

SENATE BILL NO. 734

February 28, 2024, Introduced by Senator LINDSEY and referred to the Committee on Oversight.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 2251, 2253, 2433, 2435, 2441, 2451, 2453, 2481, 12613, 13104, 13105a, 13108, 13516, 13736, 13737, 13738, and 20919 (MCL 333.2251, 333.2253, 333.2433, 333.2435, 333.2441, 333.2451, 333.2453, 333.2481, 333.12613, 333.13104, 333.13105a, 333.13108, 333.13516, 333.13736, 333.13737, 333.13738, and 333.20919), section 2251 as amended by 2012 PA 180, sections 2253 and 2453 as amended by 2022 PA 274, section 2441 as amended by 2010

PA 72, section 12613 as amended by 2009 PA 188, sections 13104 and 13108 as amended and section 13105a as added by 2010 PA 375, sections 13736, 13737, and 13738 as added by 1987 PA 203, and section 20919 as amended by 2019 PA 37; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2251. (1) Upon a determination that an imminent danger to
2 the health or lives of individuals exists in this state, the
3 director immediately shall inform the individuals affected by the
4 imminent danger and issue ~~an order~~ **a recommendation** that ~~shall~~ **must**
5 be delivered to a person authorized to avoid, correct, or remove
6 the imminent danger or be posted at or near the imminent danger.
7 The ~~order shall~~ **recommendation must** incorporate the director's
8 findings. ~~and require immediate action necessary to avoid, correct,~~
9 ~~or remove the imminent danger.~~ The ~~order~~ **recommendation** may specify
10 ~~action~~ **suggest actions** to be taken ~~or prohibit the presence of~~
11 ~~individuals in locations or under conditions where the imminent~~
12 ~~danger exists, except individuals whose presence is necessary to~~
13 ~~avoid, correct, or remove the imminent danger.~~

14 ~~(2) Upon failure of a person to comply promptly with a~~
15 ~~department order issued under this section, the department may~~
16 ~~petition the circuit court having jurisdiction to restrain a~~
17 ~~condition or practice which the director determines causes the~~
18 ~~imminent danger or to require action to avoid, correct, or remove~~
19 ~~the imminent danger.~~

20 ~~(3) If the director determines that conditions anywhere in~~
21 ~~this state constitute a menace to the public health, the director~~
22 ~~may take full charge of the administration of applicable state and~~
23 ~~local health laws, rules, regulations, and ordinances in addressing~~

1 ~~that menace.~~

2 (2) ~~(4)~~—If the director determines that an imminent danger to
3 the health or lives of individuals in this state can be prevented
4 or controlled by the promulgation of an emergency rule under
5 section 48(2) of the administrative procedures act of 1969, ~~1969 PA~~
6 ~~306~~, MCL 24.248, to schedule or reschedule a substance as a
7 controlled substance as provided in part 72, the director shall
8 notify the director of the department of licensing and regulatory
9 affairs and the administrator of ~~his or her~~ **the** determination in
10 writing. The notification ~~shall~~ **must** include a description of the
11 substance to be scheduled or rescheduled and the grounds for ~~his or~~
12 ~~her~~ **the** determination. The director may provide copies of police,
13 hospital, and laboratory reports and other information to the
14 director of the department of licensing and regulatory affairs and
15 the administrator as considered appropriate by the director.

16 (3) ~~(5)~~—As used in this section:

17 (a) "Administrator" means that term as defined in section
18 7103.

19 (b) "Imminent danger" means a condition or practice exists
20 that could reasonably be expected to cause death, disease, or
21 serious physical harm immediately or before the imminence of the
22 danger can be eliminated through ~~enforcement~~ procedures otherwise
23 provided.

24 (c) "Person" means a person as defined in section 1106 or a
25 governmental entity.

26 Sec. 2253. (1) ~~Subject to subsections (4) and (5), if~~ **If** the
27 director determines that control of an epidemic is necessary to
28 protect the public health, the director by emergency order may make
29 a declaration of that determination and may within that emergency

1 ~~order prohibit the gathering of people for any purpose and~~
2 ~~establish~~ **suggest** procedures to be followed during the epidemic to
3 ensure continuation of essential public health services. ~~and~~
4 ~~enforcement of health laws.~~ Emergency procedures are not limited to
5 this code.

