

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

INSURANCE

GOOD MORAL CHARACTER

Filed with the secretary of state on March 20, 2023

These rules take effect immediately upon 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 insurance and financial services by section 210 of the insurance code of 1956, 1956 PA 218, MCL 500.210, section 3 of 1974 PA 381, MCL 338.43, and Executive Reorganization Order No. 2013-1, MCL 550.991)

R 500.21, R 500.22, R 500.23, R 500.24, and R 500.25 are added to the Michigan Administrative Code, as follows:

R 500.21 Definitions.

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

(a) “Act” means the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(b) “Applicant” means an individual applying for a license as an insurance producer under section 1205 or 1206a of the act, MCL 500.1205 or 500.1206a; solicitor under section 1214 of the act, MCL 500.1214; adjuster under section 1224 of the act, MCL 500.1224; or insurance counselor under section 1234 of the act, MCL 500.1234.

(c) “Conviction” means a final judgment entered by a court upon a plea of guilty, guilty but mentally ill, or nolo contendere or upon a jury verdict or court finding that a defendant is guilty or guilty but mentally ill. However, the following are not considered a conviction for the purposes of these rules:

(i) An order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, or a similar law of another jurisdiction applicable to the adjudication of juveniles.

(ii) A conviction that has been expunged. As used in this paragraph, “expunged” means that the conviction was set aside pursuant to 1965 PA 213, MCL 780.621 to 780.624, or a similar law of another jurisdiction, or the criminal history record information pertaining to the conviction was destroyed. A conviction is not considered expunged solely because the conviction is sealed, nonpublic, or otherwise not disclosable to 1 or more individuals or group of individuals pursuant to applicable law.

(iii) A conviction that has been reversed or vacated.

(d) “Director” means the director of the department of insurance and financial services.

(e) “Felony” means that term as defined in section 1 of 1974 PA 381, MCL 338.41.

(f) “Misdemeanor” means a violation of either of the following:

(i) A penal law that is not a felony.

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(ii) An order, rule, or regulation if the violation is punishable by a term of imprisonment in a jail or prison.

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

R 500.22 Scope and applicability.

Rule 2. These rules do the following:

(a) Identify convictions, not already identified as a bar to licensure under the act, that evidence an applicant's lack of good moral character.

(b) Establish criteria and standards for the director's review of an applicant's good moral character.

(c) Establish procedures for an applicant to submit a claim to rebut the use of a conviction as evidence of lacking good moral character.

R 500.23 Convictions that evidence a lack of good moral character.

Rule 3. (1) Subject to subrule (2) of this rule and only if an applicant's criminal record includes a felony conviction that meets 1 or more of the requirements listed in section 2(2) of 1974 PA 381, MCL 338.42, an applicant's lack of good moral character is evidenced by any of the following:

(a) The applicant's conviction of any crime involving a substantial misrepresentation of any material fact, including any of the following:

(i) Bribery and bribe receipt.

(ii) Any type of fraud, including, but not limited to, insurance fraud, mail fraud, mortgage fraud, Medicare fraud, welfare fraud, unemployment fraud, land fraud, tax fraud, securities fraud, fraudulent use of a credit or debit card, or criminal fraud.

(iii) Filing a false claim.

(iv) Aiding or abetting the filing of a false claim.

(v) Allowing an establishment to be used for illegal purposes.

(b) The applicant's conviction of any crime involving any of the following:

(i) Homicide.

(ii) Murder.

(iii) Manslaughter.

(iv) Mayhem.

(v) Negligent homicide.

(vi) Attempt to commit any of the offenses specified in paragraphs (i) and (ii) of this subdivision.

(c) The applicant's conviction of any crime involving assault or battery, or both.

(d) The applicant's conviction of any crime involving a violent act, or a threat of a violent act, against an individual or any crime constituting a sexual offense, including, but not limited to, any of the following:

(i) Criminal sexual conduct in any degree.

(ii) Activity for-profit involving any of the following:

(A) Child abuse, neglect, or exploitation.

(B) Kidnapping.

(C) Adoption schemes.

(D) Prostitution or related crimes, including, but not limited to, managing, human trafficking, and transporting.

- (iii) Cruelty toward, or torture of, any individual.
- (iv) Attempt to commit any of the offenses specified in paragraphs (i) and (iii) of this subdivision.
- (e) The applicant's conviction of any of the following crimes:
 - (i) Robbery.
 - (ii) Armed robbery.
 - (iii) Burglary crimes, including, but not limited to, breaking and entering, home invasion, and entering without breaking.
 - (iv) Attempt to commit any of the offenses specified in paragraphs (i), (ii), and (iii) of this subdivision.
 - (v) Arson.
 - (vi) Receiving or concealing stolen property.
 - (vii) Extortion.
 - (viii) Embezzlement.
 - (ix) Money laundering.
 - (x) Racketeering.
 - (xi) Theft offenses not otherwise identified in this rule that are punishable by a term of imprisonment of 1 year or more, including, but not limited to, larceny, larceny by trick, larceny by conversion, and obtaining property by false pretenses.
 - (xii) Forgery or any crime involving the falsification of documents.
 - (xiii) Criminal impersonation.
 - (xiv) Perjury or subornation of perjury.
 - (xv) Witness or evidence tampering.
 - (xvi) Crimes against children, including, but not limited to, possession of child pornography.
 - (xvii) Offenses involving poisoning.
 - (xviii) Offenses involving explosive materials or firearms.
 - (xix) Illicit trafficking in firearms or destructive devices.
- (2) An applicant's lack of good moral character is not evidenced by any of the following:
 - (a) A misdemeanor conviction for a violation of a traffic law.
 - (b) A criminal record of a conviction that may not be used, examined, or requested in making a determination of good moral character pursuant to section 3(1) of 1974 PA 381, MCL 338.43.
 - (c) For an applicant having not more than 1 conviction, a misdemeanor conviction that was entered more than 5 years before the date of the applicant's application for licensure.

