

Act No. 444
Public Acts of 2016
Approved by the Governor
January 3, 2017
Filed with the Secretary of State
January 4, 2017
EFFECTIVE DATE: January 4, 2017

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Senator Jones

ENROLLED SENATE BILL No. 1109

AN ACT to amend 1969 PA 306, entitled “An act to provide for the effect, processing, promulgation, publication, and inspection of state agency rules, determinations, and other matters; to provide for the printing, publishing, and distribution of certain publications; to provide for state agency administrative procedures and contested cases and appeals from contested cases in licensing and other matters; to create and establish certain committees and offices; to provide for declaratory judgments as to rules; to repeal certain acts and parts of acts; and to repeal certain parts of this act on a specific date,” by amending section 7 (MCL 24.207), as amended by 2011 PA 52.

The People of the State of Michigan enact:

Sec. 7. “Rule” means an agency regulation, statement, standard, policy, ruling, or instruction of general applicability that implements or applies law enforced or administered by the agency, or that prescribes the organization, procedure, or practice of the agency, including the amendment, suspension, or rescission of the law enforced or administered by the agency. Rule does not include any of the following:

- (a) A resolution or order of the state administrative board.
- (b) A formal opinion of the attorney general.
- (c) A rule or order establishing or fixing rates or tariffs.
- (d) A rule or order pertaining to game and fish and promulgated under parts 401, 411, and 487 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40101 to 324.40120, 324.41101 to 324.41105, and 324.48701 to 324.48740.
- (e) A rule relating to the use of streets or highways, the substance of which is indicated to the public by means of signs or signals.
- (f) A determination, decision, or order in a contested case.
- (g) An intergovernmental, interagency, or intra-agency memorandum, directive, or communication that does not affect the rights of, or procedures and practices available to, the public.
- (h) A form with instructions, an interpretive statement, a guideline, an informational pamphlet, or other material that in itself does not have the force and effect of law but is merely explanatory.
- (i) A declaratory ruling or other disposition of a particular matter as applied to a specific set of facts involved.
- (j) A decision by an agency to exercise or not to exercise a permissive statutory power, although private rights or interests are affected.
- (k) Unless another statute requires a rule to be promulgated under this act, a rule or policy that only concerns the inmates of a state correctional facility and does not directly affect other members of the public, except that a rule that only concerns inmates that was promulgated before December 4, 1986, is a rule and remains in effect until rescinded but shall not be amended. As used in this subdivision, “state correctional facility” means a facility or institution that houses an inmate population under the jurisdiction of the department of corrections.

(l) A rule establishing special local watercraft controls promulgated under former 1967 PA 303. A rule described in this subdivision may be rescinded as provided in section 80113(2) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80113.

(m) All of the following, after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215, or the statewide health coordinating council under former section 22217 of the public health code, 1978 PA 368:

(i) The designation, deletion, or revision of covered medical equipment and covered clinical services.

(ii) Certificate of need review standards.

(iii) Data reporting requirements and criteria for determining health facility viability.

(iv) Standards used by the department of health and human services in designating a regional certificate of need review agency.

(v) The modification of the 100 licensed bed limitation for extended care services programs set forth in section 22210 of the public health code, 1978 PA 368, MCL 333.22210.

(n) A policy developed by the department of health and human services under section 6(3) of the social welfare act, 1939 PA 280, MCL 400.6, setting income and asset limits, types of income and assets to be considered for eligibility, and payment standards for administration of assistance programs under that act.

(o) A policy developed by the department of health and human services under section 6(4) of the social welfare act, 1939 PA 280, MCL 400.6, to implement requirements that are mandated by federal statute or regulations as a condition of receipt of federal funds.

(p) The provisions of an agency's contract with a public or private entity including, but not limited to, the provisions of an agency's standard form contract.

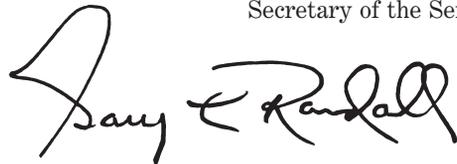
(q) A policy developed by the department of health and human services under the authority granted in section 111a of the social welfare act, 1939 PA 280, MCL 400.111a, to implement policies and procedures necessary to operate its health care programs in accordance with an approved state plan or in compliance with state statute.

(r) A minimum standard approved or established under authority granted by the Michigan indigent defense commission act, 2013 PA 93, MCL 780.981 to 780.1003.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor