

GET YOUR LICENSE BACK

MICHIGAN

**YOUR GUIDE TO GETTING
DRIVING PRIVILEGES RESTORED IN MICHIGAN**



REVOKED

**By Timothy A. Dinan, Esq.
& Catherine A. Zatkoff, MA, LPC**

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And

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Authors' Forward

The authors of Get Your License Back, Michigan! have taken their collective experience having worked in and with the government, with a combined 50+ years of professional experience and having represented thousands of clients and created this manual to help you, the Michigan citizen who lost his or her driving privileges and is not sure how to get those privileges back.

We hope this manual can answer your questions and give you a better understanding of what you need to do to prepare the required forms, gather favorable evidence and personally prepare for a hearing.

How to Use This Book

The chapters are organized in steps starting with how to hire professionals and gather materials needed for the application and hearing.

For the DIY applicants, there are detailed descriptions to fill out each line of the forms. There are glossaries in Chapters 4 and 5 to explain the legal and medical terms you will see. You will find guidance for writing effective letters of support.

How We Can Help You

You may have questions that you cannot find answers to in this book. You can email or call us with your questions about getting your license back.

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Chapter 1

Getting Back on the Road

I. Introduction

Social views of drinking have change much from the 1960s to today. In old movies and TV shows, no one comes on scene without pouring themselves a drink or already having one in hand. Comedies from the early years of moviemaking portrayed people driving drunk and it was made out to be funny. At one point, the legal limit for driving under the influence in Michigan was .15% BAC, twice the current legal level.

Beginning with federal highway funding legislation mandating tougher alcohol enforcement standards, Michigan began amending its drunk driving laws in 1992 and has continued to since then. It lowered the blood alcohol limit to .08% BAC, created more severe penalties, and took away driving privileges earlier. The legislature eliminated most hardship exceptions for the return of driving privileges. That means you cannot tell the Secretary of State that you need a car for work or to get loved ones around and expect to get your license back. Rather, the Secretary of State created a system of getting your license back by making you prove that you are not drinking and you are not a threat to public safety.

If you are eligible, you can apply to get a restricted license. Technology has evolved to monitor whether drivers are driving and using alcohol. An individual whose license has been revoked now has the ability to get a restricted license with a record made of sobriety every time you operate your car. Everyone who gets restricted privileges must have a 'BAIID' device (Breath Alcohol Ignition Interlock Device), commonly known as an Interlock, installed on the vehicle for a minimum of one year. The newest systems not only test the driver's breath for alcohol, but also take a picture to prove it was you driving the car.

If you have two or more drunk driving convictions within seven years or three convictions within ten years, you are considered to be a habitual offender, a hazard to the driving public. Until you prove otherwise, it is legally presumed that you are a hazard to the driving public because you have two or more alcohol related convictions. Your driving privileges are revoked indefinitely

until you first go through a review process with the Secretary of State to prove (i.e. set aside the presumption) that you are no longer a hazard to the public.

II. Eligibility

Eligibility for restricted driving privileges is a matter of the passage of time and change of habit. To be eligible after having your driving privileges revoked, you must show that:

- A. Your driving privileges have been revoked for a minimum of one year or longer depending on your last conviction (five years on a OWI 3rd or subsequent offense). This minimum period of time can be extended as a result of driving while your license is suspended or other evidence of operating a vehicle while your license is revoked;
- B. You have a minimum of 12 months of abstinence from alcohol or other psychoactive substances of abuse and that you are committed to continued abstinence and operating your vehicle safely;
- C. You can show by clear and convincing evidence that you are going to maintain your abstinence and operate your vehicle safely through your evidence. In other words, you can prove that you are not likely to relapse into alcohol or substance use.

III. The Process

Most people who want their driving privileges back must go through the Michigan Secretary of State. The process for requesting limited driving privileges requires filling out and filing an application with a number of requirements that must be met before a hearing is scheduled. Once an application is complete and filed, a hearing is then scheduled. Once scheduled, an administrative hearing is held where the Petitioner asks a hearing officer for limited privileges to drive. At this hearing, the Petitioner presents his or her proofs for review. If you receive your restricted license, you can come back after one year of driving on the restricted license to the Secretary of State and request full driving privileges.

Hearing officers are attorneys with expertise in Michigan driving laws, have knowledge about alcohol and drugs as they relate to operating a vehicle, and have a great degree of latitude in deciding whether to give limited driving privileges to petitioners. They are employees of the Michigan Secretary of State. For your case, the hearing officer is your judge. Michigan courts recognize

their broad discretion and generally uphold the decisions of hearing officers when challenged on appeal.

In order to succeed in this process, you need to be prepared. There are many laws and administrative rules that apply to anyone seeking to get their privileges back. Most lawyers are unaware of the intricacies of the process and generally refer their clients to specialists in this area. The right lawyer knows this work is not done alone. You need a team behind you to succeed.

IV. A Team Approach to Get Your Privileges Back

Just as you probably do not do your own dentistry or rebuild your own transmission, getting your driving privileges back is not usually a Do-It-Yourself project unless you understand the law and theory behind Michigan's Driver's License Law.

A. Team Members

1. **You** – Also known as the Petitioner. You are the owner and star player of the team. The goal is to obtain your driving privileges.
 - You need to hire the players to play key positions.
 - You need to properly prepare the Form 257. Your attorney and substance use evaluator will help you check that is was done correctly.
 - You will need to find people in your life who will write letters of support for you and, if necessary, testify on your behalf.
 - Most importantly, you will work hard with your team to present the strongest case to get limited driving privileges.
2. **Your Attorney** – Your attorney is the coach/quarterback for the team. His first job is to assess you and your situation to ensure you are eligible for a hearing. Assuming you are eligible, the attorney then:
 - Assists you in properly preparing Form 257 making sure it is complete and is consistent with Form 258, and sees to its timely filing through the Michigan Secretary of State's online portal;

- Explains the application process and hearing with you and helps you develop the best strategy in presenting your proofs;
- Makes sure that you and your witnesses are prepared to testify: practicing questions and answers, preparing you and the witnesses for questions from the hearing officer and giving you and your witnesses feedback on their proposed testimony;
- Ensures you have good letters of support that deliver information about you and helps the hearing officer decide in your favor;
- Ensures your efforts in maintaining your abstinence are reflected properly and that all your other proofs are ready;
- Coordinates with your substance use assessor to ensure their report (i.e. Form 258) reflects their findings and their information conforms with the information in your Form 257.

3. Your Substance Use Evaluator – The evaluator is like the offensive coordinator. Her job is to prepare Form 258 with your input and give you an honest assessment to ensure you qualify for reinstatement. The substance use evaluator will also:

- Interview you to get the details of your substance use history, criminal convictions including nondriving convictions, and probe into your complete social history so that there are no surprises for your attorney or the hearing officer;
- Direct you to get urine samples and ensure the test results are admissible for the hearing. A standard 12 panel drug urine test typically looks for cocaine, marijuana, PCP, amphetamines, opiates, benzodiazepines, barbiturates, Methadone, Propoxyphene, Methaqualone, Ecstasy/MDMA, and Oxycodone/Percocet. (With 2 integrity variables). Alcohol IS one of the factors to be tested;
- Administers different tests to learn about your attitude and experience regarding abstinence and past abuse as part of the assessment;

- Provide you with a diagnosis and the appropriate recommendation for the Hearing Officer to consider; and
 - Offer advice and guidance to assist you in maintaining abstinence going forward.
4. **Support Persons** – These are your fellow team members. Support persons can be members of AA, family members, fellow employees/employers, friends and others who regularly observe you in your life. For someone to qualify as a support person:
- They should be able to write a letter that says: 1) how long they have known you, 2) their relationship to you, 3) how frequently they see or communicate with you, 4) whether they have seen or otherwise knew you consumed alcohol or other controlled substance and when was the last time, 5) the amount of alcohol you consumed and the last occasion they are aware of, 6) social activities you participate in, which involve alcohol or controlled substances, and 7) their awareness of your participation in support groups. (See Appendix B – Letter Writing Tips)
 - If the person will be a witness instead, then that person must be prepared to give testimony in this same regard.
5. **BAIID Vendor** – Think of the interlock vendor as the team trainer and physician. When you obtain limited driving privileges, the interlock device installed on your car will be your traveling companion for at least a year. The vendor needs to be dependable and responsive to the issues, which inevitably come up with electronic instruments installed on a car. The vendor should be able to competently install the instrument, service it, answer your questions and help you out when it is first installed. They should be able to answer questions on malfunctions and, when needed, change out or repair your malfunctioning device.

