.~~

~~—(c) The employing school district or nonpublic school shall assign a mentor to the individual.~~

~~—(d) The employing school district or nonpublic school may apply to renew a full-year substitute permit to place the same individual in the permitted assignment area. The following requirements apply at the time of the application for renewal:~~

~~—(i) For the first renewal, the individual shall have had a minimum of 1 formal observation leading to a comprehensive evaluation rating of effective or highly effective and shall be enrolled in an approved teacher preparation program. This program must lead to either an initial teaching certificate or an additional endorsement on an existing teaching certificate.~~

~~—(ii) Within each subsequent year of renewal, the candidate shall have completed a minimum of 6 additional satisfactory college semester credit hours in the approved program and shall have had a minimum of 1 formal observation leading to a comprehensive evaluation rating of effective or highly effective.~~

~~(3) A school district or nonpublic school may apply for a shortage full-year substitute permit for an individual who holds a professional teaching certificate, an advanced professional teaching certificate, or~~

~~a continuing, life, or permanent certificate but who does not hold the appropriate endorsement or grade level authorization. All of the following apply to the shortage full-year substitute permit:~~

- ~~—(a) The superintendent of public instruction identifies the discipline as an area of critical shortage.~~
- ~~—(b) If the discipline area is a core academic discipline as defined by the superintendent of public instruction, the individual has completed an academic major in the discipline or obtained a passing score on the appropriate available discipline area examination approved by the superintendent of public instruction.~~
- ~~—(c) The assignment does not exceed ½ of a full time equivalency teaching position, defined in accordance with a local bargaining agreement.~~
- ~~—(d) Renewal requires the teacher to have had 1 formal observation leading to a comprehensive evaluation rating of effective or highly effective in the permitted discipline area and assignment during the validity of the shortage full-year substitute permit under section 1249 of the revised school code, 1976 PA 451, MCL 380.1249.~~
- ~~—(4) Any substitute permit issued under this rule is valid for teaching in the grade levels and discipline areas specified on the permit from the date of issuance to the end of the academic school year specified on the permit.~~
- ~~—(5) A school district or nonpublic school may apply for renewal of a substitute permit issued under this rule not more than 3 times. The superintendent of public instruction may issue a daily substitute permit to a school district or nonpublic school for an individual who has satisfactorily completed the credit requirement of section 1233(5) of the act, MCL 380.1233.~~

**(2) A daily substitute permit is valid for teaching on a substitute or intermittent basis when the certificated teacher regularly assigned to the classroom is temporarily absent. A daily substitute permit is valid for no more than 90 consecutive calendar days in the same assignment.**

**(3) A daily substitute permit is not renewable.**

**(4) On application by a school district or nonpublic school, the superintendent of public instruction may issue to the school district or nonpublic school an extension of a daily substitute permit as follows if the individual does not qualify for transition to a full-year substitute permit:**

**(a) The superintendent of public instruction may issue an extension of the daily substitute permit for 1 additional 90-consecutive-calendar-day period if the school district or nonpublic school verifies both of the following:**

**(i) There was a formal satisfactory observation of the individual by an administrator or designee during the period of the daily substitute permit.**

**(ii) The school district or nonpublic school assigned a mentor to the individual during the period of the daily substitute permit.**

**(b) In addition to an extension granted under subdivision (a) of this subrule, the superintendent of public instruction may, in the exercise of discretion, grant the application of a school district or nonpublic school for 1 emergency extension of the daily substitute permit for another 90-consecutive-calendar-day period.**

**R 390.1143 Full-year basic Daily-substitute permit.**

~~Rule 43. (1) The superintendent of public instruction may issue a daily substitute permit to a school district or nonpublic school for an individual who has satisfactorily completed the credit requirement of section 1233(5) of the revised school code, 1976 PA 451, MCL 380.1233.~~

~~—(2) All of the following apply to a daily substitute permit:~~

~~—(a) A daily substitute permit is valid for teaching on a substitute basis during a given academic school year. As used in this rule, “teaching on a substitute basis” means teaching in a classroom when the certificated teacher regularly assigned to the classroom is temporarily absent.~~

~~—(b) A daily substitute permit is not valid for any regular or extended teaching assignment. As used in this rule, “regular or extended teaching assignment” means an assignment to the same classroom for more than 90 consecutive calendar days.~~

~~—(c) If an individual holds a valid Michigan teaching certificate, a school district or nonpublic school may employ the individual in an assignment outside the validity of the certificate for not more than 90 consecutive calendar days without obtaining a substitute permit.~~

~~—(d) A daily substitute permit is not renewable.~~

~~—(e) If the individual does not qualify to transition to the full year substitute permit, the employing school district or nonpublic school may apply for extension of the daily substitute permit as follows:~~

~~—(i) The school district or nonpublic school may apply for extension of the daily substitute permit for 1 additional 90 consecutive calendar day period during the same school year if the school district or nonpublic school satisfies both of the following before the application for extension:~~

~~—(A) There is a formal satisfactory observation of the individual by either an administrator or a designee.~~

~~—(B) The school district or nonpublic school assigns a mentor to the individual.~~

~~—(ii) In addition to an extension granted under paragraph (i) of this subdivision, the superintendent of public instruction has the discretion to grant the application of the school district or nonpublic school for 1 emergency extension of the daily substitute permit for another 90 consecutive calendar day period.~~

**The superintendent of public instruction may issue a full-year basic substitute permit under this rule to a school district or nonpublic school for the assignment of an individual, including but not limited to the assignment of an individual under section 505, 1233b, 1233c, or 1531f of the act, MCL 380.505, 380.1233b, 380.1233c, and 380.1531f.**

**(2) Subject to the act, all of the following apply to a full-year basic substitute permit:**

**(a) The individual for whom the school district or nonpublic school requests the full-year basic substitute permit has satisfactorily completed the credit requirement of section 1233(5) of the act, MCL 380.1233.**

**(b) The superintendent of public instruction shall not issue a full-year basic substitute permit to a school district or nonpublic school for an assignment to teach a core academic discipline, as defined by the superintendent of public instruction, unless the department has received documentation of 1 of the following:**

**(i) The individual completed an academic major or minor in the discipline area.**

**(ii) The individual earned 20 semester credit hours in the discipline area.**

**(iii) The individual obtained a passing score on the appropriate available discipline area examination approved by the superintendent of public instruction.**

**(c) The school district or nonpublic school shall assign a mentor to the individual.**

**(d) The individual and the supervisor shall collaboratively develop and implement an individualized development plan.**

**(3) The superintendent of public instruction may renew a full-year basic substitute permit not more than 3 times to place the same individual in the permitted assignment on application by the school district or nonpublic school, and both of the following apply:**

**(a) For the first renewal, all of the following apply:**

**(i) At the time of the application for renewal by the school district or nonpublic school, the individual is enrolled in an educator preparation program that leads to either a teaching certificate or an additional endorsement on a teaching certificate.**

**(ii) The school district or nonpublic school shall assign a mentor to the individual.**

**(iii) The individual and the supervisor shall collaboratively develop and implement an individualized development plan.**

**(b) For each subsequent renewal, all of the following apply:**

(i) At the time of the application for renewal by the school district or nonpublic school, the individual demonstrates progress toward completion of an educator preparation program, as determined by the superintendent of public instruction, since the most recent renewal.

(ii) The school district or nonpublic school shall assign a mentor to the individual.

(iii) The individual and the supervisor shall collaboratively develop and implement an individualized development plan.

**R 390.1144 Full-year shortage substitute permit.**

**Rule 44. (1) The superintendent of public instruction may issue a full-year shortage substitute permit under this rule to a school district or nonpublic school for an individual who cannot be appropriately placed under a valid certificate or credential.**

**(2) Subject to the act, all of the following apply to a full-year shortage substitute permit:**

**(a) A school district or nonpublic school may apply for a full-year shortage substitute permit for assignment of an individual who holds a valid professional, advanced professional, continuing, life, or permanent teaching certificate but who does not hold the appropriate endorsement for the assignment, including grade band endorsement.**

**(b) The superintendent of public instruction shall not issue a full-year shortage substitute permit to a school district or nonpublic school for an assignment to teach a core academic discipline, as defined by the superintendent of public instruction, unless the department has received documentation of 1 of the following:**

**(i) The individual completed an academic major or minor in the discipline area.**

**(ii) The individual earned 20 semester credit hours in the discipline area.**

**(iii) The individual obtained a passing score on the appropriate available discipline area examination approved by the superintendent of public instruction.**

**(c) The assignment does not exceed 1/2 of a full-time equivalency teaching position.**

**(3) The superintendent of public instruction may renew a full-year shortage substitute permit not more than 3 times to place the same individual in the permitted assignment on application by the school district or nonpublic school, and both of the following apply:**

**(a) During the year of the most recent full-year shortage substitute permit or renewal, the individual had 1 formal observation leading to a comprehensive evaluation rating of effective or highly effective under section 1249 of the act, MCL 380.1249.**

**(b) The assignment does not exceed 1/2 of a full-time equivalency teaching position.**

**R 390.1145 ~~Expert~~ Full-year expert substitute permit.**

**Rule 45. (1) The superintendent of public instruction may issue ~~an~~ a full-year expert substitute permit under this rule to a school district or nonpublic school ~~if a properly certificated and endorsed teacher is not available for the teaching assignment~~ for an individual who cannot be appropriately placed under a valid certificate or credential, and all of the following apply:**

**(a)(2) The assignment for which ~~a~~ the school district or nonpublic school requests ~~an~~ a full-year expert substitute permit must not exceed ~~1/2~~ 1/2 of a full-time equivalency teaching position, ~~defined in accordance with a local bargaining agreement.~~**

**(b)(3) The individual for whom ~~a~~ the school district or nonpublic school requests ~~an~~ a full-year expert substitute permit shall have documented expertise in the area of the assignment or a similar area and at least 5 years of successful and documented work experience in the area of the assignment or a similar area. The work experience requirement does not apply to an individual ~~employed~~ assigned to teach a world language.**

**(c) The school district or nonpublic school shall assign a mentor to the individual.**



**(d) The individual and the supervisor shall collaboratively develop and implement an individualized development plan.**

**(e)(4) Subject to subrule (5) subdivision (f) of this rule-subrule, if the assignment for which the superintendent of public instruction shall not issue a full-year expert substitute permit to a school district or nonpublic school requests an expert substitute permit is in for an assignment to teach a core academic discipline, as defined by the superintendent of public instruction, unless the department has received documentation of both of the following:**

**(i) The individual shall hold holds a bachelor's degree, or higher, degree from a regionally an accredited college or university.**

**(ii) and 1 One of the following:**

**(A)(a) An The individual completed an academic major or minor in the discipline area of the assignment or a related discipline area as determined by the superintendent of public instruction.**

**(B) The individual earned 20 semester credit hours in the discipline area.**

**(C)(b) A The individual earned a passing score on the appropriate available discipline area examination approved by the superintendent of public instruction.**

**(f)(5) Subject to section 1233(5) of the revised school code, 1976 PA 451act, MCL 380.1233, the superintendent of public instruction shall not issue a full-year expert substitute permit to a school district or nonpublic school for an if the assignment to teach for which a school district or nonpublic school requests an expert substitute permit is teaching a world language, the individual shall satisfy unless the department has received documentation of all of the following requirements:**

**(i)(a) The individual holds Hold a bachelor's degree, or higher degree, or equivalent, from a regionally an accredited college or university, or equivalent.**

**(ii)(b) The individual demonstrates Demonstrate oral language proficiency by passing an oral examination, if available, approved by the superintendent of public instruction.**

**(iii)(c) The individual demonstrates Demonstrate written language proficiency by passing a written examination, if available, approved by the superintendent of public instruction.**

**(g)(6) If the assignment for which The superintendent of public instruction shall not issue a full-year expert substitute permit to a school district or nonpublic school requests an expert substitute permit is in for an assignment to teach in a non-core discipline area, the individual shall do 1 unless the department has received documentation of 1 of the following:**

**(i)(a) Satisfactorily complete The individual satisfactorily completed the credit requirement of section 1233(5) of the revised school code, 1976 PA 451act, MCL 380.1233, and hold holds a valid business or industry license or credential in the specific discipline area of the assignment, if one is available.**

**(ii)(b) Hold The individual holds a bachelor's or higher degree from a regionally or nationally an accredited college or university.**

**(7) An expert substitute permit is valid for teaching in the grade levels and discipline areas specified on the permit from the date of issuance to the end of the academic year specified on the permit.**

**(2)(8) The superintendent of public instruction may renew an a full-year expert substitute permit upon on annual application by a school district or nonpublic school. and verification of All of the following apply:**

**(a) 1 formal observation leading to a comprehensive evaluation rating of effective or highly effective in the permitted discipline area and assignment during the validity of the expert substitute permit The school district or nonpublic school shall assign a mentor to the individual.**

**(b) The individual and the supervisor shall collaboratively develop and implement an individualized development plan.**

**(c) If the assignment is in a non-core discipline area and the individual qualified for an initial full-year expert substitute permit under only subrule (6)(a) (1)(g)(i) of this rule, the applicant shall verify that**

~~the~~ business or industry license or credential, if available, ~~must be~~ **is** valid at the time of the application for renewal ~~unless or that~~ the individual holds a bachelor's **degree**, or higher, ~~degree~~ at the time of the application for renewal.

## PART 5. ~~TEACHER~~ **EDUCATOR** PREPARATION PROVIDERS AND PROGRAMS

R 390.1151 ~~Approved teacher~~ **Approval of educator** preparation providers and programs.

Rule 51. (1) The state board approves standards for reviewing prospective ~~teacher~~ **educator** preparation ~~providers~~ **institutions** to prepare and recommend candidates for initial certification. The superintendent of public instruction shall make recommendations to the state board for the initial ~~state~~ approval of ~~teacher~~ **educator** preparation institutions based on state board approved standards. This subrule does not apply to **the approval of** alternative route program providers, **which are** approved under section 1531i of the ~~revised school code, 1976 PA 451, act,~~ MCL 380.1531i.

(2) The superintendent of public instruction shall approve programs offered by ~~teacher~~ **educator** preparation institutions in accordance with state board approved standards for ~~teacher~~ **educator** preparation. The superintendent of public instruction shall approve alternative route ~~program providers~~ **programs as authorized in accordance with** section 1531i of the ~~revised school code, 1976 PA 451, act,~~ MCL 380.1531i.

(3) Continued approval **of an educator preparation provider** by the superintendent of public instruction requires that ~~a teacher~~ **the educator** preparation provider ~~hold national accreditation~~ **be accredited** or that a state review process recommend approval by the superintendent of public instruction.

(4) An ~~approved teacher~~ **educator** preparation provider shall submit data required by the department for a determination of its annual ~~teacher~~ **educator** preparation provider performance score as approved by the superintendent of public instruction.

(5) ~~Upon~~ **On** request of the superintendent of public instruction, ~~a teacher~~ **an educator** preparation provider shall present a report of its ~~teacher~~ **educator** preparation curricula and program offerings. The programs of an ~~approved teacher~~ **educator** preparation provider are subject to periodic review by the superintendent of public instruction.

R 390.1152 ~~Approved teacher preparation providers; equivalence credits~~ **Award or waiver of credit hours based on previous coursework or experience.**

Rule 52. (1) An ~~approved Michigan teacher~~ **educator** preparation provider may award **or waive** semester credit hours ~~on an equivalence basis for~~ **based on** previously completed coursework or previous life learning experiences in ~~partial~~ fulfillment of the requirements of the provider's approved programs for certification or certificate endorsements.

(2) ~~An approved Michigan teacher~~ **This rule does not allow an educator** preparation provider ~~may not use equivalence options to waive~~ **satisfy specific legal statutory** requirements ~~for individuals seeking teaching certification.~~

R 390.1153 ~~Approved teacher~~ **Educator** preparation ~~providers~~ **institution;** experimental programs.

Rule 53. The superintendent of public instruction, at the request of an ~~approved teacher~~ **educator** preparation ~~provider~~ **institution**, may waive, for a specific time, particular requirements of this code for an experimental ~~teacher~~ **educator** preparation program. The request must provide sufficient detail to allow assessment of the proposed experimental program and comparison with the ~~provider's~~ **educator preparation institution's** approved program. If the superintendent of public instruction grants the request, the ~~provider~~ **educator preparation institution** shall objectively evaluate and report to the department on the

effectiveness of the experiment for the time period of the waiver. The superintendent of public instruction may renew the waiver if evaluation data provide evidence of value.

## PART 6. CTE ENDORSEMENTS, ~~CTE CERTIFICATES,~~ AND ANNUAL AUTHORIZATION

R 390.1161 ~~Standard teaching certificate and professional teaching certificate with CTE endorsement endorsements.~~

Rule 61. (1) **Subject to R 390.1167, the superintendent of public instruction may issue a** ~~An applicant for CTE endorsement on shall meet the requirements for a standard, professional, or advanced professional teaching certificate or a professional teaching certificate as described in part 2 and part 3 of these rules~~ **if the applicant has paid the applicable evaluation fee and the department has received documentation of** ~~shall present evidence of completing all both~~ of the following:

(a) ~~A program with a minimum of 6 semester credit hours, or equivalent, of CTE coursework at an An institution approved by the state board for the preparation of CTE teachers~~ **recommends the applicant based on the applicant's satisfactory completion of all program requirements, including a minimum of 6 semester credit hours or equivalent of CTE coursework.**

~~—(b) Program requirements, as defined by the state board, for each CTE endorsement.~~

~~(b)(c)~~ **The applicant has 2** ~~Two~~ years of recent and relevant experience, as defined by the superintendent of public instruction, in the occupational area of the endorsement.

(2) **Appropriate placement of an individual holding a teaching certificate with a A** CTE endorsement is ~~valid for teaching~~ in the specified occupational area in an approved CTE program, in an industrial technology education program, (grades 6 to 12), ~~and or~~ in career pathway courses, (grades 6 to 12).

R 390.1163 ~~Standard CTE certificate~~ **Rescinded.**

~~Rule 63. (1) The superintendent of public instruction may issue a standard CTE certificate upon the recommendation of an approved CTE teacher preparation institution to an applicant presenting evidence that the applicant meets all of the following requirements:~~

~~—(a) Possesses a baccalaureate degree.~~

~~—(b) Has a major or minor in the field of specialization in which the applicant requests CTE certification.~~

~~—(c) Has a minimum of 2 years of recent and relevant experience, as defined by the superintendent of public instruction, in the occupational area.~~

~~—(d) Passed examinations under section 1531 of the revised school code, 1976 PA 451, MCL 380.1531.~~

~~—(e) Successfully completed a minimum of 6 satisfactory college semester credit hours of professional or CTE education credit.~~

~~—(2) A standard CTE certificate is valid for teaching in the occupational education field specified on the certificate.~~

~~—(3) An applicant with a standard CTE certificate may progress to the professional CTE certificate at any time if the applicant has met the requirements of R 390.1164a.~~

~~—(4) Subject to subrules (6) and (7) of this rule, if the holder of a standard CTE certificate does not qualify for the professional CTE certificate at the expiration of the standard CTE certificate, the superintendent of public instruction may grant a 5-year renewal of the standard CTE certificate based upon evidence that the holder has completed, since the issue date of the most recent certificate, any combination of education-related professional learning hours totaling 150 hours.~~

~~—(5) A teacher may obtain additional 5-year renewals of a standard CTE certificate under subrule (4) of this rule on or after January 1 of the year in which the certificate expires.~~

~~—(6) The superintendent of public instruction may grant to a teacher who holds a standard CTE certificate one 5-year renewal of the certificate upon submission of evidence that the teacher earned at any time an education-related master's or higher degree.~~

~~—(7) A teacher who holds an expired standard CTE certificate but holds a valid CTE certificate from another state is eligible for one 5-year renewal of the standard CTE certificate.~~

**R 390.1164a Professional CTE certificateRescinded.**

~~—Rule 64a. (1) The superintendent of public instruction may issue a professional CTE certificate to an applicant who presents evidence at the time of the application that the applicant has satisfied all of the following:~~

~~—(a) Met the requirements of section 1531j of the revised school code, 1976 PA 451, MCL 380.1531j.~~

~~—(b) Completed the reading requirements of section 1531(4) of the revised school code, 1976 PA 451, MCL 380.1531.~~

~~—(c) Earned an education-related master's or higher degree at any time or, since the issue date of the most recent standard CTE certificate or renewal, completed any combination of education-related professional learning hours totaling 150 hours.~~

~~—(2) A professional CTE certificate is valid for teaching in the occupational education field specified on the certificate.~~

~~—(3) An individual who meets the requirements of this rule may apply for the initial professional CTE certificate at any time.~~

~~—(4) The superintendent of public instruction may renew a professional CTE certificate that has expired or will expire within the calendar year of application upon the applicant's completion since the issue date of the most recent professional CTE certificate or renewal of any combination of education-related professional learning hours totaling 150 hours.~~

~~—(5) Additional hours beyond the 150 hours required under subrule (4) of this rule do not apply toward any subsequent renewals.~~

~~—(6) A teacher who holds a valid or expired Michigan professional CTE certificate and a valid teaching certificate from another state or a valid CTE certificate from another state is eligible for one 5-year renewal of the Michigan professional CTE certificate.~~

**R 390.1165 Annual authorization.**

**Rule 65. (1) Subject to R 390.1167, on payment of the applicable evaluation fee and approval of an application, the superintendent of public instruction may issue to** ~~To allow a school district or nonpublic school an annual authorization and renewals to assign an individual who cannot be appropriately placed under a valid certificate or other credential to employ an individual in industrial technology education, as defined by the superintendent of public instruction, or in a CTE program.~~

**(2) All of the following apply to an annual authorization or renewal:** ~~who does not meet the requirements for the standard CTE certificate, the superintendent of public instruction may, upon payment of the appropriate evaluation fee and approval of an application, issue to the school district or nonpublic school an annual authorization and renewals of that authorization under section 1233b(2)(b) and (5)(b) of the revised school code, 1976 PA 451, MCL 380.1233b.~~

**(a) Before assigning an individual who cannot be appropriately placed in industrial technology education, as defined by the superintendent of public instruction, or in a CTE program, a school district or nonpublic school shall apply to the department for an annual authorization or renewal under this part, pay the applicable evaluation fee, satisfy all requirements of this rule, and hold the annual authorization or renewal.**

**(b) The superintendent of public instruction shall not issue an annual authorization or renewal under this rule unless the department has received verification of satisfaction of the requirements of section 1233b(2)(b) and (5)(b) of the act, MCL 380.1233b.**

**(c)(2) Appropriate placement of an individual for whom a school district or nonpublic school holds an annual authorization or renewal is valid for teaching in the occupational education field specified on the authorization.**

**(d)(3) Before applying for an annual authorization, a school district or nonpublic school shall certify that a certified teacher with the appropriate endorsement is not available for the assignment. The school district or nonpublic school shall assign a mentor to an individual during every year of assignment of the individual under an annual authorization or renewal.**

**(e) (4) An annual authorization is valid from the issue date to August 31 or the last day of the school district's or nonpublic school's academic year, whichever date comes first.**

**An individual and the individual's supervisor shall collaboratively develop and implement an individualized development plan during every year of placement of the individual under an annual authorization or renewal.**

**(f)(5) Unless the superintendent of public instruction grants the request of a school district or nonpublic school for permission under section 1233b(6) of the revised school code, 1976 PA 451, act, MCL 380.1233b, to employ-place an individual for more than 10 years under this rule, the school district or nonpublic school may apply no more than 9 times for renewal of an annual authorization allowing employment placement of an the individual under this rule. A request for permission to employ place an individual for more than 10 years under this rule must be in the form and manner directed by the superintendent of public instruction.**

**(3) An annual authorization or renewal is valid from the issue date to August 31 immediately following the end of the academic year listed on the authorization or renewal.**

**(4)(6) Subject to subrule (8)(6) of this rule, the superintendent of public instruction may refuse to grant or may rescind or revoke an annual authorization or renewal for 4 any of the following reasons:**

**(a) Fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of the annual authorization or renewal.**

**(b) Conviction of the individual for a crime described in section 1535a of the revised school code, 1976 PA 451, act, MCL 380.1535a.**

**(c) Failure to meet the requirements of this rule for the annual authorization or renewal.**

**(d) Action taken by an out-of-state certifying authority against an educator credential issued at any time to the individual by that authority.**

**(5)(7) The superintendent of public instruction may rescind an annual authorization or renewal at the request of the school district or nonpublic school.**

**(6)(8) The superintendent of public instruction shall refuse to grant or shall revoke an annual authorization or renewal if the criminal history of the individual for whom a school district or nonpublic school requests the authorization or renewal includes conviction of a listed offense.**

**(7)(9) A school district employing placing a noncertified, inappropriately certified, or unlicensed an individual who is not appropriately placed under a valid certificate, valid substitute permit, valid authorization, or valid approval issued under rules promulgated by the department in an assignment without obtaining a permit or an authorization under this code is subject to section 163 of the state school aid act of 1979, 1979 PA 94, MCL 388.1763.**

R 390.1167 State or federal license.

Rule 67. If a school district or nonpublic school assigns instructional responsibility to an individual in a field for which state or federal law requires a license, the individual shall hold the appropriate license before the superintendent of public instruction may issue a CTE certificate or CTE endorsement to the individual

under this code or before the superintendent of public instruction may issue an annual authorization **or renewal** for the individual under this code.

**PART 10. ~~DENIAL, SUSPENSION, AND REVOCATION, DENIAL, RESCISSION, AND REINSTATEMENT OF TEACHING CERTIFICATES AND STATE BOARD APPROVALS~~ CREDENTIALS**

**R 390.1201 ~~Denial, suspension~~ Suspension of, or revocation of, imposition of conditions on, or certificate or state board approval denial of renewal of a credential.**

Rule 101. ~~(1) The superintendent of public instruction may refuse to grant, refuse to renew, suspend, revoke, or impose reasonable conditions on, or deny renewal of a teaching certificate or state board approval credential issued to an individual by the superintendent of public instruction for either of the following reasons:~~

~~(a) **Fraud** The holder of the credential engaged in fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of a teaching certificate or state board approval a credential issued to the individual by the superintendent of public instruction.~~

~~(b) **Conviction** The holder of the credential was convicted of a crime described in section 1535a or 1539b of the revised school code, 1976 PA 451 act, MCL 380.1535a and 380.1539b.~~

~~(2) The superintendent of public instruction may refuse to grant or renew a teaching certificate or state board approval for failure of the applicant to meet the requirements for the teaching certificate or state board approval. After notice and an opportunity for a hearing, which the holder shall request within 15 business days after receipt of the notice, the superintendent of public instruction may rescind, suspend, or revoke a teaching certificate or a state board approval for failure of the holder to meet the requirements for the teaching certificate or state board approval. If the holder does not timely request a hearing, the superintendent of public instruction shall rescind, suspend, or revoke the teaching certificate or state board approval.~~

**R 390.1203 ~~Investigation~~ Notice of basis for action; notice of right to hearing; informal conference; referral for hearing.**

Rule 103. ~~The superintendent of public instruction shall designate an employee of the department to perform the investigatory and prosecutorial functions regarding contested cases pertaining to teacher certification or state board approval. Upon receipt of information that may serve as the basis for a refusal to grant, refusal to renew, suspension of, or revocation of a teaching certificate or state board approval, the designee of the superintendent of public instruction shall initiate an investigation of that information. Subject to summary suspension under section 1535a(2) or 1539b(2) of the act, MCL 380.1535a and 380.1539b, all of the following apply to action taken under R 390.1201:~~

~~(a) Not more than 7 calendar days after receiving notice that the criminal history of the holder of a credential issued by the superintendent of public instruction includes conviction of a crime described in section 1535a or 1539b of the act, MCL 380.1535a and 380.1539b, the department shall request from the court a certified copy of the judgment of conviction and sentence or other document regarding disposition of the case.~~

~~(b) On receipt of notice of a basis for action under R 390.1201(a) or not more than 10 business days after receiving documentation of a conviction under subdivision (a) of this rule, the department shall notify the holder of the credential in writing of all of the following:~~

~~(i) Because of the conviction or because of the identified reason under R 390.1201(a), the superintendent of public instruction may suspend, revoke, impose conditions on, or deny renewal of the credential.~~

~~(ii) The holder has the right to a hearing.~~

(iii) If the holder does not request a hearing within 15 business days after receipt of notice of the right to a hearing, the superintendent of public instruction shall suspend or deny renewal of the credential.

(iv) If the holder requests a hearing within 15 business days after receipt of the notice, there must be an informal conference.

(c) The notice under subdivision (b) of this rule must include a copy of applicable statutes and rules.

(d) Not more than 15 business days after receipt of the notice under subdivision (b) of this rule, the holder of the credential shall request a hearing. If the holder does not timely request a hearing, the superintendent of public instruction shall suspend or deny renewal of the credential.

(e) If the holder of the credential timely requests a hearing under subdivision (d) of this rule, the department shall immediately notify the holder of the date and time of an informal conference. Unless otherwise agreed, the informal conference is a telephone conference with an authorized representative of the department.

(f) After the informal conference and consideration of the documentation and other information presented, the department may recommend that the superintendent of public instruction take no action against or grant renewal of the credential or that there be a settlement or conditional agreement. The superintendent of public instruction shall approve, modify, or deny the recommendation of the department.

