



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

March 25, 2024

NOTICE OF FILING

ADMINISTRATIVE RULES

To: Secretary of the Senate
Clerk of the House of Representatives
Joint Committee on Administrative Rules
Michigan Office of Administrative Hearings and Rules (Administrative Rule #24-003-LR)
Legislative Service Bureau (Secretary of State Filing #24-03-08)
Department of Licensing and Regulatory Affairs

In accordance with the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6, this is to advise you that the Michigan Office of Administrative Hearings and Rules filed Administrative Rule #2024-003-LR (Secretary of State Filing #24-03-08) on this date at 10:07 A.M. for the Department of Licensing and Regulatory Affairs entitled, "Licensing of Health Facilities or Agencies".

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.

Sincerely,

Jocelyn Benson
Secretary of State

A handwritten signature in black ink that reads "Lashana Threlkeld / CK".

Lashana Threlkeld, Departmental Supervisor
Office of the Great Seal

Enclosure



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

March 25, 2024

The Honorable Jocelyn Benson
Secretary of State
Office of the Great Seal
Richard H. Austin Building – 1st Floor
430 W. Allegan
Lansing, MI 48909

Dear Secretary Benson:

Re: Administrative Rules -- Michigan Office of Administrative Hearings and Rules
Administrative Rules #: 2024-3 LR

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated March 11, 2024 for the Department of Licensing & Regulatory Affairs “**Licensing of Health Facilities or Agencies**”. We are transmitting these rules to you pursuant to the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6.

Sincerely,

Michigan Office of Administrative Hearings and Rules



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

CERTIFICATE OF ADOPTION

By authority conferred on the Department of Licensing and Regulatory Affairs by Sections 20115, 20131, 20132, 20141, 20171, 21419, 21521, 21523, 21561, 21562, 21563, 21615, 21741, and 21795 of the Public Health Code, 1978 PA 368, MCL 333.20115, 333.20131, 333.20132, 333.20141, 333.20171, 333.21419, 333.21521, 333.21523, 333.21561, 333.21562, 333.21563, 333.21615, 333.21741, and 333.21795, and Executive Reorganization Order Nos. 1994-1, 1996-1, 1997-4, 2003-1, 2009-20, 2011-4, and 2015-1, MCL 333.26322, 330.3101, 333.26324, 445.2011, 333.26366, 445.2030, and 400.227.

R 325.45101, R 325.45103, and R 325.45193 of the Michigan Administrative Code are amended, and R 325.45341 and R 325.45343 are rescinded.

Date: 03/21/2024

Adopted by: *Marlon I. Brown*
Marlon I. Brown, DPA
Director
Department of Licensing and Regulatory Affairs



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated March 11, 2024, in which the Department of Licensing and Regulatory Affairs proposes to modify a portion of the Michigan Administrative Code entitled “**Licensing Health Facilities or Agencies**” by:

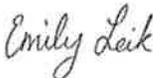
- ◆ Amending R 325.45101, R 325.45103, and R 325.45193.
- ◆ Rescinding R 325.45341 and R 325.45343.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: March 20, 2024

Michigan Office of Administrative Hearings and Rules

By: 

Emily Leik,
Attorney



Since 1941

Legal Division

Kevin H. Studebaker, Director

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of Licensing and Regulatory Affairs dated March 11, 2024, amending R 325.45101, R 325.45103, and R 325.45193, and rescinding R 325.45341 and R 325.45343 of the Department's rules entitled "Licensing Health Facilities or Agencies." I approve the rules as to form, classification, and arrangement.

Pursuant to section 44(1) of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.244(1), these rules are being processed without a public hearing.

Dated: March 20, 2024

LEGISLATIVE SERVICE BUREAU

By _____

Rachel M. Hughart,
Legal Counsel

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF COMMUNITY AND HEALTH SYSTEMS

LICENSING HEALTH FACILITIES OR AGENCIES

Filed with the secretary of state on March 25, 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 department of licensing and regulatory affairs by sections 20115, 20131, 20132, 20141, 20171, 21419, 21521, 21523, 21561, 21562, 21563, 21615, 21741, and 21795 of the public health code, 1978 PA 368, MCL 333.20115, 333.20131, 333.20132, 333.20141, 333.20171, 333.21419, 333.21521, 333.21523, 333.21561, 333.21562, 333.21563, 333.21615, 333.21741, and 333.21795, and Executive Reorganization Order Nos. 1994-1, 1996-1, 1997-4, 2003-1, 2009-20, 2011-4, and 2015-1, MCL 333.26322, 330.3101, 333.26324, 445.2011, 333.26366, 445.2030, and 400.227)

R 325.45101, R 325.45103, and R 325.45193 of the Michigan Administrative Code are amended, and R 325.45341 and R 325.45343 are rescinded, as follows:

R 325.45101 Applicability.

Rule 101. (1) Rules 325.45103 to 325.45323 are applicable to all of the following:

- (a) Freestanding surgical outpatient facility.
- (b) Hospice.
- (c) Hospital.
- (d) Nursing care facility.

(2) Rules 325.45331 to 325.45339 are only applicable to a freestanding surgical outpatient facility.

(3) Rules 325.45345 to 325.45367 are only applicable to a hospice.