Bottom Line

With the right team being led by your lawyer, you greatly improve your chances for getting a limited driver's license,

which can become regular driving privileges if you maintain your abstinence and follow the Secretary of State's BAIID order.

This manual has more information on how to hire a lawyer, how to hire a substance use evaluator, how to prepare the Secretary of State forms, how to ask for support letters and how to prepare for the hearing.

V. How to Use This Book

1. You can read it from cover to cover if you want to know more about the re-licensing process. Your knowledge of the procedure of getting your license back will help you as you go through the process and familiarize yourself with the standards and law.
2. You may find it useful as a reference if you have a specific question about a form or what documents may be helpful in completing the application. You can also learn the language of this area of law and develop a better understanding of documents you review.
3. If you are a DIY sort of person, there is valuable information to get your forms filled out correctly and guide you on getting in front of a hearing officer and making your own case.

Feel free to pass this guide on to someone you know who is struggling without a license. No matter how you use it, the authors wish you the best in your efforts to get driving privileges.

¹The authors are not disparaging DIY filings nor stating that petitioners who file their own petitions do not succeed. However, they note that a number of their clients seek out their services after not being successful after their first attempt.

Chapter 2

How to Hire a Lawyer for Your License Restoration

I. Do You Need a Lawyer?

Losing the ability to drive complicates everything. Holding a job, attending school functions with your kids, going to the doctor, or just running up to the store are all complicated without driving privileges. If you are reading this manual, you or someone you know may be trying to get their driving privileges restored.

There is never a question what to do when your mouth is sore – you see a dentist. When you have a medical problem, you see a doctor. The same is true with legal problems. If you have a legal issue and you do not understand the law or the procedure around it, then it's time to hire a lawyer.

Driver's license problems are complex. Each person has a unique set of circumstances that led to their loss of driving privileges.

It costs money to hire a lawyer. But what is the cost of representing yourself? If you can present your own case and meet the legal and evidentiary standards of the Michigan Secretary of State to prove you are eligible to drive, then you do not need a lawyer. However, you can only make one request per year for privileges. What is the cost of not driving for a year or the cost of having to prepare yourself once again for the next hearing? Then, too, consider the cost of cabs and Uber rides. The goal of hiring an attorney is to do it once and do it right. While no attorney can or should guarantee a result, the right attorney can increase your odds for success.

Depending on when and for what reason you lost your license, there are different factors to consider when you want to submit your request for a license. There may be other issues such as pending charges, a job application, etc. Timing is important in these instances. If the application is not done correctly or the hearing does not go well, you have to wait for a year to reapply.

Any lawyer you hire should be like a good pair of shoes: 1) a good fit, 2) comfortable to be in, and 3) you need to be able to trust them in all conditions. Sometimes, the hard part is finding the right lawyer.

A. Traits To Look for in a Lawyer

1. **Communications:** Does the lawyer you want to hire have a communications policy? How quickly will your lawyer return calls, emails, and other communications? Good lawyers tend to be busy so instantaneous communications are not realistic. However, calls and emails should be responded to within 24 to 48 hours. When you interview the prospective lawyer, ask her or him their policy on communications. Watch out for the lawyer who is quick to sign you up and then ghosts you once your fee is paid.

Do you understand your lawyer when he or she speaks to you? Does the lawyer explain the law and legal standards in a way that you understand? Because the case is about you, understanding the law and practical application of it is key to your success.

Look at the attorney's website. It can give you some indication how the attorney communicates; and it can tell you what other social media the attorney uses. It can tell you more about the attorney's experience and background. Just the same, take all information with a grain of salt and be prepared to check it out.

What do other people say about a lawyer? Most lawyers are hired because other people you know worked with them and were happy with the lawyer's representation.

2. **Competency:** Is the lawyer you want to hire knowledgeable of driver's license restorations? This is hard to determine if you do not know about the restoration process. There are sample interview questions in this manual in Appendix A. These questions come with indications on what the proper answers ought to be. At a minimum, the lawyer should be aware of Michigan's drunk driving laws and restoration procedures. A background in criminal law and administrative law is also useful.

A record of success is a good trait. However, license restoration matters are not easy to quantify so a claimed success record may or may not be true. A better question to ask a prospective lawyer is, "What are the qualities of cases where you have been successful for your clients?"

3. **Cost:** The practice of law is service industry. Lawyers provide their time and advice in exchange for payment. Like in all markets, there is a price differential between lawyers. These differences are based on location of the lawyer's office, experience in the area of law, what the lawyer will do, and the lawyer's reputation.

The question then becomes, "What are you paying for?" In general, hiring a lawyer for a driver's license restoration matter should do the following: 1) prepare or oversee the preparation of Form 257, assist in the proper preparation of letters of support (not writing the letters, but reviewing them for content and responsiveness and give feedback on them), communicating with the substance use assessor to make sure the Form 258 will be ready in a timely manner, filing all of the completed forms through the Michigan Secretary of State (SOS) internet portal, preparing the client and the client's witness(es) for direct and cross examination and conducting the hearing in an organized manner. The attorney should also explain the post hearing procedures if the Secretary of State administrative hearing is not successful. A lawyer should help the client understand the lengthy (8 pages) order from SOS which explains the process of getting an Interlock installed, getting your license from the Secretary of State Branch office, addressing potential problems with the Interlock and how to prevent them from becoming bigger problems.

These tasks take time and expertise to do correctly. In fact, it's not unusual for this task to take 8 to 12 hours. Be certain to ask the prospective lawyer how the fee is calculated.

The amount of the fee varies widely. That is why it's important first of all to find someone who knows what he or she is doing. Look for someone who is comfortable to speak with and responsive to your needs. Strictly speaking, higher fees do not mean better service. Still, a good lawyer with a good reputation will command a higher fee than a lawyer with less experience. The lesson here is that fees alone should not be your single guiding point for hiring a lawyer.

Do not be afraid to negotiate. If you do not ask about payment or terms of payment, you cannot know. Some lawyers will quote fees on the phone. Some lawyers are flexible on payment schedules. The more questions you ask, the easier it is to gauge with whom you want to meet.

Your lawyer should put all of your negotiations on a written document. These documents are called a retainer agreement, an engagement agreement or something along those lines. You are entitled to receipts for payment and policies about rates. Make sure to read and understand the entire document before signing it.

4. **Reputation:** Shopping for a lawyer is harder than ever these days. There are lawyers you find online, in phone books and other guides, lawyer referral services, and word of mouth. I recommend starting with trusted friends and family. An online search will yield dozens if not hundreds of potential lawyers.

There are many online rating sites such as Martindale-Hubbell, Avvo.com, Nolo Law, Justia, etc., and they all have some way of measuring a lawyer's ability. They are not perfect but do give some basis for comparison. Online reviews abound for lawyers. Word of mouth is usually the way many lawyers are hired. AA members, SMART Recovery participants, NA members, probation officers and substance use evaluators/counselors are just some of the people who know good attorneys for license restoration.

5. **Other Attorneys:** Other attorneys have networks of colleagues who specialize in license restoration and may be able to assist you in finding the right lawyer.