6 (2) If an epidemic described in subsection (1) involves avian
7 influenza or another virus or disease that is or may be spread by
8 contact with animals, the department of agriculture and rural
9 development shall cooperate with and assist the director in the
10 director's response to the epidemic.

11 (3) On request from the director, the department of
12 agriculture and rural development shall assist the department in
13 any review or update of the department's pandemic influenza plan
14 under section 5112.

15 ~~(4) Beginning June 1, 2023, an emergency order issued under~~
16 ~~subsection (1) may prohibit or otherwise limit any visitation of a~~
17 ~~patient or resident in a qualified health care facility for a~~
18 ~~period not to exceed 30 days after the date the director first~~
19 ~~declares that control of the epidemic is necessary to protect the~~
20 ~~public health.~~

21 ~~(5) Beginning June 1, 2023, because LINDA, after 30 days after~~
22 ~~the director first declares that control of an epidemic is~~
23 ~~necessary to protect the public health in an emergency order issued~~
24 ~~under subsection (1), all of the following apply:~~

25 ~~(a) Subject to subdivision (b), the emergency order must not~~
26 ~~prohibit or otherwise limit a patient representative from visiting~~
27 ~~a patient or resident with a cognitive impairment in a qualified~~
28 ~~health care facility.~~

29 ~~(b) The emergency order may do any of the following:~~

1 ~~(i) Implement reasonable safety measures before or during a~~
2 ~~patient representative's visit to a patient or resident with a~~
3 ~~cognitive impairment in the qualified health care facility,~~
4 ~~including, but not limited to, prescreening or testing a patient~~
5 ~~representative, imposing a visit duration on a patient~~
6 ~~representative, restricting the number of patient representatives~~
7 ~~who may visit at 1 time, and requiring a patient representative to~~
8 ~~preschedule a visit.~~

9 ~~(ii) Establish procedures for the visitation of a patient or~~
10 ~~resident with a cognitive impairment in a qualified health care~~
11 ~~facility, if the director determines that establishing the~~
12 ~~procedures is vital to maintaining a safe health care~~
13 ~~infrastructure in this state. The director shall consult with~~
14 ~~qualified health care facilities before establishing procedures~~
15 ~~under this subparagraph.~~

16 ~~(6) As used in this section:~~

17 ~~(a) "Assisted living facility" means an unlicensed entity that~~
18 ~~offers community based residential care for at least 3 unrelated~~
19 ~~adults who are 65 years of age or older or who need assistance with~~
20 ~~activities of daily living that are available 24 hours a day,~~
21 ~~including, but not limited to, personal, supportive, or~~
22 ~~intermittent health-related services.~~

23 ~~(b) "Cognitive impairment" means a deficiency in the patient's~~
24 ~~or resident's mental capability or loss of intellectual ability,~~
25 ~~either of which affects the patient's or resident's comprehension,~~
26 ~~decision-making, reasoning, adaptive functioning, judgment,~~
27 ~~learning, or memory and that materially affects the patient's or~~
28 ~~resident's ability to function. A cognitive impairment may be a~~
29 ~~temporary short-term change in cognition, a medically induced~~

1 ~~change in cognition, or a long-term ongoing change in cognition.~~

2 ~~(c) "Family member" means an individual related to a patient~~
3 ~~or resident by blood, marriage, or adoption who is within the fifth~~
4 ~~degree of kinship to the patient or resident.~~

5 ~~(d) "LINDA" means loved individuals need dedicated attention.~~

6 ~~(e) "Patient representative" means any of the following:~~

7 ~~(i) A family member.~~

8 ~~(ii) A patient advocate as that term is defined in section 1106~~
9 ~~of the estates and protected individuals code, 1998 PA 386, MCL~~
10 ~~700.1106.~~

11 ~~(iii) An individual who is named as the attorney in fact under a~~
12 ~~durable or nondurable power of attorney for the patient or~~
13 ~~resident.~~

14 ~~(f) "Qualified health care facility" means any of the~~
15 ~~following:~~

16 ~~(i) A health facility or agency as that term is defined in~~
17 ~~section 20106.~~

18 ~~(ii) An assisted living facility.~~

19 ~~(iii) A physician's private practice office.~~

20 Sec. 2433. (1) A local health department shall continually and
21 diligently endeavor to prevent disease, prolong life, and promote
22 the public health through organized programs, including prevention
23 and control of environmental health hazards; prevention and control
24 of diseases; prevention and control of health problems of
25 particularly vulnerable population groups; development of health
26 care facilities and health services delivery systems; and
27 regulation of health care facilities and health services delivery
28 systems to the extent provided by law.