(g) If the superintendent of public instruction or designee decides to refer the case to the Michigan office of administrative hearings and rules for hearing following the informal conference, the department shall make the referral.

~~R 390.1204 Notice of basis for action; notice of right to hearing; informal conference to show compliance; referral for hearing~~**Denial or rescission of credential.**

~~Rule 104. Subject to summary suspension under section 1535a(2) or 1539b(2) of the revised school code, 1976 PA 451, MCL 380.1535a and 380.1539b, all of the following apply to action taken under R 390.1201(1)(a) or (b):~~

~~—(a) Not more than 7 calendar days after receiving notice that the criminal history of an applicant for or the holder of a teaching certificate or state board approval includes conviction of a crime described in section 1535a or 1539b of the revised school code, 1976 PA 451, MCL 380.1535a and 380.1539b, the department shall request from the court a certified copy of the judgment of conviction and sentence or other document regarding disposition of the case.~~

~~—(b) Upon receipt of notice of a basis for action under R 390.1201(1)(a) or not later than 10 business days after receiving documentation of a conviction under subdivision (a) of this rule, the department shall notify the applicant for or the holder of the teaching certificate or state board approval in writing of all of the following:~~

~~—(i) Because of the conviction or because of the identified reason under R 390.1201(1)(a), the superintendent of public instruction may deny, suspend, or revoke the teaching certificate or state board approval.~~

~~—(ii) The applicant or the holder has the right to a hearing.~~

~~—(iii) If the applicant or the holder does not request a hearing within 15 business days after receipt of notice of the right to a hearing, the superintendent of public instruction will deny or suspend the teaching certificate or state board approval.~~

~~—(iv) If the applicant or the holder requests a hearing within 15 business days after receipt of the notice, there will be an informal conference to show compliance.~~

~~—(c) The notice under subdivision (b) of this rule must include a copy of applicable statutes and rules.~~

~~–(d) Not later than 15 business days after receipt of the notice under subdivision (b) of this rule, the applicant for or the holder of a teaching certificate or state board approval shall request a hearing. If the applicant or the holder does not timely request a hearing, the superintendent of public instruction shall deny the initial or renewed teaching certificate or state board approval or shall suspend the teaching certificate or state board approval.~~

~~–(e) If the applicant for or the holder of a teaching certificate or state board approval timely requests a hearing under subdivision (d) of this rule, the department shall immediately notify the applicant or the holder of the date and time of an informal conference to show compliance. Unless otherwise agreed, the informal conference to show compliance is a telephone conference with an authorized representative of the superintendent of public instruction.~~

~~–(f) After the informal conference to show compliance and consideration of the evidence presented, the superintendent's designee may recommend referral of the matter to the Michigan office of administrative hearings and rules for hearing or may recommend a finding of compliance or a written settlement of the matter. The superintendent of public instruction shall approve, modify, or deny a recommended finding of compliance or written settlement.~~

~~–(g) If there is no finding of compliance or written settlement of the matter following the informal conference to show compliance, the department shall refer the case to the Michigan office of administrative hearings and rules for hearing.~~**(1) The superintendent of public instruction may deny an individual's application for a credential for any of the following reasons:**

**(a) The applicant engaged in fraud, material misrepresentation, or concealment or omission of fact in the application for or the use of a credential issued to the individual by the superintendent of public instruction.**

**(b) The applicant was convicted of a crime described in section 1535a or 1539b of the act, MCL 380.1535a and 380.1539b.**

**(c) The applicant does not meet the requirements for the credential.**

**(d) An out-of-state certifying authority took action against an educator credential issued at any time to the applicant by that authority.**

**(2) After notice and an opportunity to show compliance, the superintendent of public instruction may rescind a credential issued to an individual by the superintendent of public instruction for failure of the individual to meet the requirements for the credential.**

### **R 390.1205 Investigation.**

**Rule 105.** An authorized representative of the department shall perform the investigatory and prosecutorial functions regarding cases pertaining to credentials issued by the superintendent of public instruction. On receipt of information that may serve as the basis for suspension, revocation, denial, refusal to renew, or rescission of a credential, the authorized representative shall initiate an investigation of that information.

### **R 390.1208 Reinstatement of suspended or revoked credential.**

**Rule 108. (1)** Unless the superintendent of public instruction suspended or revoked an individual's credential based on conviction of a listed offense, the individual may file with the department a request for reinstatement of the credential that was suspended or revoked under these rules.

**(2)** If the superintendent suspended or revoked the credential under R 390.1201(a), all of the following apply:

**(a)** The individual shall provide to the department documentation and other information that demonstrates that the individual is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the credential will not adversely affect the health, safety, and welfare of pupils.



(b) If the superintendent of public instruction suspended or revoked the credential pursuant to an agreement between the department and the individual, the individual shall provide to the department documentation and other information that establishes satisfaction of the conditions set forth in the agreement.

(c) Not more than 30 calendar days after receipt of the request for reinstatement, the department shall notify the individual in writing of all of the following:

(i) The individual has the right to a hearing.

(ii) If the individual does not request a hearing within 30 calendar days after receipt of notice of the right to a hearing, the superintendent of public instruction shall dismiss the request for reinstatement of the credential.

(iii) If the individual requests a hearing within 30 calendar days after receipt of the notice, there must be an informal conference on the request for reinstatement.

(d) Not more than 30 calendar days after receipt of the notice described in subdivision (c) of this subrule, the individual shall request a hearing. If the individual does not timely request a hearing, the superintendent of public instruction shall dismiss the request for reinstatement of the credential.

(e) If the individual timely requests a hearing, the department shall immediately notify the individual of the date and time of an informal conference on the request for reinstatement. Unless otherwise agreed, the informal conference is a telephone conference with an authorized representative of the department.

(f) After the informal conference and consideration of the documentation and other information presented, the department shall recommend that the superintendent of public instruction reinstate or deny reinstatement of the credential. Based on consideration of the recommendation and the documentation and other information presented, the superintendent of public instruction shall reinstate or deny reinstatement of the credential. The superintendent of public instruction shall not reinstate the credential unless the superintendent of public instruction finds that the individual is currently fit to serve in an elementary or secondary school in this state and that reinstatement will not adversely affect the health, safety, and welfare of pupils.

(g) If the superintendent of public instruction does not reinstate the credential under subdivision (f) of this subrule, the department shall refer the request to the Michigan office of administrative hearings and rules for hearing.

(3) If the superintendent of public instruction suspended or revoked the credential under R 390.1201(b), not more than 30 calendar days after receipt of a request for a hearing on reinstatement, the department shall refer the request to the Michigan office of administrative hearings and rules under section 1535a(5) or section 1539b(5) of the act, MCL 380.1535a and 380.1539b.

**R 390.1211 Removal of suspension or revocation of credential  
after conviction set aside, expunged, or dismissed.**

**Rule 111. (1)** The superintendent of public instruction shall remove the suspension or revocation of a credential if all of the following requirements are met:

(a) The suspension or revocation was based solely on a criminal conviction under section 1535a or section 1539b of the act, MCL 380.1535a and 380.1539b.

(b) The holder of the credential files with the department a request for removal of the suspension or removal that includes documentation satisfactory to the department that the conviction was set aside under 1965 PA 213, MCL 780.621 to 780.624, or otherwise expunged or dismissed by a court of competent jurisdiction.

**(c) If the conviction was set aside under section 1g of 1965 PA 213, MCL 780.621g, and the judgment of sentence included an order of restitution, the request for removal includes verification that the individual has fully paid court-ordered restitution or has made a good faith effort to do so.**

**(2) Removal of a suspension or revocation under this rule does not relieve the holder of the credential of the responsibility to comply with all legal requirements for renewal of the credential.**

**(3) This rule does not preclude the superintendent of public instruction from taking action against a credential under R 390.1201, or from denying or rescinding a credential under R 390.1204, for a reason other than a conviction that was set aside or otherwise expunged or dismissed.**

---

**NOTICE OF PUBLIC HEARING**

---

Department of Education  
Superintendent of Public Instruction  
Administrative Rules for Teacher Certification Code  
Rule Set 2023-79 ED

**NOTICE OF PUBLIC HEARING**

Tuesday, April 9, 2024

01:00 PM

1:00 p.m.-5:00 p.m. Michigan Library & Historical Center, 1st Floor Forum or  
<http://tinyurl.com/5cpy55vu>  
702W. Kalamazoo St., Lansing, MI 48915 or <http://tinyurl.com/5cpy55vu>

The Department of Education will hold a public hearing to receive public comments on proposed changes to the Teacher Certification Code rule set.

The general purposes of the proposed Teacher Certification Code rules are to incorporate the concept of appropriate placement; to align the rules with the new certification structure; to integrate career and technical education certificates into the general certification structure; to provide benefits for members of the military, veterans, and their dependents; to update permit requirements; to provide procedures for the denial, rescission, reinstatement, and removal of suspension of teaching certificates; to add clarity and flexibility; and to update definitions.

Online Public Written Comment Tool: [https://mde.qualtrics.com/jfe/form/SV\\_73asZyiB1lOCezk](https://mde.qualtrics.com/jfe/form/SV_73asZyiB1lOCezk)

By authority conferred on the superintendent of public instruction by section 1 of article I of 1937 (Ex. Sess.) PA 4, MCL 38.71, and sections 1157, 1531, 1531i, 1535a, and 1539b of the revised school code, 1976 PA 451, MCL 380.1157, 380.1531, 380.1531i, 380.1535a, and 380.1539b, and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and 388.994.

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](http://www.michigan.gov/ARD) and in the 4/1/2024 issue of the Michigan Register. Copies of these proposed rules may also be obtained by mail or electronic mail at the following email address: [MDE-EducatorHelp@Michigan.gov](mailto:MDE-EducatorHelp@Michigan.gov).

Comments on these proposed rules may be made at the hearing, by mail, or by electronic mail at the following addresses until 4/19/2024 at 05:00PM.

Include in subject line: "Rule set 2023-79 ED."

Department of Education Office of Educator Excellence 608 W. Allegan Avenue P.O. Box 30008  
Lansing,

MI 48933

[MDE-EducatorHelp@Michigan.gov](mailto:MDE-EducatorHelp@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 517-241-1235 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**

---

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**CERTIFICATE OF NEED (CON) REVIEW STANDARDS**  
**FOR PSYCHIATRIC BEDS AND SERVICES**

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and Sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being Sections 333.22215, 24.207 and 24.208 of the Michigan Compiled Laws).

**Section 1. Applicability**

Sec. 1. These standards are requirements for the approval under Part 222 of the Code that involve (a) beginning operation of a new psychiatric service, (b) replacing licensed psychiatric beds or physically relocating licensed psychiatric beds from one licensed site to another geographic location, or (c) increasing licensed psychiatric beds within a psychiatric hospital or unit licensed under the Mental Health Code, 1974 PA 258, or (d) acquiring a psychiatric service pursuant to Part 222 of the Code. A psychiatric hospital or unit is a covered health facility. The Department shall use these standards in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws and Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

(2) An increase in licensed hospital beds is a change in bed capacity for purposes of Part 222 of the Code.

(3) The physical relocation of hospital beds from a licensed site to another geographic location is a change in bed capacity for purposes of Part 222 of the Code.

**Section 2. Definitions**

Sec. 2. (1) For purposes of these standards:

(a) "Acquisition of a psychiatric hospital or unit" means the issuance of a new license as the result of the acquisition (including purchase, lease, donation, or other comparable arrangement) of an existing licensed psychiatric hospital or unit and which does not involve a change in the number of licensed psychiatric beds at that health facility.

(b) "Adult" means any individual aged 18 years or older.

(c) "Average occupancy rate" is calculated as follows:

(i) Calculate the number of patient days during the most recent, consecutive 12-month period, as of the date of the application, for which verifiable data are available to the Department.

(ii) Calculate the total licensed bed days for the same 12-month period as in (i) above by multiplying the total licensed beds by the number of days they were licensed.

(iii) Divide the number of patient days calculated in (i) above by the total licensed bed days calculated in (ii) above, then multiply the result by 100.

(d) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(e) "Child/adolescent" means any individual less than 18 years of age.

(f) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan Compiled Laws.

(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-subsidary 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.

(h) "Community mental health board" or "board" or "CMH" means the board of a county(s) community mental health board as referenced in the provisions of MCL 330.1200 to 330.1246.

(i) "Comparative group" means the applications which have been grouped for the same type of project in the same planning area or statewide special population group and are being reviewed comparatively in accordance with the CON rules.

(j) "Department" means the Michigan Department of Health and Human Services (MDHHS).

(k) "Department inventory of beds" means the current list maintained for each planning area on a continuing basis by the Department which includes:

(i) licensed adult and child/adolescent psychiatric beds; and

(ii) adult and child/adolescent psychiatric beds approved by a valid CON, which are not yet licensed. A separate inventory will be maintained for child/adolescent beds and adult beds.

(l) "Existing adult inpatient psychiatric beds" or "existing adult beds" means:

(i) all adult beds in psychiatric hospitals or units licensed by the Department pursuant to the Mental Health Code;

(ii) all adult beds approved by a valid CON, which are not yet licensed;

(iii) proposed adult beds under appeal from a final Department decision, or pending a hearing from a proposed decision; and

(iv) proposed adult beds that are part of a completed application (other than the application or applications in the comparative group under review) which are pending final Department decision.

(m) "Existing child/adolescent inpatient psychiatric beds" or "existing child/adolescent beds" means:

(i) all child/adolescent beds in psychiatric hospitals or units licensed by the Department pursuant to the Mental Health Code;

(ii) all child/adolescent beds approved by a valid CON, which are not yet licensed;

(iii) proposed child/adolescent beds under appeal from a final Department decision, or pending a hearing from a proposed decision; and

(iv) proposed child/adolescent beds that are part of a completed application (other than the application or applications in the comparative group under review) which are pending final Department decision.

(n) "Flex bed" means an existing adult psychiatric bed converted to a child/adolescent psychiatric bed in an existing child/adolescent psychiatric service to accommodate during peak periods and meet patient demand.

(o) "Initiation of service" means the establishment of an inpatient psychiatric unit with a specified number of beds at a site not currently providing psychiatric services.

(p) "Involuntary commitment status" means a hospital admission effected pursuant to the provisions of MCL 330.1423 to 330.1429.

(q) "Licensed site" means the location of the facility authorized by license and listed on that licensee's certificate of licensure.

(r) "Medicaid" means title XIX of the Social Security Act, chapter 531, 49 Stat. 620, 1396 to 1396g and 1396i to 1396u.

(s) "Mental Health Code" means Act 258 of the Public Acts of 1974, as amended, being Sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

(t) "Mental health professional" means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is any 1 of the following:

(i) a physician who is licensed to practice medicine or osteopathic medicine and surgery in Michigan and who has had substantial experience with mentally ill, mentally retarded, or developmentally disabled clients for 1 year immediately preceding his or her involvement with a client under administrative rules promulgated pursuant to the Mental Health Code;

(ii) a psychologist who is licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838;

(iii) a licensed master's social worker licensed in Michigan Pursuant to the provisions of MCL 333.16101 to 333.18838;

(iv) a registered nurse who is licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838;

(v) a licensed professional counsel or licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838;

(vi) a marriage and family therapist licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838;

(vii) a professional person, other than those defined in the administrative rules promulgated pursuant to the Mental Health Code, who is designated by the Director of the Department or a director of a facility operated by the Department in written policies and procedures. This mental health professional shall have a degree in his or her profession and shall be recognized by his or her respective professional association as being trained and experienced in the field of mental health. The term does not include non-clinical staff, such as clerical, fiscal or administrative personnel.

(u) "Mental health service" means the provision of mental health care in a protective environment with mental illness or mental retardation, including, but not limited to, chemotherapy and individual and group therapies pursuant to MCL 330.2001.

(v) "Non-renewal or revocation of license" means the Department did not renew or revoked the psychiatric hospital's or unit's license based on the hospital's or unit's failure to comply with state licensing standards.

(w) "Non-renewal or termination of certification" means the psychiatric hospital's or unit's Medicare and/or Medicaid certification was terminated or not renewed based on the hospital's or unit's failure to comply with Medicare and/or Medicaid participation requirements.

(x) "Offer" means to provide inpatient psychiatric services to patients.

(y) "Physician" means an individual licensed in Michigan to engage in the practice of medicine or osteopathic medicine and surgery pursuant to MCL 333.16101 to 333.18838.

(z) "Planning area" means the geographic boundaries of the groups of counties shown in Section 17.

(aa) "Planning year" means a year in the future, at least 3 years but no more than 7 years, for which inpatient psychiatric bed needs are developed. The planning year shall be a year for which official population projections from the Department of Technology, Management and Budget or its designee are available.

(bb) "Psychiatric hospital" means an inpatient program operated by the Department for the treatment of individuals with serious mental illness or serious emotional disturbance or a psychiatric hospital or psychiatric unit licensed under pursuant to MCL 330.1137.

(cc) "Psychiatrist" means 1 or more of the following, pursuant to MCL 330.1100c:

(i) a physician who has completed a residency program in psychiatry approved by the Accreditation Council for Graduate Medical Education or The American Osteopathic Association, or who has completed 12 months of psychiatric rotation and is enrolled in an approved residency program;

(ii) a psychiatrist employed by or under contract with the Department or a community health services program on March 28, 1996;

(iii) a physician who devotes a substantial portion of his or her time to the practice of psychiatry and is approved by the Director.

(dd) "Psychiatric unit" means a unit of a general hospital that provides inpatient services for individuals with serious mental illness or serious emotional disturbances pursuant to MCL 330.1100c.

(ee) "Psychologist" means an individual licensed to engage in the practice of psychology, who devotes a substantial portion of his or her time to the diagnosis and treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability, pursuant to MCL 333.16101 to 333.18838.

(ff) "Public patient" means an individual approved for mental health services by a CMH or an individual who is admitted as a patient under the Mental Health Code, Act No. 258 of the Public Acts of 1974, being Sections 330.1423, 330.1429, and 330.1438 of the Michigan Compiled Laws.

(gg) "Qualifying project" means each application in a comparative group which has been reviewed individually and has been determined by the Department to have satisfied all of the requirements of Section 22225 of the Code, being Section 333.22225 of the Michigan Compiled Laws, and all other applicable requirements for approval in the Code and these standards.

(hh) "Registered professional nurse" or "R.N." means an individual licensed in Michigan pursuant to the provisions of MCL 333.16101 to 333.18838.

(ii) "Relocate existing licensed inpatient psychiatric beds" means a change in the location of existing inpatient psychiatric beds from the existing licensed psychiatric hospital site to a different existing licensed psychiatric hospital site within the same planning area. This definition does not apply to projects involving replacement beds in a psychiatric hospital or unit governed by Section 6 of these standards.

(jj) "Replace beds" means a change in the location of the licensed psychiatric hospital or unit, or the replacement of a portion of the licensed beds at the same licensed site. The beds will be in new physical plant space being developed in new construction or in newly acquired space (purchase, lease, donation, etc.) within the replacement zone.

(kk) "Replacement zone" means a proposed licensed site that is:

(i) in the same planning area as the existing licensed site; and

(ii) on the same site, on a contiguous site, or on a site within 15 miles of the existing licensed site.

(ll) "Social worker" means an individual registered in Michigan to engage in social work under the provisions of MCL 333.18501.

(2) The terms defined in the Code have the same meanings when used in these standards.

### **Section 3. Determination of needed inpatient psychiatric bed supply**

Sec. 3. (1) The number of child/adolescent inpatient psychiatric beds needed in a planning area shall be determined by the following formula:

(a) Tabulate the yearly number of child/adolescent patient days for the most recent five years of data from the CON Annual Survey.

(b) Construct a linear regression model with year as the independent variable and yearly patient days as the dependent variable. If the coefficient of determination ( $R^2$ ) of the linear model is 0.5 or greater, use the regression parameters to predict the statewide patient days in the planning year. If the coefficient of determination of the linear model is less than 0.5, calculate the statewide patient days in the planning year by taking the mean of the most recent three years of data.



(c) Divide the total patient days obtained in subsection (b) by the statewide planning year population age 0-17. The result is the utilization rate for the population age 0-17 in the planning year.

(d) Multiply the utilization rate obtained in subsection (c) by the planning year population age 0-17 in each planning area. The result is the unadjusted number of child/adolescent patient days for each planning area in the planning year.

(e) Using the most recent data from the Department Inventory of Beds, calculate the average number of licensed child/adolescent beds per facility for each planning area.

(f) For planning areas with an average number of beds per facility less than 20, divide the unadjusted planning area patient days by 0.65. For planning areas with an average number of beds per facility of 20 or more, divide the unadjusted planning area patient days by 0.70. The result is the occupancy-adjusted number of child/adolescent patient days for each planning area in the planning year.

(g) For each planning area, divide the occupancy-adjusted number of child/adolescent patient days from (f) by 365 (or 366 for leap years). Round the values up to the nearest whole number. The result is child/adolescent bed need in the planning year.

(2) The number of adult inpatient psychiatric beds needed in a planning area shall be determined by the following formula:

(a) Tabulate the yearly number of adult patient days for the most recent five years of data from the CON Annual Survey.

(b) Construct a linear regression model with year as the independent variable and yearly patient days as the dependent variable. If the coefficient of determination ( $R^2$ ) of the linear model is 0.5 or greater, use the regression parameters to predict the statewide patient days in the planning year. If the coefficient of determination of the linear model is less than 0.5, calculate the statewide patient days in the planning year by taking the mean of the most recent three years of data.

(c) Divide the total patient days obtained in subsection (b) by the statewide planning year population age 18+. The result is the utilization rate for the population age 18+ in the planning year.

(d) Multiply the utilization rate obtained in subsection (c) by the planning year population age 18+ in each planning area. The result is the unadjusted number of adult patient days for each planning area in the planning year.

(e) Using the most recent data from the Department Inventory of Beds, calculate the average number of licensed adult beds per facility for each planning area.

(f) For planning areas with an average number of beds per facility less than 20, divide the unadjusted planning area patient days by 0.65. For planning areas with an average number of beds per facility of 20 or more, divide the unadjusted planning area patient days by 0.70. The result is the occupancy-adjusted number of adult patient days for each planning area in the planning year.

(g) For each planning area, divide the occupancy-adjusted number of adult patient days from (f) by 365 (or 366 for leap years). Round the values up to the nearest whole number. The result is adult bed need in the planning year.

#### **Section 4. Bed need for inpatient psychiatric beds**

Sec. 4. (1) The bed need numbers determined pursuant to Section 3 shall apply to projects subject to review under these standards, except where a specific CON review standard states otherwise.

(2) The Department shall apply the bed need methodologies in Section 3 on a biennial basis.

(3) The effective date of the bed need numbers shall be established by the Commission.

(4) New bed need numbers shall supercede previous bed need numbers and shall be posted on the State of Michigan CON web site as part of the Psychiatric Bed Inventory.

(5) Modifications made by the Commission pursuant to this Section shall not require Standard Advisory Committee action, a public hearing, or submittal of the standard to the Legislature and the Governor in order to become effective.

## **Section 5. Requirements for approval to initiate service**

Sec. 5. An applicant proposing the initiation of an adult or child/adolescent psychiatric service shall demonstrate or provide the following:

(1) The number of beds proposed in the CON application shall not result in the number of existing adult or child/adolescent psychiatric beds, as applicable, in the planning area exceeding the bed need. However, an applicant may request and be approved for up to a maximum of 10 beds if, when the total number of existing adult beds or existing child/adolescent beds is subtracted from the bed need for the planning area, the difference is equal to or more than 1 or less than 10.

(2) A written recommendation, from the Department or the CMH that serves the county in which the proposed beds or service will be located, shall include an agreement to enter into a contract to meet the needs of the public patient. At a minimum, the letter of agreement shall specify the number of beds to be allocated to the public patient and the applicant's intention to serve patients with an involuntary commitment status.

(3) The number of beds proposed in the CON application to be allocated for use by public patients shall not be less than 50% of the beds proposed in the CON application. Applications proposed in direct response to a Department plan pursuant to subsection (5) shall allocate not less than 80% of the beds proposed in the CON application.

(4) The minimum number of beds in a psychiatric unit shall be at least 10 beds. If a psychiatric unit has or proposes to operate both adult and child/adolescent beds, each unit shall have a minimum of 10 beds. The Department may approve an application for a unit of less than 10 beds, if the applicant demonstrates to the satisfaction of the Department, that travel time to existing units would significantly limit access to care.

(5) An applicant shall not be required to be in compliance with subsection (1) if the applicant demonstrates that the application meets both of the following:

(a) The Director of the Department determines that an exception to subsection (1) should be made and certifies in writing that the proposed project is a direct response to a Department plan for reducing the use of public institutions for acute mental health care through the closure of a state-owned psychiatric hospital; and

(b) The proposed beds will be located in the area currently served by the public institution that will be closed, as determined by the Department.

(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.

## **Section 6. Requirements for approval to replace beds**

Sec. 6. An applicant proposing to replace beds shall not be required to be in compliance with the needed bed supply if the applicant demonstrates all of the following:

(1) The applicant shall specify whether the proposed project is to replace the existing licensed psychiatric hospital or unit to a new site or to replace a portion of the licensed psychiatric beds at the existing licensed site.

(2) The proposed licensed site is in the replacement zone.

(3) Not less than 50% of the beds proposed to be replaced shall be allocated for use by public patients.

(4) Previously made commitments, if any, to the Department or CMH to serve public patients have been fulfilled.

(5) Proof of current contract or documentation of contract renewal, if current contract is under negotiation, with the CMH or its designee that serves the planning area in which the proposed beds or service will be located.

(6) The applicant shall comply with the following requirements, as applicable:

(a) The existing psychiatric hospital or unit shall have an average occupancy rate of at least 60% for adult beds and 40% for child/adolescent beds.

(b) If the average occupancy rate for the existing psychiatric hospital or unit is below 60% for adult beds or 40% for child/adolescent beds, then the applicant psychiatric hospital or unit shall reduce the appropriate number of licensed beds to achieve an average annual occupancy rate of at least 60% for adult beds or 40% for child/adolescent beds. The applicant psychiatric hospital or unit shall not exceed the number of beds calculated as follows:

(i) For adult beds, as of the date of the application, calculate the number of patient days during the most recent, consecutive 36-month period where verifiable data is available to the Department, and divide by .60.

(ii) Divide the result of subsection (i) above by 1095 (or 1096 if the 36-month period includes a leap year) and round up to the next whole number or 10, whichever is larger. This is the maximum number of beds that can be licensed at the existing licensed psychiatric hospital or unit site after replacement.

(iii) For child/adolescent beds, as of the date of the application, calculate the number of patient days during the most recent, consecutive 36-month period where verifiable data is available to the Department, and divide by .40.

(iv) Divide the result of subsection (iii) above by 1095 (or 1096 if the 36-month period includes a leap year) and round up to the next whole number or 10, whichever is larger. This is the maximum number of beds that can be licensed at the existing licensed psychiatric hospital or unit site after replacement.

## **Section 7. Requirements for approval of an applicant proposing to relocate existing licensed inpatient psychiatric beds**

Sec. 7. (1) The proposed project to relocate beds, under this section, shall constitute a change in bed capacity under Section 1(3) of these standards.

(2) Any existing licensed inpatient psychiatric hospital or unit may relocate all or a portion of its beds to another existing licensed inpatient psychiatric hospital or unit located within the same planning area.

(3) The inpatient psychiatric hospital or unit from which the beds are being relocated, and the inpatient psychiatric hospital or unit receiving the beds, shall not require any ownership relationship.

(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.

(6) The relocated beds shall be licensed to the receiving inpatient psychiatric hospital or unit and will be counted in the inventory for the applicable planning area.

(7) The relocation of beds under this section shall not be subject to a mileage limitation.

(8) The relocation of beds under this section shall not result in initiation of a new adult or child/adolescent service except for an existing adult inpatient psychiatric service requesting to initiate a child/adolescent inpatient psychiatric service in an overbedded child/adolescent planning area pursuant to Section 8(11).

(9) The applicant shall comply with the following requirements, as applicable:

(a) The source psychiatric hospital or unit shall have an average occupancy rate of at least 60% for adult beds and 40% for child/adolescent beds.

(b) If the source psychiatric hospital or unit does not have an average occupancy rate of at least 60% for adult beds and 40% for child/adolescent beds, then the source psychiatric hospital or unit shall reduce the appropriate number of licensed beds to achieve an average occupancy rate of at least 60% for adult beds and 40% for child/adolescent beds upon completion of the relocation(s). The source psychiatric hospital or unit shall not exceed the number of beds calculated as follows:

(i) For adult beds, as of the date of the application, calculate the number of patient days during the most recent, consecutive 36-month period where verifiable data is available to the Department, and divide by .60.

(ii) Divide the result of subsection (i) above by 1095 (or 1096 if the 36-month period includes a leap year) and round up to the next whole number or 10, whichever is larger. This is the maximum number of beds that can be licensed at the source psychiatric hospital or unit site after the relocation.

(iii) For child/adolescent beds, as of the date of the application, calculate the number of patient days during the most recent, consecutive 36-month period where verifiable data is available to the Department, and divide by .40.

