

**DENIAL AND EXCLUSION HEARINGS UNDER  
THE MICHIGAN GAMING CONTROL BOARD  
ADMINISTRATIVE RULES**

(Excerpted from MR 432.1701 - MR 432.1713)

***WHO MAY REQUEST A HEARING?***

A person may request a hearing under Part 7 if the MGCB denies that person an initial license, a license renewal, a transfer of ownership, or a required approval, or places the person on an exclusion list. The person requesting the hearing is the Petitioner and may represent himself or herself at the hearing or may retain an attorney at the Petitioner's own expense.

***HOW DOES A PETITIONER REQUEST A HEARING?***

A request for hearing must be in writing and received by the MGCB within 21 days after service of the notice of denial, notice of non-renewal, or notice of exclusion. A form upon which you may request a hearing is included with the MGCB notice of denial, notice of non-renewal, or notice of exclusion. The Petitioner must send the original and two copies of the Request for Hearing form by certified mail to the following address:

Michigan Gaming Control Board  
Attention: Hearings Clerk  
P.O. Box 30786  
Lansing, MI 48909

***WHAT MUST BE INCLUDED IN THE REQUEST FOR HEARING FORM?***

The Petitioner must include in his or her Request for Hearing form the specific reasons, supported by facts, for which the Petitioner contests the MGCB notice of denial, notice of non-renewal, or notice of exclusion. The Request for Hearing form must also contain Petitioner's specific response to the facts listed in the MGCB notice of denial, notice of non-renewal, or notice of exclusion. The Petitioner must sign, verify and date the request for hearing. The verification must be notarized and certify the following: "Under the penalty of perjury, the undersigned has examined this request for hearing and to the best of my knowledge and belief, it is true, complete, and correct."

***MAY THE PETITIONER WITHDRAW HIS OR HER REQUEST FOR HEARING ONCE THE MGCB RECEIVES IT?***

A request for hearing may not be withdrawn or voluntarily dismissed if the MGCB determines that withdrawal or dismissal would not be in the best interest of the public or the gaming industry. If the MGCB allows a Petitioner to withdraw a hearing request, then the initial denial, non-renewal, or placement on the exclusion list becomes a final MGCB order.

***WHAT HAPPENS AFTER THE MGCB GRANTS THE PETITIONER'S REQUEST FOR HEARING?***

The MGCB executive director will assign the Petitioner's request for hearing a case number and title and appoint either a MGCB member or an administrative hearing officer to conduct a *de novo* hearing (a new hearing). The Petitioner will be served with notice of the hearing officer's appointment and the time, date, and place for the hearing.

***WHAT IS THE HEARING OFFICER'S ROLE?***

The hearing officer conducts the contested case hearing. As such, the hearing officer is authorized to perform a variety of duties including issuing subpoenas to compel the attendance of witnesses and production of documents, authorizing depositions, administering oaths, receiving evidence and questioning witnesses, setting schedules, issuing interim orders, and performing other duties to make sure the parties are provided a fair and proper hearing. A party or its attorney cannot communicate directly or indirectly with the hearing officer regarding any pending matter unless notice is given and all parties have the opportunity to participate.

***DOES THE HEARING OFFICER HAVE THE AUTHORITY TO GIVE SANCTIONS AND PENALTIES?***

The hearing officer may impose sanctions and penalties if a party fails to appear at a scheduled hearing, has acted in bad faith to delay the process, or has otherwise abused the hearing process. If a Petitioner refuses to testify on his or her own behalf when questioned or fails to answer a subpoena, the hearing officer may conclude that the testimony or answer would have been adverse to the case of the party refusing to testify. If the Petitioner or its agent fails to answer a subpoena or refuses to testify fully at the

MGCB request, the failure may be construed as an independent ground for a finding that the Petitioner should have been denied a license or transfer of ownership.

***WILL A PREHEARING CONFERENCE BE HELD BEFORE THE EVIDENTIARY PORTION OF THE CONTESTED CASE HEARING BEGINS?***

The hearing officer must schedule a prehearing conference before the evidentiary portion of a hearing begins if requested by either party. The prehearing conference may be used to enter stipulations as to undisputed issues. The parties must stipulate, if possible, to all undisputed matters. At the prehearing conference, the hearing officer may hear argument on motions filed by the parties and may consider other matters necessary to assist in conducting the hearing.