It all comes down to you picking as many lawyers as you want to interview and reaching out to them. When you start to call around, ask yourself:

- A) How are you treated on the phone?
- B) Did you get a chance to speak to a lawyer and ask questions about the law?
- C) Did you speak to the lawyer who will handle your case?

- D) Did the lawyer you speak with ask you questions?
- E) Were you allowed to meet the lawyer in person or online to discuss your matter before incurring a fee?
- F) Were you quoted a fee in writing?
- G) Will that fee and the other terms be in writing?
- H) Did you get a guarantee? The correct answers to these questions appear below.

Bottom Line

The lawyer you choose is an important part of your team. He or she will run your case and coordinate your efforts. Make sure to take the time to interview and meet with that attorney before hiring him or her. Get a written agreement and make sure you understand who does what in the relationship. When you do hire a lawyer, assume nothing if you are not sure. Ask questions and make sure you understand everything you are doing.

²The right answers are A) Politely, professionally and with respect; B) Only a lawyer can answer legal questions; C) Depending on the circumstances, you should be able to speak to the lawyer or make an appointment to speak to the lawyer; D) An interview should go two ways – good questions and answers each way; E) A personal meeting will give you a chance to assess the character of your selection; F) Some lawyers do and some do not – fees are only one measure for you to consider; G) All fee agreements ought to be in writing and receipts provided for payment; and H) it is improper for a lawyer to give a guarantee in a litigated matter.

Chapter 3

The Role of the Substance Use Evaluator in Your License Restoration

What Does a Substance Use Assessor Do?

In the license reinstatement process, the substance use assessor (a/k/a alcohol assessor) is there to prepare a report (SOS Form 258) that is an accurate reflection of the client, chronicles the client's history of alcohol and drug use, criminal history as it relates to substance use, and what the client has done to achieve and maintain abstinence. The assessor is not there to provide treatment but may recommend future steps to obtain or maintain abstinence. Assessors are asked to assess the client's current sobriety and determine the probability that the client will remain abstinent and drive safely based on their observations, testing and conclusions.

Like any other professional, substance use assessors are conscious of their reputation and will protect it. The Secretary of State hearing officers know the difference between an accurate and honest report and 'happy talk' (a report light in substance and analysis; something that is overly optimistic given the facts). Assessors who engage in 'happy talk' are not given the same consideration as their peers especially if it is a close call on a case.

Questions You Will Need to Answer

A good assessor will ask you hard questions. Prospective clients should consider answering the following questions:

1. Why did you lose your license?
2. What role did alcohol or substance use play in your license being revoked? Has substance use caused other problems in your life? How so?
3. Do you believe you have a problem? If so, what have you done to take care of the problem? Would you be willing to do more if deemed necessary?

4. Can you produce witnesses and evidence that shows you are sober and that you have made positive changes in your life since the license was revoked?
5. Do you have a good basis of support from family, friends, and the recovery community? Can you name those people?
6. Will that support group provide letters that verify you have made positive changes, and authenticate your sobriety?
7. Are you driving illegally without your license? Do you understand that driving illegally runs the risk of sabotaging your case if the police stop you?
8. Can you handle the responsibility of driving with a BAIID installed in any vehicle you drive and do you know what to do if an issue of any sort arises with the device?

Answering these questions can be emotionally challenging. Beginning this process of getting your license back brings back bad memories. The process forces clients to reflect on some of the worst times in their lives. People are embarrassed and feel ashamed about their past behavior and its consequences.

Answers to the Questions

Sample answers to the questions above that the Secretary of State expects to hear are:

1. I drove under the influence and was convicted of OWI two or more times.
2. I suffer from a substance use problem (i.e. I am an alcoholic, drug addict, etc.)
3. Yes, I have a problem. I have sought treatment, participated in Twelve Step programs or SMART programs, stopped drinking and/or using drugs, and changed my lifestyle.
4. Letters from close family, friends, and co-workers; sign-in sheets from AA, knowledge of the Twelve Steps and participation in other recovery programs; proofs of participation in treatment programs and time where the client is abstinent (minimum of twelve months).

5. Yes, I have a support system made up of family, friend, co-workers, and treatment professionals where needed. Their names are . . .
6. I can get at least three letters of support and will get help from those individuals to prepare the letters if necessary.
7. I have not driven since my revocation went into effect nor do I have any open tickets or court appearances pending.
8. I know that I cannot currently drive and will not drive until I have a license. When I am licensed, I will operate in a prudent and safe manner.
9. It has been explained to me and I understand there are financial and contractual responsibilities that go along with having a BAIID in my car. I will read the Secretary of State order carefully and ask my attorney questions if I do not understand the order.

If you have done the work to maintain sobriety, be honest about your past, and show the Secretary of State that you have a support system, then the substance use assessor can draft a positive report to document and justify giving support for driving privileges.

The good news is that clients who have done the work to change their lives in positive ways are now in better positions to stand before the hearing officer and tell them why they deserve their driving privileges back. Recognizing and taking ownership of past mistakes is not easy. The client who owns his or her mistakes can make a promise not to drink and drive with honesty and conviction. This commitment to not reoffend is something the hearing officer needs to believe.

Once you have decided you want to proceed with the process of restoring your driving privileges, there is one thing that you absolutely must have: Patience. This process is not rushed or pushed through quickly. There is a significant amount of paperwork that needs to be prepared and submitted. It must be truthful and accurate. If there is anything that does not look right, it will be flagged by the hearing officer and invite further scrutiny. The goal of preparing your application, the substance use assessment, the letters of support and other relevant evidence is to build credibility and avoid anything that you submit to cause your request for driving privileges to be denied.

You should bring as many of the following documents you have to an interview with a substance use evaluator:

1. A copy of your master driving record from Michigan and/or any other state in which you resided during the last 10 years (instructions are included);
2. A copy of logs showing attendance in sobriety, Alcoholics Anonymous (AA), or other 12-step programs, proof of therapy, and/or proof of treatment;
3. The substance use evaluation form (SOS 258) with answers filled in as best as possible (The client only fills out the top section) and Form 257 (a draft is acceptable).

Bottom Line

A good substance use evaluation is only as good as the client's willingness to share information and do so honestly. A good report will be honest, detailed and accurate. The more information your substance use evaluator has about you, the better the report that can be prepared.

If your evaluator tells you that you are not eligible yet, make sure to understand why that is so. You may not have an adequate support system or you exhibit signs of continued addiction. The evaluator may conclude that you need more time sober.

Once you receive your completed Form 258, read it closely and make sure to correct mistakes or misstatements. If you do not understand something, make sure you contact the evaluator and ask questions.

Finally, if you get advice from the evaluator, listen to it. It can make the difference between success and failure for the hearing and the rest of your life.

Chapter 4

Preparing Your Form 257

The form is called a Request for an Administrative Review (a/k/a SOS Form 257). It is your declaration that you wish to drive again and, by your signature, your oath that you are providing honest and accurate information. (See Appendix A – Sample Forms). This form was amended in August 2021 and the older forms should not be used. Go to <https://www.michigan.gov/sos> for the latest version of Forms 257/258.

Basic Rules

These are basic rules to keep in mind when filling out Form 257 and any other documentation being provided for your license restoration. You should treat all submitted forms as if every word and phrase is being examined for accuracy and content.

1. Do not lie or misrepresent the facts in any way shape or form when completing this document or any document being used to help you secure your driving privileges. Think of your credibility as a fragile hothouse flower; even a slight change in the temperature or conditions will ruin it.

If anything appears that contradicts your narrative in any way, you ruin your credibility with the hearing officer and greatly reduce the chance of receiving restricted privileges or having your restricted privileges converted into regular driving privileges.

Assume that the Secretary of State hearing officer will have a copy of your criminal history, your complete master Secretary of State driving record and any other information filed by the police or courts with the Secretary of State. This means accident reports, violation of court orders, and your financial history with the Secretary of State.