(iv) Divide the result of subsection (iii) above by 1095 (or 1096 if the 36-month period includes a leap year) and round up to the next whole number or 10, whichever is larger. This is the maximum number of beds that can be licensed at the source psychiatric hospital or unit site after the relocation.

(10) A source hospital shall apply for multiple relocations on the same application date, and the applications can be combined to meet the criteria of (9)(b) above. A separate application shall be submitted for each proposed relocation.

## **Section 8. Requirements for approval to increase beds**

Sec. 8. An applicant proposing an increase in the number of adult or child/adolescent beds shall demonstrate or provide the following:

(1) An applicant proposing new beds in a psychiatric hospital or unit, except an applicant meeting the requirements of subsection (3), (9), or (10) shall demonstrate that the number of beds proposed in the CON application will not result in the number of existing adult or child/adolescent psychiatric beds, as applicable, in the planning area exceeding the bed need. However, an applicant may request and be approved for up to a maximum of 10 beds if, when the total number of existing adult beds or existing child/adolescent beds is subtracted from the bed need for the planning area, the difference is equal to or more than 1 or less than 10.

(2) An applicant proposing new beds in a psychiatric hospital or unit, except an applicant meeting the requirements of subsection (3), (9), or (10) shall demonstrate that the average occupancy rate for the applicant's facility, where the proposed beds are to be located, was at least 70% for adult or child/adolescent beds, 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. This subsection shall not apply if adding beds from a special population group contained in the addendum to these standards. For purposes of this section, average occupancy rate shall be calculated as follows:

(a) Divide the number of patient days of care provided by the total number of patient days, then multiply the result by 100.

(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.

(2) For child/adolescent beds:

(a) Child/adolescent bed days are the number of licensed child/adolescent beds multiplied by the number of days they were licensed during the most recent 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) Add the flex bed days to the child/adolescent bed days and divide the child/adolescent patient days of care by this number, then multiply the result by 100.

(d) The number of beds to be added shall not exceed the results of the following formula:

(ii) Multiply the facility's average daily census for 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 by 1.5 for adult beds and 1.7 for child/adolescent beds.

(iii) Subtract the number of currently licensed beds from the number calculated in (ii) above. This is the maximum number of beds that may be approved pursuant to this subsection.

(4) Proof of current contract or documentation of contract renewal, if current contract is under negotiation, with at least one CMH or its designee that serves the planning area in which the proposed beds or service will be located.

(5) Previously made commitments, if any, to the Department or CMH to serve public patients have been fulfilled.

(6) The number of beds proposed in the CON application to be allocated for use by public patients shall not be less than 50% of the beds proposed in the CON application. Applications proposed in direct response to a Department plan pursuant to subsection (9) shall allocate not less than 80% of the beds proposed in the CON application.

(7) The minimum number of beds in a psychiatric unit shall be at least 10 beds. If a psychiatric unit has or proposes to operate both adult and child/adolescent beds, then each unit shall have a minimum of 10 beds. The Department may approve an application for a unit of less than 10 beds, if the applicant demonstrates, to the satisfaction of the Department, that travel time to existing units would significantly impair access to care. This subsection shall not apply if adding beds from a special population group contained in the addendum to these standards.

(8) Subsection (2) shall not apply if the Director of the Department has certified in writing that the proposed project is a direct response to a Department plan for reducing the use of public institutions for acute mental health care through the closure of a state-owned psychiatric hospital.

(9) An applicant shall not be required to be in compliance with subsection (1) if the applicant demonstrates that the application meets both of the following:

(a) The Director of the Department determines that an exception to subsection (1) should be made and certifies in writing that the proposed project is a direct response to a Department plan for reducing the use of public institutions for acute mental health care through the closure of a state-owned psychiatric hospital; and

(b) The proposed beds will be located in the area currently served by the public institution that will be closed as determined by the Department.

(10) An applicant proposing to add new adult and/or child/adolescent psychiatric beds, as the receiving licensed inpatient psychiatric hospital or unit under Section 7, 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), (6), and (7) above.

(c) The proposed project to add new adult and/or child adolescent psychiatric beds, under this subsection, shall constitute a change in bed capacity under Section 1(2) of these standards.

(d) Applicants proposing to add new adult and/or child/adolescent psychiatric beds under this subsection shall not be subject to comparative review.

(11) An applicant proposing to initiate a new child/adolescent psychiatric service, as the receiving licensed inpatient psychiatric hospital or unit under Section 7(8), 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) 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

(ii) has an agreement with the acute-care hospital to give primary consideration for admission of child/adolescent patients from the acute-care hospital's emergency department in need of an inpatient psychiatric hospital admission.

(iii) has a collaborative agreement with an existing child/adolescent psychiatric hospital or unit for consultation and supportive services with a proposed term of not less than twelve months after implementation.

(e) The proposed site for the new child/adolescent beds has not previously been approved for beds under this sub-section.

(f) The proposed project to add new child adolescent psychiatric beds, under this subsection, shall constitute a change in bed capacity under Section 1(2) of these standards.

(g) Applicants proposing to add new child/adolescent psychiatric beds under this subsection shall not be subject to comparative review.

## **Section 9. Requirements for approval for flex beds**

Sec. 9. An applicant proposing flex beds shall demonstrate the following as applicable to the proposed project:

(1) The applicant has existing adult psychiatric beds and existing child/adolescent psychiatric beds.

(2) The number of flex beds proposed in the CON application shall not result in the existing adult psychiatric unit to become non-compliant with the minimum size requirements within Section 5(4).

(3) The applicant shall meet all applicable sections of the standards.

(4) The facility shall be in compliance and meet all design standards of the most recent Minimum Design Standards for Health Care Facilities in Michigan.

(5) The applicant shall convert the beds back to adult inpatient psychiatric beds if the bed has not been used as a flex bed serving a child/adolescent patient for a continuous 12-month period or if the CON application is withdrawn.



## **Section 10. Requirements for approval for acquisition of a psychiatric hospital or unit**

Sec. 10. An applicant proposing to acquire a psychiatric hospital or unit shall not be required to be in compliance with the needed bed supply, for the planning area in which the psychiatric hospital or unit subject to the proposed acquisition is located, if the applicant demonstrates that all of the following are met:

- (1) The acquisition will not result in a change in the number of licensed beds or beds designated for a child/adolescent specialized psychiatric program.
- (2) The licensed site does not change as a result of the acquisition.
- (3) The applicant shall comply with the following requirements, as applicable:
  - (a) The existing psychiatric hospital or unit shall have an average occupancy rate of at least 60% for adult beds and 40% for child/adolescent beds.
  - (b) If the average occupancy rate for the existing psychiatric hospital or unit is below 60% for adult beds or 40% for child/adolescent beds, the applicant shall agree to all of the following:
    - (i) The psychiatric hospital or unit to be acquired will achieve an average occupancy rate of at least 60% average annual occupancy for adult beds or 40% annual average occupancy for child/adolescent beds for the revised licensed bed complement during any consecutive 12-month period by the end of the second year of operation after completion of the acquisition.
      - (A) Calculate average occupancy rate for adult beds as follows:
        - (1) Add the number of adult patient days of care to the number of child/adolescent patient days of care provided in the flex beds; divide this number by the adult bed days, then multiply the result by 100.
        - (B) Calculate average occupancy rate for child/adolescent beds as follows:
          - (1) Subtract the number of child/adolescent patient days of care provided in the flex beds from the number of child adolescent patient days of care; divide this number by the child/adolescent bed days, then multiply the result by 100.
        - (C) Flex beds approved under Section 9 shall be counted as existing adult inpatient psychiatric beds.
      - (c) If the psychiatric hospital or unit to be acquired does not achieve an average annual occupancy rate of at least 60% for adult beds or 40% for child/adolescent beds, as calculated above, during any consecutive 12-month period by the end of the second year of operation after completion of the acquisition, the applicant shall relinquish sufficient beds at the existing psychiatric hospital or unit to raise its average occupancy to 60% for adult beds or 40% for child/adolescent beds. The revised number of licensed beds at the psychiatric hospital or unit shall be calculated as follows. However, the psychiatric hospital or unit shall not be reduced to less than 10 beds.
        - (i) For adult beds, as of the date of the application, calculate the number of patient days during the most recent, consecutive 12-month period where verifiable data is available to the Department, and divide by .60.
        - (ii) Divide the result of subsection (i) above by 365 (or 366 if the 12-month period includes a leap year) and round up to the next whole number or 10, whichever is larger. This is the maximum number of beds that can be licensed at the existing licensed psychiatric hospital or unit site after acquisition.
        - (iii) For child/adolescent beds, as of the date of the application, calculate the number of patient days during the most recent, consecutive 12-month period where verifiable data is available to the Department, and divide by .40.
        - (iv) Divide the result of subsection (iii) above by 365 (or 366 if the 12-month period includes a leap year) and round up to the next whole number or 10, whichever is larger. This is the maximum number of beds that can be licensed at the existing licensed psychiatric hospital or unit site after acquisition.

## Section 11. Additional requirements for applications included in comparative review

Sec. 11. (1) Any application subject to comparative review under Section 22229 of the Code, being Section 333.22229 of the Michigan Compiled Laws, or under these standards, shall be grouped and reviewed comparatively with other applications in accordance with the CON rules.

(2) Each application in a comparative group shall be individually reviewed to determine whether the application has satisfied all the requirements of Section 22225 of the Code being Section 333.22225 of the Michigan Compiled Laws and all other applicable requirements for approval in the Code and these standards. If the Department determines that two or more competing applications satisfy all of the requirements for approval, these projects shall be considered qualifying projects. The Department shall approve those qualifying projects which, when taken together, do not exceed the need, as defined in Section 22225(1) of the Code, and which have the highest number of points when the results of subsection (3) are totaled. If two or more qualifying projects are determined to have an identical number of points, then the Department shall approve those qualifying projects which, when taken together, do not exceed the need, in the order in which the applications were received by the Department, based on the date and time stamp placed on the applications by the Department in accordance with rule 325.9123.

(3)(a) A qualifying project application will be awarded 5 points if, within six months of beginning operation and annually thereafter, 100% of the licensed psychiatric beds (both existing and proposed) at the facility will be Medicaid certified.

(b) A qualifying project will be awarded 3 points if the applicant currently provides a partial hospitalization psychiatric program, outpatient psychiatric services, or psychiatric aftercare services, or transportation assistance to patients who require these services. An applicant proposing a new facility will be awarded 3 points if it submits site plans or service contracts to demonstrate it will include any of these services as part of its proposed project.

(c) A qualifying project will have 4 points deducted if the Department has issued, within three years prior to the date on which the CON application was deemed submitted, a provisional license FOR any psychiatric hospital or unit owned or operated by the applicant in this state.

(d) A qualifying project will have points awarded based on the ranking of the applicant's Medicaid days as measured as a percentage of total days as set forth in the following table. For purposes of scoring, the applicant's Medicaid percentage will be the cumulative of all Title XIX and Healthy Michigan inpatient psychiatric days divided by the cumulative of all inpatient psychiatric days at all currently licensed Michigan hospitals under common ownership or control with the applicant. For purposes of evaluating this criterion, an applicant shall submit the most recent reviewed and accepted Medicaid cost report for each currently licensed hospital under common ownership or control in Michigan.

MEDICAID DAYS	POINTS AWARDED
Applicant with highest percent of Medicaid days	10 points
All other applicants	Applicant's percent of Medicaid days divided by the highest applicant's percent of Medicaid days, then multiplied by 10
EXAMPLE BELOW	

The highest applicant has 58.3% Medicaid days	10 points
Applicant with 55.3% Medicaid days	$(.553 / .583) \times 10 = 9$ points
Applicant with 51.3% Medicaid days	$(.513 / .583) \times 10 = 9$ points

Percentages of days shall be rounded to the nearest 1/1000 and points awarded shall be rounded to the nearest whole number, i.e., numbers ending in .5 or higher, round up, and numbers ending in .4 or lower, round down.

(e) A qualifying project will have points deducted based on the applicant's record of compliance with applicable safety and operating standards for any psychiatric hospital or unit owned and/or operated by the applicant in this state. Points shall be deducted in accordance with the following schedule if, on or after November 26, 1995, the Department records document any non-renewal or revocation of license for cause or non-renewal or termination of certification for cause of any psychiatric hospital or unit owned or operated by the applicant in this state.

<u>Psychiatric Hospital/Unit Compliance Action</u>	<u>Points Deducted</u>
Non-renewal or revocation of license	4
Non-renewal or termination of:	
Certification - Medicare	4
Certification - Medicaid	4

(f) A qualifying project will be awarded points based on the applicant's total project costs per bed. For purposes of this criterion, total project costs shall be defined as the total costs for construction and renovation, site work, architectural/engineering and consulting fees, contingencies, fixed equipment, construction management and permits. Points shall be awarded in accordance with the table below:

COST PER BED	POINTS AWARDED
Applicant with the lowest cost per bed	7 POINTS
All other applicants	Lowest applicant's cost per bed divided by the applicant's cost per bed, then multiplied by 7
Example below	
The lowest cost applicant is \$698,000 per bed	7 points
Applicant with \$710,000 per bed	$(\$698,000 / \$710,000) \times 7 = 7$ points
Applicant with \$975,000 per bed	$(\$698,000 / \$975,000) \times 7 = 5$ points

Points shall not be awarded under this section for any project that proposes to add beds at a leased facility. Costs shall be rounded to the nearest whole dollar and points awarded shall be rounded to the

nearest whole number, i.e., numbers ending in .5 or higher, round up, and numbers ending in .4 or lower, round down.

(g) A qualifying project will be awarded 1 point for each design feature in this subsection (maximum of 3 points) that applicant proposes to include in the proposed project to reduce stress, foster diminished aggression, and reduce patient risk:

(i) Design features as shown on the floor plan submitted with the CON application to allow the applicant to create one or more subunits within a larger unit for clinical or programmatic purposes, including door or wall systems permitted under the Minimum Design Standards for Healthcare Facilities in Michigan to subdivide inpatient psychiatric space on a temporary or flexible basis;

(ii) gardens or other outdoor areas to allow inpatients direct daily access to outdoor space and daylight; and

(iii) a floor plan designed to help reduce patient risk by optimizing observation of patients in the facility in communal areas, hallways, and patient rooms. For purposes of this criteria, applicants shall submit proposed floor plans that show unobstructed sight lines from nurse stations or the equivalent to all patient room corridors and all common areas utilized for patient care.

(h) A qualifying project will be awarded 3 points if the applicant has or proposes to develop, with credible documentation acceptable to the Department, a telehealth and/or telemedicine program to facilitate inpatient admission of psychiatric patients or to assist in the diagnosis, treatment or provision of other inpatient support and services necessary and appropriate for the admission or retention of a psychiatric hospital inpatient with the following features:

(i) The existing or proposed telehealth and/or telemedicine program complies or will comply with Michigan Compiled Laws Section 333.16283 to 333.16288;

(ii) the proposed project includes infrastructure necessary or appropriate for the psychiatric telehealth and/or telemedicine services including high-speed internet connections, integration of the telehealth and/or telemedicine services with the electronic health record of the psychiatric inpatient, and physical plant design elements necessary or appropriate for compliance with applicable state and federal privacy laws; and

(iii) the applicant has or proposes a plan to facilitate workforce training and technical assistance to support operation of the telehealth and/or telemedicine program.

(i) A qualifying project will be awarded 3 points if the applicant already has, or the proposed project will have comprehensive psychiatric crisis services for the purpose of diverting patients to a lower acuity setting including any of the following: 24-hour patient/family crisis telephone lines, walk-in crisis services, or a crisis stabilization unit. An applicant shall submit site plans or contracts to demonstrate it currently has or will include any of these services as part of its proposed project.

(j) A qualifying project will be awarded points based on the geographic location of the project in accordance with the following table. For purposes of evaluation, this criteria will consider the proximity of the proposed project to existing beds of the same type as those proposed in the application, including both operating and CON-approved but not yet operational beds on the date of application.

PROXIMITY TO EXISTING BEDS OF THE SAME TYPE	POINTS AWARDED
Less than 30 miles	0
Between 30 and 60 miles	1
Between 60 and 90 miles	2
Greater than 90 miles	3

For purposes of scoring this criteria, the applicant shall submit data using the Michigan State University Geocoder located on the Department’s website and the Department’s Inventory of Beds at the time the application is deemed submitted.

(k) A qualifying project that proposes beds under the addendum for special population groups, Section 7 for high acuity psychiatric patients, will be awarded based on the percentage of beds located in private rooms proposed as part of the project, supported by the floor plans provided in the application, in accordance with the table below.

PERCENTAGE OF HIGH ACUITY BEDS LOCATED IN PRIVATE ROOMS	POINTS AWARDED
Applicant with highest percentage of high acuity beds located in private rooms	7 points
All other applicants	Applicant’s percent of beds located in private rooms divided by the highest applicant’s percent of beds located in private rooms, then multiplied by 7
Example below	
The applicant with the highest percentage of beds in private rooms is 90.0%	7 points
Applicant with 80.0% of beds in private rooms	$(.800 / .900) \times 7 = 6$ points
Applicant with 70.5% beds in private rooms	$(.750 / .900) \times 7 = 5$ points

Percentages of beds in private rooms shall be rounded to the nearest 1/1000 and points awarded shall be rounded to the nearest whole number, i.e., numbers ending in .5 or higher, round up, and numbers ending in .4 or lower, round down.

(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 include at least one (1) bariatric room or a project proposing 50 or more beds will include 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.

(4) Submission of conflicting information in this section may result in a lower point award. If an application contains conflicting information which could result in a different point value being awarded in this section, the Department will award points based on the lower point value that could be awarded from the conflicting information. For example, if submitted information would result in 6 points being awarded, but other conflicting information would result in 12 points being awarded, then 6 points will be

awarded. If the conflicting information does not affect the point value, the Department will award points accordingly. For example, if submitted information would result in 12 points being awarded and other conflicting information would also result in 12 points being awarded, then 12 points will be awarded.

## **Section 12. Requirements for approval -- all applicants**

Sec. 12. (1) An applicant shall provide verification of Medicaid participation. An applicant that is a new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation will be provided to the Department within six (6) months from the offering of services if a CON is approved.

(2) The applicant certifies all outstanding debt obligations owed to the State of Michigan for Quality Assurance Assessment Program (QAAP) or Civil Monetary Penalties (CMP) have been paid in full.

(3) The applicant certifies that the health facility for the proposed project has not been cited for a state or federal code deficiency within the 12 months prior to the submission of the application. If a code deficiency has been issued, then the applicant shall certify that a plan of correction for cited state or federal code deficiencies at the health facility has been submitted and approved by the Bureau of Health Systems within the Department or, as applicable, the Centers for Medicare and Medicaid Services. If code deficiencies include any unresolved deficiencies still outstanding with the Department or the Centers for Medicare and Medicaid Services that are the basis for the denial, suspension, or revocation of an applicant's health facility license, poses an immediate jeopardy to the health and safety of patients, or meets a federal conditional deficiency level, the proposed project cannot be approved without approval from the Bureau of Health Systems.

## **Section 13. Project delivery requirements - terms of approval for all applicants**

Sec. 13. An applicant shall agree that, if approved, the project shall be delivered in compliance with the following terms of CON approval:

(1) Compliance with these standards.

(2) Compliance with the following applicable quality assurance standards:

(a) The proposed licensed psychiatric beds shall be operated in a manner that is appropriate for a population with the ethnic, socioeconomic, and demographic characteristics including the developmental stage of the population to be served.

(b) The applicant shall establish procedures to care for patients who are disruptive, combative, or suicidal and for those awaiting commitment hearings, and the applicant shall establish a procedure for obtaining physician certification necessary to seek an order for involuntary treatment for those persons that, in the judgment of the professional staff, meet the Mental Health Code criteria for involuntary treatment.

(c) The applicant shall develop a standard procedure for determining, at the time the patient first presents himself or herself for admission or within 24 hours after admission, whether an alternative to inpatient psychiatric treatment is appropriate.

(d) The inpatient psychiatric hospital or unit shall provide clinical, administrative, and support services that will be at a level sufficient to accommodate patient needs and volume and will be provided seven days a week to assure continuity of services and the capacity to deal with emergency admissions.

(3) Compliance with the following access to care requirements:

(a) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years of operation and continue to participate annually thereafter.

(b) The applicant, to assure appropriate utilization by all segments of the Michigan population, shall:

(i) not deny acute inpatient mental health services to any individual based on ability to pay, source of payment, age, race, handicap, national origin, religion, gender, sexual orientation or commitment status;

(ii) provide acute inpatient mental health services to any individual based on clinical indications of need for the services; and

(iii) maintain information by payor and non-paying sources to indicate the volume of care from each source provided annually. Compliance with selective contracting requirements shall not be construed as a violation of this term.

(iv) Adopt and maintain a policy that includes a plan for providing inpatient psychiatric services to existing or potential psychiatric inpatients whose length of stay at applicant's psychiatric hospital exceeds, or may exceed, 45 consecutive inpatient days in accordance with applicable Medicare, Medicaid, CMH, or other third-party payor medical necessity criteria for inpatient psychiatric admissions and an appropriate care plan.

(4) Compliance with the following monitoring and reporting requirements:

(a) The average occupancy rate for all licensed beds at the psychiatric hospital or unit shall be at least 60 percent (%) for adult beds and 40 percent (%) for child/adolescent beds for the second 12 months of operation, and annually thereafter.

(i) Calculate average occupancy rate for adult beds as follows:

(A) Add the number of adult patient days of care to the number of child/adolescent patient days of care provided in the flex beds; divide this number by the adult bed days, then multiply the result by 100.

(ii) Calculate average occupancy rate for child/adolescent beds as follows:

(A) Subtract the number of child/adolescent patient days of care provided in the flex beds from the number of child adolescent patient days of care; divide this number by the child/adolescent bed days, then multiply the result by 100.

(b) Flex beds approved under section 9 shall be counted as existing adult inpatient psychiatric beds.

(c) After the second 12 months of operation, if the average occupancy rate is below 60% for adult beds or 40% for child/adolescent beds, the number of beds shall be reduced to achieve a minimum of 60% average annual occupancy for adult beds or 40% annual average occupancy for child/adolescent beds for the revised licensed bed complement. However, the psychiatric hospital or unit shall not be reduced to less than 10 beds.

(d) The applicant shall participate in a data collection network established and administered by the Department or its designee. The data may include, but is not limited to: annual budget and cost information, operating schedules, and demographic, diagnostic, morbidity and mortality information, as well as the volume of care provided to patients from all payor sources. The applicant shall provide the required data on a separate basis for each licensed site; in a format established by the Department; and in a mutually agreed upon media. The Department may elect to verify the data through on-site review of appropriate records.

(e) The applicant shall provide the Department with a notice stating the date the beds or services are placed in operation and such notice shall be submitted to the Department consistent with applicable statute and promulgated rules.

(f) An applicant required to enter into a contract with a CMH(s) or the Department pursuant to these standards shall have in place, at the time the approved beds or services become operational, a signed

contract to serve the public patient. The contract must address a single entry and exit system including discharge planning for each public patient. The contract shall specify that at least 50% or 80% of the approved beds, as required by the applicable sections of these standards, shall be allocated to the public patient, and shall specify the hospital's or unit's willingness to admit patients with an involuntary commitment status. The contract need not be funded.

(g) The applicant shall provide notice to the Department of any planned decrease or discontinuation of service(s) no later than 30 days after the planned decrease or discontinuation of the service(s).

(5) Compliance with this Section shall be determined by the Department based on a report submitted by the applicant and/or other information available to the Department.

(6) Nothing in this section prohibits the Department from taking compliance action under MCL 333.22247.

(7) The agreements and assurances required by this Section shall be in the form of a certification agreed to by the applicant or its authorized agent.

#### **Section 14. Project delivery requirements - additional terms of approval for child/adolescent service**

Sec. 14. (1) In addition to the provisions of Section 13, an applicant for a child/adolescent service shall agree to operate the program in compliance with the following terms of CON approval, as applicable:

(a) There shall be at least the following child and adolescent mental health professionals employed, either directly or by contract, by the hospital or unit, each of whom must have been involved in the delivery of child/adolescent mental health services for at least 2 years within the most recent 5 years:

- (i) a child/adolescent psychiatrist;
- (ii) a child psychologist;
- (iii) a psychiatric nurse;
- (iv) a psychiatric social worker;
- (v) an occupational therapist or recreational therapist; and

(b) There shall be a recipient rights officer employed by the hospital or the program.

(c) The applicant shall identify a staff member(s) whose assigned responsibilities include discharge planning and liaison activities with the home school district(s).

(d) There shall be the following minimum staff employed either on a full time basis or access to on a consulting basis as needed:

- (i) a pediatrician;
- (ii) a child neurologist;
- (iii) a neuropsychologist;
- (iv) a speech and language therapist;
- (v) an audiologist; and
- (vi) a dietician.

(e) A child/adolescent service shall have the capability to determine that each inpatient admission is the appropriate treatment alternative consistent with Section 498e of the Mental Health Code, being Section 330.1498e of the Michigan Compiled Laws.

(f) The child/adolescent service shall develop and maintain a coordinated relationship with the home school district of any patient to ensure that all public education requirements are met.



(g) The applicant shall demonstrate that the child/adolescent service is integrated within the continuum of mental health services available in its planning area by establishing a formal agreement with the CMH(s) serving the planning area in which the child/adolescent specialized psychiatric program is located. The agreement shall address admission and discharge planning issues which include, at a minimum, specific procedures for referrals for appropriate community services and for the exchange of information with the CMH(s), the probate court(s), the home school district, the Michigan Department of Human Services, the parent(s) or legal guardian(s) and/or the patient's attending physician.

(2) Compliance with this Section shall be determined by the Department based on a report submitted by the program and/or other information available to the Department.

(3) The agreements and assurances required by this Section shall be in the form of a certification agreed to by the applicant or its authorized agent.

### **Section 15. Pilot program requirements for applicants proposing to initiate or increase child and adolescent psychiatric beds**

Sec. 15. (1) an applicant proposing the initiation of a child/adolescent psychiatric service shall demonstrate or provide the following:

(a) a written recommendation, from the department or the cmh that serves the county in which the proposed beds or services will be located, shall include an agreement to enter into a contract to meet the needs of the public patient. At a minimum, the letter of agreement shall specify the number of beds to be allocated to the public patient and the applicant's intention to serve patients with an involuntary commitment status.

(b) The number of beds proposed in the con application to be allocated for use by the public patients shall not be less than 50% of the beds proposed in the con application.

(c) The minimum number of beds in a psychiatric unit shall be at least 10 beds. the Department may approve an application for a unit of less than 10 beds, if the applicant demonstrates to the satisfaction of the department, that travel time to existing units would significantly limit access to care.

(2) An applicant proposing an increase of child/adolescent psychiatric beds shall demonstrate or provide the following:

(a) An applicant may apply for the addition of new child/adolescent psychiatric beds if beds are being added at the existing licensed site. Further, an application proposing new beds at an existing license psychiatric hospital or unit site shall agree and assure compliance with all applicable project delivery requirements, excluding occupancy requirements.

(b) Proof of current contract or documentation of contract renewal, if current contract is under negotiation, with at least one cmh or its designee that serves the planning area in which the proposed beds or service will be located.

(c) Previously made commitments, if any, to the Department of cmh to serve public patients have been fulfilled.

(d) The minimum number of beds in a psychiatric unit shall be at least 10 beds. the Department may approve an application for a unit of less than 10 beds, if the applicant demonstrates, to the satisfaction of the Department, that travel time to existing units would significantly impair access to care.

(3) An applicant under this section shall demonstrate that it meets the requirements of section 12.

- (4) An applicant under this section shall demonstrate that it meets the requirements of section 13.
- (5) An applicant under this section shall demonstrate that it meets the requirements of section 14.
- (6) An applicant proposing the replacement of a child/adolescent psychiatric bed under this section shall demonstrate that it meets the requirements of section 6.
- (7) An applicant proposing the acquisition of a child/adolescent psychiatric service under this section shall demonstrate that it meets the requirements of section 10.
- (8) The applicant shall not relocate any child/adolescent psychiatric beds approved under this section prior to September 30, 2030 and prior to the child/adolescent beds being licensed and operational. An applicant must demonstrate that it meets the requirements of section 7.
- (9) An applicant under this section 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.
- (10) An applicant under this section shall not be subject to comparative review.
- (11) If the commission does not take action to extend the duration of the pilot program described in this section by July 1, 2030, all of the following must occur:
  - (a) The provisions of this section shall not be applicable to any application submitted after July 1, 2030;
  - (b) The provisions of this section will expire on September 30, 2030;
  - (c) After September 30, 2030 the provisions of this section, excluding subsection 11(d) will be of no force and effect; and
  - (d) Any child/adolescent psychiatric beds approved under this section must meet all project delivery requirements, including occupancy requirements following the termination of the pilot program described in this section.
- (12) By April 30th of each year, the applicant shall provide a separate annual report to the Department regarding all child/adolescent psychiatric beds approved under this section for the preceding calendar year, in a format established by the Department and in a mutually agreed upon media. This reporting requirement shall continue for a period of 7 years, or as determined by the commission.

## **Section 16. Department inventory of beds**

Sec. 16. The Department shall maintain, and provide on request, a listing of the Department Inventory of Beds for each adult and child/adolescent planning area.