***WILL THE PARTIES BE ALLOWED DISCOVERY OF INFORMATION?***

The hearing officer may allow discovery, including the taking of depositions and compelling the production of papers and documents, if a party files a written request stating the reasons why discovery is necessary.

***HOW WILL I KNOW WHAT WITNESSES AND EXHIBITS ARE LIKELY TO BE OFFERED AS EVIDENCE AT THE HEARING?***

The parties must exchange witness and exhibit lists at least 10 days before the hearing. The hearing officer may exclude any witnesses or exhibits not disclosed in a timely manner.

***WHAT HAPPENS AT THE CONTESTED CASE HEARING?***

The parties may present opening statements. The Petitioner presents his or her case first followed by the adverse party's case. Testimony given is under oath and subject to cross examination by the parties. The hearing officer may also question the witnesses. The Petitioner may present rebuttal evidence. The parties may then present closing argument. The hearing officer may require or allow the parties to submit post hearing briefs, proposed findings of fact, and conclusions of law within 10 days of the conclusion of the hearing.

**WILL THE HEARING BE RECORDED?** The contested case hearing will be recorded. The record will be transcribed if requested by a party. The requesting party must pay for the transcript.

**WHAT EVIDENCE MAY BE PRESENTED AT THE CONTESTED CASE HEARING?**

The contested case hearing is held under the provisions of the Michigan Administrative Procedures Act, Public Act 306 of 1969, as amended, MCL 24.201 *et seq.* The parties may call witnesses subject to the discretion of the hearing officer and may object to offers of evidence made by the other party. The rules of evidence for a non jury civil case in circuit court will be followed as far as possible but the hearing officer may admit evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The hearing officer may exclude irrelevant, immaterial or unduly repetitious evidence and may take official notice of any generally accepted information or technical or scientific matter within the field of gaming and any other fact that may be judicially noticed by the Michigan courts. All information and materials presented at a public hearing is subject to public disclosure.

**WHAT IS THE STANDARD OF PROOF AT THE CONTESTED CASE HEARING AND WHO CARRIES THE BURDEN?**

At all times during the proceeding, the Petitioner has the burden of proof to establish by clear and convincing evidence, any of the following:

- (1) Petitioner should have been awarded a license.
- (2) Petitioner's license should have been renewed.
- (3) Petitioner's transfer of ownership should have been approved.
- (4) Petitioner should not have been placed on the exclusion list.
- (5) Petitioner should have been granted approval.

**WHAT IS THE TIMETABLE FOR THE HEARING OFFICER TO ISSUE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS?**

The hearing officer will issue written findings of fact, conclusions of law, and recommendations within 90 days after either the hearing has concluded or the parties have filed post-hearing briefs or proposed findings of fact. The parties may file objections within 60 days after the findings of fact, conclusions of law, and recommendations are issued. The MGCB will affirm the findings of fact, conclusions of law, and recommendations issued by the hearing officer if no party files objections.

**WHEN WILL THE MGCB ISSUE ITS FINAL ORDER?** The MGCB will issue its final order within 60 days of the later of either hearing oral argument by the parties; receiving the parties' briefs; the date the hearing officer issues his or her written recommendations, findings of fact, and conclusions of law; or the expiration of time for the parties to file objections to the hearing officer's written findings of fact, conclusions of law, and recommendations. The MGCB may require the parties to present oral argument. The MGCB final order becomes effective when it is personally delivered to the parties or upon posting by certified mail.

*For more information*  
Michigan Gaming Control Board  
P.O. Box 30786  
Lansing, Michigan 48909  
Attention: Hearings Clerk  
  
(517) 241-1063  
  
*Visit our website at*  
**[www.michigan.gov/mgcb](http://www.michigan.gov/mgcb)**  
  
*Not printed at public expense*  
**Form # MGCB-B-04**  
(October 2008)

*Frequently asked Questions*  
*about*  
**Denial & Exclusion**  
**Hearing Procedures**



**For applicants who have been:**

- *Denied an initial license*
- *Denied a license renewal*
- *Denied a transfer of ownership*
- *Placed on an exclusion list*

