

Resolution #2001-03 (Adopted 8/14/01) - A Board Resolution Waiving and Modifying the 14-Day Time Limit in Rule 338(2)

A Board Resolution Waiving and Modifying the 14-Day Time Limit in Rule 338(2)

WHEREAS, the Board occupational licensing staff has recommended that the Board waive and modify the 14-day time limit in Rule 338(2), MR 432.1338(2), for payment of the required biennial occupational licensing fee by a license applicant previously found suitable by the Board; and,

WHEREAS, the Michigan Gaming Control and Revenue Act, as amended, 1997 PA 69, MCL 432.201 et seq ("the Act") grants to the Board broad jurisdiction and power to issue occupational licenses upon the payment of a nonrefundable application fee and determination that the applicant is eligible and suitable for an occupational license under the Act and Administrative Rules promulgated by the Board; and,

WHEREAS, the Board has authority under Rule 223, MR 432.1223, to waive, restrict, or alter any licensing requirement or procedure set forth in the rules, if the board determines that the requirement or procedure is impractical or burdensome; that the waiver, restriction, or alteration is in the best interest of the public and the gaming industry; and that the waiver, restriction, or alteration is not outside the technical requirements necessary to serve the purpose of the requirement or procedure; and,

WHEREAS, Rule 338(2) currently requires issuance of a notice of denial to an otherwise eligible and suitable applicant if the biennial fee is not received by the Board within 14 days of the Board's finding of the applicant's suitability for licensure; and,

WHEREAS, the Board's occupational licensing staff has advised the Board that the 14-day requirement for payment of the biennial license fee under Rule 338(2) has created undue hardship for certain applicants where the circumstances surrounding an untimely payment provide a reasonable excuse for the delay; and,

WHEREAS, the issuance of a notice of denial in such circumstance can result in costly and time consuming procedures that unnecessarily burden Board staff and hearing officers involved in processing requests by otherwise eligible and suitable applicants to obtain their approved occupational license after tender of late payment of their license fee; and,

WHEREAS, the alternative procedure proposed by Board staff will eliminate unnecessary procedural requirements while ensuring collection of required license fees and protection of the public interest; and,

WHEREAS, the Board has carefully reviewed the within matter and determined that the staff's requested waiver and modification of the time limit for payment of occupational license fees in Rule

338(2) will increase the Board's administrative efficiency in processing and issuing occupational licenses without compromising the public interest; now therefore,

IT IS RESOLVED AND ORDERED, as follows:

1. That the requirement that the biennial license fee be paid within 14-days after the date of the Board's mailing of the notification of the applicant's suitability for licensure as set forth in Rule 338(2) is hereby waived until further order of the Board.
2. That the required biennial occupational license fee shall instead be submitted to and received by the Board within 30 days of the Board's mailing of the notification of the applicant's suitability for licensure, as set forth in Rule 338(2).
3. That, if payment of the required biennial license fee is not received by the Board within 30 days after the date of mailing of the Board's notification of the applicant's suitability for licensure, then the applicant's temporary occupational license will be suspended pending receipt of payment, and the applicant will not be authorized to perform any duties that require licensure by the MGCB during the suspension of the applicant's temporary occupational license. In addition, the Executive Director may also, in his discretion, issue the applicant a notice of denial, if the Executive Director determines that there is no apparent good cause or reason for the applicant's failure to pay the required licensing fee within 30 days of the date of the Board's mailing of notification of the applicant's suitability for licensure;
4. That, upon payment of the required biennial license fee, an occupational license will issue in accord with Rule 338, unless a notice of denial has been issued by the Executive Director pursuant to Rule 338(2) or the Resolution; and
5. That any change in circumstances relative to the applicant's eligibility or suitability for licensure will be reviewed and evaluated by the Board prior to issuance of any occupational license to a previously Board-approved applicant, if the biennial license fee is not received within 30 days after the date of the Board's mailing of notification of the applicant's suitability for licensure.