29 (2) A local health department shall:

1 ~~(a) Implement and enforce laws for which responsibility is~~
2 ~~vested in the local health department.~~

3 (a) ~~(b)~~ Utilize vital and health statistics and provide for
4 epidemiological and other research studies for the purpose of
5 protecting the public health.

6 (b) ~~(c)~~ Make investigations and inquiries as to:

7 (i) The causes of disease and especially of epidemics.

8 (ii) The causes of morbidity and mortality.

9 (iii) The causes, prevention, and control of environmental
10 health hazards, nuisances, and sources of illness.

11 (c) ~~(d)~~ Plan, implement, and evaluate health education through
12 the provision of expert technical assistance, or financial support,
13 or both.

14 (d) ~~(e)~~ Provide or demonstrate the provision of required
15 services as set forth in section 2473(2).

16 ~~(f) Have powers necessary or appropriate to perform the duties~~
17 ~~and exercise the powers given by law to the local health officer~~
18 ~~and which are not otherwise prohibited by law.~~

19 (e) ~~(g)~~ Plan, implement, and evaluate nutrition services by
20 provision of expert technical assistance or financial support, or
21 both.

22 ~~(3) This section does not limit the powers or duties of a~~
23 ~~local health officer otherwise vested by law.~~

24 Sec. 2435. A local health department may:

25 (a) Engage in research programs and staff professional
26 training programs.

27 (b) Advise other local agencies and persons as to the
28 location, drainage, water supply, disposal of solid waste, heating,
29 and ventilation of buildings.

1 (c) Enter into an agreement, contract, or arrangement with a
 2 governmental entity or other person necessary or appropriate to
 3 assist the local health department in carrying out its duties and
 4 functions unless otherwise prohibited by law.

5 ~~(d) Adopt regulations to properly safeguard the public health~~
 6 ~~and to prevent the spread of diseases and sources of contamination.~~

7 (d) ~~(e)~~ Accept gifts, grants, bequests, and other donations
 8 for use in performing the local health department's functions.
 9 Funds or property accepted shall be used as directed by its donor
 10 and in accordance with the law, rules, and procedures of this state
 11 and the local governing entity.

12 (e) ~~(f)~~ Sell and convey real estate owned by the local health
 13 department.

14 (f) ~~(g)~~ Provide services not inconsistent with this code.

15 (g) ~~(h)~~ Participate in the cost reimbursement program set
 16 forth in sections 2471 to 2498.

17 (h) ~~(i)~~ Perform a delegated function unless otherwise
 18 prohibited by law.

19 Sec. 2441. A local health department may adopt regulations
 20 necessary or appropriate to implement or carry out the duties or
 21 functions vested by law in the local health department. The **local**
 22 **governing entity of a local health department shall approve or**
 23 **disapprove the** regulations. ~~shall be approved or disapproved by the~~
 24 ~~local governing entity.~~ The regulations ~~shall~~ become effective 45
 25 days after approval by the local health department's governing
 26 entity or at a time specified by the local health department's
 27 governing entity. The regulations ~~shall~~ **must** be at least as
 28 stringent as the standard established by state law applicable to
 29 the same or similar subject matter. ~~Regulations of a local health~~

1 ~~department supersede inconsistent or conflicting local ordinances.~~

2 ~~.~~

3 Sec. 2451. (1) Upon a determination that an imminent danger to
4 the health or lives of individuals exists in the area served by the
5 local health department, the local health officer immediately shall
6 inform the individuals affected by the imminent danger and issue ~~an~~
7 ~~order which shall~~ **a recommendation that must** be delivered to a
8 person authorized to avoid, correct, or remove the imminent danger
9 or be posted at or near the imminent danger. The ~~order shall~~
10 **recommendation must** incorporate the findings of the local health
11 department. ~~and require immediate action necessary to avoid,~~
12 ~~correct, or remove the imminent danger. The order~~ **recommendation**
13 may ~~specify action~~ **suggest actions** to be taken ~~or prohibit the~~
14 ~~presence of individuals in locations or under conditions where the~~
15 ~~imminent danger exists, except individuals whose presence is~~
16 ~~necessary to avoid, correct, or remove the imminent danger.~~

17 ~~(2) Upon the failure of a person to comply promptly with an~~
18 ~~order issued under this section, the local health department may~~
19 ~~petition a circuit or district court having jurisdiction to~~
20 ~~restrain a condition or practice which the local health officer~~
21 ~~determines causes the imminent danger or to require action to~~
22 ~~avoid, correct, or remove the imminent danger.~~

23 (2) ~~(3)~~ As used in this section:

24 (a) "Imminent danger" means a condition or practice which
25 could reasonably be expected to cause death, disease, or serious
26 physical harm immediately or before the imminence of the danger can
27 be eliminated through ~~enforcement~~ procedures otherwise provided.

28 (b) "Person" means a person as defined in section 1106 or a
29 governmental entity.

1 Sec. 2453. (1) ~~Subject to subsections (3) and (4), if~~ **If** a
 2 local health officer determines that control of an epidemic is
 3 necessary to protect the public health, the local health officer by
 4 emergency order may make a declaration of that determination and
 5 may within that emergency order ~~prohibit the gathering of people~~
 6 ~~for any purpose and establish~~ **suggest** procedures to be followed by
 7 persons, including a local governmental entity, during the epidemic
 8 to ensure continuation of essential public health services. ~~and~~
 9 ~~enforcement of health laws.~~ Emergency procedures are not limited to
 10 this code.

11 (2) A local health department or the department may provide
 12 for the involuntary detention and treatment of individuals with
 13 hazardous communicable disease in the manner prescribed in sections
 14 5201 to 5210.

15 ~~(3) Beginning June 1, 2023, an emergency order issued under~~
 16 ~~subsection (1) may prohibit or otherwise limit any visitation of a~~
 17 ~~patient or resident in a qualified health care facility for a~~
 18 ~~period not to exceed 30 days after the date the local health~~
 19 ~~officer first declares that control of the epidemic is necessary to~~
 20 ~~protect the public health.~~

21 ~~(4) Beginning June 1, 2023, because LINDA, after 30 days after~~
 22 ~~the local health officer first declares that control of an epidemic~~
 23 ~~is necessary to protect the public health in an emergency order~~
 24 ~~issued under subsection (1), all of the following apply:~~

25 ~~(a) Subject to subdivision (b), the emergency order must not~~
 26 ~~prohibit or otherwise limit a patient representative from visiting~~
 27 ~~a patient or resident with a cognitive impairment in a qualified~~
 28 ~~health care facility.~~

29 ~~(b) The emergency order may do any of the following:~~

1 ~~(i) Implement reasonable safety measures before or during a~~
2 ~~patient representative's visit to a patient or resident with a~~
3 ~~cognitive impairment in the qualified health care facility,~~
4 ~~including, but not limited to, prescreening or testing a patient~~
5 ~~representative, imposing a visit duration on a patient~~
6 ~~representative, restricting the number of patient representatives~~
7 ~~who may visit at 1 time, and requiring a patient representative to~~
8 ~~preschedule a visit.~~

9 ~~(ii) Establish procedures for the visitation of a patient or~~
10 ~~resident with a cognitive impairment in a qualified health care~~
11 ~~facility if the local health officer determines that establishing~~
12 ~~the procedures is vital to maintaining a safe health care~~
13 ~~environment. The local health officer shall consult with qualified~~
14 ~~health care facilities before establishing procedures under this~~
15 ~~subparagraph.~~

16 ~~(5) As used in this section:~~

17 ~~(a) "Assisted living facility" means an unlicensed entity that~~
18 ~~offers community based residential care for at least 3 unrelated~~
19 ~~adults who are 65 years of age or older or who need assistance with~~
20 ~~activities of daily living that are available 24 hours a day,~~
21 ~~including, but not limited to, personal, supportive, or~~
22 ~~intermittent health-related services.~~