2. Try not to guess at information. If you are looking for specific information for your request for review, go to official sources such as the court where your case was prosecuted, the

police agency(s) that arrested you, the Michigan Secretary of State to get your Master Driving Record, and your criminal history from the Michigan State Police for information on your driving and nondriving contacts with law enforcement. (See Appendix D – Links)

3. Do not be afraid to ask for help. If you have hired a lawyer for your request for your hearing, you should be able to ask your lawyer about anything about the form. Holding information back from your lawyer or from the Secretary of State could endanger your ability to succeed in obtaining driving privileges. If the hearing officer reviewing your file does not believe you are being truthful, that makes every other claim you present such as being sober or attending AA questionable.

On the other hand, complete disclosure and self-knowledge about your past events improves your credibility and makes your testimony more accurate when given. Admitting that you have a problem but overcame it is better than attempting to minimize your past.

4. Documentation. The more information you have about your prior contacts with law enforcement and the reasons you lost your driving privileges, the easier it is to fill out Forms 257 and 258. It can be a reference base for any possible appellate review and will make preparation for future hearings and reviews easier.

Form 257

Form 257 is broken down into different sections with additional instructions at the end for language and physical accommodations. The remainder of this chapter will deal with each part and question within Form 257.

Form 257 - Page 1

Directions to Complete the Form

The first page of this form provides directions on how to fill out the form on the subsequent pages. It points out what other documents and information you will need to complete the form and how to file it online.

Identification

Your Contact Information

This is your basic contact information that the Secretary of State will use to reach you regarding your request for hearing. If your current address is different from your driver's license or state ID, make sure to update it with the Secretary of State. The email and phone numbers you provide should be regularly checked as your hearing notice will be sent to your email address. When checking your email be certain to check your "junk/spam" folder, too.

If you have had a driver's license in another state, make sure to provide that information including which state(s), and known DL numbers for those licenses.

The next part is for non-Michigan Residents. There is an option to have an administrative review. An administrative review does not give you an opportunity to answer questions nor present live witnesses. Unless you are asking for this type of hearing specifically, do not check the box on page 2.

Your Attorney's Contact Information

If you are filing for a hearing and you already know who your attorney will be, make sure to include that information on this portion of the form. Your attorney's contact information should be on his or her card. Make sure to ask him or her for their 'P' number. (It is the number assigned by the State Bar of Michigan to every lawyer in active practice.) It can be found at the following link <https://www.zeekbeek.com/SBM>. At this link, you can enter your lawyer's name into the search engine and all of the identifying information for the lawyer, including the "P" number will be there. You can also call your lawyer for the same information.

Conviction History

Question 1. It asks about your last contact with law enforcement either as a civil infraction or a criminal matter. This question asks for the last time you were convicted of a crime or were found to be responsible for a civil infraction. A crime would be either a misdemeanor or felony. A civil infraction would likely be a traffic infraction that does not have a criminal penalty attached to it (e.g. such as speeding, changing lanes without a signal, etc.) This could also mean a civil infraction for a housing or property citation. Generally speaking, nonmoving violations should not interfere with the licensing process unless the underlying conduct is associated with alcohol or abused substances. Convictions for crimes of dishonesty such as theft, shoplifting, embezzlement, and writing bad checks may be considered by the hearing officer for purposes of credibility.

Question 2. This requires you to disclose all convictions, driving and nondriving, that involved your use of alcohol or controlled substances (including marijuana). This includes convictions in Michigan and other states. One way to know whether an offense is a misdemeanor or a civil infraction is to look to see if it shows up on your criminal record. Drunk driving convictions, Driving While License Suspended or Revoked, Operating with open intoxicants, etc. are all misdemeanors that should show up on your criminal record. If you are unsure, ask your lawyer or look up the law.

If there has been previous misdemeanor traffic offenses in any other state where you formerly resided, get your driver's record from that state rather than guess at the answer.

Question 3. It asks about whether you were incarcerated or placed on probation. For alcohol/controlled substance operating offenses, it is highly likely you were on probation and/or went to jail. You can find this information online in many Michigan courts.

Question 4. It asks about accidents you had where someone is injured or killed. If there have been more than one accident, add an answer supplement and disclose the information.

Question 5. It asks about current criminal or civil charges. This is not limited to driving offenses. Be truthful and disclose the information as needed. If you are unsure, ask your lawyer.

Question 6. You must disclose whether you have been in an accident that caused an injury or death. If you are uncertain, obtain your driving record from the Michigan Secretary of State. It will indicate accidents with injuries and/or deaths. If you are unsure of the dates, do your best to estimate the date or check your driving record from Michigan or any state where an action occurred with injuries or death.

Question 7. It asks if you have any current pending cases. If you have a pending criminal case in a driving or nondriving situation, you must disclose it. Even if you believe you will be exonerated in the end, do not hold back this information or wait until the case clears up before you file your request for an administrative review. If, during the pendency of your application for an administrative review you have an accident, make sure to tell your lawyer about that accident and obtain the accident report and any other information available. If a lawyer does not represent you, you should do the same thing and amend your answer.

Amending Your Answers. IMPORTANT POINT – If any information changes between the time your hearing request is filed and the hearing date, let your lawyer know. If you are handling the matter yourself, make sure to supplement any answers that have changed even if you believe the information may be harmful to your case. Credibility is more important in these matters than a result. If it comes out later that you misrepresented yourself to the Secretary of State, you may lose your privileges that were granted or not be renewed later.

Form 257 - Page 4

Substance Use History

Question 1. It asks whether you use alcohol or have ever drank alcohol or non-alcoholic beer. If the answer is yes, it asks you about your peak use, what types of alcohol you use, how often you drank and how many times you used it, and when was the last time. It has three boxes to differentiate between different types of beverages (i.e. beer vs. hard liquor). Note that you may have quit certain beverages before quitting another. If you only drank one type of alcohol, you leave the other spaces blank.

The last day you used alcohol is a very important date for you to know. In AA, it's referred to as your "birthday." You should also know why you quit that day. For some people it was the first day they went to jail; while for other people something else happened that sticks out in their memory. That narrative will be something that will be asked about at your Secretary of State hearing.

Question 2. This is a slightly different question but asks when was the last time you drank any type of alcohol. Answer this question truthfully and do not worry if the answer to this question is the same as the answer in Question 1.

Question 3. It asks whether you use any type of controlled substances including marijuana. If the answer is yes, it asks you about your peak use, what types of substances you use, how often you drank and how many times you used it, and when was the last time. It has three boxes to differentiate between different types of controlled substances (i.e. cocaine vs. marijuana). Note that you may have quit certain substances before quitting another. If you only used one type of controlled substance, you leave the other spaces blank.

Question 4. This is a slightly different question but asks when was the last time you used any type of controlled substance. Answer this question truthfully and do not worry if the answer to this question is the same as the answer in Question 3.

Question 5. This question asks what are your future intentions regarding Alcohol and controlled substance use. This is a "trick" question in the sense that if you write anything other than maintaining lifetime sobriety, you may be deemed too great of a risk to be given any driving privileges.

Form 257 - Page 5

Counseling and Treatment History

Question 1. It asks if you have attended substance use counseling and treatment programs. If the answer is yes, you then fill out the second part of the question asking a) what type of program, (inpatient, outpatient, driver safety, anything ordered by court), b) the name of

the program, c) where it is located and d) when you participated (start and ending dates) in the program.

It is not unusual for people to start and stop programs and not succeed the first, second or subsequent number of times. This is another part of your history where having documentation is helpful. If you can prove that you participated in the program with a letter or certificate, that document may become an attachment to this form to provide evidence of your efforts towards sobriety.

Question 2. It asks if you have ever taken medication to stop drinking or using controlled substances. If you have, you are asked what you took and the dates you used the medication and when you stopped using it.

If you have ever been detoxified with medication or used a medication to prevent relapse, this is the portion of the form to disclose that fact. Whether it was long-term or short-term or supervised treatment, it is important to divulge that information. The Secretary of State will weigh this factor in light of the other factors presented in each case. If you have medical records to explain why this form of treatment was used, it would be advisable to attach such forms especially if they reflect positively on your efforts to seek sobriety.