R 500.24 Director's review; notice; submission of certain information or documentation.

Rule 4. (1) The director shall not consider a conviction, in and of itself, as conclusive proof that an applicant lacks good moral character, as provided in section 2(2) of 1974 PA 381, MCL 338.42.

(2) As provided in these rules and 1974 PA 381, MCL 338.41 to 338.47, the director may consider a conviction as evidence when determining an applicant's good moral character. If a conviction is considered in that determination, the director shall also consider all of the following, as applicable:

(a) As provided in section 2(4) of 1974 PA 381, MCL 338.42, the applicant's certificate of employability under section 34d of the corrections code of 1953, 1953 PA 232, MCL 791.234d, and any additional information regarding the applicant's current circumstances, such as how long

ago the offense occurred, whether the applicant completed the sentence for the offense, other evidence of rehabilitation, testimonials, employment history, and employment aspirations.

(b) Whether there is a reasonable relationship between the conduct relating to the conviction and the duties of the applicant if granted the license.

(c) The number of convictions that the applicant has, as identified in R 500.23.

(d) The underlying facts of the conviction, including, but not limited to:

(i) The monetary value involved.

(ii) The applicant's relationship to a victim.

(iii) The applicant's age when the applicant was convicted.

(e) Whether the applicant disclosed his or her conviction on the application for licensure, and if the applicant did not make that disclosure, whether the applicant had good cause for the failure to make that disclosure.

(f) Any other information or documentation that the director considers appropriate in determining the applicant's good moral character.

(3) To make a determination of an applicant's good moral character, the director may require the applicant to submit 1 or more of the following, in a form and manner prescribed by the director:

(a) A copy of the official court records relating to the application's conviction.

(b) A written statement from the applicant explaining the underlying facts relating to the conviction.

(c) Any other information or documentation relating to the applicant's conviction that the director considers appropriate, including, but not limited to, information or documentation supporting a claim under R 500.25.

(4) At the conclusion of the director's review, if the director determines that the applicant is not eligible for a license because of a lack of good moral character, the director shall provide the applicant with notice of the denial and an opportunity for a hearing or rehearing in accordance with section 5 of 1974 PA 381, MCL 338.45, and sections 1239(4) and 1242 of the act, MCL 500.1239 and 500.1242.

R 500.25 Claim to rebut use of conviction as evidence of lacking good moral character; submission of supporting information or documentation.

Rule 5. (1) If an applicant has a conviction that may be used as evidence of the applicant's lack of good moral character, the applicant may provide the director with a claim for the purposes of rebutting that evidence by asserting 1 or more of the following:

(a) The applicant currently has the ability to, and is likely to, serve the public in a fair, honest, and open manner.

(b) The applicant has been rehabilitated.

(c) A requirement under section 2(2) of 1974 PA 381, MCL 338.42, has not been met.

(2) An applicant shall submit a claim described in subrule (1) of this rule with the application for the license in a form and manner prescribed by the director. The applicant shall submit with the claim supporting information, documentation, or a combination of both. In addition, the claim must include both of the following:

(a) A written statement by the applicant showing that 1 or more of the circumstances described in subrule (1) of this rule applies. The statement may include, but is not limited to, all the following:

(i) Length of time since the date of the applicant's conviction.

- (ii) Volunteer work performed by the applicant.
 - (iii) Employment history of the applicant.
 - (iv) Personal achievements of the applicant.
 - (v) Professional achievements of the applicant.
 - (vi) Educational achievements of the applicant, such as classes taken, certifications or licenses obtained, or degrees earned.
 - (vii) Organizational activities and community involvement of the applicant.
 - (viii) Meaningful contributions made by the applicant for the well-being of other individuals.
 - (ix) The applicant's compliance with conditions of probation or parole and court-ordered obligations, including, but not limited to, full payment of fines and costs imposed as a result of a conviction.
- (b) Two professional letters of reference from 2 different individuals that have worked with the applicant in a professional capacity. The letters must meet all of the following requirements:
- (i) Be signed by the individual serving as a reference.
 - (ii) Be drafted and dated within 6 months before the date of the application for licensure.
 - (iii) Include a statement of how the individual knows the applicant and the length of time of their relationship.