## **Section 17. Planning areas**

Sec. 17. The planning areas for inpatient psychiatric beds are the geographic boundaries of the groups of counties as follows.

### **Planning Areas**

### **Counties**

- 1 Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, Wayne
- 2 Clinton, Eaton, Hillsdale, Ingham, Jackson, Lenawee
- 3 Barry, Berrien, Branch, Calhoun, Cass, Kalamazoo, St. Joseph, Van Buren
- 4 Allegan, Ionia, Kent, Lake, Mason, Montcalm, Muskegon, Newaygo,  
Oceana, Ottawa
- 5 Genesee, Lapeer, Shiawassee
- 6 Arenac, Bay, Clare, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland,  
Mecosta, Ogemaw, Osceola, Oscoda, Saginaw, Sanilac, Tuscola
- 7 Alcona, Alpena, Antrim, Benzie, Charlevoix, Cheboygan, Crawford,  
Emmet, Grand Traverse, Kalkaska, Leelanau, Manistee, Missaukee,  
Montmorency, Otsego, Presque Isle, Roscommon, Wexford
- 8 Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron,  
Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon,  
Schoolcraft

#### **Section 18. Effect on prior CON review standards; comparative reviews**

Sec. 18. (1) These CON review standards supersede and replace the CON Review Standards for Psychiatric Beds and Services, approved by the CON Commission on December 7, 2022 and effective on March 6, 2023.

(2) Projects involving replacement beds, relocation of beds, flex beds under Section 9, or an increase in beds, approved pursuant to Section 8(3), are reviewed under these standards and shall not be subject to comparative review.

(3) Projects involving initiation of services or an increase in beds, approved pursuant to Section 5(1), are reviewed under these standards and shall be subject to comparative review.

## **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).

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**CON REVIEW STANDARDS  
FOR PSYCHIATRIC BEDS AND SERVICES  
--ADDENDUM FOR SPECIAL POPULATION GROUPS**

(By authority conferred on the CON commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207 and 24.208 of the Michigan Compiled Laws.)

**Section 1. Applicability; definitions**

Sec. 1. (1) This addendum supplements the CON review standards for psychiatric beds and services and shall be used for determining the need for projects established to better meet the needs of special population groups within the mental health populations.

(2) Except as provided in sections 2, 3, 4, 5, 6, 7 and 8 of this addendum, these standards supplement, and do not supersede, the requirements and terms of approval required by the CON Review Standards for Psychiatric Beds and Services.

(3) The definitions which apply to the CON Review Standards for Psychiatric Beds and Services shall apply to these standards.

(4) For purposes of this addendum, the following terms are defined:

(a) “Developmental disability unit” means a unit designed for psychiatric patients (adult or child/adolescent as applicable) who have been diagnosed with a severe, chronic disability as outlined in Section 102, 42 USC 15002, of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act) and its update or future guideline changes.

(b) “Geriatric psychiatric unit” means a unit designed for psychiatric patients aged 65 and over.

(c) “High acuity psychiatric unit” means a distinct psychiatric unit for individuals who are currently exhibiting three or more to a moderate degree or two or more to a severe degree of the following: confusion, irritability, boisterousness, poor impulse control, uncooperativeness, hostility, verbal threats, physical threats, or attacking objects. This term also includes patients who are unwilling or unable to stop attempts at self-harm or suicide or patients who have a history of violence to self or others on an inpatient psychiatric unit.

(d) “Medical psychiatric unit” means a unit designed for psychiatric patients (adult or child/adolescent as applicable) who have also been diagnosed with a medical comorbidity requiring either: (i) acute medical nursing intervention and monitoring, or (ii) treatment with daily direction or supervision of a physician other than a psychiatrist (e.g., patients who may be on dialysis, require wound care or need intravenous or tube feeding) except as follows:

(i) A medical psychiatric unit located in a hospital licensed under part 215 of the code, may be used for psychiatric patients not diagnosed with a medical illness up to a maximum of 146 patient days per year per bed pursuant to the limitations detailed in section 9(4)(j).

**Section 2. Requirements for approval -- applicants proposing to increase psychiatric beds --  
special use exceptions**

Sec. 2. A project to increase psychiatric beds in a planning area which, if approved, would otherwise cause the total number of psychiatric beds in that planning area to exceed the needed psychiatric bed supply or cause an increase in an existing excess as determined under the applicable CON review standards for psychiatric beds and services, may nevertheless be approved pursuant to this addendum.

### **Section 3. Statewide pool for the needs of special population groups within the mental health populations**

Sec. 3. (1) A statewide pool of additional psychiatric beds consists of 1,210 beds needed in the state is established to better meet the needs of special population groups within the mental health populations. The number of beds in the developmental disability, geriatric and medical psychiatric pools are based on ten and a half percent of the statewide bed need for psychiatric inpatient beds rounded up to the next ten with a minimum of 50 child/adolescent beds in each special pool, as applicable. The number of beds in the high acuity pool is based on thirteen percent of the statewide bed need for psychiatric inpatient beds rounded up to the next ten with a minimum of 50 child/adolescent beds. Beds in the pool shall be distributed as follows and shall be reduced in accordance with subsection (4):

- (a) Developmental disability beds will be allocated 250 adult beds and 50 child/adolescent beds.
- (b) Geriatric psychiatric beds will be allocated 250 adult beds.
- (c) Medical psychiatric beds will be allocated 250 adult beds and 50 child/adolescent beds.
- (d) High acuity psychiatric beds will be allocated 310 adult beds and 50 child/adolescent beds.

(2) By setting aside these beds from the total statewide pool, the Commission's action applies only to applicants seeking approval of psychiatric beds pursuant to sections 4, 5, 6 and 7. It does not preclude the care of these patients in units of hospitals, psychiatric hospitals, or other health care settings in compliance with applicable statutory or certification requirements.

(3) Increases in psychiatric beds approved under this addendum for special population groups shall not cause planning areas currently showing an unmet bed need to have that need reduced or planning areas showing a current surplus of beds to have that surplus increased.

(4) The Commission may adjust the number of beds available in the statewide pool for the needs of special population groups within the mental health populations concurrent with the biennial recalculation of the statewide psychiatric inpatient bed need. Modifying the number of beds available in the statewide pool for the needs of special population groups within the mental health populations pursuant to this section shall not require a public hearing or submittal of the standard to the Legislature and the Governor in order to become effective.

(5) Beds approved under subsections 4, 5, 6, and 7 shall not be converted to or utilized as general psychiatric beds.

### **Section 4. Requirements for approval for beds from the statewide pool for special population groups allocated to developmental disability patients**

Sec. 4. The CON commission determines there is a need for beds for applications designed to determine the efficiency and effectiveness of specialized programs for the care and treatment of developmental disability patients as compared to serving these needs in general psychiatric unit(s).

(1) An applicant proposing to begin operation of a new adult or child/adolescent psychiatric service or add beds to an existing adult or child/adolescent psychiatric service under this section shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

(a) The applicant shall submit evidence of accreditation as follows:

(i) Documentation of its existing developmental disability program by the National Association for the Dually Diagnosed (NADD) or another nationally-recognized accreditation organization for developmental disability care and services; or

(ii) within 24-months of accepting its first patient, the applicant shall obtain NADD or another nationally-recognized accreditation organization for the developmental disability beds proposed under this subsection.

(b) The applicant proposes programs to promote a culture within the facility that is appropriate for developmental disability patients.

(c) Staff will be specially trained in treatment of developmental disability patients.

(d) The proposed beds will serve only developmental disability patients.

(2) All beds approved pursuant to this subsection shall be certified for Medicaid.

## **Section 5. Requirements for approval for beds from the statewide pool for special population groups allocated to geriatric psychiatric patients**

Sec. 5. The CON commission determines there is a need for beds for applications designed to determine the efficiency and effectiveness of specialized programs for the care and treatment of geriatric psychiatric patients as compared to serving these needs in general psychiatric unit(s).

(1) An applicant proposing to begin operation of a new adult psychiatric service or add beds to an existing adult psychiatric service under this section shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

(a) The applicant shall submit evidence of accreditation as follows:

(i) Documentation of its existing geriatric psychiatric program by the Commission on Accreditation of Rehabilitation Facilities (CARF) or another nationally-recognized accreditation organization for geriatric psychiatric care and services; or

(ii) within 24-months of accepting its first patient, the applicant shall obtain CARF or another nationally-recognized accreditation organization for the geriatric psychiatric beds proposed under this subsection.

(b) The applicant proposes programs to promote a culture within the facility that is appropriate for geriatric psychiatric patients.

(c) Staff will be specially trained in treatment of geriatric psychiatric patients.

(d) The proposed beds will serve only geriatric psychiatric patients.

(2) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

## **Section 6. Requirements for approval for beds from the statewide pool for special population groups allocated to medical psychiatric patients**

Sec. 6. The CON commission determines there is a need for beds for applications designed to determine the efficiency and effectiveness of specialized programs for the care and treatment of medical psychiatric patients as compared to serving these needs in general psychiatric unit(s).

(1) An applicant proposing to begin operation of a new adult or child/adolescent psychiatric service or add beds to an existing adult or child/adolescent psychiatric service under this section shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

(a) The beds will be operated as part of a specialized program exclusively for adult or child/adolescent medical psychiatric patients, as applicable, within one of the following settings:

(i) a licensed hospital licensed under part 215 of the code, or

(ii) an adult or child/adolescent psychiatric service or unit with a written collaborative agreement with a hospital licensed under part 215 of the code that is provided as part of the application and includes all of the following:

(A) Procedures for joint credentialing criteria and recommendations for physicians approved to treat medical psychiatric patients.

(B) Provisions for regularly held joint psychiatric and medical conferences to include review of all medical psychiatric cases.

(C) A mechanism to provide for appropriate transfers between facilities and an agreed upon plan for prompt care.

(D) Consultation on facilities, equipment, staffing, ancillary services, and policies and procedures for the provision of medical psychiatric treatment.

(E) Access to specialist physicians for consultation related to the treatment of medical psychiatric patients.

(b) The applicant shall submit evidence of accreditation as follows:

(i) Documentation of its existing medical psychiatric program by CARF or another nationally-recognized accreditation organization for medical psychiatric care and services; or

(ii) within 24-months of accepting its first patient, the applicant shall obtain CARF or another nationally-recognized accreditation organization for the medical psychiatric beds proposed under this subsection.

(c) The applicant proposes programs to promote a culture within the facility that is appropriate for medical psychiatric patients.

(d) Staff, including contracted staff, will:

(i) be specially trained in treatment of medical psychiatric patients;

(ii) include an appropriate number of registered nurses (rns) to care for the number and acuity of patients admitted;

(iii) include a rapid response and code team comprised of rns and any other medical staff available on-site; and

(iv) include a licensed hospital provider on-site daily and available 24-hour, 365-day via call coverage.

(e) The proposed beds will serve only medical psychiatric patients.

(f) The facility agrees to provide at least the following medical services which do not require acute care hospital admission:

(i) advanced wound care (for treatment of wounds showing signs of infection that require treatment by a medical doctor other than a psychiatrist); and

(ii) intravenous line care.

(2) All beds approved pursuant to this subsection shall be certified for Medicaid.

## **Section 7. Requirements for approval for beds from the statewide pool for special population groups allocated to high acuity psychiatric patients**



Sec 7. The CON commission determines there is a need for beds for applications designed to determine the efficiency and effectiveness of specialized programs for the care and treatment of high acuity psychiatric patients as compared to serving these needs in a general psychiatric unit(s).

(1) An applicant proposing to begin operations of a new adult or child/adolescent psychiatric services or add beds to an existing adult or child/adolescent psychiatric service under this section shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

(a) The beds shall be operated as part of a specialized program exclusively for adult or child/adolescent patients classified as high acuity.

(b) The applicant shall submit evidence with credible documentation acceptable to the Department of the following:

(i) The proposed unit shall consist of a majority of private rooms and shall include environmental safety measures that meet standards from the Joint Commission and the Centers for Medicare and Medicaid Services throughout the entire unit.

(ii) The proposed unit shall have a physical environment designed to minimize noise and light reflections to promote visual and spatial orientation.

(iii) The proposed unit's staff shall be specially trained in the treatment of high acuity patients with non-violent intervention modalities such as non-abusive psychological and physical intervention, crisis intervention institute training or similar programs.

(iv) The proposed unit shall demonstrate a plan for the safe management of agitated or aggressive patients.

(c) The proposed beds will serve only high acuity psychiatric patients.

(2) All beds approved pursuant to this subsection shall be certified for Medicaid.

## **Section 8. Acquisition of psychiatric beds approved pursuant to this addendum**

Sec. 8. (1) An applicant proposing to acquire psychiatric beds from the statewide pool for special population groups allocated to developmental disability shall meet the following:

(a) The applicant shall submit evidence of accreditation of the existing developmental disability program by the National Association for the Dually Diagnosed (NADD) or another nationally-recognized accreditation organization for developmental disability care and services.

(b) Within 24-months of accepting its first patient, the applicant shall obtain NADD or another nationally-recognized accreditation organization for the developmental disability beds proposed under this subsection.

(c) The applicant proposes programs to promote a culture within the facility that is appropriate for developmental disability patients.

(d) Staff will be specially trained in treatment of developmental disability patients.

(e) The proposed beds will serve only developmental disability patients.

(f) All beds approved pursuant to this subsection shall be certified for Medicaid.

(2) An applicant proposing to acquire psychiatric beds from the statewide pool for special population groups allocated to geriatric psychiatric shall meet the following:

(a) The applicant shall submit evidence of accreditation of the existing geriatric psychiatric program by CARF or another nationally-recognized accreditation organization for geriatric psychiatric care and services.

(b) Within 24-months of accepting its first patient, the applicant shall obtain CARF or another nationally-recognized accreditation organization for the geriatric psychiatric beds proposed under this subsection.

(c) The applicant proposes programs to promote a culture within the facility that is appropriate for geriatric psychiatric patients.

(d) Staff will be specially trained in treatment of geriatric psychiatric patients.

(e) The proposed beds will serve only geriatric psychiatric patients.

(f) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

(3) An applicant proposing to acquire psychiatric beds from the statewide pool for special population groups allocated to medical psychiatric shall meet the following:

(a) The applicant shall submit evidence of accreditation of the existing medical psychiatric program by CARF or another nationally-recognized accreditation organization for medical psychiatric care and services.

(b) Within 24-months of accepting its first patient, the applicant shall obtain CARF or another nationally-recognized accreditation organization for the medical psychiatric beds proposed under this subsection.

(c) The applicant proposes programs to promote a culture within the facility that is appropriate for medical psychiatric patients.

(d) Staff will be specially trained in treatment of medical psychiatric patients.

(e) The proposed beds will serve only medical psychiatric patients.

(f) All beds approved pursuant to this subsection shall be certified for Medicaid.

(4) An applicant proposing to acquire psychiatric beds from the statewide pool for special populations allocated to high acuity psychiatry shall meet the following:

(a) The proposed unit shall consist of a majority of private rooms and shall include environmental safety measures that meet standards from the Joint Commission and the Centers for Medicare and Medicaid Services throughout the entire unit.

(b) The proposed unit shall have a physical environment designed to minimize noise and light reflections to promote spatial orientation.

(c) The proposed unit's staff shall be specially trained in the treatment of high acuity patients with non-violent intervention modalities such as non-abusive psychological and physical intervention, crisis intervention institute training or similar programs.

(d) The proposed unit shall demonstrate a plan for the safe management of agitated or aggressive patients.

(e) The proposed beds will serve only high acuity psychiatric patients.

(f) All beds approved pursuant to this subsection shall be certified for Medicaid.

## **Section 9. Project delivery requirements -- terms of approval for all applicants seeking approval under section 3(1) of this addendum**

Sec. 9. (1) An applicant shall agree that if approved, the services shall be delivered in compliance with the terms of approval required by the CON Review Standards for Psychiatric Beds and Services.

(2) An applicant for beds from the statewide pool for special population groups allocated to developmental disability patients shall agree that, if approved, all beds approved pursuant to that subsection shall be operated in accordance with the following terms of CON approval:

(a) The applicant shall document, at the end of the third year following initiation of beds approved an annual average occupancy rate of 80 percent or more. If this occupancy rate has not been met, the applicant shall reduce beds to a number of beds necessary to result in an 80 percent average annual occupancy for the third full year of operation and annually thereafter. The number of beds reduced shall revert to the total statewide pool established for developmental disability beds.

(b) An applicant shall staff the proposed unit for developmental disability patients with employees that have been trained in the care and treatment of such individuals.

(c) An applicant shall maintain NADD certification or another nationally-recognized accreditation organization for developmental disability care and services.

(d) An applicant shall establish and maintain written policies and procedures for each of the following:

(i) Patient admission criteria that describe minimum and maximum characteristics for patients appropriate for admission to the developmental disability unit.

(ii) The transfer of patients requiring care at other health care facilities.

(iii) Upon admission and periodically thereafter, a comprehensive needs assessment, a treatment plan, and a discharge plan that at a minimum addresses the care needs of a patient following discharge.

(e) If the specialized program is being added to an existing adult or child/adolescent psychiatric service, then the existing licensed adult or child/adolescent psychiatric service, as applicable, shall maintain the volume requirements outlined in Section 13 of the CON Review Standards for Psychiatric Beds and Services.

(f) The developmental disability unit shall have a day/dining area within, or immediately adjacent to, the unit(s), which is solely for the use of developmental disability patients.

(g) The developmental disability unit shall have direct access to a secure outdoor or indoor area at the facility appropriate for supervised activity.

(h) The applicant shall maintain programs to promote a culture within the facility that is appropriate for developmental disability patients.

(3) An applicant for beds from the statewide pool for special population groups allocated to geriatric psychiatric patients shall agree that if approved, all beds approved pursuant to that subsection shall be operated in accordance with the following terms of CON approval:

(a) The applicant shall document, at the end of the third year following initiation of beds approved an annual average occupancy rate of 80 percent or more. If this occupancy rate has not been met, the applicant shall reduce beds to a number of beds necessary to result in an 80 percent average annual occupancy for the third full year of operation and annually thereafter. The number of beds reduced shall revert to the total statewide pool established for geriatric psychiatric beds.

(b) An applicant shall staff the proposed unit for geriatric psychiatric patients with employees that have been trained in the care and treatment of such individuals.

(c) An applicant shall maintain CARF certification or another nationally-recognized accreditation organization for geriatric psychiatric care and services.

(d) An applicant shall establish and maintain written policies and procedures for each of the following:

(i) Patient admission criteria that describe minimum and maximum characteristics for patients appropriate for admission to the geriatric psychiatric unit.

(ii) The transfer of patients requiring care at other health care facilities.

(iii) Upon admission and periodically thereafter, a comprehensive needs assessment, a treatment plan, and a discharge plan that at a minimum addresses the care needs of a patient following discharge.

(e) If the specialized program is being added to an existing adult licensed psychiatric service, then the existing licensed psychiatric service shall maintain the volume requirements outlined in Section 13 of the CON Review Standards for Psychiatric Beds and Services.

(f) The geriatric psychiatric unit shall have a day/dining area within, or immediately adjacent to, the unit(s), which is solely for the use of geriatric psychiatric patients.

(g) The geriatric psychiatric unit shall have direct access to a secure outdoor or indoor area at the facility appropriate for supervised activity.

(h) The applicant shall maintain programs to promote a culture within the facility that is appropriate for geriatric psychiatric patients.

(4) An applicant for beds from the statewide pool for special population groups allocated to medical psychiatric patients shall agree that, if approved, all beds approved pursuant to that subsection shall be operated in accordance with the following CON terms of approval.

(a) The applicant shall document, at the end of the third year following initiation of beds approved an annual average occupancy rate of 80 percent or more. If this occupancy rate has not been met, the applicant shall reduce beds to a number of beds necessary to result in an 80 percent average annual occupancy for the third full year of operation and annually thereafter. The number of beds reduced shall revert to the total statewide pool established for medical psychiatric beds.

(b) An applicant shall staff the proposed unit for medical psychiatric patients with employees that have been trained in the care and treatment of such individuals.

(c) An applicant shall maintain CARF certification or another nationally-recognized accreditation organization for medical psychiatric care and services.

(d) An applicant shall establish and maintain written policies and procedures for each of the following:

(i) Patient admission criteria that describe minimum and maximum characteristics for patients appropriate for admission to the medical psychiatric unit. A unit licensed only under 1974 pa 278, chapter 1, shall clearly indicate the facility will not admit patients requiring acute care hospital admission.

(ii) The transfer of patients requiring care at other health care facilities.

(iii) Upon admission and periodically thereafter, a comprehensive needs assessment, a treatment plan, and a discharge plan that at a minimum addresses the care needs of a patient following discharge.

(e) If the specialized program is being added to an existing licensed adult or child/adolescent psychiatric service, then the existing adult or child/adolescent psychiatric service, as applicable, shall maintain the volume requirements outlined in Section 13 of the CON Review Standards for Psychiatric Beds and Services.

(f) The medical psychiatric unit shall have a day/dining area within, or immediately adjacent to, the unit(s), which is solely for the use of medical psychiatric patients.

(g) The medical psychiatric unit shall have direct access to a secure outdoor or indoor area at the facility appropriate for supervised activity.

(h) The applicant shall maintain programs to promote a culture within the facility that is appropriate for medical psychiatric patients.

(i) The facility shall provide at least the following medical staff and services which do not require acute care hospital admission:

(i) staff specially trained in treatment of medical psychiatric patients;

(ii) include and appropriate number of registered nurses (rns) to care for the number and acuity of patients admitted;

(iii) a rapid response and code team comprised of rns and any other medical staff on-site.

(iv) include a licensed hospitalist provider on-site daily and available 24-hour, 365-day via call coverage.

(v) advanced wound care (for treatment of wounds showing signs of infection that require treatment by a medical doctor other than a psychiatrist); and

(vi) intravenous line care.

(j) An applicant placing a patient in a bed in a medical/psychiatric unit pursuant to section 1(d)(i) must follow the following procedures with respect to such placement:

(i) The applicant must not have been able to place such patient requiring an inpatient psychiatric hospital admission at the time of the patient's visit to the applicant's emergency room at a different inpatient psychiatric facility within a 60-minute drive time of the applicant's hospital location within 6 hours after the determination for such need for inpatient psychiatric care being made.

(ii) The applicant must have attempted to place such patient at a minimum of three facilities over at least a 6-hour period to secure admission of the patient to a psychiatric hospital or unit, all of which failed due to a lack of available psychiatric beds at the other facilities or due to the medical admission criteria of the facilities.

(iii) The applicant must submit verifiable information approved under this section for the preceding calendar year, in a format established by the Department and in a mutually agreed upon media. the applicant has complied with the requirements of sections 9(4)(j)(i) and 9(4)(j)(ii) for each patient admitted to a medical psychiatric bed under section 1(d)(i). such information shall include:

(A) The number of referrals per patient, including the number of patients that were admitted to a unit described in this section with less than 3 referrals and the reason for less than 3 referrals; and

(b) The reasons for denial of admission by another facility for each patient.

(c) Required documentation must be maintained by the applicant and made available upon request by the department.

(k) Sections 1(d)(i), 9(4)(k) shall be subject to review by the con commission in 2027.

(5) An applicant for beds from the statewide pool for special population groups allocated to high acuity psychiatric patients shall agree that, if approved, all beds approved pursuant to that subsection shall be operated in accordance with the following terms of CON approval:

(a) The applicant shall document, at the end of the third year following initiation of beds approved, and thereafter, an annual average occupancy rate of 80 percent or more. If this occupancy rate has not been met, the applicant shall reduce beds to a number of beds necessary to result in an 80 percent average annual occupancy for the third full year of operation and annually thereafter. The number of beds reduced shall revert to the total statewide pool established for high acuity psychiatric patients.

(b) The high acuity unit shall consist of a majority of private rooms and shall include environmental safety measures that meet standards from the Joint commission and the Centers for Medicare and Medicaid Services throughout the entire unit.

(c) The high acuity unit shall have a physical environment designed to minimize noise and light reflections to promote visual and spatial orientation.

(d) The proposed unit's staff shall be specially trained in the treatment of high acuity patients with non-violent intervention modalities such as non-abusive psychological and physical intervention, crisis intervention institute training or similar programs.

(e) The proposed unit shall demonstrate a plan for the safe management of agitated or aggressive patients.

(f) The high acuity unit shall establish and maintain written policies and procedures for each of the following:

(i) Patient admission criteria that describe minimum and maximum characteristics for patients appropriate for admission to the unit for high acuity patients.

(ii) Quality assurance and assessment program to assure that services furnished to high acuity patients meet professionally recognized standards of health care for providers of such services and that such services were reasonable and medically appropriate to the clinical condition of the high acuity patient receiving such services.

(iii) Orientation and annual education/competencies for all staff, which shall include care guidelines, specialized communication and patient safety.

(g) If the specialized program is being added to an existing licensed adult or child/adolescent psychiatric service, then the existing adult or child/adolescent psychiatric service, as applicable, shall maintain the volume requirements outlined in Section 13 of the CON review standards for psychiatric beds and services.

## **Section 10. Comparative reviews, effect on prior CON review standards**

Sec. 10. (1) Projects proposed under Section 4 shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(2) Projects proposed under Section 5 shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(3) Projects proposed under Section 6 shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(4) Projects proposed under Section 7 shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

---

**CERTIFICATE OF NEED REVIEW STANDARDS**

---

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**CERTIFICATE OF NEED (CON) REVIEW STANDARDS FOR**

**COMPUTED TOMOGRAPHY (CT) SCANNER SERVICES**

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207 and 24.208 of the Michigan Compiled Laws.)

**Section 1. Applicability**

Sec. 1. These standards are requirements for the approval of the initiation, expansion, replacement, or acquisition of CT services and the delivery of services under Part 222 of the Code. Pursuant to Part 222 of the Code, CT is a covered clinical service. The Department shall use these standards in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws and Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

**Section 2. Definitions**

Sec. 2. (1) For purposes of these standards:

(a) "Acquisition of an existing CT scanner service" means obtaining possession or control of an existing fixed or mobile CT scanner service or existing CT scanner(s) by contract, ownership, or other comparable arrangement. For proposed projects involving mobile CT scanners, this applies to the central service coordinator and/or host facility.

(b) "Billable procedure" means a CT procedure billed as a single unit and performed in Michigan.

(c) "Body scans" include all spinal CT scans and any CT scan of an anatomical site below and including the neck.

(d) "Bundled body scan" means two or more body scans billed as one CT procedure.

(e) "Central service coordinator" means the organizational unit which has operational responsibility for a mobile CT scanner and which is a legal entity authorized to do business in the state of Michigan.

(f) "Certificate of Need Commission" or "Commission" means the Commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(g) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan Compiled Laws.

(h) "Computed tomography" or "CT" means the use of radiographic and computer techniques to produce cross-sectional images of the head or body.

(i) "CT-angio hybrid unit" means an integrated system comprised of both CT and angiography equipment sited in the same room that is designed specifically for interventional radiology or cardiac procedures. The CT unit is a guidance mechanism and is intended to be used as an adjunct to the procedure. The CT unit shall not be used for diagnostic studies unless the patient is currently undergoing a CT-angio hybrid procedure and is in need of a secondary diagnostic study.

(j) "CT equivalents" or "CTES" means the resulting number of units produced when the number of billable procedures for each category is multiplied by its respective conversion factor tabled in Section 16.

(k) "CT scanner" means x-ray CT scanning systems capable of performing CT scans of the head, other body parts, or full body patient procedures including Positron Emission Tomography (PET)/CT scanner hybrids if used for CT only procedures. The term does not include emission-computed tomographic systems utilizing internally administered single-photon gamma ray emitters, positron annihilation CT systems, magnetic resonance, ultrasound computed tomographic systems, CT simulators used solely for treatment planning purposes in conjunction with an MRT unit, non-diagnostic, intra-operative guidance tomographic units, and dental CT scanners that generate a peak power of 5 kilowatts or less as certified by the manufacturer and are specifically designed to generate CT images to facilitate dental procedures by a licensed dentist under the practice of dentistry only. Any other use of CT scanners (such as but not limited to chiropractic utilization) that generate a peak power of 5 kilowatts or less as certified by the manufacturer will require review and approval as a CT scanner service under applicable sections of these standards.

(l) "CT scanner services" means the CON-approved utilization of a CT scanner(s) at one site in the case of a fixed CT scanner service or at each host site in the case of a mobile CT scanner service.

(m) "CT-guided ablation" means any invasive procedure performed in a CT scanner requiring CT guidance of a needle or other device to treat a tumor.

(n) "CT-guided non-ablation procedure" means any invasive procedure, requiring CT guidance, performed in the CT scanner other than CT-guided ablations.

(o) "Dedicated pediatric CT" means a fixed CT scanner on which at least 70% of the CT procedures are performed on patients under 18 years of age.

(p) "Department" means the Michigan Department of Health and Human Services (MDHHS).

(q) "Emergency room" means a designated area physically part of a licensed hospital and recognized by the Department as having met the staffing and equipment requirements for the treatment of emergency patients.