Question 3. It asks if you have ever tried abstinence to stop alcohol or controlled substance use. It asks for the dates of your abstinence and why you relapsed. If you have more than three periods of abstinence, provide a supplemental answer sheet with the additional information.

This is difficult for some people due to memory issues. The answer should include all times when you were abstinent including those times when you are being tested through the court system. It gives an indication of whether you have the self-discipline to maintain abstinence without supervision. It also indicates sincerity and your past efforts. Most people who succeed in being abstinent began with initial failure(s). Do the best you can in terms of dates and times. It is okay to estimate or approximate this information. Past efforts at abstinence under court supervision should be included.

Question 4. It asks about prescription medication used to treat mental conditions, pain or a mental health concern. It is important to disclose current and past use. Some prescriptions indicate underlying medical conditions, which are of concern to the Secretary of State. If you fail

to make a disclosure and are involved in an accident or other incident where your failure to take the prescription because the medical problem or the prescription causes you to lose control of the vehicle in some way, your driving privileges could be suspended for a minimum of three months up to an indefinite period of time if you suffer from a condition that makes you a hazard to the driving public.

If part of the reason you lost your driving privileges had to do with your physical health, then you need to disclose all prescriptions you are taking as well as present a separate DI – 4P medical report signed by all treaters of your condition. For more information, see form DI – 4P https://www.michigan.gov/documents/DI-4P_16784_7.PDF (See Appendix A - Forms)

Form 257 - Page 6

Continuum of Care

Question 1. It asks about your history of participation in Support Groups and 12 Step programs. If you have participated in or are still participating in a program, you then fill out the second part of the question asking a) the name of the program, b) the name of a sponsor if you have or had one, c) how often you attend or attended, and d) dates of participation (start and ending dates) in the program.

Your participation in Alcoholics Anonymous, SMART Recovery, and other support programs is important to show your current motivation to remain abstinent. You should be able to name the day or days you attend such meetings, the name of the sponsor if you have one, the name of the group if it is so named and other information to identify the group. If you have maintained signatures for attendance, you will want to attach them to your package for the administrative hearing.

A short note on AA: Even if you attend AA, you need to know enough about the program to answer questions about how it works. The Big Book, the Twelve Steps, the Twelve Traditions, meeting protocols, the role of sponsors, etc. are important for you to know and articulate if asked about it in a hearing. Make it a priority to go over this information before you go to a hearing. If you attend AA programs on weekends or for retreats, share that level of involvement.

If you attend other programs like SMART Recovery, be aware of the principles and foundation of the program so that you can explain them to someone who knows nothing about them.

If you do not attend any programming but do something else, be prepared to explain it at the hearing and how it helps maintain your sobriety. Not all programs work for all people and your path to sobriety is unique to you.

Question 2. This question is only for non-Michigan residents. You first disclose when you moved away from Michigan and state how long you have lived there. You need to provide proof in the form of a utility bill, lease or a bank statement.

Question 3. It asks if you have ever lived in Michigan, it asks when you left and why did you move.

Question 4. It asks you if you will return to Michigan and when you intend to return.

Form 257 - Page 7

Final Details

Question 1. This section of the application allows you to set forth special circumstances to consider. Veteran status, physical limitations; basically things not found in the application for questions which could be influential on the hearing officer. Matters dealing with how hard it is for you to not be able to drive, etc. are NOT what the Secretary of State seeks. Rather, it is information that makes it easier for the SOS to entrust you with driving privileges.

You are trying to prove a legal standard: you are no longer a hazard to the public using the roads. This question is intended to show other areas of your life that show who you are today. It gives you a place to show unique circumstances that provide more proof that you will be a safe driver.

Additional Support – Foreign Language and Sign Language Interpreters

You must give notice of the need for a translator when you file Form 257. You must supply a court approved interpreter at the hearing. You can find certified court interpreters at

<https://courts.michigan.gov/administration/scao/officesprograms/fli/pages/certified-court-interpreters.aspx>

This is not an exhaustive list but it does explain the qualifications and requirements for certified interpreters if you have someone else in mind.

Hearings, Video Conferences and Evidence Affidavit

You generally attend hearings face to face. In light of the COVID crisis since March 2020, there has been a steep increase in the use of the Microsoft Teams system to hold hearings. This is a trend that parties are going to have to keep in mind. Filings are now done online and documents are scanned into PDF formats and submitted along with the 257/258 forms being submitted by the petitioner. It is important to have those forms filed before the hearing and if you have any late arriving forms, make sure to get them in at least 48 hours before your hearing so the hearing officer can review them. If you have a face-to-face hearing, you may be able to provide documentation.

Live hearings take place in Secretary of State offices throughout the state. Many of these hearings use a video conferencing center. If it is a video conference, then it is important to have all documents forwarded to the Secretary of State no less than 48 hours before the hearing. Otherwise, the hearing officer does not have to consider them.

Bottom Line

- 1) Make sure your Form 257 is accurate and complete.
- 2) Make sure the information on your Form 257 matches the same information found on your Form 258. If not, make sure to conform the forms to each other. Plan on bringing your completed Form 257 to your substance use assessment with you.
- 3) Ask for help if you are uncertain of how to answer a question. If you have an attorney, have him or her look over your forms prior to filing them. The same goes for your substance use evaluator.

- 4) Try to obtain information about your prior convictions before filling out Form 257. (See Appendix B – How to obtain your Master Drivers Record and Criminal History)
- 5) Try to document your recovery efforts as best as possible. AA sign in sheets, certificates of treatment completion can be included in your proofs. (See Appendix A – Sample Forms and Appendix C – Support Letters)

Glossary of Terms from Form 257 Application for Hearing

The language used in the Application for Hearing (Form 257) uses many terms you may not know. This glossary defines most of the technical and legal terms found in the form.

12 - Panel Urinalysis Drug Screen – This report documents the presence or non-presence of indications of drugs of abuse in the urine of the Petitioner. It must include at least two integrity variables such as specific gravity, urine creatinine or pH level. This is an industry standard in testing labs.

Administrative Hearing – A type of process involving disputes and claims made to a government agency like the Michigan Secretary of State. A Secretary of State driver's license hearing is an administrative hearing.

Agonist Therapy – Use of prescribed medications under the supervision of a doctor to manage addiction-based diseases usually opioids.

Alcoholics Anonymous – According to their website, "Alcoholics Anonymous is an international fellowship of men and women who have had a drinking problem. It is nonprofessional, self-supporting, multiracial, apolitical, and available almost everywhere. There are no age or education requirements. Membership is open to anyone who wants to do something about his or her drinking problem. Many Courts and the MI Secretary of State recognize AA as a reputable program.

Circuit Court – the highest trial court in a Michigan county. It is the venue for certain suspensions that are not alcohol-related actions. It is also where any appeal of a Secretary of State action is heard.

Civil Infraction – An act or failure to act which violates the law but is not criminal. Examples include traffic offenses like speeding, equipment issues and weight violations for trucks.

Clear and Convincing Evidence – proofs when taken together establish that something is substantially more likely to be true than not. This is the level of proof required to be presented at a hearing with the Secretary of State to prevail in a hearing. The burden of proof is on the petitioner to present proofs to this standard.

Documentation of Sobriety – Letters from friends, family, coworkers who are in a position to observe and personally attest to your sobriety. These proofs can come from counselors and other professionals with insight to your circumstances.

Evidence of Support – AA sign-in sheets, letters or other documents that show you participate in a structured recovery program.

Felony – A crime with a minimum sentence of greater than one year. Felonies are usually adjudicated in Circuit Court.

Form 257 – Request for Administrative Hearing – This form provides the Secretary of State and your Substance Use Evaluator a history of your driver's license, why you lost your driving privileges, substance use-related criminal matters, nondriving criminal matters, your history of substance use/abuse, your history of recovery among other facts. This form needs to be filled out completely and as accurately as possible.

