

Act No. 238
Public Acts of 2006
Approved by the Governor
June 24, 2006
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STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006

Introduced by Reps. Kahn, Polidori, Ball, Gosselin, David Law, Stakoe, Wenke, Marleau, Green, Shaffer, Jones, Moolenaar, Adamini, Mortimer, Gaffney, Wojno, McDowell, Taub, Ward, Vander Veen, Moore, Hildenbrand, Booher, Robertson, Byrnes, Murphy and Nofs

ENROLLED HOUSE BILL No. 5015

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 5901, 5911, 5913, 5915, 5919, and 5923 (MCL 333.5901, 333.5911, 333.5913, 333.5915, 333.5919, and 333.5923), as added by 1987 PA 258, and by adding section 5906; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 5901. As used in this part:

- (a) "AIDS" means acquired immunodeficiency syndrome.
- (b) "Advisory task force" means the task force created in section 5906.
- (c) "Fund" means the Michigan health initiative fund created in section 5911.
- (d) "HCV" means hepatitis C virus.
- (e) "HIV" means human immunodeficiency virus.
- (f) "Institute of higher education" means a public or private college or university. Institute of higher education includes a community college.
- (g) "Risk reduction" means the process of identifying and reducing or eliminating behaviors or conditions, or both, that are harmful to physical or mental health, or both.

Sec. 5906. (1) The hepatitis C advisory task force is created in the department. The task force shall be appointed by the governor. The task force shall consist of 11 members including the director and his or her designee as an ex officio member, 1 member from an association representing local public health, and 9 members appointed from the following categories:

- (a) Business and industry.
- (b) Labor.
- (c) Health care providers.
- (d) The legal community.
- (e) Religious organizations.
- (f) State and local government.
- (g) The education community.

(2) A health care provider member appointed pursuant to subsection (1) shall not be an employee of a state executive department or local health department, nor represent a facility or agency which is owned or operated by a state executive department or a local health department. To the extent practicable, the members appointed pursuant to subsection (1), except the director, shall be representative of the demographic composition and geographic regions of this state.

(3) The term of each member, other than the director, shall be 3 years, except that of the members first appointed, 4 shall serve for 3 years, 3 shall serve for 2 years, and 3 shall serve for 1 year. A member shall not serve more than 2 consecutive terms, whether partial or full. A vacancy on the task force shall be filled for the balance of the unexpired term in the same manner as the original appointment. The task force biannually shall elect a chairperson and other officers and committees as considered appropriate by the task force. The actual and necessary per diem compensation and the schedule for reimbursement of expenses for the public members of the task force shall be the same as is established annually by the legislature for similar commissions or task forces that are reimbursed from the general fund.

(4) The business which the task force performs shall be conducted at a public meeting of the task force held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A writing prepared, owned, used, in the possession of, or retained by the task force in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) The task force shall do all of the following:

- (a) Meet not less than quarterly at the call of the chairperson.
- (b) Advise the governor and the legislature on policies regarding hepatitis C and risk reduction.
- (c) Annually report to the governor and the legislature on major risk factors and preventable diseases or conditions including, but not limited to, hepatitis C.
- (d) Make recommendations to the department regarding the allocation of money, if available, from the Michigan health initiative fund or any other source, including, but not limited to, the level of funding for grants under section 5925.
- (e) Review and comment to the department on topics determined by the task force to be appropriate for the media campaign conducted under this part.
- (f) Review and identify potential additional funding mechanisms and sources to cover the costs of outreach, awareness, available treatment options, and testing, for HCV.
- (g) Make recommendations to the department regarding information to be utilized and incorporated into the HCV information package, including, but not limited to, information regarding the status of HCV in this state, state-supported testing and counseling programs, and research findings.

(6) The hepatitis C advisory task force created under this section is abolished effective June 30, 2010.

Sec. 5911. (1) The Michigan health initiative fund is created in the state treasury and shall be administered by the department. The fund shall be expended only as provided in this part. The fund is in addition to, and is not intended as a replacement for, any other money appropriated to the department.

(2) The state treasurer shall credit to the fund all amounts appropriated for that purpose under this section, section 25 of the general sales tax act, 1933 PA 167, MCL 205.75, and section 21 of the use tax act, 1937 PA 94, MCL 205.11. The state treasurer may receive money or other assets from any source for deposit into the fund.

(3) The state treasurer shall direct the investment of the fund. Earnings shall be credited to the fund.

(4) The unencumbered balance remaining in the fund at the close of the fiscal year shall remain in the fund, and shall not revert to the general fund.

Sec. 5913. (1) The department shall utilize the fund to establish the Michigan health initiative information clearinghouse, which shall be accessible to the public statewide.

(2) The Michigan health initiative information clearinghouse shall, at a minimum, maintain and provide up-to-date information on both of the following:

(a) Major risk factors and preventable diseases and conditions including, but not limited to, HCV and AIDS.

(b) Risk reduction service providers, HCV treatment programs, and AIDS treatment programs throughout the state.

Sec. 5915. (1) The department shall utilize the fund to produce or arrange for the production of a media campaign to disseminate information on risk reduction and major risk factors and preventable diseases and conditions including, but not limited to, HCV and AIDS, pursuant to the advice of the task force as provided under section 5906.

(2) In addition to the requirements of subsection (1), the department shall utilize the fund to produce or arrange for the production of public service announcements regarding risk reduction, HCV, and AIDS which shall be distributed to publicly supported radio and television stations and to cable television studios, and which may be distributed to commercial radio and television stations.

Sec. 5919. The department shall utilize the fund to develop, in cooperation with institutions of higher education, a risk reduction, HCV information package, and AIDS information package that shall include, but not be limited to, information regarding testing, counseling, transmission, prevention, and treatment.

Sec. 5923. (1) The department shall utilize the fund to provide HIV testing free of charge to all residents of this state and all nonresident students enrolled in and attending a public or private college, university, or other postsecondary educational institution in this state. If additional funds are available, the department shall utilize the fund to provide HCV testing free of charge to residents of this state who are identified as high-risk and do not have health insurance, coverage, or benefits. All HIV and HCV testing under this section shall be performed by the department or a licensed clinical laboratory designated by the department.

(2) As a condition of receiving an HIV or HCV test under this section, the department shall require an individual who requests an HIV or HCV test to undergo counseling both before and after the test. The counseling may be provided by local health department personnel or an individual designated by the local health department who has undergone training approved by the department. The counseling shall be conducted pursuant to protocols approved by the department. If the counseling required under this subsection is provided by a local health department or an individual designated by the local health department, the cost of the counseling shall be paid by the local health department out of the distribution of funds made under section 5(c) of the health and safety fund act, 1987 PA 264, MCL 141.475. If a distribution of funds is not made under section 5(c) of the health and safety fund act, 1987 PA 264, MCL 141.475, the cost of counseling provided under this subsection by a local health department or an individual designated by the local health department shall be paid by the department.

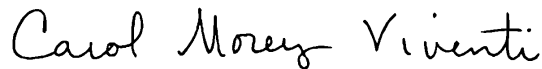
(3) A person who provides HIV or HCV testing or counseling under this section shall be reimbursed for the cost of the testing or counseling only by the department or a local health department, and shall not bill the individual receiving the services or any other person including, but not limited to, a third party payer.

Enacting section 1. Sections 5903, 5905, 5907, and 5909 of the public health code, 1978 PA 368, MCL 333.5903, 333.5905, 333.5907, and 333.5909, are repealed.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor