State Budget Office
Office of Regulatory Reinvention
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REQUEST FOR RULEMAKING (RFR)

Under the Administrative Procedures Act (APA), 1969 PA 306, the agency that has the statutory authority to promulgate rules must electronically file a RFR with the Office of Regulatory Reinvention (ORR) before initiating any changes or additions to the rules. Submit copy to the ORR at **orr@michigan.gov**.

1. Agency Information

Agency name:	Licensing and Regulatory Affairs
Division/Bureau/Office:	Bureau of Medical Marihuana Regulation (BMMR)
Agency contact person name, e-mail, and phone:	Jacob Nevin Departmental Analyst Bureau of Medical Marihuana Regulation Department of Licensing and Regulatory Affairs Nevinj2@michigan.gov Phone: 517-284-8583 Kelly Kronner Departmental Analyst Bureau of Medical Marihuana Regulation Department of Licensing and Regulatory Affairs kronnerk@michigan.gov Phone: 517-284-8584

2. Rule Set Information

Title of proposed rule set:	Michigan Medical Marihuana
Rule number(s) or range of numbers:	R 333.101 – R 333.133
Included in agency's 2018 annual regulatory plan as rule to be processed in current year?	Yes

3. Estimated timetable for completion, or statutory deadline, if applicable:

6 months to a year

4. Describe the general purpose of these rules, including any problem(s) the changes are intended to address:

The Michigan Medical Marihuana Act (MMMA), MCL 333.26421, authorizes the medical use of marihuana for qualifying patients and provides for the issuance of registry identification cards to qualifying patients and their caregivers, if applicable. The administrative rules implement the requirements of the MMMA. The administrative rules are being revised to do the following:

- Require that applications and physician certifications are signed and dated within 6 months of the date the documents are received by the Michigan Medical Marihuana Program (MMMP) Division within BMMR. The rule currently requires that these documents be signed and dated within 1 year of the date they are received by the MMMP. The time frame is being decreased to reduce the chance of registry cards being issued to patients whose medical condition has been resolved and who no longer qualify for the medical use of marihuana.

- Require that individuals who submit a voter registration as proof of Michigan residency submit additional documentation for verification purposes since a voter registration does not include a date of birth. The rule is being amended to be consistent with the MMMP's current policy and procedure and legal advice provided by the Department of Attorney General.
- Clarify that the legal guardian of a minor applicant must submit proof of legal guardianship rather than power of attorney. The rule is being amended to be consistent with the MMMP's current policy and procedure and legal advice provided by the Department of Attorney General.
- Clarify the methods by which the MMMP will contact a patient, caregiver, or physician to verify the information provided on an application or supporting documentation. This is being expanded to include contact by email.
- Reduce the patient application fee from $60.00 to $40.00. The fee is being reduced because there are funds in the marihuana registry fund that are sufficient to cover the MMMP's operational expenses for five years or more. Further, the revenue generated based on the current application fee for the past three years is approximately 90% - 100% more than MMMP's operational expenses.
- Eliminate the $25.00 caregiver criminal background check processing fee. The fee is being eliminated because there are funds in the marihuana registry fund that is sufficient to cover the MMMP's operational expenses for five years or more.
- Eliminate the $10.00 fee to update the name or address on a registry card or to add a caregiver or request a replacement card. The fee is being eliminated because there are extra funds in the marihuana registry fund that is sufficient to cover the MMMP's operational expenses for five years or more.
- Eliminate language in the rules that is redundant and simply repeats provisions specified in the Act.
- Authorize the department to include patient and caregivers' photographs on registry identification cards in the future.
- Increase the renewal period for patients from 60 to 90 days, which will provide patients with more time to renew their registry identification cards.
- Include a provision that authorizes patients to change the person designated to be in possession of the plants. This change is being made to be consistent with the current policy and procedure.
- Require that patients and caregivers withdraw from the registry program in a manner prescribed by the department. This change is being made so that withdrawal requests are submitted to the department in a uniform and consistent manner.
- Revise the petition process to add the newly approved medical conditions and treatments.
- Clarify the rules governing the Medical Marihuana Review Panel.

5. Cite the specific rule promulgation authority (i.e. agency director, commission, board, etc., listing all applicable statutory references. If the rule(s) are mandated by any applicable constitutional or statutory provision, please explain.

Section 5(a) of the MMMA, MCL 333.26425(a), states the department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that govern the manner in which the department shall consider the addition of medical conditions or treatments to the list of debilitating medical conditions set forth in section 3(a) of the act.

Section 5(b) of the Act, MCL 333.26425(b), states the department shall promulgate rules

pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that govern the manner in which it shall consider applications for and renewals of registry identification cards for qualifying patients and primary caregivers. The department's rules shall establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering the Act.

6. Describe the extent to which the rule(s) conflict with, duplicate, or exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level. Include applicable public act and statutory references.

The Bureau of Medical Marihuana Regulation is responsible for promulgating rules that implement, administer, and enforce the:

- Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, as amended by 2016 PA 283
- Medical Marihuana Facilities Licensing Act (MMFLA), 2016 PA 281
- Marihuana Tracking Act, 2016 PA 282

The proposed MMMA rules will work in conjunction with the MMFLA rules and the Marihuana Tracking Act rules that will be promulgated in the future. The proposed MMMA rules will not conflict with either of the other rule sets.

There are no existing federal regulations for medical marihuana. Presently, the United States Drug Enforcement Administration (DEA) specifies that marihuana is a schedule I controlled substance that does not meet the criteria for currently accepted medical use.

7. Is the subject matter of the rule(s) currently contained in any guideline, manual, handbook, instructional bulletin, form with instructions, or operational memo?

The following subject matter of the proposed rules are included on forms the MMMP currently uses:

- The fee amounts.
- The requirement that an application and physician certification must be signed and dated within one year of the date the MMMP receives the documents.
- That additional proof of identity is required if a patient submits a voter registration for verification purposes.
- That patients can change the person designated to be in possession of the plants.
- The option to withdraw from the program using a form prescribed by the department.

8. Explain whether the rule(s) will be promulgated under Sections 44 or 48 of the APA or the full rulemaking process:

The rules will be promulgated under the full rulemaking process. Section 5 of the MMMA, MCL 333.26425, states the department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

9. Do the rule(s) incorporate the recommendations of any Advisory Rules Committee formed pursuant to Executive Order 2011-5? If yes, explain.

No.

10. Is there an applicable decision record as defined in Section 3(6) and required by Section 39(2) of the APA? If so, please attach the decision record.

Not applicable. Section 5 of the MMMA, MCL 333.26425, states the department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

The MMMA does not provide for an Advisory Committee or require the proposed rules incorporate recommendations from an Advisory Committee.

11. Reviewed by the following Departmental Regulatory Affairs Officer:

Liz Arasim Department of Licensing and Regulatory Affairs

↓ **To be completed by the ORR** ↓

Date RFR received:10-31-2018

☒ **Based on the information in this RFR, the ORR concludes that there are sufficient policy and legal bases for approving the RFR.**

ORR assigned rule set number:	**2018-095 LR**
Date of approval:	**11/16/18**

☐ **Based on the information in this RFR, the ORR is not approving the RFR at this time.**

Date of disapproval:	
Explanation:	