(r) "Excess CT Equivalents" means the number of CT equivalents performed by an existing CT scanner service in excess of 10,000 per fixed CT scanner and 4,500 per mobile CT scanner or either an existing fixed or mobile CT scanner service, the number of CT scanners used to compute excess CT equivalents shall include both existing and approved but not yet operational CT scanners. In the case of a CT scanner service that operates or has a valid CON to operate that has more than one fixed CT scanner at the same site, the term means number of CT equivalents in excess of 10,000 multiplied by the number of fixed CT scanners at the same site. For example, if a CT scanner service operates, or has a valid CON to operate, two fixed CT scanners at the same site, the excess CT equivalents is the number that is in excess of 20,000 (10,000 x 2) CT equivalents. In the case of an existing mobile CT scanner service, the term means the sum of all CT equivalents performed by the same mobile CT scanner service at all of the host sites combined that is in excess of 4,500. For example, if a mobile CT scanner service serves five host sites with 1 mobile CT scanner, the term means the sum of CT equivalents for all five host sites combined that is in excess of 4,500 CT equivalents.

(s) "Existing CT scanner service" means the utilization of a CON-approved and operational CT scanner(s) at one site in the case of a fixed CT scanner service or at each host site in the case of a mobile CT scanner service.

(t) "Existing CT scanner" means a CON-approved and operational CT scanner used to provide CT scanner services.

(u) "Existing mobile CT scanner service" means a CON-approved and operational CT scanner and transporting equipment operated by a central service coordinator serving two or more host sites.

(v) "Expand an existing CT scanner service" means the addition of one or more CT scanners at an existing CT scanner service.

(w) "Head scans" include head or brain CT scans; including the maxillofacial area; the orbit, sella, or posterior fossa; or the outer, middle, or inner ear; or any other CT scan occurring above the neck.



- (x) "Health Service Area" or "HSA" means the groups of counties listed in Appendix A.
- (y) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996.
- (z) "Hospital-based portable CT scanner or portable CT scanner" means a CT scanner capable of being transported into patient care areas (i.e., ICU rooms, operating rooms, etc.) to provide high-quality imaging of critically ill patients.
- (aa) "Host site" means the site at which a mobile CT scanner is authorized to provide CT scanner services.
- (bb) "Initiate a CT scanner service" means to begin operation of a CT scanner, whether fixed or mobile, at a site that does not perform CT scans as of the date an application is submitted to the Department. The term does not include the acquisition or replacement of an existing CT scanner service at the existing site or to a different site or the renewal of a lease.
- (cc) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396 to 1396w-5.
- (dd) "Mobile CT scanner service" means a CT scanner and transporting equipment operated by a central service coordinator and which must serve two or more host facilities.
- (ee) "Mobile CT scanner network" means the route (all host facilities) the mobile CT scanner is authorized to serve.
- (ff) "Pediatric patient" means any patient less than 18 years of age.
- (gg) "Referring licensed healthcare professional" means: (i) the doctor of record who ordered the CT procedure(s) and either to whom the primary report of the results of an CT procedure(s) is sent, or in the case of a teaching facility, the attending doctor who is responsible for the house officer or resident that requested the CT procedure; or (ii) a non-physician licensed healthcare professional acting within the scope of their practice.
- (hh) "Renewal of lease" means extending the effective period of a lease for an existing CT scanner that does not involve either replacement of the CT scanner, as defined in section 5, or a change in the parties to the lease.
- (ii) "Replace an existing CT scanner" means an equipment change of an existing CT scanner, that requires a change in the radiation safety certificate, proposed by an applicant which results in that applicant operating the same number of CT scanners before and after project completion, at the same geographic location. The term also includes relocating an existing CT scanner or CT scanner service from an existing site to a different site; and renewal of lease.
- (jj) "Sedated patient" means a patient that meets all of the following:
  - (i) Patient undergoes procedural sedation and whose level of consciousness is either moderate sedation or a higher level of sedation, as defined by the American Association of Anesthesiologists, the American Academy of Pediatrics, the Joint Commission on the Accreditation of Health Care Organizations, or an equivalent definition.
  - (ii) Who requires observation by personnel, other than technical employees routinely assigned to the CT unit, who are trained in cardiopulmonary resuscitation (CPR) and pediatric advanced life support (PALS).
- (kk) "Special needs patient" means a non-sedated patient, either pediatric or adult, with any of the following conditions: down syndrome, autism, attention deficit hyperactivity disorder (ADHD), developmental delay, malformation syndromes, hunter's syndrome, multi-system disorders, psychiatric disorders, and other conditions that make the patient unable to comply with the positional requirements of the exam.

- (2) Terms defined in the Code have the same meanings when used in these standards.

### **Section 3. Requirements for approval for applicants proposing to initiate a CT scanner service**

Sec. 3. An applicant proposing to initiate a CT scanner service, other than a hospital-based portable CT scanner service, shall demonstrate the following, as applicable:

(1) A hospital proposing to initiate its first fixed CT scanner service shall demonstrate each of the following:

- (a) The proposed site is a hospital licensed under Part 215 of the Code.
- (b) The hospital operates an emergency room that provides 24-hour emergency care services as authorized by the local medical control authority to receive ambulance runs.

(2) An applicant, other than an applicant meeting all of the applicable requirements of subsection (1), proposing to initiate a fixed CT scanner service shall project an operating level of at least 7,500 CT equivalents per year for the second 12-month period after beginning operation of the CT scanner.

(3) An applicant proposing to initiate a mobile CT scanner service shall project an operating level of at least 3,500 CT equivalents per year for the second 12-month period after beginning operation of the CT scanner.

(4) An applicant proposing to initiate CT scanner services as an existing host site on a different mobile CT scanner service shall demonstrate the following:

- (a) The applicant provides a proposed route schedule.
- (b) The applicant provides a draft contract for services between the proposed host site and central service coordinator.

#### **Section 4. Requirements for approval for applicants proposing to expand an existing CT scanner service**

Sec. 4. An applicant proposing to expand an existing CT scanner service, other than a hospital-based portable CT scanner service, shall demonstrate the following, as applicable:

(1) An applicant proposing to expand an existing fixed CT scanner service shall demonstrate that all of the applicant's fixed CT scanners, excluding CT scanners approved pursuant to sections 8, 9, and 12, have performed an average of at least 10,000 CT equivalents per fixed CT scanner for the most recent continuous 12-month period preceding the applicant's request. In computing this average, the Department will divide the total number of CT equivalents performed by the applicant's total number of fixed CT scanners, including both operational and approved but not operational fixed CT scanners.

(2) An applicant proposing to expand an existing fixed CT scanner service approved pursuant to Section 12 shall demonstrate that all of the applicant's dedicated pediatric CT scanners have performed an average of at least 3,000 CT equivalents per dedicated pediatric CT scanner for the most recent continuous 12-month period preceding the applicant's request. In computing this average, the Department will divide the total number of CT equivalents performed by the applicant's total number of dedicated pediatric CT scanners, including both operational and approved but not operational dedicated pediatric CT scanners.

(3) If an applicant proposes to expand an existing mobile CT scanner service, the applicant shall demonstrate that all of the applicant's mobile CT scanners have performed an average of at least 5,500 CT equivalents per mobile CT scanner for the most recent continuous 12-month period preceding the applicant's request. In computing this average, the Department will divide the total number of CT

equivalents performed by the applicant's total number of mobile CT scanners, including both operational and approved but not operational mobile CT scanners.

## **Section 5. Requirements for approval for applicants proposing to replace an existing CT scanner**

Sec. 5. An applicant proposing to replace an existing CT scanner or service, or renew the lease of an existing CT scanner, other than a hospital-based portable CT scanner service, shall demonstrate the following, as applicable:

(1) An applicant proposing to replace an existing fixed, mobile, or dedicated pediatric CT scanner shall demonstrate all of the following:

(a) The replacement CT scanner will be located at the same site as the CT scanner to be replaced.

(b) An applicant proposing to replace an existing CT scanner that does not involve a renewal of a lease shall demonstrate that the existing CT scanner(s) proposed to be replaced is fully depreciated according to generally accepted accounting principles, or, that the existing equipment clearly poses a threat to the safety of the public, or, that the proposed replacement CT scanner offers technological improvements which enhance quality of care, increase efficiency, and/or reduce operating costs and patient charges.

(2) An applicant proposing to replace an existing fixed CT scanner service to a different site shall demonstrate that the proposed project meets all of the following:

(a) The existing fixed CT scanner service to be replaced has been in operation for at least 36 months as of the date an application is submitted to the Department unless the applicant meets the requirement in subsection (c)(ii) or (iii).

(b) The proposed new site is within a 10-mile radius of a site at which an existing fixed CT scanner service is located if an existing fixed CT scanner service is located in a metropolitan statistical area county, or a 20-mile radius if an existing fixed CT scanner service is located in a rural or micropolitan statistical area county.

(c) The CT scanner service to be replaced performed at least an average of 7,500 CT equivalents per fixed scanner in the most recent 12-month period for which the Department has verifiable data unless one of the following requirements are met:

(i) An applicant meets all of the requirements of Section 3(1);

(ii) the owner of the building where the site is located has incurred a filing for bankruptcy under Chapter Seven (7) within the last three years;

(iii) the ownership of the building where the site is located has changed within 24 months of the date of the service being operational; or

(iv) the CT service being replaced is part of the replacement of an entire hospital to a new geographic site and has only one (1) CT unit.

(d) The applicant agrees to operate the CT scanner service in accordance with all applicable project delivery requirements set forth in Section 14 of these standards.

(3) An applicant proposing to replace a fixed CT scanner(s) of an existing CT scanner service to a different site shall demonstrate that the proposed project meets all of the following:

(a) The existing CT scanner service from which the CT scanner(s) is to be replaced has been in operation for at least 36 months as of the date an application is submitted to the Department.

(b) The proposed new site is within a 10-mile radius of a site at which an existing fixed CT scanner service is located if an existing fixed CT scanner service is located in a metropolitan statistical area

county, or a 20-mile radius if an existing fixed CT scanner service is located in a rural or micropolitan statistical area county.

(c) Each existing CT scanner at the service from which a scanner is to be replaced performed at least an average of 7,500 CT equivalents per fixed scanner in the most recent 12-month period for which the Department has verifiable data.

(d) The applicant agrees to operate the CT scanner(s) at the proposed site in accordance with all applicable project delivery requirements set forth in Section 14 of these standards.

(e) For volume purposes, the new site shall remain associated with the existing CT service for a minimum of three years.

## **Section 6. Requirements for approval for applicants proposing to acquire an existing CT scanner service or an existing CT scanner(s)**

Sec. 6. An applicant proposing to acquire an existing fixed or mobile CT scanner service, other than a hospital-based portable CT scanner service, shall demonstrate the following, as applicable:

(1) The applicant shall not be required to be in compliance with the volume requirement applicable to the seller/lessor on the date the acquisition occurs if the proposed project meets one of the following:

(a) It is the first acquisition of the existing fixed or mobile CT scanner service for which a final decision has not been issued after June 4, 2004.

(b) The existing fixed or mobile CT scanner service is owned by, is under common control of, or has a common parent as the applicant, and the CT scanner service shall remain at the same site.

(2) For any application for proposed acquisition of an existing fixed or mobile CT scanner service, an applicant shall be required to demonstrate the following, as applicable:

(a) The fixed CT scanner service to be acquired performed at least 7,500 CT equivalents per fixed CT scanner in the most recent 12-month period for which the Department has verifiable data, unless an applicant meets all of the requirements of Section 3(1) or meets the requirements of Section 6(1)(b).

(b) The mobile CT scanner service to be acquired performed at least 3,500 CT equivalents per mobile CT scanner in the most recent 12-month period for which the Department has verifiable data, unless an applicant meets the requirements of Section 6(1)(b).

(3) An applicant proposing to acquire an existing fixed or mobile CT scanner(s) of an existing fixed or mobile CT scanner service shall demonstrate that the proposed project meets the following:

(a) For any application for proposed acquisition of an existing fixed or mobile CT scanner(s) of an existing fixed or mobile CT scanner service, an applicant shall be required to demonstrate the following, as applicable:

(i) The fixed CT scanner(s) to be acquired performed at least 7,500 CT equivalents per fixed CT scanner in the most recent 12-month period for which the department has verifiable data.

(ii) The mobile CT scanner(s) to be acquired performed at least 3,500 CT equivalents per mobile CT scanner in the most recent 12-month period for which the Department has verifiable data.

(4) The CT scanner service shall be operating at the applicable volume requirements set forth in Section 14 of these standards in the second 12 months after the date the service is acquired, and annually thereafter.

## **Section 7. Requirements for a dedicated research fixed CT scanner**

Sec. 7. An applicant proposing to add a fixed CT scanner to an existing CT scanner service for exclusive research use shall demonstrate the following:

- (1) The applicant agrees that the dedicated research CT scanner will be used primarily (70% or more of the scans) for research purposes.
- (2) The dedicated research CT scanner shall operate under a protocol approved by the applicant's Institutional Review Board, as defined by Public Law 93-348 and regulated by Title 45 CFR 46.
- (3) The proposed site can have no more than three dedicated research fixed CT scanners approved under this section.
- (4) The dedicated research scanner approved under this section may not utilize CT procedures performed on the dedicated CT scanner to demonstrate need or to satisfy CT CON review standards requirements.

**Section 8. Requirements for approval of a hospital-based portable CT scanner for initiation, expansion, replacement, and acquisition**

Sec. 8. An applicant proposing to initiate, expand, replace, or acquire a hospital-based portable CT scanner shall demonstrate that it meets all of the following:

- (1) An applicant is limited to the initiation, expansion, replacement, or acquisition of no more than two hospital-based portable CT scanners.
- (2) The proposed site is a hospital licensed under Part 215 of the Code.
- (3) The hospital has been certified as a level I or level II trauma facility by the American College of Surgeons or has performed >100 craniotomies in the most recent 12- month period verifiable by the Department.
- (4) The applicant agrees to operate the hospital-based portable CT scanner in accordance with all applicable project delivery requirements set forth in Section 14 of these standards.
- (5) The approved hospital-based portable CT scanner will not be subject to CT volume requirements.
- (6) The applicant may not utilize CT procedures performed on a hospital-based portable CT scanner to demonstrate need or to satisfy CT CON review standards requirements.

**Section 9. Requirements for approval of a PET/CT hybrid for initiation, expansion, replacement, and acquisition**

Sec. 9. An applicant proposing to initiate, expand, replace, or acquire a PET/CT hybrid shall demonstrate that it meets all of the following:

- (1) There is an approved PET CON for the PET/CT hybrid, and the PET/CT hybrid is in compliance with all applicable project delivery requirements as set forth in the CON review standards for PET.

(2) The applicant agrees to operate the PET/CT hybrid in accordance with all applicable project delivery requirements set forth in Section 14 of these standards.

(3) The approved PET/CT hybrid will not be subject to CT volume requirements.

(4) A PET/CT scanner hybrid approved under the CON Review Standards for PET Scanner Services and the Review Standards for CT Scanner Services may not utilize CT procedures performed on a hybrid scanner to demonstrate need or to satisfy CT CON review standards requirements.

## **Section 10. Requirements for approval of a CT-angio hybrid unit for initiation, replacement, and acquisition**

Sec. 10. An applicant proposing to initiate, replace, or acquire a hospital-based CT-angio hybrid unit shall demonstrate each of the following, as applicable to the proposed project:

(1) The proposed site is a licensed hospital under Part 215 of the Code.

(2) The proposed site has an existing fixed CT scanner service that has been operational for the previous 36 consecutive months and is meeting its minimum volume requirements.

(3) The proposed site offers the following services:

- (a) diagnostic cardiac catheterization; or
- (b) interventional radiology; or
- (c) surgical services

(4) The proposed CT-angio hybrid unit must be located in one of the following rooms:

- (a) cardiac catheterization lab; or
- (b) interventional radiology suite; or
- (c) licensed operating room

(5) Diagnostic CT studies shall not be performed on a CT-angio hybrid unit approved under this section unless the patient is currently undergoing a CT-angio hybrid interventional procedure and is in need of a secondary diagnostic CT study.

(6) The approved CT-angio hybrid shall not be subject to CT volume requirements.

(7) The applicant shall not utilize the procedures performed on the CT-angio hybrid unit to demonstrate need or to satisfy CT CON review standards requirements.

## **Section 11. Additional requirements for approval of a mobile CT scanner service**

Sec. 11. (1) An applicant proposing to initiate a mobile CT scanner service in Michigan shall demonstrate that it meets all of the following additional requirements:

(a) A separate CON application shall be submitted by the central service coordinator and each Michigan host facility.

(b) The normal route schedule, the procedures for handling emergency situations, and copies of all potential contracts related to the mobile CT scanner service shall be included in the CON application submitted by the central service coordinator.

(2) An applicant proposing to become a host facility on an existing mobile CT scanner network shall demonstrate that it meets all of the following additional requirements:

(a) Approval of the application will not result in an increase in the number of operating mobile CT scanners for the mobile CT scanner network unless the requirements of Section 4 have been met.

(b) A separate CON application has been filed for each host facility.

## **Section 12. Requirements for approval of an applicant proposing to establish dedicated pediatric CT Scanner**

Sec. 12. (1) An applicant proposing to establish dedicated pediatric CT shall demonstrate all of the following:

(a) The applicant shall have experienced at least 7,000 pediatric (< 18 years old) discharges (excluding normal newborns) in the most recent year of operation.

(b) The applicant shall have performed at least 5,000 pediatric (< 18 years old) surgeries in the most recent year of operation.

(c) The applicant shall have an active medical staff, at the time the application is submitted to the Department that includes, but is not limited to, physicians who are fellowship-trained in the following pediatric specialties:

- (i) pediatric radiology (at least two)
- (ii) pediatric anesthesiology
- (iii) pediatric cardiology
- (iv) pediatric critical care
- (v) pediatric gastroenterology
- (vi) pediatric hematology/oncology
- (vii) pediatric neurology
- (viii) pediatric neurosurgery
- (ix) pediatric orthopedic surgery
- (x) pediatric pathology
- (xi) pediatric pulmonology
- (xii) pediatric surgery
- (xiii) neonatology

(d) The applicant shall have in operation the following pediatric specialty programs at the time the application is submitted to the Department:

- (i) pediatric bone marrow transplant program
- (ii) established pediatric sedation program
- (iii) pediatric open heart program

(2) An applicant meeting the requirements of subsection (1) shall be exempt from meeting the requirements of Section 3 of these standards.

## **Section 13. Requirements for Medicaid participation**

Sec. 13. An applicant shall provide verification of Medicaid participation. An applicant that is a new provider not currently enrolled in Medicaid shall certify that proof of Medicaid participation will be provided to the Department within six (6) months from the offering of services if a CON is approved.

#### **Section 14. Project delivery requirements and terms of approval for all applicants**

Sec. 14. An applicant shall agree that, if approved, the CT scanner(s) services shall be delivered in compliance with the following terms of approval.

(1) Compliance with these standards.

(2) Compliance with the following quality assurance standards:

(a) The applicant shall establish a mechanism to assure that the CT scanner facility is staffed so that:

(i) The screening of requests for CT procedures and interpretation of CT procedures will be performed by physicians with training and experience in the appropriate diagnostic use and interpretation of cross-sectional images of the anatomical region(s) to be examined, and

(ii) The CT scanner is operated by physicians and/or is operated by radiological technologists qualified by training and experience to operate the CT scanner safely and effectively.

For purposes of evaluating (a)(i), the Department shall consider it prima facie evidence of a satisfactory assurance mechanism as to screening and interpretation if the applicant requires the screening of requests for and interpretations of CT procedures to be performed by physicians who are board certified or eligible in radiology or are neurologists or other specialists trained in cross-sectional imaging of a specific organ system. For purposes of evaluating (a)(i) the Department shall consider it prima facie evidence of a satisfactory assurance mechanism as to the operation of a CT scanner if the applicant requires the CT scanner to be operated by a physician or by a technologist registered by the American Registry of Radiological Technologists (ARRT) or the American Registry of Clinical Radiography Technologists (ARCRT). However, the applicant may submit and the Department may accept other evidence that the applicant has established a mechanism to assure that the CT scanner facility is appropriately and adequately staffed as to screening, interpretation, and/or operation of a CT scanner.

(b) The applicant shall employ or contract with a radiation physicist to review the quality and safety of the operation of the CT scanner.

(c) The applicant shall assure that at least one of the physicians responsible for the screening and interpretation as defined in subsection (a)(i) will be in the CT facility or available (either on-site or through telecommunication capabilities) to make the final interpretation.

(d) In the case of an urgent or emergency CT scan, the applicant shall assure that a physician so authorized by the applicant to interpret initial scans will be on-site or available through telecommunication capabilities within 1 hour following completion of the scanning procedure to render an initial interpretation of the scan. A final interpretation shall be rendered by a physician so authorized under subsection (a)(i) within 24 hours.

(e) The applicant shall have, within the CT scanner facility, equipment and supplies to handle clinical emergencies that might occur within the CT unit, with CT facility staff trained in CPR and other appropriate emergency interventions, and a physician on site in or immediately available to the CT scanner at all times when patients are undergoing scans.

(f) Fixed CT scanner services shall be made available 24 hours a day for emergency patients if the facility operates an emergency room that provides 24-hour emergency care services and authorized by the local medical control authority to receive ambulance runs.



(g) The applicant shall accept referrals for CT scanner services from all appropriately licensed practitioners.

(h) The applicant shall establish and maintain: (a) a standing medical staff and governing body (or its equivalent) requirement that provides for the medical and administrative control of the ordering and utilization of CT patient procedures, and (b) a formal program of utilization review and quality assurance. These responsibilities may be assigned to an existing body of the applicant, as appropriate.

(i) An applicant approved under Section 12 must be able to prove that all radiologists, technologists and nursing staff working with CT patients have continuing education or in-service training on pediatric low-dose CT. The site must also be able to provide evidence of defined low-dose pediatric CT protocols.

(3) Compliance with the following access to care requirements:

(a) The applicant, to assure that the CT scanner will be utilized by all segments of the Michigan population, shall:

(i) not deny any CT scanner services to any individual based on ability to pay or source of payment;

(ii) provide all CT scanning services to any individual based on the clinical indications of need for the service; and

(iii) maintain information by payor and non-paying sources to indicate the volume of care from each source provided annually.

(b) An applicant shall participate in Medicaid at least 12 consecutive months within the first two years of operation and continue to participate annually thereafter.

(c) The operation of and referral of patients to the CT scanner shall be in conformance with 1978 PA 368, Sec. 16221, as amended by 1986 PA 319; MCL 333.16221; MSA 14.15 (16221).

Compliance with selective contracting requirements shall not be construed as a violation of this term.

(4) Compliance with the following monitoring and reporting requirements:

(a) The approved CT scanners shall be operating as follows for the second 12-month period after beginning operation of the CT scanner, and annually thereafter, except for those scanners exempt under applicable sections:

(i) An average of 7,500 CT equivalents per fixed scanner per year unless one of the following has been met:

(A) 5,000 CT equivalents per fixed scanner per year for CT services with one fixed scanner.

(B) 2,500 CT equivalents per fixed scanner per year for CT services with one fixed scanner located outside the 20-mile radius from the next closest fixed CT service.

(C) A hospital, with one fixed scanner, licensed under part 215 of the Code that operates an emergency room that provides 24-hour emergency care services and authorized by the Local Medical Control Authority to receive ambulance runs shall not have a minimum annual volume requirement for purposes of this section.

(D) A freestanding surgical outpatient facility (FSOF), WITH one fixed scanner, licensed under part 208 of the Code that operates an emergency room that provides 24-hour emergency care services and authorized by the Local Medical Control Authority to receive ambulance runs shall not have a minimum annual volume requirement for purposes of this section.

(E) An off-campus emergency department of a hospital, licensed under part 215 of the Code, with one fixed scanner, that has obtained provider-based status under 42 CFR 413.65, that is available for treating emergency patients 24 hours a day, 7 days a week, and authorized by the Local Medical Control Authority to receive ambulance runs shall not have a minimum annual volume requirement for purposes of this section.

- (ii) 1,500 CT equivalents per mobile scanner per year.
  - (b) The applicant shall participate in a data collection network established and administered by the Department or its designee. The data may include, but is not limited to, annual budget and cost information, operating schedules, through-put schedules, demographic and diagnostic information, the volume of care provided to patients from all payor sources, and other data requested by the Department, and approved by the Commission. The applicant shall provide the required data on a separate basis for each separate and distinct site as required by the Department; in a format established by the Department; and in a mutually agreed upon media. The Department may elect to verify the data through on-site review of appropriate records.
  - (c) Equipment to be replaced shall be removed from service.
  - (d) The applicant shall provide the Department with timely notice of the proposed project implementation consistent with applicable statute and promulgated rules.
  - (e) The applicant shall provide notice to the Department of any planned decrease or discontinuation of service(s) no later than 30 days after the planned decrease or discontinuation of the service(s).
- (5) An applicant approved under Section 8 shall be in compliance with the following:
- (a) Portable CT scanner can only be used by a qualifying program for the following purposes:
    - (i) Brain scanning of patients being treated in an adult or pediatric Intensive Care Unit (ICU).
    - (ii) Non-diagnostic, intraoperative guidance in an operating room.
  - (b) The approved applicant must provide annual reports to the Department by January 31<sup>st</sup> of each year for the preceding calendar year. This requirement applies to all applicants approved under Section 8.
  - (c) The following data must be reported to the Department:
    - (i) Number of adult studies (age $\geq$ 18)
    - (ii) Number of pediatric studies (age $<$ 18)
    - (iii) Number of studies performed using a portable CT on the same patient while that patient is in an ICU
- (6) An applicant approved under Section 10 shall be in compliance with the following:
- (a) The proposed site offers the following services:
    - (i) diagnostic cardiac catheterization; or
    - (ii) interventional radiology; or
    - (iii) surgical services
  - (b) The proposed CT-Angio hybrid unit must be located in one of the following rooms:
    - (i) cardiac catheterization lab; or
    - (ii) interventional radiology suite; or
    - (iii) licensed operating room
- (7) The agreements and assurances required by this section shall be in the form of a certification agreed to by the applicant or its authorized agent.

## **Section 15. Project delivery requirements and additional terms of approval for applicants involving mobile CT scanners**

Sec. 15. (1) In addition to the provisions of Section 14, an applicant for a mobile CT scanner shall agree that the services provided by the mobile CT scanner(s) shall be delivered in compliance with the following terms of CON approval:

- (a) A host facility shall submit only one CON application for a CT scanner for review at any given time.
- (b) A mobile CT scanner with an approved CON shall notify the Department prior to ending service with an existing host facility.
- (c) A CON shall be required to add a host facility.
- (d) A CON shall be required to change the central service coordinator.
- (e) Each host facility must have at least one board certified or board eligible radiologist on its medical staff. The radiologist(s) shall be responsible for: (i) establishing patient examination and infusion protocol, and (ii) providing for the interpretation of scans performed by the mobile CT scanner.
- (f) Each mobile CT scanner service must have an Operations Committee with members representing each host facility, the central service coordinator, and the central service medical director. This committee shall oversee the effective and efficient use of the CT scanner, establish the normal route schedule, identify the process by which changes are to be made to the schedule, develop procedures for handling emergency situations, and review the ongoing operations of the mobile CT scanner on at least a quarterly basis.
- (g) The central service coordinator shall arrange for emergency repair services to be available 24 hours each day for the mobile CT scanner as well as the vehicle transporting the equipment. In addition, to preserve image quality and minimize CT scanner downtime, calibration checks shall be performed on the CT scanner at least once each work day and routine maintenance services shall be provided on a regularly scheduled basis, at least once a week during hours not normally used for patient procedures.
- (h) Each host facility must provide a properly prepared parking pad for the mobile CT scanner of sufficient load-bearing capacity to support the vehicle, a waiting area for patients, and a means for patients to enter the vehicle without going outside (such as a canopy or enclosed corridor). Each host facility must also provide the capability for processing the film and maintaining the confidentiality of patient records. A communication system must be provided between the mobile vehicle and each host facility to provide for immediate notification of emergency medical situations.
- (i) A mobile CT scanner service shall operate under a contractual agreement that includes the provision of CT scanner services at each host facility on a regularly scheduled basis.
- (j) The volume of utilization at each host facility shall be reported to the Department by the central service coordinator under the terms of Section 14(4)(a)(ii).

(2) The agreements and assurances required by this section shall be in the form of a certification agreed to by the applicant or its authorized agent.

## **Section 16. Determination of CT Equivalents**

Sec. 16. CT equivalents shall be calculated as follows:

- (1) Each billable procedure for the time period specified in the applicable section(s) of these standards shall be assigned to a category set forth in Table 1.
- (2) The number of billable procedures for each category in the time period specified in the applicable section(s) of these standards shall be multiplied by the corresponding conversion factor in Table 1 to determine the number of CT equivalents for that category for that time period.
- (3) The number of CT equivalents for each category shall be summed to determine the total CT equivalents for the time period specified in the applicable section(s) of these standards.

(4) The weighting in Table 1 is based on typical treatment times and assumes the conversion factor equals approximately 15 minutes of time on the CT unit.

(5) The conversion factor for pediatric/special needs patients does not apply to procedures performed on a dedicated pediatric CT scanner.