Form 258 – Substance Use Evaluation – This is part of your proofs made to the Secretary of State that is prepared by a third party assessor. It focuses on your history and what you are currently doing to manage your prior substance use.

Habitual Offender – From the Michigan Secretary of State website, “Under section 303 of the Michigan Vehicle Code [the Code; MCL 257.303] certain combinations of alcohol and/or drug-related convictions lead to a presumption that a person is a “habitual offender.” The law requires the Secretary of State to revoke that person's driver license. The law also requires the Secretary of State to deny a license for that person until he or she meets certain conditions.”

Ignition Interlock Violation – Any violation of the Secretary of State interlock order which can result in a loss of driving privileges.

Ignition Interlock Report – (From the Secretary of State website) If you have a restricted driver's license and are required to use an ignition interlock device, you must submit a report from the interlock vendor if you are requesting removal of the device.

Michigan Resident – There are many different definitions of 'residency' in MI law. For purposes of getting license, 6 months of continuous residency in the state coupled with the intent to maintain residency when requesting driver's license privileges.

Misdemeanor – Any crime that has a maximum of one year in jail as a possible sentence.

Petitioner – The person applying for driving privileges.

SMART Recovery – SMART (Self-Management And Recovery Training) programs which are not 12 Step (i.e. AA, NA, etc.) but promote abstinence through 4 point programming. According to its website:

SMART Recovery (Self-Management And Recovery Training) helps individuals gain independence from addiction (substances or activities). Our efforts are based on scientific knowledge and evolve as scientific knowledge evolves.

The 4-Point Program offers specific tools and techniques for each of the program points:

Point 1: Building and Maintaining Motivation

Point 2: Coping with Urges

Point 3: Managing Thoughts, Feelings and Behaviors

Point 4: Living a Balanced Life

Common Abbreviations

AHS – Administrative Hearings Section

BAC – Blood Alcohol Content

BAIID – Breath Alcohol Interlock Ignition Device

DAAD – Driver Assessment and Appeal Division

DAIS – Driver Appeal Integrated System –
electronic filing system for filing hearing requests

DAST – Drug Use Screening Test

DLAD – Driver License Appeal Division

DI-4P – Physicians Statement of Examination
(Form for Petitioners who lost their driving privileges
for medically diagnosed reasons)

DUI – Driving Under the Influence

MAST – Michigan Alcohol Screening Test

OHAO – Office of Hearings and Administrative Oversight

OUID – Operating Under the Influence of Drugs

OUIL – Operating Under the Influence of Liquor

OWI – Operating While Intoxicated (Previously known
as Operating While Impaired until 2003)

OWPCS – Operating With the Presence of a Controlled Substance

OWVI – Operating While Visibly Impaired

SASSI – Substance Use Subtle Screening Inventory

UBAL – Unlawful Bodily Alcohol Level - .08% BAC
at the time of the offense.

Chapter 5

Preparing Your Form 258

The form is also known as a Substance Use Evaluation (SOS Form 258) is your declaration that you wish to drive again and, by your signature, your oath that you are providing honest and accurate information. (See Appendix A – Sample Forms) Most of the form is filled out by your Substance Use evaluator. It is important to understand the content of the form.

Form 258 – Page 1

These are the instructions for the petitioner to find an evaluator, make an appointment and sign the completed Form 258 on Page 8 above the evaluator's signature. It asks if you have attended substance use counseling and treatment programs. If the answer is yes, you then fill out the second part of the question asking a) what type of program, (inpatient, outpatient, driver safety, anything ordered by court), b) the name of the program, c) where it is located and d) when you participated (start and ending dates) in the program.

Find an Evaluator and Make an Appointment

You then need to make an appointment with a substance use evaluator whom you have selected. Make sure you understand what the evaluator needs to complete your report. This includes your driving record, your criminal history, your Form 257 that is filled out as completely as possible, a 12 panel urine drug screen, and the fee to pay the evaluator. If you are missing any of this data, it may delay the completion of Form 258 and your application being filed.

Form 258 – Page 2

Evaluator Contact and Lifetime Conviction History

Question 1. Evaluator Contact Information - This is the contact information for your substance use evaluator along with her qualifications.

Question 2. This part of the form lists the petitioner's criminal history for alcohol and drug offenses. It should match your identifying information on Form 257.

Form 258 – Page 3

Petitioner Program Treatment and Prescription Medication Information

Question 1. This information is provided by the petitioner to the evaluator. The evaluator may ask you for details about the program. Provide as much information as you can. If you have documents like bills, certificates of completion, etc., provide that to your evaluator. It asks the evaluator to list if you have attended substance use counseling and treatment programs asking a) what type of program, (inpatient, outpatient, driver safety, anything ordered by court), b) the name of the program, c) where it is located and d) when you participated (start and ending dates) in the program.

Question 2. It asks if the petitioner has or does take medication to stop drinking or using controlled substances. If the petitioner has or does, the evaluator provides the name(s) of the medications the petitioner took, and the dates you used the medication and when the petitioner stopped using it.

Form 258 – Page 4

Petitioner Lifetime Support Group History and Lifetime Abstinence History

Question 1. The evaluator lists the petitioner's participation of support groups including: a) the name of the program, b) the name of a sponsor if you have or had one, c) how often you attend or attended, and d) dates of participation (start and ending dates) in the program.

Question 2. It asks about the petitioner's lifetime abstinence history including the dates of the petitioner's abstinence, relapses and the reasoning behind the relapses.

Question 3. This asks about the petitioner's last use of alcohol.

Question 4. It asks about the petitioner's last use of controlled substances.

The substance use evaluator prepares the rest of the form based on the information found in Form 257, Sections 4 through 7 and the evaluation the evaluator performs with an interview(s) and testing. Make sure your evaluator has all of that information as well as any paperwork you may have from treatment, AA sign-in sheets, detox programming, any medical treatment for alcohol abuse, AA sponsor information, etc.

The evaluator will record all periods of claimed abstinence including times when the petitioner was incarcerated, on probation or otherwise monitored. The evaluator will also record times the petitioner was abstinent. This information should correspond with the petitioner's Form 257.

Form 258 – Page 5

Petitioner's Diagnostic Impression

From the petitioner's information, the evaluator makes a psychological diagnosis. The assessor can cite from the Diagnostic and Statistical Manual of Mental Disorders (DSM IV or V). Either edition of the DSM will have specific diagnosis codes for different substance use issues. The bottom of this section contains a section to provide specific details and facts supporting the diagnosis.

Form 258 – Page 6

Testing & Drug Screen

Question 1. This part of the form describes the testing instruments used by the evaluator to diagnose the petitioner. These tests are sometimes referred to as instruments. The ASI, SASSI-3, and MAST/DAST are acronyms for the names of the commonly used testing instruments. These are included in the petitioner's evaluation and attached to Form 258. The form calls for two testing instruments to be used.

Question 2. The drug screen is a 12 panel urine test which seeks indications of evidence of the use of alcohol or drugs. The test also seeks to determine if the sample has been altered or diluted. Your evaluator will review it for factors such as low creatine levels or any notation on the test results that would deem them suspicious or otherwise unusable. It is also attached to your Form 258.

Form 258 – Page 7

Prognosis & Recommendations

Question 1. The prognosis is the bottom line measure. It combines the factors of the diagnosis, the current actions the client is taking to maintain abstinence, review of related criminal conduct, the results of testing instruments, and other information gathered in the interview. Different evaluators have different approaches so it is a subjective measure. Petitioners should ask the substance use evaluator to explain it.

If the prognosis is Poor or Guarded, it means the petitioner is not likely to be driving. The evaluator is saying with the information provided, there are still risk factors which are prevalent in the petitioner's life. These risk factors can be environmental (living with others who abuse alcohol or you work in a place where alcohol is sold and consumed), based on observed traits or comments made during the evaluation, the petitioner's lack of knowledge about substance use, and/or the perception of the evaluator that the petitioner is not being open and forthright about their problem.

