

Order

Michigan Supreme Court
Lansing, Michigan

November 15, 2023

Elizabeth T. Clement,
Chief Justice

ADM File No. 2022-14

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

Amendment of Rule
2.311 of the Michigan
Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment of Rule 2.311 of the Michigan Court Rules is adopted, effective January 1, 2024.

[Additions to the text are indicated in underlining and
deleted text is shown by strikeover.]

Rule 2.311 Physical and Mental Examination of Persons

- (A) Order for Examination. When the mental or physical condition (including the blood group) of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental or blood examination by a physician (or other appropriate professional) or to produce for examination the person in the party's custody or legal control. The order may be entered only on motion for good cause with notice to the person to be examined and to all parties. The order must specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.⁷ Upon request of a party, the order ~~and~~ may also provide that
- (1) the attorney for the person to be examined may be present at the examination, or
 - (2) a mental examination be recorded by video or audio.
- (B) If the court orders that a mental examination be recorded, the recording must
- (1) be unobtrusive,

- (2) capture the examinee's and the examiner's conduct throughout the examination, and
- (3) be filed under seal.

(B) [Relettered (C) but otherwise unchanged.]

Staff Comment (ADM File No. 2022-14): The amendment of MCR 2.311 allows a mental examination to be recorded by video or audio under certain circumstances.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 15, 2023

A handwritten signature in black ink, appearing to read "Larry S. Royster", written over a horizontal line.

Clerk