Table 1	Number of		Conversion		CT
Category	Billable CT	Procedures	Factor		Equivalents
<u>Adult Patient</u>					
Head Scans w/o Contrast	_____	X	1.00	=	_____
Head Scans with Contrast	_____	X	1.25	=	_____
Head Scans w/o & w Contrast	_____	X	1.75	=	_____
Body Scans w/o Contrast	_____	X	1.50	=	_____
Body Scans with Contrast	_____	X	1.75	=	_____
Body Scans w/o & w Contrast	_____	X	2.75	=	_____
Bundled Body Scan	_____	X	3.50	=	_____
CT-Guided Non-Ablation					
Procedure	_____	X	4.00	=	_____
CT-Guided Ablation	_____	X	8.00	=	_____
<u>Pediatric/Special Needs Patient</u>					
Head scans w/o Contrast	_____	x	1.25	=	_____
Head Scans with Contrast	_____	x	1.50	=	_____
Head Scans w/o & with Contrast	_____		x	2.00	= _____
Body Scans w/o Contrast	_____	x	1.75	=	_____
Body Scans with Contrast	_____	x	2.00	=	_____
Body Scans w/o & with Contrast	_____		x	3.00	= _____
Bundled Body Scan	_____	X	4.00	=	_____
CT-Guided Non-Ablation					
Procedure	_____	X	4.25	=	_____
CT-Guided Ablation	_____	X	8.25	=	_____
Total CT Equivalents					_____

## Section 17. Documentation of projections

Sec. 17. An applicant required to project volumes under Section 3 shall demonstrate the following, as applicable:

(1) An applicant required to project under Section 3 shall demonstrate that the projection is based on historical referring licensed healthcare professional referrals that resulted in an actual scan for the most recent 12-month period immediately preceding the date of the application. Historical physician referrals will be verified with the data maintained by the Department through its “Annual Hospital statistical survey” and/or “Annual Freestanding Statistical Survey.”

(2) An applicant shall demonstrate that the projected number of referrals to be performed at the proposed site under subsection (1) are from an existing CT scanner service that is in compliance with the

volume requirements applicable to that service, and will continue to be in compliance with the volume requirements applicable to that service subsequent to the initiation of the proposed CT scanner service by an applicant. Only excess CT equivalents equal to or greater than what is being committed pursuant to this subsection may be used to document projections under subsection (1). In demonstrating compliance with this subsection, an applicant shall provide each of the following:

(a) A written commitment from each referring licensed healthcare professional that he or she will refer at least the volume of CT scans to be transferred to the proposed CT scanner service for no less than 3 years subsequent to the initiation of the CT scanner service proposed by an applicant.

(b) The number of referrals committed must have resulted in an actual CT scan of the patient at the existing CT scanner service from which referral will be transferred. The committing referring licensed healthcare professional must make available HIPAA compliant audit material if needed upon Department request to verify referral sources and outcomes. Commitments must be verified by the most recent data set maintained by the Department through its “Annual Hospital Statistical Survey” and/or “Annual Freestanding Statistical Survey.”

(c) The projected referrals are from an existing CT scanner service within a 75-mile radius for rural and micropolitan statistical area counties or 20-mile radius for metropolitan statistical area counties.

(3) The Department shall not consider a withdrawal of a signed data commitment on or after the date an application is deemed submitted by the Department.

(4) The Department shall consider a withdrawal of a signed data commitment if a committing doctor submits a written notice to the Department before the application is deemed submitted, that specifies the con application number and the specific CT service(s) for which a data commitment is being withdrawn.

## **Section 18. Effect on prior CON review standards; comparative reviews**

Sec. 18. (1) These CON review standards supersede and replace the CON Review Standards for Computed Tomography Scanner Services approved by the CON Commission on September 17, 2020 and effective on November 9, 2020.

(2) Projects reviewed under these standards shall not be subject to comparative review.

**APPENDIX A**

Counties assigned to each of the health service areas are as follows:

<b>HEALTH SERVICE AREA</b>	<b>COUNTIES</b>		
1	Livingston Macomb Wayne	Monroe Oakland	St. Clair Washtenaw
2	Clinton Eaton	Hillsdale Ingham	Jackson Lenawee
3	Barry Berrien Branch	Calhoun Cass Kalamazoo	St. Joseph Van Buren
4	Allegan Ionia Kent Lake	Mason Mecosta Montcalm Muskegon	Newaygo Oceana Osceola Ottawa
5	Genesee	Lapeer	Shiawassee
6	Arenac Bay Clare Gladwin Gratiot	Huron Iosco Isabella Midland Ogemaw	Roscommon Saginaw Sanilac Tuscola
7	Alcona Alpena Antrim Benzie Charlevoix Cheboygan	Crawford Emmet Gd Traverse Kalkaska Leelanau Manistee	Missaukee Montmorency Oscoda Otsego Presque Isle Wexford
8	Alger Baraga Chippewa Delta Dickinson	Gogebic Houghton Iron Keweenaw Luce	Mackinac Marquette Menominee Ontonagon Schoolcraft

**APPENDIX B**

Rural Michigan counties are as follows:

Alcona	Gogebic	Ogemaw
Alger	Huron	Ontonagon
Antrim	Iosco	Osceola
Arenac	Iron	Oscoda
Baraga	Lake	Otsego
Charlevoix	Luce	Presque Isle
Cheboygan	Mackinac	Roscommon
Clare	Manistee	Sanilac
Crawford	Montmorency	Schoolcraft
Emmet	Newaygo	Tuscola
Gladwin	Oceana	

Micropolitan statistical area Michigan counties are as follows:

Allegan	Hillsdale	Mason
Alpena	Houghton	Mecosta
Benzie	Ionia	Menominee
Branch	Isabella	Missaukee
Chippewa	Kalkaska	St. Joseph
Delta	Keweenaw	Shiawassee
Dickinson	Leelanau	Wexford
Grand Traverse	Lenawee	
Gratiot	Marquette	

Metropolitan statistical area Michigan counties are as follows:

Barry	Jackson	Muskegon
Bay	Kalamazoo	Oakland
Berrien	Kent	Ottawa
Calhoun	Lapeer	Saginaw
Cass	Livingston	St. Clair
Clinton	Macomb	Van Buren
Eaton	Midland	Washtenaw
Genesee	Monroe	Wayne
Ingham	Montcalm	

Source:

75 F.R., p. 37245 (June 28, 2010)  
 Statistical Policy Office  
 Office of Information and Regulatory Affairs  
 United States Office of Management and Budget

---

**CERTIFICATE OF NEED REVIEW STANDARDS**

---

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**CERTIFICATE OF NEED (CON) REVIEW STANDARDS**  
**FOR NURSING HOME AND HOSPITAL LONG-TERM-CARE UNIT (HLTCU) BEDS**

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207, and 24.208 of the Michigan Compiled Laws.)

**Section 1. Applicability**

Sec. 1. (1) These standards are requirements for approval under Part 222 of the Code that involve a) beginning operation of a new nursing home/HLTCU, (b) replacing beds in a nursing home/HLTCU or physically relocating nursing home/HLTCU beds from one licensed site to another geographic location, (c) increasing licensed beds in a nursing home/HLTCU licensed under Part 217 and a HLTCU defined in Section 20106(6), or (d) acquiring a nursing home/HLTCU. Pursuant to the Code, a nursing home/HLTCU is a covered health facility. The Department shall use these standards in applying Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws and Section 22225(2)(c) of the Code, being Section 333.22225(2)(c) of the Michigan Compiled Laws.

(2) An increase in licensed nursing home/HLTCU beds is a change in bed capacity for purposes of Part 222 of the Code.

(3) The physical relocation of nursing home/HLTCU beds from a licensed site to another geographic location is a change in bed capacity for purposes of Part 222 of the Code.

**Section 2. Definitions**

Sec. 2. (1) As used in these standards:

(a) "Acquisition of an existing nursing home/HLTCU" means the issuance of a new nursing home/HLTCU license as the result of the acquisition (including purchase, lease, donation, or other comparable arrangement) of an existing licensed and operating nursing home/HLTCU and which does not involve a change in bed capacity of that health facility.

(b) "ADC adjustment factor" means the factor by which the average daily census (ADC), derived during the bed need methodology calculation set forth in Section 3(2)(d) for each planning area, is divided. The ADC adjustment factor is 0.90 for all planning areas.

(c) "Applicant's cash" means the total unrestricted cash, designated funds, and restricted funds reported by the applicant as the source of funds in the application. If the project includes space lease costs, the applicant's cash includes the contribution designated for the project from the landlord.

(d) "Average occupancy rate" is calculated as follows:

(i) Calculate the number of patient days, for which verifiable data are available to the Department, during the most recent, consecutive 12-month period, as of the date of the application.



(ii) Calculate the total licensed bed days for the same 12-month period as in (i) above by multiplying the total licensed beds and CON approved but not yet licensed beds by the total number of days they were licensed or CON approved but not yet licensed.

(iii) Divide the number of patient days calculated in (i) above by the total licensed bed days calculated in (ii) above, then multiply the result by 100.

(e) "Base year" means 1987 or the most recent year for which verifiable data collected as part of the Michigan Department of Health and Human Services Annual Survey of Long-Term-Care Facilities or other comparable MDHHS survey instrument are available.

(f) "Certificate of Need Commission" or "Commission" means the commission created pursuant to Section 22211 of the Code, being Section 333.22211 of the Michigan Compiled Laws.

(g) "Code" means Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1101 et seq. of the Michigan Compiled Laws.

(h) "Common ownership or control" means a nursing home, regardless of the state in which it is located, that is owned by, is under common control of, or has a common parent as the applicant nursing home pursuant to the definition of common ownership or control utilized by the Department of Licensing and Regulatory Affairs (LARA).

(i) "Comparative group" means the applications which have been grouped for the same type of project in the same planning area or statewide special pool group and which are being reviewed comparatively in accordance with the CON rules.

(j) "Converted space" means existing space in a health facility that is not currently licensed as part of the nursing home/HLTCU and is proposed to be licensed as nursing home or HLTCU space. An example is proposing to license home for the aged space as nursing home space.

(k) "Department" means the Michigan Department of Health and Human Services (MDHHS).

(l) "Department inventory of beds" means the current list, for each planning area maintained on a continuing basis by the Department:

(i) Licensed nursing home beds, and

(ii) Nursing home beds approved by a valid CON issued under Part 222 of the Code which are not yet licensed. It does not include:

(A) Nursing home beds approved from the statewide pool, and

(B) Short-term nursing care program beds approved pursuant to Section 22210 of the Code, being Section 333.22210 of the Michigan Compiled Laws.

(m) "Existing nursing home beds" means, for a specific planning area, the total of all nursing home beds located within the planning area including:

(i) Licensed nursing home beds,

(ii) nursing home beds approved by a valid CON issued under Part 222 of the Code which are not yet licensed,

(iii) proposed nursing home beds under appeal from a final Department decision made under Part 222 or pending a hearing from a proposed decision issued under Part 222 of the Code, and

(iv) proposed nursing home beds that are part of a completed application under Part 222 of the Code which is pending final Department decision.

(A) Nursing home beds approved from the statewide pool are excluded; and

(B) short-term nursing care program beds approved pursuant to Section 22210 of the Code, being Section 333.22210 of the Michigan Compiled Laws, are excluded.

(n) "Health service area" or "HSA" means the geographic area established for a health systems agency pursuant to former Section 1511 of the Public Health Service Act and set forth in Appendix A.

(o) "Hospital long-term-care unit" or "HLTCU" means a nursing care facility, owned and operated by and as part of a hospital, that provides organized nursing care and medical treatment to seven (7) or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

(p) "Licensed only facility" means a licensed nursing home that is not certified for Medicare or Medicaid.

(q) "Licensed site" means the location of the health facility authorized by license and listed on that licensee's certificate of licensure.

(r) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 1396 to 1396g and 1396i to 1396u.

(s) "New design model" means a nursing home/HLTCU built in accordance with specified design requirements as identified in the applicable sections.

(t) "Nursing home" means a nursing care facility, including a county medical care facility, but excluding a hospital or a facility created by Act No. 152 of the Public Acts of 1885, as amended, being sections 36.1 to 36.12 of the Michigan Compiled Laws, that provides organized nursing care and medical treatment to seven (7) or more unrelated individuals suffering or recovering from illness, injury, or infirmity. This term applies to the licensee only and not the real property owner if different than the licensee.

(u) "Nursing home bed" means a bed in a health facility licensed under Part 217 of the Code or a licensed bed in a hospital long-term-care unit. The term does not include short-term nursing care program beds approved pursuant to Section 22210 of the Code being Section 333.22210 of the Michigan Compiled Laws or beds in health facilities listed in Section 22205(2) of the Code, being Section 333.22205(2) of the Michigan Compiled Laws.

(v) "Planning area" means the geographic boundaries of each county in Michigan with the exception of: (i) Houghton and Keweenaw counties, which are combined to form one planning area and (ii) Wayne County which is divided into three planning areas. Section 12 identifies the three planning areas in Wayne County and the specific geographic area included in each.

(w) "Planning year" means a year in the future, at least three (3) years but no more than seven (7) years, for which nursing home bed needs are developed. The planning year shall be a year for which official population projections from the Department of Technology, Management, and Budget, or its designee, are available.

(x) "Proposed licensed site" means the physical location and address (or legal description of property) of the proposed project or within 250 yards of the physical location and address (or legal description of property) and within the same planning area of the proposed project that will be authorized by license and will be listed on that licensee's certificate of licensure.

(y) "Relocation of existing nursing home/HLTCU beds" means a change in the location of existing nursing home/HLTCU beds from the licensed site to a different existing licensed site within the planning area.

(z) "Renewal of lease" means execution of a lease between the licensee and a real property owner in which the total lease costs exceed the capital expenditure threshold.

(aa) "Replacement bed" means a change in the location of the licensed nursing home/HLTCU, the replacement of a portion of the licensed beds at the same licensed site, or the replacement of a portion of the licensed beds pursuant to the new model design. The nursing home/HLTCU beds will be in new physical plant space being developed in new construction or in newly acquired space (purchase, lease, donation, etc.) within the replacement zone.

(bb) "Replacement zone" means a proposed licensed site that is,

(i) for a rural or micropolitan statistical area county, within the same planning area as the existing licensed site.

(ii) for a county that is not a rural or micropolitan statistical area county,

(A) within the same planning area as the existing licensed site and

(B) within a three-mile radius of the existing licensed site.

(cc) "Use rate" means the number of nursing home and hospital long-term-care unit days of care per 1,000 population during a one-year period.

(2) The definitions in Part 222 of the Code shall apply to these standards.

### **Section 3. Determination of needed nursing home bed supply**

Sec. 3. (1)(a) The age specific use rates for the planning year shall be the actual statewide age specific nursing home use rates using data from the base year.

(b) The age cohorts for each planning area shall be: (i) age 0 - 64 years, (ii) age 65 - 74 years, (iii) age 75 - 84 years, and (iv) age 85 and older.

(c) Until the base year is changed by the Commission in accord with Section 4(3) and Section 5, the use rates for the base year per 1000 population for each corresponding age cohort, established in accord with subsection (1)(b), are posted on the State of Michigan CON web site.

(2) The number of nursing home beds needed in a planning area shall be determined by the following formula:

(a) For each HSA and for each age cohort established in subsection (1)(b), perform the following calculations:

(i) Determine the patient days and population for the base year and three years prior to the base year.

(ii) Determine the patient day utilization rate per 1000 people for the base year and three years prior to the base year by dividing the patient days by the population and multiplying by 1000.

(iii) Determine the average yearly change in the patient day utilization rate for the three-year period by subtracting the utilization rate in the base year from the utilization rate from three years prior and dividing by three.

(iv) Multiply the average yearly change in the patient day utilization rate by the number of years between the base year and the planning year to calculate total expected change in the patient day utilization rate.

(v) Add the total expected change in the patient day utilization rate to the patient day utilization rate to calculate the patient day utilization rate in the planning year.

(vi) Determine the "high" and "low" patient day utilization rate thresholds by multiplying the patient day utilization rate in the planning year by 1.2 and 0.8.

(b) For each planning area, perform the following calculations:

(i) Determine the patient days and population for the base year.

(ii) Determine the patient day utilization rate per 1000 people for the base year dividing the patient days by the population and multiplying by 1000.

(iii) For each age cohort, compare the patient day utilization rate to the patient day utilization rate thresholds of the HSA in which the planning area is located.

(A) If the planning area utilization rate is greater than the HSA high threshold, replace the planning area utilization rate with the HSA high threshold value.

(B) If the planning area utilization rate is less than the HSA high threshold, replace the planning area utilization rate with the HSA low threshold value.

(C) If the planning area utilization rate falls between the HSA low and high thresholds, it is unchanged.

(iv) For each age cohort, multiply the predicted population in the planning year by the planning area utilization rate determined in subsection (2)(b)(iii) to calculate the predicted number of patient days in the planning year.

(v) Sum the predicted number of patient days in the planning year for each age cohort to calculate the total predicted patient days.

(vi) Divide the total predicted patient days by 365 (or 366 for leap years) to obtain the predicted average daily census (ADC).

(vii) Divide the ADC by 0.90 to obtain the number of beds needed for the planning area in the planning year.

#### **Section 4. Bed need**

Sec. 4. (1) The bed need numbers shall apply to project applications subject to review under these standards, except where a specific CON standard states otherwise.

(2) The Department shall apply the bed need methodology in Section 3 on a biennial basis.

(3) The base year and the planning year that shall be utilized in applying the methodology pursuant to subsection (2) shall be set according to the most recent data available to the Department.

(4) The effective date of the bed need numbers shall be established by the Commission.

(5) New bed need numbers established by subsections (2) and (3) shall supersede previous bed need numbers and shall be posted on the state of Michigan CON web site as part of the Nursing Home/HLTCU Bed Inventory.

(6) Modifications made by the Commission pursuant to this section shall not require standard advisory committee action, a public hearing, or submittal of the standard to the Legislature and the Governor in order to become effective.

#### **Section 5. Modification of the age specific use rates by changing the base year**

Sec. 5. (1) The base year shall be modified based on data obtained from the Department and presented to the Commission. The Department shall calculate use rates for each of the age cohorts set forth in Section 3(1)(b) and biennially present the revised use rates based on 2006 information, or the most recent base year information available biennially after 2006, to the CON Commission.

(2) The Commission shall establish the effective date of the modifications made pursuant to subsection (1).

(3) Modifications made by the Commission pursuant to subsection (1) shall not require standard advisory committee action, a public hearing, or submittal of the standard to the Legislature and the Governor in order to become effective.

#### **Section 6. Requirements for approval to increase beds in a planning area**

Sec. 6. An applicant proposing to increase the number of nursing home beds in a planning area must meet the following as applicable:

(1) An applicant proposing to increase the number of nursing home beds in a planning area by beginning operation of a new nursing home/HLTCU or increasing the number of beds to an existing licensed nursing home/HLTCU shall demonstrate the following:

(a) At the time of application, the applicant, as identified in the table, shall provide a report demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its nursing homes/HLTCUs:

<b>Type of Applicant</b>	<b>Reporting Requirement</b>
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

(i) A state enforcement action resulting in a license revocation, reduced license capacity, or receivership within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iii) Termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement initiated by the Department or licensing and certification agency in another state, within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iv) A number of citations at Level D or above, excluding life safety code citations, on the scope and severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated from the quarter in which the standard survey was completed, in the state in which the nursing home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all licensed only facilities on the last two licensing surveys. However, if the facility has come under common ownership or control within 24 months of the date of the application, the first two licensing surveys as of the change of ownership date, shall be excluded.

(v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid services.

(vi) Delinquent debt obligation to the State of Michigan including, but not limited to:

(A) Quality Assurance Assessment Program (QAAP),

(B) Preadmission Screening and Annual Resident Review (PASARR), or

(C) Civil Monetary Penalties (CMP).

(b) The applicant certifies that the requirements found in the Minimum Design Standards for Health Care Facilities of Michigan, referenced in Section 20145 (6) of the Public Health Code, Act 368 of 1978, as amended and are published by the Department, will be met when the architectural blueprints are submitted for review and approval by the Department.

(c) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has been submitted and approved by LARA. Code deficiencies include any unresolved deficiencies still outstanding with LARA.

(d) The proposed increase, if approved, will not result in the total number of existing nursing home beds in that planning area exceeding the needed nursing home bed supply, unless one of the following is met:

(i) An applicant may request and be approved for up to a maximum of 20 beds if, when the total number of "existing nursing home beds" is subtracted from the bed need for the planning area, the difference is equal to or more than 1 and equal to or less than 20. This subsection is not applicable to projects seeking approval for beds from the statewide pool of beds.

(ii) An applicant may request and be approved for up to a maximum of 20 beds if the following requirements are met:

(A) The applicant facility has experienced an average occupancy rate of 92% for the most recent 12 consecutive months and 90% or above for the prior 12 months as verifiable by the Department as of the date an application is submitted to the Department.

(B) The applicant facility has not decreased the number of licensed beds within the 24 months preceding the application date.

(C) The applicant facility shall propose no more than two beds per resident room and shall eliminate all three and/or four bed wards within the existing facility, if applicable, as part of the proposed project.

(D) The applicant facility shall certify the new beds for both Medicare and Medicaid.

(E) The applicant facility shall not relocate any beds from the facility or replace a portion of beds to a new site pursuant to Section 7(3)(d), following CON approval and for at least 24 months from the date of the licensure of the new beds at the facility.

(2) An applicant proposing to increase the number of nursing home beds in a planning area by beginning operation of a new nursing home/HLTCU or increasing the number of beds to an existing licensed nursing home/HLTCU pursuant to the new design model shall demonstrate the following:

(a) At the time of application, the applicant, as identified in the table, shall provide a report demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its nursing homes/HLTCUs:

<b>Type of Applicant</b>	<b>Reporting Requirement</b>
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

(i) A state enforcement action resulting in a license revocation, reduced license capacity, or receivership within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iii) Termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement initiated by the Department or licensing and certification agency in another state, within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iv) A number of citations at Level D or above, excluding life safety code citations, on the scope and severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated from the quarter in which the standard survey was completed, in the state in which the nursing home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all licensed only facilities on the last two licensing surveys. However, if the facility has come under common ownership or control within 24 months of the date of the application, the first two licensing surveys as of the change of ownership date, shall be excluded.

(v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid Services.

(vi) Delinquent debt obligation to the State of Michigan including, but not limited to:

(A) Quality Assurance Assessment Program (QAAP),

(B) Preadmission Screening and Annual Resident Review (PASARR), or

(C) Civil Monetary Penalties (CMP).

(b) The proposed project results in no more than 100 beds per new design model and meets the following design standards:

(i) For inpatient facilities that are not limited to group resident housing of 10 beds or less, the construction standards shall be those applicable to nursing homes in the document entitled Minimum Design Standards for Health Care Facilities in Michigan and incorporated by reference in Section 20145(6) of the Public Health Code, being Section 333.20145(6) of the Michigan Compiled Laws or any future versions.

(ii) For small resident housing units of 10 beds or less that are supported by a central support inpatient facility, the construction standards shall be those applicable to hospice residences providing an inpatient level of care, except that:

(A) at least 100% of all resident sleeping rooms shall meet barrier free requirements;

(B) electronic nurse call systems shall be required in all facilities;

(C) handrails shall be required on both sides of patient corridors; and

(D) ceiling heights shall be a minimum of 7 feet 10 inches.

(iii) The proposed project shall comply with applicable life safety code requirements and shall be fully sprinkled and air conditioned.

(iv) The Department may waive construction requirements for new design model projects if authorized by law.

(c) The proposed project shall include at least 80% single occupancy resident rooms with an adjoining toilet room containing a sink, water closet, and bathing facility and serving no more than two residents in both the central support inpatient facility and any supported small resident housing units.

(d) The proposed increase, if approved, will not result in the total number of existing nursing home beds in that planning area exceeding the needed nursing home bed supply, unless the following is met:

(i) An approved project involves replacement of a portion of the beds of an existing facility at a geographic location within the replacement zone that is not physically connected to the current licensed site. If a portion of the beds are replaced at a location that is not the current licensed site, a separate license shall be issued to the facility at the new location.

(e) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has been submitted and approved by LARA. Code deficiencies include any unresolved deficiencies still outstanding with LARA.

## Section 7. Requirements for approval to replace beds

Sec. 7. An applicant proposing to replace beds must meet the following as applicable.

(1) An applicant proposing to replace beds within the replacement zone shall not be required to be in compliance with the needed nursing home bed supply if all of the following requirements are met:

(a) At the time of application, the applicant, as identified in the table, shall provide a report demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its nursing homes/HLTCUs:

<b>Type of Applicant</b>	<b>Reporting Requirement</b>
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

(i) A state enforcement action resulting in a license revocation, reduced license capacity, or receivership within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iii) Termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement initiated by the Department or licensing and certification agency in another state, within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iv) A number of citations at Level D or above, excluding life safety code citations, on the scope and severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated from the quarter in which the standard survey was completed, in the state in which the nursing home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all licensed only facilities on the last two licensing surveys. However, if the facility has come under common ownership or control within 24 months of the date of the application, the first two licensing surveys as of the change of ownership date, shall be excluded.

(v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid Services.

(vi) Delinquent debt obligation to the State of Michigan including, but not limited to:

(A) Quality Assurance Assessment Program (QAAP),

(B) Preadmission Screening and Annual Resident Review (PASARR), or

(C) Civil Monetary Penalties (CMP).

(b) The proposed project is either to replace the licensed nursing home/HLTCU to a new proposed licensed site or replace a portion of the licensed beds at the existing licensed site.



(c) The proposed licensed site is within the replacement zone.

(d) The applicant certifies that the requirements found in the Minimum Design Standards for Health Care Facilities of Michigan, referenced in Section 20145 (6) of the Public Health Code, Act 368 of 1978, as amended and are published by the Department, will be met when the architectural blueprints are submitted for review and approval by the Department.

(e) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has been submitted and approved by LARA. Code deficiencies include any unresolved deficiencies still outstanding with LARA.

(f) The current patients of the facility/beds being replaced shall be admitted to the replacement beds when the replacement beds are licensed to the extent that those patients desire to transfer to the replacement facility/beds. The replacement facility shall certify a sufficient number of Medicaid beds to satisfy the needs of those current Medicaid patients who desire to transfer to the replacement facility/beds.

(2) An applicant proposing to replace a licensed nursing home/HLTCU outside the replacement zone shall demonstrate all of the following:

(a) At the time of application, the applicant, as identified in the table, shall provide a report demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its nursing homes/HLTCUs:

<b>Type of Applicant</b>	<b>Reporting Requirement</b>
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

(i) A state enforcement action resulting in a license revocation, reduced license capacity, or receivership within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iii) Termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement initiated by the Department or licensing and certification agency in another state, within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iv) A number of citations at Level D or above, excluding life safety code citations, on the scope and severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated from the quarter in which the standard survey was completed, in the state in which the nursing home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all licensed only facilities on the last two licensing surveys. However, if the facility has come under common ownership or control within 24 months of the date of the application, the first two licensing surveys as of the change of ownership date, shall be excluded.

(v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid Services.

(vi) Delinquent debt obligation to the State of Michigan including, but not limited to:

(A) Quality Assurance Assessment Program (QAAP),

(B) Preadmission Screening and Annual Resident Review (PASARR), or

(C) Civil Monetary Penalties (CMP).

(b) The total number of existing nursing home beds in that planning area is equal to or less than the needed nursing home bed supply.

(c) The number of beds to be replaced is equal to or less than the number of currently licensed beds at the nursing home/HLTCU at which the beds proposed for replacement are currently located.

(d) The applicant certifies that the requirements found in the Minimum Design Standards for Health Care Facilities of Michigan, referenced in Section 20145 (6) of the Public Health Code, Act 368 of 1978, as amended and are published by the Department, will be met when the architectural blueprints are submitted for review and approval by the Department.

(e) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has been submitted and approved by LARA. Code deficiencies include any unresolved deficiencies still outstanding with LARA.

(f) The current patients of the facility/beds being replaced shall be admitted to the replacement beds when the replacement beds are licensed to the extent that those patients desire to transfer to the replacement facility/beds. The replacement facility shall certify a sufficient number of Medicaid beds to satisfy the needs of those current Medicaid patients who desire to transfer to the replacement facility/beds.

(3) An applicant proposing to replace beds with a new design model shall not be required to be in compliance with the needed nursing home bed supply if all of the following requirements are met:

(a) The proposed project results in no more than 100 beds per new design model and meets the following design standards:

(i) For inpatient facilities that are not limited to group resident housing of 10 beds or less, the construction standards shall be those applicable to nursing homes in the document entitled Minimum Design Standards for Health Care Facilities in Michigan and incorporated by reference in Section 20145(6) of the Public Health Code, being Section 333.20145(6) of the Michigan Compiled Laws or any future versions.

(ii) For small resident housing units of 10 beds or less that are supported by a central support inpatient facility, the construction standards shall be those applicable to hospice residences providing an inpatient level of care, except that:

(A) at least 100% of all resident sleeping rooms shall meet barrier free requirements;

(B) electronic nurse call systems shall be required in all facilities;

(C) handrails shall be required on both sides of patient corridors; and

(D) ceiling heights shall be a minimum of 7 feet 10 inches.