A Fair prognosis is usually a reflection that the petitioner exhibits many traits of individuals who manage their substance use problems, but do not have a support group or are early in their recovery. A petitioner can still get driving privileges depending on the balance of the evaluation.

A Good or Excellent prognosis is indicative of longer term recovery, active management of the petitioner's substance use issues, and good documentation of the issue and recovery. A Good or Excellent prognosis would be preferred when the petitioner is seeking regular driving privileges assuming the petitioner has met the requirements for this diagnosis.

Bottom Line

- A) Make sure to sign the completed Form 258 before filing it with Secretary of State.
- B) Bring the following to your meeting with the substance use evaluator:
 - 1) Your Secretary of State driving record;
 - 2) Proofs of AA attendance, letters of treatment completion, information about on-going counseling/treatment;
 - 3) Your criminal record and court documentation;
 - 4) Your completed Form 257.
 - 5) A 12 panel urine screening as instructed by your assessor.

Make sure to review the completed Form 258 to make sure it matches the information in your Form 257 when it comes to your criminal history and recovery efforts. If you find a mistake, contact your evaluator and get it changed.

If you are contacted by your assessor, make sure to follow up as soon as you can. Any delay in following up with your assessor can delay your filing.

Form 258 Substance Use Evaluation Glossary

The language used in the Substance Use Evaluation (Form 258) uses terms you may not know. This glossary defines most of the technical and legal terms found in the form.

12-Panel Urinalysis Drug Screen – This report documents the presence or non-presence of indications of drugs of abuse in the urine of the Petitioner. It must include at least two integrity variables such as specific gravity, urine creatinine or pH level. This is an industry standard in testing labs.

Abstinence – The practice of restraining oneself from indulging in something, typically alcohol or drugs.

Addiction – Substance addiction and abuse is a complex medical disorder characterized by compulsive drug or alcohol use that leads to significant disruptions in daily living, including loss of work, relationships and health. It is progressive in nature and requires professional intervention for successful treatment.

Agonist Therapy – Use of prescribed medications under the supervision of a doctor to manage addiction-based diseases usually opioids.

Alcohol Dependence – Also known as alcohol addiction. A history of excessive drinking, a strong craving for alcohol, continued use despite problems caused by drinking, and an inability to control the amount of alcohol consumed.

BAC Bodily Alcohol Content – The amount of alcohol present in the bloodstream measured as a percentage of alcohol in one's bloodstream.

Clear and Convincing Evidence – proofs when taken together establish that something is substantially more likely to be true than not. This is the level of proof required to be presented at a hearing with the Secretary of State to prevail in a hearing.

Detoxification – Medical treatment of an alcoholic or drug addict involving abstinence from alcohol or substances until the bloodstream is free of toxins.

Diagnostic Impression – The conclusion of the Substance Use Assessor identifying a disease from its signs and symptoms. It is related to alcohol, drug or mental health issues observed by the Assessor and shown through the Petitioner's reported history.

Documentation of Sobriety – Letters from friends, family, coworkers who are in a position to observe and personally attest to your sobriety.

Evidence of Support – AA sign-in sheets, letters or other documents that show one participates in a structured recovery program.

Form 257 – Request for Administrative Hearing – This form provides the Secretary of State and your Substance Use Evaluator a history of your driver's license, why you lost your driving privileges, substance use-related criminal matters, nondriving criminal matters, your history of substance use/abuse, your history of recovery among other facts. This form needs to be filled out completely and as accurately as possible.

Habitual Offender – From the Michigan Secretary of State website, “Under section 303 of the Michigan Vehicle Code [the Code; MCL 257.303] certain combinations of alcohol and/or drug-related convictions lead to a presumption that a person is a “habitual offender.” The law requires the Secretary of State to revoke that person's driver license. The law also requires the Secretary of State to deny a license for that person until he or she meets certain conditions.”

Intensive Outpatient Treatment –Treatment that addresses addictions, depression, eating disorders and other dependencies that do not require detoxification or round the clock supervision.

Inpatient/Residential Treatment – Intensive rehabilitation or recovery hospitals designed to treat serious addictions.

Nondriving Convictions – A criminal conviction that is not related to driving.

Outpatient Treatment – Services you receive when you are not admitted to the hospital. An example would be counseling with a therapist in a private practice setting.

Prognosis – The likely outcome or course of a disease; the chance of recovery or recurrence.

Support Group – A group of people with common experiences or concerns who provide each other with encouragement, comfort, and advice. Examples would be AA- Alcoholics Anonymous or NA-Narcotics Anonymous.

Treatment – The process or manner of addressing problems and disease in individuals.

Chapter 6

Your Secretary of State Hearing

If you have filed your application for your Secretary of State hearing by mail or through the online portal, you will be notified of the hearing. It will be heard by closed circuit television at a Secretary of State branch or one of the hearing offices in Lansing, Grand Rapids or Livonia. Note the time and location carefully. The hearings start on time unless the hearing officer is delayed. If you are late, your hearing will be dismissed and you will have to come back the next year.

There are provisions for adjournments which ought to be requested as soon as possible. Carefully follow the directions and make sure that your request for an adjournment is acknowledged and note the new date once it is issued.

Before the Hearing

Before you go to a hearing, it is a good idea to review your forms that you submitted. The Socratic maxim, “Know Thyself” is wise counsel. Know why you were convicted, what happened each time you were convicted, and the details of your arrests. Review the questions suggested below. Understand your substance use history and do not minimize it.

Attire – A Michigan Secretary of State hearing is a business meeting. The hearing officer is usually wearing a shirt and tie. Your attorney will wear a professional business attire. For men, a clean, button down shirt and dress slacks is appropriate though a tie & coat never hurt your image. Similarly, a dress or a clean, pressed blouse and slacks or skirt is acceptable for women. It should not matter, but first impressions do count. It shows respect for the hearing setting and is a step in the right direction for making a good first impression.

Oath – You will be given an oath to tell the truth. You must swear or affirm that you will do so. The hearing is being recorded on tape for possible appeal.

How to Answer Questions

During the hearing, you can expect to be asked questions by the hearing officer. Some hearing officers like to do their own direct questioning and allow the attorney or the petitioner to follow up while other hearing officers let the

petitioner's attorney ask questions first. If you do not have an attorney, you will be asked questions by the hearing officer directly. You should prepare yourself to answer those questions in this manner:

1. Hear and understand the question being asked. If you do not understand the question, ask to have it asked in a different form. Make sure you let the person who is asking the question finish talking before you begin to answer.
2. If you understand the question that you are asked, take a second to formulate the answer. Your answer should be responsive to what you are asked.
3. Once you have formed the answer to the question, give it in the most direct manner possible. (i.e. "Yes", "No", "I do not know"). If the answer requires a narrative, give the most direct version of the answer possible. Think one word or one sentence when answering questions.
4. When you are done answering the question, be quiet. Wait for the next question to be asked.

Other Tips

Do not argue with the hearing officer or your attorney.

Do not answer a question with a question.

Do not use humor of any sort even in a self-deprecatory manner.

Practice your answers to questions with your lawyer or someone else prior to the hearing.

Types of Questions to Expect

1. **Questions about your answers from Forms 257 and 258 about your conviction history, your substance use history and your recovery. Usually, these are questions that go beyond your given answers.**

Do you receive personal counseling now? If yes, how often and what for?

How well do you know the authors of your letters of support?

2. You will be asked about your participation in AA or other recovery groups.

Do you know your 12 steps? Do you have a sponsor?

Are you doing step work? What step are you currently working on?

Do you have a home group?

What is your intent for future participation in AA or other types of recovery groups?

3. You will be asked about where you live and who you live with.

Do you live with people who drink alcohol? Is alcohol kept in the home where you live?