(4) Rules 325.45369 to 325.45375 are only applicable to a hospital.

(5) Rules 325.45377 to 325.45385 are only applicable to a nursing care facility.

R 325.45103 Definitions; A to F.

Rule 103. (1) As used in these rules:

(a) "Anesthesia" means a state of loss of feeling or sensation and is normally used to denote the loss of sensation to pain that is purposely induced using a specific gas or drug to permit the performance of surgery or other painful procedure.

(b) "Anesthesiologist" means a physician who specializes in the field of anesthesiology and who may or may not be a diplomate of the physician's specialty board.

March 11, 2024

(c) “Anesthetic” means a drug, gas, or other agent used to abolish the sensation of pain. There are 3 classifications as follows:

(i) “General anesthetic” means an anesthetic agent that produces a temporary loss of consciousness by the administration of a gas; oral, intramuscular, or intravenous drugs; or a combination of these methods.

(ii) “Local anesthetic” means a drug whose action is limited to an area of the body around the site of its application.

(iii) “Spinal,” “epidural,” or “caudal” anesthetic means the injection of a local anesthetic into the spinal canal epidural area to produce a loss of sensitivity to the body areas at and below the sensory nerve distribution at the level of the injection.

(d) “Anesthetist” means an individual who is qualified to administer anesthetic.

(e) “Applicant” means an individual applying to the department for a health facility or agency license.

(f) “Article 15” means article 15 of the code, MCL 333.16101 to 333.18838.

(g) “Article 17” means article 17 of the code, MCL 333.20101 to 333.22260.

(h) “Bereavement services” means emotional, psychosocial, or spiritual support services provided to the family before or after the death of the patient to assist the family in coping with issues related to grief, loss, or adjustment.

(i) “Building change” means alterations to an existing building involving a change in the interior configuration or intended use, including alterations to the mechanical, electrical, or plumbing systems. This term does not include routine maintenance or replacement with comparable mechanical, electrical, or plumbing equipment that does not alter the current physical structure.

(j) “Business day” means a day other than a Saturday, Sunday, or any legal holiday.

(k) “Change of ownership” means the transfer of a health facility or agency from 1 owner to another if the licensee changes. This term does not include a transfer of a health facility or agency from 1 owner to another if the licensee does not change.

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

(m) “Complainant” means an individual who files a complaint with the department alleging that a person has violated the code, an order issued under the code, or administrative rules promulgated thereunder.

(n) “Correction notice” means a notice from the department to a health facility or agency specifying violations of the code or these rules, corrective action to be taken, and the period in which the corrective action is to be completed.

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

(p) “Discharge” means that term as defined in section 21702 of the code, MCL 333.21702. In addition, as used in these rules, “discharge” means the voluntary or involuntary movement of a patient out of any type of health facility or agency.

(q) “Freestanding surgical outpatient facility” or “FSOF” means a facility as defined in section 20104 of the code, MCL 333.20104. Characteristics of a freestanding surgical outpatient facility include, but are not limited to, patient encounters with a physician, dentist, podiatrist, or other provider primarily for performing surgical procedures or related diagnosis, consultation, observation, and postoperative care, and the owner or operator may make the facility available to other physicians, dentists, podiatrists, or other providers who comprise its professional staff. This term does not include a private office of a physician, dentist, podiatrist, or other health professional whose patients are limited to those of the individual licensed professional

maintaining and operating the office or the combined patients of individually licensed professionals practicing together in a legally constituted professional corporation, association, or partnership and sharing office space, if the private office is maintained and operated by a licensed health professional in accordance with usual practice patterns according to the type of practice and patient encounters in the office are for diagnosis and treatment and are not limited primarily to the performance of surgical procedures and related care.

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

R 325.45193 Surgical patient record; required information; informed consent.

Rule 193. (1) In addition to R 325.45191, a freestanding surgical outpatient facility and a hospital shall keep and maintain in the surgical patient record all of the following:

- (a) Name of the surgeon.
- (b) Name of the anesthesiologist or anesthetist, if other than the surgeon, if applicable.
- (c) Preoperative study and diagnosis details if medically necessary.
- (d) Provider notes including preoperative and postoperative vital signs and other relevant observations to document the patient's stabilized condition at the time of discharge.
- (e) Product name and dosage of any sedative and anesthetic used.
- (f) Method of anesthesia and any pertinent information concerning results or reactions.
- (g) Operation and treatment notes and consultations.
- (h) The postoperative diagnosis, including pathological findings.
- (i) Social or social service information relevant to the case.
- (j) Surgeon's operative note including all of the following:
 - (i) Name of each procedure performed.
 - (ii) Duration of procedure and any unusual problems or occurrences encountered.
 - (iii) Surgeon's description of gross appearance of any tissues removed.
- (k) Summary of instructions given for follow-up observation and care.

(2) The facility shall obtain informed consent from a patient, or the responsible relative or guardian in the case of an unemancipated minor, before the performance of a surgical procedure and maintain the signed written consent form or forms in the patient's record.

R 325.45341 Rescinded.

R 325.45343 Rescinded.

FILED WITH SECRETARY OF STATE

ON 3/25/24 AT 10:07A.M.