(iii) The proposed project shall comply with applicable life safety code requirements and shall be fully sprinkled and air conditioned.

(iv) The Department may waive construction requirements for new design model projects if authorized by law.

(b) The proposed project shall include at least 80% single occupancy resident rooms with an adjoining toilet room containing a sink, water closet, and bathing facility and serving no more than two residents in both the central support inpatient facility and any supported small resident housing units. If the proposed project is for replacement/renovation of an existing facility and utilizes only a portion of its currently licensed beds, the remaining rooms at the existing facility shall not exceed double occupancy.

(c) The proposed project shall be within the replacement zone unless the applicant demonstrates all of the following:

- (i) the proposed licensed site for the replacement beds is in the same planning area,
- (ii) the applicant shall provide a signed affidavit or resolution from its governing body or authorized agent stating that the proposed licensed site will continue to provide service to the same market, and
- (iii) the current patients of the facility/beds being replaced shall be admitted to the replacement beds when the replacement beds are licensed, to the extent that those patients desire to transfer to the replacement facility/beds.

(d) An approved project may involve replacement of a portion of the beds of an existing facility at a geographic location within the replacement zone that is not physically connected to the current licensed site. If a portion of the beds are replaced at a location that is not the current licensed site, a separate license shall be issued to the facility at the new location. If beds have been added pursuant to Section 6(1)(d)(ii), then the applicant facility shall not relocate any beds from the facility or replace a portion of beds to a new site following CON approval and for at least 24 months from the date of the licensure of the new beds at the facility.

(e) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has been submitted and approved by LARA. Code deficiencies include any unresolved deficiencies still outstanding with LARA.

(4) An applicant proposing to replace beds must demonstrate that any previously approved change of ownership (chow) certificate of need for the facility has been deemed a completed project by the Department before the replacement application can be approved.

## **Section 8. Requirements for approval to relocate existing nursing home/HLTCU beds**

Sec. 8. (1) An applicant proposing to relocate existing nursing home/HLTCU beds shall not be required to be in compliance with the needed nursing home bed supply if all of the following requirements are met:

- (a) There shall not be any ownership relationship requirements between the nursing home/HLTCU from which the beds are being relocated and the nursing home/HLTCU receiving the beds.
- (b) The relocated beds shall be placed in the same planning area.
- (c) The relocated beds shall be licensed to the receiving nursing home/HLTCU and will be counted in the inventory for the applicable planning area.

(d) At the time of transfer to the receiving facility, patients in beds to be relocated must be given the choice of remaining in another bed in the nursing home/HLTCU from which the beds are being transferred or to the receiving nursing home/HLTCU. Patients shall not be involuntary discharged to create a vacant bed.

(e) Relocation of beds shall not increase the rooms with three (3) or more bed wards in the receiving facility.

(f) If beds have been added pursuant to Section 6(1)(d)(ii), then the applicant facility shall not relocate any beds from the facility or replace a portion of beds to a new site following CON approval and for at least 24 months from the date of the licensure of the new beds at the facility.

(g) An applicant proposing to relocate beds, under section 8(1), must demonstrate that any previously approved certificate of need for addition of existing nursing home/HLTCU beds at the facility, under section 8(2), has been deemed a completed project by the department before the relocation application can be approved.

(2) An applicant proposing to add new nursing home/HLTCU beds, as the receiving existing nursing home/HLTCU under subsection (1), shall not be required to be in compliance with the needed nursing home bed supply if all of the following requirements are met:

(a) At the time of application, the applicant, as identified in the table, shall provide a report demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its nursing homes/HLTCUs:

<b>Type of Applicant</b>	<b>Reporting Requirement</b>
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

(i) A state enforcement action resulting in a license revocation, reduced license capacity, or receivership within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iii) Termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement initiated by the Department or licensing and certification agency in another state, within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iv) A number of citations at Level D or above, excluding life safety code citations, on the scope and severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated from the quarter in which the standard survey was completed, in the state in which the nursing home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all licensed only facilities on the last two licensing surveys. However, if the facility has come under common ownership or control within 24 months of the date of the application, the first two licensing surveys as of the change of ownership date, shall be excluded.

(v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid Services.

(vi) Delinquent debt obligation to the State of Michigan including, but not limited to:

(A) Quality Assurance Assessment Program (QAAP),

(B) Preadmission Screening and Annual Resident Review (PASARR), or

(C) Civil Monetary Penalties (CMP).

(b) The approval of the proposed new nursing home/HLTCU beds shall not result in an increase in the number of nursing home beds in the planning area.

(c) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has been submitted and approved by LARA. Code deficiencies include any unresolved deficiencies still outstanding with LARA.

(3) An applicant proposing to relocate existing nursing home/HLTCU beds, under section 8(1), or add existing nursing home/HLTCU beds, under section 8(2), must demonstrate that any previously

approved change of ownership (chow) certificate of need for the facility has been deemed a completed project by the Department before the relocation application can be approved.

## **Section 9. Requirements for approval to acquire an existing nursing home/HLTCU or renew the lease of an existing nursing home/HLTCU**

Sec. 9. An applicant proposing to acquire an existing nursing home/HLTCU or renew the lease of an existing nursing home/HLTCU must meet the following as applicable:

(1) An applicant proposing to acquire an existing nursing home/HLTCU shall not be required to be in compliance with the needed nursing home bed supply for the planning area in which the nursing home or HLTCU is located if all of the following requirements are met:

(a) At the time of application, the applicant, as identified in the table, shall provide a report demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its nursing homes/HLTCUs:

<b>Type of Applicant</b>	<b>Reporting Requirement</b>
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

(i) A state enforcement action resulting in a license revocation, reduced license capacity, or receivership within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iii) termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement initiated by the Department or licensing and certification agency in another state, within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iv) A number of citations at Level D or above, excluding life safety code citations, on the scope and severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated from the quarter in which the standard survey was completed, in the state in which the nursing home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all licensed only facilities on the last two licensing surveys. However, if the facility has come under common ownership or control within 24 months of the date of the application, the first two licensing surveys as of the change of ownership date, shall be excluded.

(v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid Services.

(vi) Delinquent debt obligation to the state of Michigan including, but not limited to:

- (A) Quality Assurance Assessment Program (QAAP),
- (B) Preadmission Screening and Annual Resident Review (PASARR), or
- (C) Civil Monetary Penalties (CMP).
- (b) The acquisition will not result in a change in bed capacity.
- (c) The licensed site does not change as a result of the acquisition.
- (d) The project is limited solely to the acquisition of a nursing home/HLTCU with a valid license.
- (e) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has been submitted and approved LARA. Code deficiencies include any unresolved deficiencies still outstanding with the Department, and
- (f) The applicant shall participate in a quality improvement program, approved by the Department, for five years and provide an annual report to the Michigan State Long-Term-Care Ombudsman, LARA, and shall post the annual report in the facility if the facility being acquired has met any of conditions in subsections (a)(i), (ii), (iii), (iv), (v), or (vi).
- (g) If the applicant is a new entity with no prior NH-HLTCU history, the applicant shall submit proof that:
  - (i) The nursing home/HLTCU to be acquired is no longer listed as a special focus nursing home by the Center for Medicare and Medicaid Services, or the applicant shall participate in a quality improvement program, approved by the Department, for five years and provide an annual report to the Michigan State Long-Term-Care Ombudsman, LARA, and shall post the annual report in the facility; and
  - (ii) All delinquent debt obligations to the State of Michigan have been paid including, but not limited to:
    - (A) Quality Assurance Assessment Program (QAAP),
    - (B) Preadmission Screening and Annual Resident Review (PASARR), or
    - (C) Civil Monetary Penalties (CMP).

(2) An applicant proposing to acquire an existing nursing home/HLTCU approved pursuant to the new design model shall demonstrate the following:

(a) At the time of application, the applicant, as identified in the table, shall provide a report demonstrating that it does not meet any of the following conditions in 14%, but not more than five, of its nursing homes/HLTCUs:

<b>Type of Applicant</b>	<b>Reporting Requirement</b>
Applicant with only Michigan nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with 10 or more Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan nursing homes/HLTCUs under common ownership or control
Applicant with fewer than 10 Michigan nursing homes/HLTCUs and out of state nursing homes/HLTCUs	All Michigan and out of state nursing homes/HLTCUs under common ownership or control

- (i) A state enforcement action resulting in a license revocation, reduced license capacity, or receivership within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.
- (ii) A filing for bankruptcy within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iii) Termination of a Medical Assistance Provider Enrollment and Trading Partner Agreement initiated by the Department or licensing and certification agency in another state, within the last three years, or from the change of ownership date if the facility has come under common ownership or control within 24 months of the date of the application.

(iv) A number of citations at level D or above, excluding life safety code citations, on the scope and severity grid on two consecutive standard surveys that exceeds twice the statewide average, calculated from the quarter in which the standard survey was completed, in the state in which the nursing home/HLTCU is located. For licensed only facilities, a number of citations at two times the average of all licensed only facilities on the last two licensing surveys. However, if the facility has come under common ownership or control within 24 months of the date of the application, the first two licensing surveys as of the change of ownership date, shall be excluded.

(v) Currently listed as a special focus nursing home by the Center for Medicare and Medicaid Services.

(vi) Delinquent debt obligation to the State of Michigan including, but not limited to:

(A) Quality Assurance Assessment Program (QAAP),

(B) Preadmission Screening and Annual Resident Review (PASARR), or

(C) Civil Monetary Penalties (CMP).

(b) An applicant will continue to operate the existing nursing home/HLTCU pursuant to the new design model requirements.

(c) The applicant shall participate in a quality improvement program, approved by the Department, for five years and provide an annual report to the Michigan State Long-Term-Care Ombudsman, LARA, and shall post the annual report in the facility if the facility being acquired has met any of conditions in subsections (a)(i), (ii), (iii), (iv), (v), or (vi).

(d) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has been submitted and approved by LARA. Code deficiencies include any unresolved deficiencies still outstanding with LARA.

(e) If the applicant is a new entity with no prior NH-HLTCU history, the applicant shall submit proof that:

(i) The nursing home/HLTCU to be acquired is no longer listed as a special focus nursing home by the Center for Medicare and Medicaid Services, or the applicant shall participate in a quality improvement program, approved by the Department, for five years and provide an annual report to the Michigan State Long-Term-Care Ombudsman, LARA, and shall post the annual report in the facility; and

(ii) All delinquent debt obligations to the State of Michigan have been paid including, but not limited to:

(A) Quality Assurance Assessment Program (QAAP),

(B) Preadmission Screening and Annual Resident Review (PASARR), or

(C) Civil Monetary Penalties (CMP).

(3) An applicant proposing to renew the lease for an existing nursing home/HLTCU shall not be required to be in compliance with the needed nursing home bed supply for the planning area in which the nursing home/HLTCU is located, if all of the following requirements are met:

(a) The lease renewal will not result in a change in bed capacity.

(b) The licensed site does not change as a result of the lease renewal.

(c) A Plan of Correction for cited state or federal code deficiencies at the health facility, if any, has been submitted and approved by LARA. Code deficiencies include any unresolved deficiencies still outstanding with LARA.

(d) The following delinquent debt obligations to the state of Michigan have been paid, or the applicant is in compliance with a payment plan concerning the same agreed to by the applicant and the Michigan Department of Treasury:

- (i) Quality Assurance Assessment Program (QAAP),
- (ii) Preadmission Screening and Annual Resident Review (PASARR), and
- (iii) Civil Monetary Penalties (CMP).

### **Section 10. Review standards for comparative review**

Sec. 10. (1) Any application subject to comparative review, under Section 22229 of the Code, being Section 333.22229 of the Michigan Compiled Laws, or under these standards, shall be grouped and reviewed comparatively with other applications in accordance with the CON rules.

(2) The degree to which each application in a comparative group meets the criterion set forth in Section 22230 of the Code, being Section 333.22230 of the Michigan Compiled Laws, shall be determined based on the sum of points awarded under subsections (a) and (b).

(a) A qualifying project will be awarded points as follows:

(i) For an existing nursing home/HLTCU, the current percentage of patient days of care reimbursed by Medicaid for the most recent 12 months of operation.

(ii) For a new nursing home/HLTCU, the proposed percentage of patient days of care to be reimbursed by Medicaid in the second 12 months of operation following project completion.

Percentage of Medicaid Patient Days (calculated using total patient days for all existing and proposed beds at the facility)	Points Awarded	
	Existing	Proposed
50 – 69%	4	3
70 – 100%	8	7

(b) A qualifying project will be awarded 10 points if all beds in the proposed project will be dually certified for both Medicare and Medicaid services by the second 12 months of operation.

(3) A qualifying project will have 15 points deducted if the applicant has any of the following at the time the application is submitted:

- (a) has been a special focus nursing home/HLTCU within the last three (3) years;
- (b) has had more than eight (8) substandard quality of care citations; immediate harm citations, and/or immediate jeopardy citations in the three (3) most recent standard survey cycles (includes intervening abbreviated surveys, standard surveys, and revisits);
- (c) has had an involuntary termination or voluntary termination at the threat of a medical assistance provider enrollment and trading partner agreement within the last three (3) years;
- (d) has had a state enforcement action resulting in a reduction in license capacity or a ban on admissions within the last three (3) years; or
- (e) has any delinquent debt obligation to the state of Michigan including, but not limited to:
  - (A) Quality Assurance Assessment Program (QAAP),
  - (B) Civil Monetary Penalties (CMP),
  - (C) Medicaid Level of Care Determination (LOCD), or



(D) Preadmission Screening and Annual Resident Review (PASARR).

(4) A qualifying project will be awarded three (3) points if the applicant provides documentation that it participates or if it proposes to participate in a culture change model, which contains person centered care, ongoing staff training, and measurements of outcomes. An additional five (5) points will be awarded if the culture change model, either currently used or proposed, is a model approved by the Department.

(5) A qualifying project will be awarded points based on the proposed percentage of the "Applicant's cash" to be applied toward funding the total proposed project cost as follows:

Percentage "Applicant's Cash"	Points Awarded
Over 20%	5
10 – 20%	3
5 – 9%	2

(6) A qualifying project will be awarded four (4) points if the entire existing and proposed nursing home/HLTCU is fully equipped with air conditioning. Fully equipped with air conditioning means meeting the design temperatures in table 6b of the minimum design standards for health care facilities in Michigan and capable of maintaining a temperature of 71 – 81 degrees for the resident unit corridors.

(7) A qualifying project will be awarded six (6) or four (4) points based on only one of the following:

- (a) Six (6) points if the proposed project has 100% rooms with dedicated toilet room containing a sink, water closet, and bathing facility or
- (b) Four (4) points if the proposed project has 80% private rooms with dedicated toilet room containing a sink, water closet and bathing facility.

(8) A qualifying project will be awarded 10 points if it results in a nursing home/HLTCU with 150 or fewer beds in total.

(9) A qualifying project will be awarded five (5) points if the proposed beds will be housed in new construction.

(10) A qualifying project will be awarded 10 points if the entire existing nursing home/HLTCU and its proposed project will have no more than double occupancy rooms at completion of the project.

(11) A qualifying project will be awarded two (2) points if the existing or proposed nursing home/HLTCU is on or readily accessible to an existing or proposed public transportation route.

(12) A qualifying project will be awarded points for technological innovation as follows:

INNOVATIONS	Points Awarded
The proposed project will have wireless nurse call/paging system including wireless devices carried by direct care staff	1

Wireless internet with resident access to related equipment/device in entire facility	1
An integrated electronic medical records system with point-of-service access capability (including wireless devices) for all disciplines including pharmacy, physician, nursing, and therapy services at the entire existing and proposed nursing home/HLTCU	4
The proposed project will have a backup generator supporting all functions with an on-site or piped-in fuel supply and be capable of providing at least 48 hours of service at full load	4

(13) A qualifying project will be awarded three (3) points if the proposed project includes bariatric rooms as follows: project using 0 – 49 beds will include at least one (1) bariatric room or project using 50 or more beds will include 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 architectural schematics, 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 resident movement (such as a portable or build 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.

(14) Submission of conflicting information in this section may result in a lower point award. If an application contains conflicting information which could result in a different point value being awarded in this section, the Department will award points based on the lower point value that could be awarded from the conflicting information. For example, if submitted information would result in 6 points being awarded, but other conflicting information would result in 12 points being awarded, then 6 points will be awarded. If the conflicting information does not affect the point value, the Department will award points accordingly. For example, if submitted information would result in 12 points being awarded and other conflicting information would also result in 12 points being awarded, then 12 points will be awarded.

(15) The Department shall approve those qualifying projects which, when taken together, do not exceed the need as defined in Section 22225(1) of the Code, being Section 333.22225(1) of the Michigan Compiled Laws, and which have the highest number of points when the results of subsections (2) through (12) are totaled. If two or more qualifying projects are determined to have an identical number of points, then the Department shall approve those qualifying projects which, when taken together, do not exceed the need, as defined in Section 22225(1), in the order in which the applications were received by the Department, based on the date and time stamp on the application when the application is filed.

## **Section 11. Project delivery requirements and terms of approval**

Sec. 11. An applicant shall agree that, if approved, the nursing home/HLTCU services shall be delivered in compliance with the following terms of approval:

(1) Compliance with these standards, including the requirements of Section 10. If an applicant is awarded beds pursuant to Section 10 and representations made in that section, the Department shall monitor compliance with those statements and representations and shall determine actions for non-compliance.

(2) Compliance with the following applicable quality assurance standards:

(a) Compliance with Section 22230 of the Code shall be based on the nursing home's/HLTCU's actual Medicaid participation within the time periods specified in these standards. Compliance with Section 10(2)(a) of these standards shall be determined by comparing the nursing home's/HLTCU's actual patient days reimbursed by Medicaid, as a percentage of the total patient days, with the applicable schedule set forth in Section 10(2)(a) for which the applicant had been awarded points in the comparative review process. If any of the following occurs, an applicant shall be required to be in compliance with the range in the schedule immediately below the range for which points had been awarded in Section 10(2)(a), instead of the range of points for which points had been awarded in the comparative review in order to be found in compliance with Section 22230 of the Code: (i) the average percentage of Medicaid recipients in all nursing homes/HLTCUs in the planning area decreased by at least 10 percent between the second 12 months of operation after project completion and the most recent 12-month period for which data are available, (ii) the actual rate of increase in the Medicaid program per diem reimbursement to the applicant nursing home/HLTCU is less than the annual inflation index for nursing homes/HLTCUs as defined in any current approved Michigan State Plan submitted under Title XIX of the Social Security Act which contains an annual inflation index, or (iii) the actual percentage of the nursing home's/HLTCU's patient days reimbursed by Medicaid (calculated using total patient days for all existing and proposed nursing home beds at the facility) exceeds the statewide average plus 10 percent of the patient days reimbursed by Medicaid for the most recent year for which data are available from the Michigan Department of Health and Human Services [subsection (iii) is applicable only to Section 10(2)(a)]. In evaluating subsection (ii), the Department shall rely on both the annual inflation index and the actual rate increases in per diem reimbursement to the applicant nursing home/HLTCU and/or all nursing homes/HLTCUs in the HSA.

(b) For projects involving the acquisition of a nursing home/HLTCU, the applicant shall agree to maintain the nursing home's/HLTCU's level of Medicaid participation (patient days and new admissions) for the time periods specified in these standards, within the ranges set forth in Section 10(2)(a) for which the seller or other previous owner/lessee had been awarded points in a comparative review.

(c) For projects involving replacement of an existing nursing home/HLTCU, the current patients of the facility/beds being replaced shall be admitted to the replacement beds when the replacement beds are licensed, to the extent that those patients desire to transfer to the replacement facility/beds.

(d) The applicant will assure compliance with Section 20201 of the Code, being Section 333.20201 of the Michigan Compiled Laws.

(3) Compliance with the following access to care requirements:

(a) The applicant, to assure appropriate utilization by all segments of the Michigan population, shall:

(i) not deny services to any individual based on payor source.

(ii) maintain information by source of payment to indicate the volume of care from each payor and non-payor source provided annually.

(iii) provide services to any individual based on clinical indications of need for the services.

(4) Compliance with the following monitoring and reporting requirements:

(a) The applicant shall participate in a data collection network established and administered by the Department or its designee. The data may include, but is not limited to, annual budget and cost information; operating schedules; and demographic, diagnostic, morbidity, and mortality information, as well as the volume of care provided to patients from all payor sources. The applicant shall provide the required data on an individual basis for each licensed site, in a format established by the Department, and in a mutually agreed upon media. The Department may elect to verify the data through on-site review of appropriate records.

(b) The applicant shall provide the Department with timely notice of the proposed project implementation consistent with applicable statute and promulgated rules.

(c) The applicant shall provide notice to the Department of any planned decrease or discontinuation of service(s) no later than 30 days after the planned decrease or discontinuation of the service(s).

(5) An applicant shall agree that, if approved, and material discrepancies are later determined within the reporting of the ownership and citation history of the applicant facility and all nursing homes under common ownership and control that would have resulted in a denial of the application, shall surrender the CON. This does not preclude an applicant from reapplying with corrected information at a later date.

(6) The applicant shall agree that, if approved, it will remain current on all taxes, fines, and fees owed to the state of Michigan. A payment plan agreed upon by the applicant and the Michigan Department of Treasury shall be considered not delinquent for the purpose of this section on the condition the applicant is current and remains current on payments, including Quality Assurance Assessment Program (QAAP), Preadmission Screening and Annual Resident review (PASARR), and Civil Monetary Penalties (CMP).

(7) The agreements and assurances required by this section shall be in the form of a certification agreed to by the applicant or its authorized agent.

## **Section 12. Department inventory of beds**

Sec. 12. The Department shall maintain a listing of the Department Inventory of Beds for each planning area.

## **Section 13. Wayne County planning areas**

Sec. 13. (1) For purposes of these standards the cities and/or townships in Wayne County are assigned to the planning areas as follows:

### Planning Area 84/Northwest Wayne

Canton Township, Dearborn, Dearborn Heights, Garden City, Inkster, Livonia, Northville (part), Northville Township, Plymouth, Plymouth Township, Redford Township, Wayne, Westland

### Planning area 85/Southwest Wayne

Allen Park, Belleville, Brownstown Township, Ecorse, Flat Rock, Gibraltar, Grosse Ile Township, Huron Township, Lincoln Park, Melvindale, River Rouge, Riverview, Rockwood, Romulus, Southgate, Sumpter Township, Taylor, Trenton, Van Buren Township, Woodhaven, Wyandotte

Planning area 86/Detroit

Detroit, Grosse Pointe, Grosse Pointe Township, Grosse Pointe Farms, Grosse Pointe Park, Grosse Pointe Woods, Hamtramck, Harper Woods, Highland Park

**Section 14. Effect on prior CON review standards, comparative reviews**

Sec. 14. (1) These CON review standards supersede and replace the CON Standards for Nursing Home and Hospital Long-Term-Care Unit (HLTCU) Beds approved by the CON Commission on December 10, 2020 and effective on March 19, 2021.

(2) Projects reviewed under these standards involving a change in bed capacity shall be subject to comparative review except as follows:

- (a) replacement of an existing nursing home/HLTCU being replaced in the replacement zone;
- (b) replacement of an existing nursing home/HLTCU pursuant to Section 7(3) and within the same planning area as the existing licensed site;
- (c) relocation of existing nursing home/HLTCU beds; or
- (d) an increase in beds pursuant to Section 6(1)(d)(ii).

(3) Projects reviewed under these standards that relate solely to the acquisition of an existing nursing home/HLTCU or the renewal of a lease shall not be subject to comparative review.

**APPENDIX A**

Counties assigned to each of the HSAs are as follows:

<b>HSA</b>	<b>COUNTIES</b>		
1	Livingston Macomb Wayne	Monroe Oakland	St. Clair Washtenaw
2	Clinton Eaton	Hillsdale Ingham	Jackson Lenawee
3	Barry Berrien Branch	Calhoun Cass Kalamazoo	St. Joseph Van Buren
4	Allegan Ionia Kent Lake	Mason Mecosta Montcalm Muskegon	Newaygo Oceana Osceola Ottawa
5	Genesee	Lapeer	Shiawassee
6	Arenac Bay Clare Gladwin Gratiot	Huron Iosco Isabella Midland Ogemaw	Roscommon Saginaw Sanilac Tuscola
7	Alcona Alpena Antrim Benzie Charlevoix Cheboygan	Crawford Emmet Gd Traverse Kalkaska Leelanau Manistee	Missaukee Montmorency Oscoda Otsego Presque Isle Wexford
8	Alger Baraga Chippewa Delta Dickinson	Gogebic Houghton Iron Keweenaw Luce	Mackinac Marquette Menominee Ontonagon Schoolcraft

## APPENDIX B

Rural Michigan counties are as follows:

Alcona	Gogebic	Ogemaw
Alger	Huron	Ontonagon
Antrim	Iosco	Osceola
Arenac	Iron	Oscoda
Baraga	Lake	Otsego
Charlevoix	Luce	Presque Isle
Cheboygan	Mackinac	Roscommon
Clare	Manistee	Sanilac
Crawford	Montmorency	Schoolcraft
Emmet	Newaygo	Tuscola
Gladwin	Oceana	

Micropolitan statistical area Michigan counties are as follows:

<u>Allegan</u>	<u>Hillsdale</u>	<u>Mason</u>
<u>Alpena</u>	<u>Houghton</u>	<u>Mecosta</u>
<u>Benzie</u>	<u>Ionia</u>	<u>Menominee</u>
<u>Branch</u>	<u>Isabella</u>	<u>Missaukee</u>
<u>Chippewa</u>	<u>Kalkaska</u>	<u>St. Joseph</u>
<u>Delta</u>	<u>Keweenaw</u>	<u>Shiawassee</u>
<u>Dickinson</u>	<u>Leelanau</u>	<u>Wexford</u>
<u>Grand Traverse</u>	<u>Lenawee</u>	
<u>Gratiot</u>	<u>Marquette</u>	

Metropolitan statistical area Michigan counties are as follows:

Barry	Jackson	Muskegon
Bay	Kalamazoo	Oakland
Berrien	Kent	Ottawa
Calhoun	Lapeer	Saginaw
Cass	Livingston	St. Clair
Clinton	Macomb	Van Buren
Eaton	Midland	Washtenaw
Genesee	Monroe	Wayne
Ingham	Montcalm	

Source:

75 F.R., p. 37245 (June 28, 2010)  
 Statistical Policy Office  
 Office of Information and Regulatory Affairs  
 United States Office of Management and Budget

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
**CON REVIEW STANDARDS**  
**FOR NURSING HOME AND HOSPITAL LONG-TERM CARE UNIT BEDS**  
**--ADDENDUM FOR SPECIAL POPULATION GROUPS**

(By authority conferred on the CON Commission by Section 22215 of Act No. 368 of the Public Acts of 1978, as amended, and sections 7 and 8 of Act No. 306 of the Public Acts of 1969, as amended, being sections 333.22215, 24.207 and 24.208 of the Michigan Compiled Laws.)

**Section 1. Applicability; definitions**

Sec. 1. (1) This addendum supplements the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds and shall be used for determining the need for projects established to better meet the needs of special population groups within the long-term care and nursing home populations.

(2) Except as provided in sections 2, 3, 4, 5, 6, 7, and 8 of this addendum, these standards supplement, and do not supersede, the requirements and terms of approval required by the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds.

(3) The definitions which apply to the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds shall apply to these standards.

(4) For purposes of this addendum, the following terms are defined:

(a) "Bariatric patient" means a patient weighting over 350 pounds.

(b) "Bariatric room" means the creation of patient room(s) included as part of the CON project, and identified on the architectural schematics, 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 resident movement (such as a portable or build 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.

(c) "Behavioral patient" means an individual that exhibits a history of chronic behavior management problems such as aggressive behavior that puts self or others at risk for harm, or an altered state of consciousness, including paranoia, delusions, and acute confusion.

(d) "Infection control program," means a program that will reduce the risk of the introduction of communicable diseases into a ventilator-dependent unit, provide an active and ongoing surveillance program to detect the presence of communicable diseases in a ventilator-dependent unit, and respond to the presence of communicable diseases within a ventilator-dependent unit so as to minimize the spread of a communicable disease.

(e) "Licensed hospital" means either a hospital licensed under Part 215 of the Code; or a psychiatric hospital or unit licensed pursuant to Act 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

(f) "Private residence", means a setting other than a licensed hospital; or a nursing home including a nursing home or part of a nursing home approved pursuant to Section 6.



(g) "Traumatic brain injury (TBI)/spinal cord injury (SCI) patient" means an individual with TBI or SCI that is acquired or due to a traumatic insult to the brain and its related parts that is not of a degenerative or congenital nature. These impairments may be either temporary or permanent and cause partial or total functional disability or psychosocial adjustment.

(h) "Ventilator-dependent patient," means an individual who requires mechanical ventilatory assistance.

## **Section 2. Requirements for approval -- applicants proposing to increase nursing home beds -- special use exceptions**

Sec. 2. A project to increase nursing home beds in a planning area which, if approved, would otherwise cause the total number of nursing home beds in that planning area to exceed the needed nursing home bed supply or cause an increase in an existing excess as determined under the applicable CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds, may nevertheless be approved pursuant to this addendum.