Do you work around alcohol (i.e. restaurant, banquet hall, bar etc.)?

Do you socialize where alcohol is served?

4. Support Group

Who is in your support group? What is your plan if you relapse?

Do you have contact numbers for your support group? Your AA sponsor?

5. Marijuana

Do you or have you had a medical marijuana card? Do you plan on getting one?

Do you use marijuana as a substitute for alcohol?

If you do have a medical marijuana card, which doctor recommended marijuana for use? Do you have the letter of recommendation? Do you drive after using marijuana? Please describe.

6. Future Use of Alcohol and other intoxicating substances

Is there a time in the future where you believe you can use alcohol or other intoxicants in moderation? What is your intent for using alcohol in the future?

Do you drink 'Near Beer' or 'Non-alcoholic Beer'?

7. Health Matters

Are you taking any prescription medications? What are they? Can they affect your driving ability?

Have you been diagnosed with any condition that affects your ability to operate safely (i.e. epilepsy, sight or hearing problems, etc.)?

These are just some of the questions you may be asked.

Closing Statement

At the end of your hearing after all the testimony and proofs have been presented, you will be given an opportunity to give closing remarks. You are not expected to make closing remarks if counsel represents you. That will be the attorney's job to do. Good closing statements are:

1. Short, 60-90 seconds and no more
2. Highlight your strongest points (2 – 3 points maximum)
3. Should tie the proofs together to demonstrate that the petitioner has met the burden to demonstrate he or she is no longer a hazard to the driving public.

It is appropriate to simply thank the hearing officer for his or her time. The hearing officer will then close the hearing. Sometimes they will announce their ruling and sometimes not.

Post Hearing

Some will publish their opinions quickly while others take weeks to do so. If relief is given, an order will be published with specific directives on what the petitioner must do to get the restricted license or have the restricted license made into a regular driver's license. Until the items in the order are satisfied, you may not drive. If you drive in violation of the order, you could lose the very privileges you just won.

If you were not successful, you do have rights to appeal the decision. Those are found in the Secretary of State rules and regulations along with the language of the order and in Michigan law. Some of these rights are time-sensitive. If you do not understand those rights, it would be a good time to speak to your attorney.

Bottom Line

1. Prepare by knowing yourself and looking like you deserve a license;
2. Review your materials you filed with the Secretary of State.
3. Answer questions honestly, responsively and succinctly.
4. Maintain a polite and professional attitude.
5. If you are not successful, figure out why and see what your options are.

Appendix A

Sample Forms and Legal Information

Application for Administrative Review or Hearing (AKA Forms 257-258):

https://www.michigan.gov/documents/sos/SOS257_258_Request_for_Hearing_432399_7.pdf

Physician's Statement of Examination DI-4P

https://www.michigan.gov/documents/DI-4P_16784_7.PDF

State Bar Journal Attorney Roster

<https://www.zeekbeek.com/SBM>.

Obtaining your own Driving Record from The MI Secretary of State

https://www.michigan.gov/sos/0,4670,7-127-1627_8996-31868--,00.html

Michigan Compiled Laws

[https://www.legislature.mi.gov/\(S\(lln2jsipc44lpxwzsfjsj5iv\)\)/mileg.aspx?page=Home](https://www.legislature.mi.gov/(S(lln2jsipc44lpxwzsfjsj5iv))/mileg.aspx?page=Home)

Appendix B

How to Write a Support Letter to the Secretary of State

Before scheduling your hearing before the Office of Hearings and Appeals, you will have to submit documentation of your past and current sobriety.

This documentation should be in the form of letters from people in your community who have frequent contact with you and who know something about past or current sobriety. This would possibly include immediate family members, other relatives, employers, friends, pastors, local police, individuals from a recognized support group, such as a 12-step program, neighbors, or others with whom you associate on a fairly regular basis. It is required that you submit at least three letters but not more than six.

The point of these letters is to convince the Secretary of State that you do not drink anymore and are not likely to drink in the future. Information about what a great person you are or how hard life is without driving privileges is not enough or even helpful.

To be of any benefit to you, the letters need to contain information about the writer's knowledge of your past drinking and, more importantly, your current sobriety.

The letters should contain the following information (if applicable):

1. Each letter must be signed, dated and typewritten if possible;
2. Full name, mailing address and daytime telephone number of the individual writing the letter;
3. Details and specifics are important as they convince the hearing officer that the writer knows you and is familiar with your lifestyle (e.g.: I have seen John twice per week for the last 5 years, at my house or his house; we fish together every weekend; I have seen John at work every day for the last 5 years; John used to drink Budweiser, etc.);
4. Description of the writer's relationship to you; (spouse, nephew, neighbor, sponsor, etc.);

5. How long that individual has known you; (2 years, all his life, etc.)
6. How often that individual has contact with you; (every day at work, twice a week, every other weekend, several time per month, etc.);
7. A description of the writer's knowledge of your past and current use of alcohol, including frequency of use, amount used and beverage of choice; (e.g. I am aware that John used to drink beer every day, every weekend, several times a month; I am aware from being around John that he has not had alcohol since he was arrested for drunk driving in December 2002, etc.)
8. The last time that individual saw or had knowledge that you had used any alcohol (I have not seen John drink since 2002; John has told me that he has not drank alcohol since 2002);
9. The individual's knowledge of your past and current involvement in treatment and/or a support group (John has told me that he goes to AA twice per week, and has been going for the last 2 years; John has told me that his in-patient treatment changed his life, etc.);
10. Any information they have which supports their belief that you no longer drink alcoholic beverages (John has told me he will never drink again; I have seen John twice per week for the last 2 years and he is always sober; last Summer, I saw a guy offer John a beer and John said no thanks);
11. Any knowledge that supports their belief that you are not involved with activities that include the use of alcohol (e.g. I see John in church every Sunday; I bowl with John every Friday and he does not drink at the bowling alley);
12. Any knowledge they have of persons or activities who support your alcohol-free lifestyle (e.g. I know that John's wife does not drink or keep alcohol in their home; I see John at church outings where there is no drinking);
13. Any examples where they saw you in a situation in which alcohol was available to you and you did not indulge (e.g. I saw John at my sister's wedding, and he drank Diet Coke all night);
14. Any knowledge they may have that they have been to your home and are aware that you have an alcohol-free home;
15. Any other information they believe is important or helpful.

Appendix C

LINKS TO INFORMATION FOR LICENSE RESTORATION

These are some resources for obtaining your driving privileges.

Michigan Secretary of State

<https://www.michigan.gov/sos>

State Approved Certified Translators

<https://courts.michigan.gov/administration/scao/officesprograms/fli/pages/certified-court-interpreters.aspx>

Michigan State Police iChat Page

<https://www.michigan.gov/msp/>

State Bar Journal Attorney Roster

<https://www.zeekbeek.com/SBM>.

Alcoholics Anonymous

<https://www.aa.org/>

SMART Recovery

<https://www.smartrecovery.org/>

About the Authors



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He is a licensed attorney in Michigan and Arizona. He specializes in driver's license matters, criminal expungements, misdemeanor/felony cases and representing licensed professionals. He has been recognized by his clients and national ratings agencies for his work. Mr. Dinan has taught at Michigan State University College of Law, the University of Detroit Mercy School of Law, and Eastern Michigan University. His office is located in Grosse Pointe.

**To learn more,
go to www.timdinan.com**



Catherine A. Zatkoff, MA LPC

She is a Licensed Professional Counselor in Michigan. She has 24 years of experience as a counselor, and in the last seven years the focus in her private practice has been on clients that have alcohol driving offenses, or have had their driver's license privileges revoked. In the license restoration process, Catherine realizes that each client is different and her evaluations are based on the interview she has with them, reviewing their driving record/criminal history, and by taking an extensive look at their alcohol and substance use history. Her goal is to treat each client with dignity, kindness and respect.

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