## **Section 3. Statewide pool for the needs of special population groups within the long-term care and nursing home populations**

Sec. 3. (1) A statewide pool of additional nursing home beds of 1,958 beds needed in the state is established to better meet the needs of special population groups within the long-term care and nursing home populations. Beds in the pool shall be allocated as follows:

(a) These categories shall be allocated 1,039 beds and distributed as follows and shall be reduced/redistributed in accordance with subsection (c):

- (i) TBI/SCI beds will be allocated 400 beds.
- (ii) Behavioral beds will be allocated 400 beds.
- (iii) Bariatric beds will be allocated 60 beds.
- (iv) Ventilator-dependent beds will be allocated 179 beds.

(b) The following historical categories have been allocated 919 beds. Additional beds shall not be allocated to these categories. If the beds within any of these categories are delicensed, the beds shall be eliminated and not be returned to the statewide pool for special population groups.

- (i) Alzheimer's disease has 384 beds.
- (ii) Health care needs for skilled nursing care has 173 beds.
- (iii) Religious has 292 beds.
- (iv) Hospice beds has 70 beds.

(c) The Commission may adjust/redistribute the number of beds available in the statewide pool for the needs of special population groups in subsection (1)(a) concurrent with the biennial recalculation of the statewide nursing home and hospital long-term care unit bed need. Modifying the number of beds available in the statewide pool for the needs of special population groups in subsection (1)(a) pursuant to this section shall not require a public hearing or submittal of the standard to the Legislature and the Governor in order to become effective.

(d) By setting aside these beds from the total statewide pool, the Commission's action applies only to applicants seeking approval of nursing home beds pursuant to sections 4, 5, 6, and 7. It does not preclude the care of these patients in units of hospitals, hospital long-term care units, nursing homes, or other health care settings in compliance with applicable statutory or certification requirements.

(2) Increases in nursing home beds approved under this addendum for special population groups shall not cause planning areas currently showing an unmet bed need to have that need reduced or planning areas showing a current surplus of beds to have that surplus increased.

#### **Section 4. Requirements for approval for beds from the statewide pool for special population groups allocated to TBI/SCI patients**

Sec. 4. The CON Commission determines there is a need for beds for applications designed to determine the efficiency and effectiveness of specialized programs for the care and treatment of TBI/SCI patients as compared to serving these needs in general nursing home unit(s).

(1) An applicant proposing to begin operation of a new nursing home/HLTCU or add beds to an existing nursing home/HLTCU under this section shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

(a) The beds will be operated as part of a specialized program exclusively for TBI/SCI patients. At the time an application is submitted, the applicant shall demonstrate that it operates:

(i) A continuum of outpatient treatment, rehabilitative care, and support services for TBI/SCI patients; and

(ii) A transitional living program or contracts with an organization that operates a transitional living program and rehabilitative care for TBI/SCI patients.

(b) The applicant shall submit evidence of accreditation of its existing outpatient and/or residential programs by the Commission on Accreditation of Rehabilitation Facilities (CARF) or another nationally-recognized accreditation organization for rehabilitative care and services.

(c) Within 24-months of accepting its first patient, the applicant shall obtain CARF or another nationally-recognized accreditation organization for the nursing home beds proposed under this subsection.

(d) A floor plan for the proposed physical plant space to house the nursing home beds allocated under this subsection that provides for:

(i) Individual units consisting of 20 beds or less per unit, not to be more than 40 beds per facility.

(ii) Day/dining area within, or immediately adjacent to, the unit(s), which is solely for the use of TBI/SCI patients.

(iii) Direct access to a secure outdoor or indoor area at the facility appropriate for supervised activity.

(e) The applicant proposes programs to promote a culture within the facility that is appropriate for TBI/SCI patients of various ages.

(2) Beds approved under this subsection shall not be converted to or utilized as general nursing home use without a CON for nursing home and hospital long-term care unit beds under the CON review standards for nursing home and hospital long-term care unit beds and shall not be offered to individuals other than TBI/SCI patients.

#### **Section 5. Requirements for approval for beds from the statewide pool for special population groups allocated to behavioral patients**

Sec. 5. The CON Commission determines there is a need for beds for applications designed to determine the efficiency and effectiveness of specialized programs for the care and treatment of behavioral patients as compared to serving these needs in general nursing home unit(s).

(1) An applicant proposing to begin operation of a new nursing home/HLTCU or add beds to an existing nursing home/HLTCU under this section shall demonstrate with credible documentation to the satisfaction of the Department each of the following:

- (a) Individual units shall consist of 20 beds or less per unit.
- (b) The facility shall not be awarded more than 40 beds.
- (c) The proposed unit shall have direct access to a secure outdoor or indoor area for supervised activity.
- (d) The unit shall have within the unit or immediately adjacent to it a day/dining area which is solely for the use of the behavioral patients.
- (e) The physical environment of the unit shall be designed to minimize noise and light reflections to promote visual and spatial orientation.
- (f) Staff will be specially trained in treatment of behavioral patients.

(2) Beds approved under this subsection shall not be converted to or utilized as general nursing home use without a CON for nursing home and hospital long-term care unit beds under the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds.

(3) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

#### **Section 6. Requirements for approval for beds from the statewide pool for special population groups allocated to bariatric patients**

Sec. 6. The CON Commission determines there is a need for beds for applications designed to determine the efficiency and effectiveness of specialized programs for the care and treatment of bariatric patients as compared to serving these needs in general nursing home unit(s).

(1) An applicant proposing to begin operation of a new nursing home/HLTCU or add beds to an existing nursing home/HLTCU under this section shall demonstrate, with credible documentation to the satisfaction of the Department, each of the following:

- (a) The facility shall not be awarded more than 10 beds.
- (b) The facility may place beds throughout the facility for a flexible and seamless inclusive resident design.
- (c) The proposed beds shall have adequate access to an outdoor or indoor area for activities with appropriate equipment.
- (d) The physical environment of any unit containing bariatric beds shall be designed to facilitate visitors.
- (e) The unit/beds shall have available specialty equipment to assist staff in providing care.
- (f) The beds shall be located on a ground floor and emergency egress will not require stairways or elevators to exit.
- (g) The beds shall be established in either single or double occupancy rooms, there shall be no rooms with more than two beds.

(2) Beds approved under this subsection shall not be converted to or utilized for general nursing home use without a CON for nursing home and hospital long-term care unit beds.

(3) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

## **Section 7. Requirements for approval for beds from the statewide pool for special population groups allocated to ventilator-dependent patients**

Sec. 7. The CON Commission determines there is a need for beds for ventilator-dependent patients within the long-term care and nursing home populations

(1) An applicant proposing to begin operation of a new nursing home/HLTCU or add beds to an existing nursing home/HLTCU under this section shall demonstrate, with credible documentation to the satisfaction of the Department, each of the following:

- (a) An applicant proposes a program for caring for ventilator-dependent patients in licensed nursing home beds.
- (b) An application proposes no more than 40 beds that will be licensed as nursing home beds.
- (c) The proposed unit will serve only ventilator-dependent patients.

(2) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

(3) Beds approved under this subsection shall not be converted to or utilized for general nursing home use without a CON for nursing home and hospital long-term care unit beds.

## **Section 8. Acquisition of nursing home/HLTCU beds approved pursuant to this addendum**

Sec. 8. (1) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for special population groups allocated to religious shall meet the following:

(a) The applicant is a part of, closely affiliated with, controlled, sanctioned or supported by a recognized religious organization, denomination or federation as evidenced by documentation of its federal tax exempt status as a religious corporation, fund, or foundation under section 501(c)(3) of the United States Internal Revenue Code.

(b) The applicant's patient population includes a majority of members of the religious organization or denomination represented by the sponsoring organization.

(c) The applicant's existing services and/or operations are tailored to meet certain special needs of a specific religion, denomination or order, including unique dietary requirements, or other unique religious needs regarding ceremony, ritual, and organization which cannot be satisfactorily met in a secular setting.

(d) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

(2) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for special population groups allocated to TBI/SCI shall meet the following:

(a) The beds will be operated as part of a specialized program exclusively for TBI/SCI patients. At the time an application is submitted, the applicant shall demonstrate that it operates:

- (i) a continuum of outpatient treatment, rehabilitative care, and support services for TBI/SCI patients; and
- (ii) a transitional living program or contracts with an organization that operates a transitional living program and rehabilitative care for TBI/SCI patients.

(b) The applicant shall submit evidence of accreditation of its existing outpatient and/or residential programs by the Commission on Accreditation of Rehabilitation Facilities (CARF) or another nationally-recognized accreditation organization for rehabilitative care and services.

(c) Within 24-months of accepting its first patient, the applicant shall obtain CARF or another nationally-recognized accreditation organization for the nursing home beds proposed under this subsection.

(d) A floor plan for the proposed physical plant space to house the nursing home beds allocated under this subsection that provides for:

- (i) Individual units consisting of 20 beds or less per unit, not to be more than 40 beds per facility.
  - (ii) Day/dining area within, or immediately adjacent to, the unit(s), which is solely for the use of TBI/SCI patients.
  - (iii) Direct access to a secure outdoor or indoor area at the facility appropriate for supervised activity.
- (e) The applicant proposes programs to promote a culture within the facility that is appropriate for TBI/SCI patients of various ages.

(3) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for special population groups allocated to Alzheimer's disease shall meet the following:

- (a) The beds are part of a specialized program for Alzheimer's disease which will admit and treat only patients which require long-term nursing care and have been appropriately classified as a patient on the Global Deterioration Scale (GDS) for age-associated cognitive decline and Alzheimer's disease as a level 4 (when accompanied by continuous nursing needs), 5, or 6.
- (b) The specialized program will participate in the state registry for Alzheimer's disease.
- (c) The specialized program shall be attached or geographically adjacent to a licensed nursing home and be no larger than 20 beds in size.
- (d) The proposed Alzheimer's unit shall have direct access to a secure outdoor or indoor area at the health facility, appropriate for unsupervised activity.
- (e) The Alzheimer's unit shall have within the unit or immediately adjacent to it a day/dining area which is solely for the use of the Alzheimer's unit patients.
- (f) The physical environment of the Alzheimer's unit shall be designed to minimize noise and light reflections to promote visual and spatial orientation.
- (g) Staff will be specially trained in Alzheimer's disease treatment.
- (h) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

(4) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for special population groups allocated to behavioral patients shall meet the following:

- (a) Individual units shall consist of 20 beds or less per unit.
- (b) The facility shall not be awarded more than 40 beds.
- (c) The proposed unit shall have direct access to a secure outdoor or indoor area for supervised activity.
- (d) The unit shall have within the unit or immediately adjacent to it a day/dining area which is solely for the use of the behavioral patients.
- (e) The physical environment of the unit shall be designed to minimize noise and light reflections to promote visual and spatial orientation.
- (f) Staff will be specially trained in treatment of behavioral patients.
- (g) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

(5) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for special population groups allocated to hospice shall meet the following:

(a) An applicant shall be a hospice certified by Medicare pursuant to the code of Federal Regulations, Title 42, Chapter IV, Subpart B (Medicare Programs), Part 418 and shall have been a Medicare certified hospice for at least 24 continuous months prior to the date an application is submitted to the Department.

(b) An applicant shall demonstrate that, during the most recent 12-month period prior to the date an application is submitted to the Department for which verifiable data are available to the Department, at least 64% of the total number of hospice days of care provided to all of the clients of the applicant hospice were provided in a private residence.

(c) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

(6) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for special population groups allocated to bariatric patients shall meet the following:

(a) The facility shall not be awarded more than 10 beds.

(b) The facility may place beds throughout the facility for a flexible and seamless inclusive resident design.

(c) The proposed beds shall have adequate access to an outdoor or indoor area for activities with appropriate equipment.

(d) The physical environment of any unit containing bariatric beds shall be designed to facilitate visitors.

(e) The beds shall have available specialty equipment to assist staff in providing care.

(f) The beds shall be located on a ground floor and emergency egress will not require stairways or elevators to exit.

(g) Beds approved under this subsection shall not be converted to or utilized as general nursing home use without a CON for nursing home and hospital long-term care unit beds under the CON review standards.

(h) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

(7) An applicant proposing to acquire nursing home/HLTCU beds from the statewide pool for special population groups allocated to ventilator-dependent patients shall meet the following:

(a) An applicant proposes a program for caring for ventilator-dependent patients in licensed nursing home beds.

(b) An application proposes no more than 40 beds that will be licensed as nursing home beds.

(c) The proposed unit will serve only ventilator-dependent patients.

(d) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

## **Section 9. Project delivery requirements -- terms of approval for all applicants seeking approval under Section 3(1) of this addendum**

Sec. 9. (1) An applicant shall agree that if approved, the services shall be delivered in compliance with the terms of approval required by the CON Review Standards for Nursing Home and Hospital Long-term Care Unit Beds.

(2) An applicant for beds from the statewide pool for special population groups allocated to religious shall agree that, if approved, the services provided by the specialized long-term care beds shall be delivered in compliance with the following term of CON approval:

(a) The applicant shall document, at the end of the third year following initiation of beds approved an annual average occupancy rate of 95 percent or more. If this occupancy rate has not been met, the applicant shall delicense a number of beds necessary to result in a 95 percent occupancy based upon its average daily census for the third full year of operation.

(3) An applicant for beds from the statewide pool for special population groups allocated to Alzheimer's disease shall agree that if approved:

(a) The beds are part of a specialized program for Alzheimer's disease which will admit and treat only patients which require long-term nursing care and have been appropriately classified as a patient on the Global Deterioration Scale (GDS) for age-associated cognitive decline and Alzheimer's disease as a level 4 (when accompanied by continuous nursing needs), 5, or 6.

(b) The specialized program will participate in the state registry for Alzheimer's disease.

(c) The specialized program shall be attached or geographically adjacent to a licensed nursing home and be no larger than 20 beds in size.

(d) The proposed Alzheimer's unit shall have direct access to a secure outdoor or indoor area at the health facility, appropriate for unsupervised activity.

(e) The Alzheimer's unit shall have within the unit or immediately adjacent to it a day/dining area which is solely for the use of the Alzheimer's unit patients.

(f) The physical environment of the Alzheimer's unit shall be designed to minimize noise and light reflections to promote visual and spatial orientation.

(g) Staff will be specially trained in Alzheimer's disease treatment.

(4) An applicant for beds from the statewide pool for special population groups allocated to hospice shall agree that, if approved, all beds approved pursuant to that subsection shall be operated in accordance with the following CON terms of approval.

(a) An applicant shall maintain Medicare certification of the hospice program and shall establish and maintain the ability to provide, either directly or through contractual arrangements, hospice services as outlined in the Code of Federal Regulations, Title 42, Chapter IV, Subpart B, Part 418, hospice care.

(b) The proposed project shall be designed to promote a home-like atmosphere that includes accommodations for family members to have overnight stays and participate in family meals at the applicant facility.

(c) An applicant shall not refuse to admit a patient solely on the basis that he/she is HIV positive, has AIDS or has AIDS related complex.

(d) An applicant shall make accommodations to serve patients that are HIV positive, have AIDS or have AIDS related complex in nursing home beds.

(e) An applicant shall make accommodations to serve children and adolescents as well as adults in nursing home beds.

(f) Nursing home beds shall only be used to provide services to individuals suffering from a disease or condition with a terminal prognosis in accordance with Section 21417 of the Code, being Section 333.21417 of the Michigan Compiled Laws.

(g) An applicant shall agree that the nursing home beds shall not be used to serve individuals not meeting the provisions of Section 21417 of the Code, being Section 333.21417 of the Michigan Compiled Laws, unless a separate CON is requested and approved pursuant to applicable CON review standards.

(h) An applicant shall be licensed as a hospice program under Part 214 of the Code, being Section 333.21401 et seq. of the Michigan Compiled Laws.

(i) An applicant shall agree that at least 64% of the total number of hospice days of care provided by the applicant hospice to all of its clients will be provided in a private residence.

(5) An applicant for beds from the statewide pool for special population groups allocated to ventilator-dependent patients shall agree that, if approved, all beds approved pursuant to that subsection shall be operated in accordance with the following CON terms of approval.

(a) An applicant shall staff the proposed ventilator-dependent unit with employees that have been trained in the care and treatment of ventilator-dependent patients and includes at least the following:

(i) A medical director with specialized knowledge, training, and skills in the care of ventilator-dependent patients.

(ii) A program director that is a registered nurse.

(b) An applicant shall make provisions, either directly or through contractual arrangements, for at least the following services:

(i) respiratory therapy.

(ii) occupational and physical therapy.

(iii) psychological services.

(iv) family and patient teaching activities.

(c) An applicant shall establish and maintain written policies and procedures for each of the following:

(i) Patient admission criteria that describe minimum and maximum characteristics for patients appropriate for admission to the ventilator-dependent unit. At a minimum, the criteria shall address the amount of mechanical ventilatory dependency, the required medical stability, and the need for ancillary services.

(ii) The transfer of patients requiring care at other health care facilities.

(iii) Upon admission and periodically thereafter, a comprehensive needs assessment, a treatment plan, and a discharge plan that at a minimum addresses the care needs of a patient following discharge.

(iv) Patient rights and responsibilities in accordance with Sections 20201 and 20202 of the Code, being Sections 333.20201 and 333.20202 of the Michigan Compiled Laws.

(v) The type of ventilatory equipment to be used on the unit and provisions for back-up equipment.

(d) An applicant shall establish and maintain an organized infection control program that has written policies for each of the following:

(i) use of intravenous infusion apparatus, including skin preparation, monitoring skin site, and frequency of tube changes.

(ii) placement and care of urinary catheters.

(iii) care and use of thermometers.

(iv) care and use of tracheostomy devices.

(v) employee personal hygiene.

(vi) aseptic technique.

(vii) care and use of respiratory therapy and related equipment.

(viii) isolation techniques and procedures.

(e) An applicant shall establish a multi-disciplinary infection control committee that meets on at least a monthly basis and includes the director of nursing, the ventilator-dependent unit program director, and representatives from administration, dietary, housekeeping, maintenance, and respiratory therapy. This subsection does not require a separate committee, if an applicant organization has a standing infection control committee and that committee's charge is amended to include a specific focus on the ventilator-dependent unit.

(f) The proposed ventilator-dependent unit shall have barrier-free access to an outdoor area in the immediate vicinity of the unit.



(g) An applicant shall agree that the beds will not be used to service individuals that are not ventilator-dependent unless a separate CON is requested and approved by the Department pursuant to applicable CON review standards.

(h) An applicant shall provide data to the Department that evaluates the cost efficiencies that result from providing services to ventilator-dependent patients in a hospital.

(6) An applicant for beds from the statewide pool for special population groups allocated to TBI/SCI patients shall agree that if approved:

(a) An applicant shall staff the proposed unit for TBI/SCI patients with employees that have been trained in the care and treatment of such individuals and includes at least the following:

(i) A medical director with specialized knowledge, training, and skills in the care of TBI/SCI patients.

(ii) A program director that is a registered nurse.

(iii) Other professional disciplines required for a multi-disciplinary team approach to care.

(b) An applicant shall establish and maintain written policies and procedures for each of the following:

(i) Patient admission criteria that describe minimum and maximum characteristics for patients appropriate for admission to the unit for TBI/SCI patients. At a minimum, the criteria shall address the required medical stability and the need for ancillary services, including dialysis services.

(ii) The transfer of patients requiring care at other health care facilities, including a transfer agreement with one or more acute-care hospitals in the region to provide emergency medical treatment to any patient who requires such care.

(iii) Upon admission and periodically thereafter, a comprehensive needs assessment, a treatment plan, and a discharge plan that at a minimum addresses the care needs of a patient following discharge, including support services to be provided by transitional living programs or other outpatient programs or services offered as part of a continuum of care to TBI patients by the applicant.

(iv) Utilization review, which shall consider the rehabilitation necessity for the service, quality of patient care, rates of utilization and other considerations generally accepted as appropriate for review.

(v) Quality assurance and assessment program to assure that services furnished to TBI/SCI patients meet professional recognized standards of health care for providers of such services and that such services were reasonable and medically appropriate to the clinical condition of the TBI patient receiving such services.

(7) An applicant for beds from the statewide pool for special population groups allocated to behavioral patients shall agree that if approved:

(a) An applicant shall staff the proposed unit for behavioral patients with employees that have been trained in the care and treatment of such individuals and includes at least the following:

(i) A medical director with specialized knowledge, training, and skills in the care of behavioral patients.

(ii) A program director that is a registered nurse.

(iii) Other professional disciplines required for a multi-disciplinary team approach to care.

(b) An applicant shall establish and maintain written policies and procedures for each of the following:

(i) Patient admission criteria that describe minimum and maximum characteristics for patients appropriate for admission to the unit for behavioral patients.

(ii) The transfer of patients requiring care at other health care facilities, including a transfer agreement with one or more acute-care hospitals in the region to provide emergency medical treatment to any patient who requires such care.

(iii) Utilization review, which shall consider the rehabilitation necessity for the service, quality of patient care, rates of utilization and other considerations generally accepted as appropriate for review.

(iv) quality assurance and assessment program to assure that services furnished to behavioral patients meet professional recognized standards of health care for providers of such services and that such services were reasonable and medically appropriate to the clinical condition of the behavioral patient receiving such services.

(v) Orientation and annual education/competencies for all staff, which shall include care guidelines, specialized communication, and patient safety.

(8) An applicant for beds from the statewide pool for special population groups allocated to bariatric patients shall agree that if approved:

(a) The facility shall not be awarded more than 10 beds.

(b) The facility may place beds throughout the facility for a flexible and seamless inclusive resident design.

(c) The proposed beds shall have adequate access to an outdoor or indoor area for activities with appropriate equipment.

(d) The physical environment of any unit containing bariatric beds shall be designed to facilitate visitors.

(e) The beds shall have available specialty equipment to assist staff in providing care.

(f) The beds shall be located on a ground floor and emergency egress will not require stairways or elevators to exit.

(g) The beds shall be established in either single or double occupancy rooms. There shall be no rooms with more than two beds.

(h) All beds approved pursuant to this subsection shall be dually certified for Medicare and Medicaid.

## **Section 10. Comparative reviews, effect on prior CON review standards**

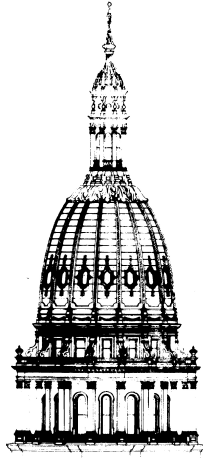
Sec. 10. (1) Projects proposed under Section 4 shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(2) Projects proposed under Section 5 shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(3) Projects proposed under Section 6 shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(4) Projects proposed under Section 7 shall be considered a distinct category and shall be subject to comparative review on a statewide basis.

(5) These CON review standards supersede and replace the CON Review Standards for Nursing Home and Long-term Care Unit Beds--Addendum for Special Population Groups approved by the Commission on December 10, 2020 and effective on March 19, 2021.



---

**CUMULATIVE  
INDEX**

---

**E**

**EDUCATION, DEPARTMENT OF**

Special Education Programs and Services (2024-5\*)  
School Social Worker Certification Code (2024-5\*)  
Teacher Certification Code (2024-5\*)  
Teacher and School Administrator Evaluation Tools (2024-5\*)  
Teachers' Tenure (2024-3)

**H**

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF  
Certificate of Need**

Computed Tomography (CT) Scanner Services (2024-5)  
Nursing Home and Hospital Long Term Care Unit (HLTCU) Beds (2024-5)  
Psychiatric Beds and Services (2024-5)

**I**

**INSURANCE AND FINANCIAL SERVICES, DEPARTMENT OF**

Debt Management (2024-4\*)  
Surplus Lines Insurance Fees (2024-3\*)

**L**

**LABOR AND ECONOMIC OPPORTUNITY, DEPARTMENT OF**

Part 8. Portable Fire Extinguishers (2024-2)  
Part 11. Recording and Reporting of Occupational Injuries and Illnesses (2024-3)

**LICENSING & REGULATORY AFFAIRS, DEPARTMENT OF  
Correction:**

Construction Codes - Part 7. Plumbing Code (2024-1)  
Construction Code - Part 9A Mechanical Code (2024-1)

Acupuncture - General Rules (2024-4\*)  
Chiropractic – General Rules (2024-4\*)  
Construction Code - Part 4. Building Code (2024-4\*)  
Construction Codes - Part 5. Residential Code (2024-4\*)  
Construction Code - Part 10. Michigan Uniform Energy Code (2024-2\*)  
Construction Code - Part 10a. Michigan Energy Code (2024-2\*)  
Genetic Counseling - General Rules (2024-4)  
Nursing Home Administrators—General Rules (2024-5\*)  
Pharmacy-General Rules (2024-5)  
Public Health Code – General Rules (2024-2\*)  
Rehabilitation Code (2024-4\*)

---

**ADMINISTRATIVE RULES  
ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2024 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.”*

# 2024 Michigan Public Acts Table

Legislative Service Bureau  
Legal Division, Statutory Compiling and Law Publications Unit  
124 W. Allegan, Lansing, MI 48909

March 17, 2024  
Compiled through PA 19 of 2024

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0001	4416		Yes	2/21/2024	2/21/2024	2/21/2024	<b>Probate; other</b> ; general amendments to the estates and protected individuals code; provide for. (Rep. Graham Filler)
0002	4417		Yes	2/21/2024	2/21/2024	5/21/2024	<b>Vehicles; title</b> ; transfer of ownership of vehicle to surviving spouse or heir after owner's death; modify maximum value and adjust for cost of living. (Rep. Graham Filler)
0003	4418		Yes	2/21/2024	2/21/2024	2/21/2024	<b>Probate; other</b> ; uniform transfers to minors act; modify amount of transfer allowed. (Rep. Kelly Breen)
0004	4419		Yes	2/21/2024	2/21/2024	5/21/2024	<b>Watercraft; other</b> ; watercraft eligible for issuance of certificate of title transferring deceased owner's interest; increase maximum value of, subject to Consumer Price Index. (Rep. Kelly Breen)
0005	4845		Yes	2/21/2024	2/21/2024	2/21/2024	<b>Highways; memorial</b> ; portion of M-125; designate as the "Captain Joseph M. Liedel Memorial Highway". (Rep. William Bruck)
0006	4325		No	2/21/2024	2/21/2024	**	<b>Environmental protection; other</b> ; criminal penalties and civil fines for unlawful dumping of garbage; provide for. (Rep. Helena Scott)
0007	4824		No	2/27/2024	2/27/2024	** #	<b>Administrative procedure; other</b> ; cross-reference to administrative procedures act within the natural resources and environmental protection act; update. (Rep. Donovan McKinney)
0008	4825		No	2/27/2024	2/27/2024	** #	<b>Administrative procedure; other</b> ; cross-reference to administrative procedures act within the state police retirement act of 1986; update. (Rep. Jenn Hill)

\* - 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	4826		No	2/27/2024	2/27/2024	**	<b>Environmental protection; other</b> , environmental rules review committee; eliminate. (Rep. Sharon MacDonell)
0010	4677		No	2/27/2024	2/27/2024	**	<b>Children; foster care</b> , assessments of education facilities at child care institutions; require. (Rep. Stephanie A. Young)
0011	4678		No	2/27/2024	2/27/2024	**	<b>Children; child care</b> , assessments of education facilities at child care institutions; require. (Rep. Kimberly Edwards)
0012	4979		Yes	3/12/2024	3/12/2024	3/12/2024	<b>Property tax; assessments</b> , procedures related to appointing designated assessors; modify. (Rep. Jenn Hill)
0013	4857		No	3/12/2024	3/12/2024	**	<b>Agriculture; plants</b> , classification of milkweed as a noxious or exotic weed by local governments; prohibit. (Rep. Samantha Steckloff)
0014	4524		Yes	3/12/2024	3/12/2024	6/10/2024	<b>Courts; drug court</b> , termination procedure for drug treatment courts; modify. (Rep. Joey Andrews)
0015	4522		Yes	3/12/2024	3/12/2024	3/12/2024	<b>Courts; other</b> , family treatment court; create. (Rep. Kelly Breen)
0016	4190		No	3/12/2024	3/12/2024	**	<b>Construction; asbestos</b> , public contracts for asbestos abatement projects; require disclosure of environmental violations. (Rep. Curtis VanderWall)
0017	4185		No	3/12/2024	3/12/2024	**	<b>Labor; health and safety</b> provisions related to civil penalties; modify with respect to repeated violations and asbestos-related violations. (Rep. Denise Mentzer)
0018		0057	Yes	3/12/2024	3/12/2024	6/10/2024 #	<b>Controlled substances; drug paraphernalia</b> , sale of nitrous oxide devices; prohibit. (Sen. Stephanie Chang)

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91st day after sine die adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto.

++ - Pocket veto.

# - Tie bar.

PA No.	ENROLLED		I.E.* Yes/No	Governor Approved	Filed Date	Effective Date	SUBJECT
	HB	SB					
0019		0058	Yes	3/12/2024	3/12/2024	6/10/2024 #	<b><i>Controlled substances; drug paraphernalia</i></b> penalties for sale of nitrous oxide devices; provide for. <b><i>(Sen. Joseph Bellino)</i></b>

\* - 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.