23 ~~(b) "Cognitive impairment" means a deficiency in the patient's~~
24 ~~or resident's mental capability or loss of intellectual ability,~~
25 ~~either of which affects the patient's or resident's comprehension,~~
26 ~~decision-making, reasoning, adaptive functioning, judgment,~~
27 ~~learning, or memory and that materially affects the patient's or~~
28 ~~resident's ability to function. A cognitive impairment may be a~~
29 ~~temporary short-term change in cognition, a medically induced~~

1 ~~change in cognition, or a long-term ongoing change in cognition.~~

2 ~~(c) "Family member" means an individual related to a patient~~
3 ~~or resident by blood, marriage, or adoption who is within the fifth~~
4 ~~degree of kinship to the patient or resident.~~

5 ~~(d) "LINDA" means loved individuals need dedicated attention.~~

6 ~~(e) "Patient representative" means any of the following:~~

7 ~~(i) A family member.~~

8 ~~(ii) A patient advocate as that term is defined in section 1106~~
9 ~~of the estates and protected individuals code, 1998 PA 386, MCL~~
10 ~~700.1106.~~

11 ~~(iii) An individual who is named as the attorney in fact under a~~
12 ~~durable or nondurable power of attorney for the patient or~~
13 ~~resident.~~

14 ~~(f) "Qualified health care facility" means any of the~~
15 ~~following:~~

16 ~~(i) A health facility or agency as that term is defined in~~
17 ~~section 20106.~~

18 ~~(ii) An assisted living facility.~~

19 ~~(iii) A physician's private practice office.~~

20 Sec. 2481. As a condition for the approval of funding for a
21 service under sections 2471 to 2498, a local health department
22 shall:

23 (a) Provide the required health services which the local
24 health department is designated to provide in substantial accord
25 with the program plan developed under part 23 and rules promulgated
26 under section 2495, including standards as to the scope and quality
27 of services.

28 (b) Report its performance and fiscal matters in a form and
29 containing information the department reasonably requires to

1 implement sections 2471 to 2498.

2 (c) Keep records and afford access to the records by
3 authorized state, federal, and local officials for audit and review
4 purposes necessary to verify and ~~assure~~**ensure** the accuracy and
5 acceptability of the reports.

6 **(d) Certify by a written report to the legislature that the**
7 **local health department has not violated any constitutionally**
8 **protected right within the fiscal year immediately preceding the**
9 **approval of funding.**

10 Sec. 12613. (1) Subject to subsection (2), the department
11 shall enforce this part and part 129 and any rules promulgated
12 under this part. ~~pursuant to sections 2262(2) and 2263.~~ In addition
13 to the civil fine authorized under section 12611, the department
14 may enforce this part and any rules promulgated under this part
15 through an action commenced pursuant to ~~section 2255 or any other~~
16 appropriate action authorized by law.

17 (2) Pursuant to section 2235, the department may authorize a
18 local health department to enforce this part and part 129 and any
19 rules promulgated under this part. A local health department
20 authorized to enforce this part and part 129 and any rules
21 promulgated under this part shall enforce this part and part 129
22 and any rules promulgated under this part. ~~pursuant to sections~~
23 ~~2461(2) and 2462.~~ In addition to the civil fine authorized under
24 section 12611, a local health department may enforce this part and
25 part 129 and any rules promulgated under this part through ~~an~~
26 ~~action commenced pursuant to section 2465 or any other~~ appropriate
27 action authorized by law.

28 (3) In addition to any other enforcement action authorized by
29 law, a person alleging a violation of this part may bring a civil

1 action for appropriate injunctive relief, if the person has used
2 the public place, child caring institution, or child care center
3 within 60 days before the civil action is filed.

4 (4) The remedies under this part are independent and
5 cumulative. The use of 1 remedy by a person ~~shall~~**does** not bar the
6 use of other lawful remedies by that person or the use of a lawful
7 remedy by another person.

8 Sec. 13104. (1) An individual shall not tattoo, brand, or
9 perform body piercing on another individual unless the tattooing,
10 branding, or body piercing occurs at a body art facility licensed
11 under this part. ~~Any tattooing, branding, or body piercing~~
12 ~~occurring in this state other than at a facility licensed under~~
13 ~~this part is considered an imminent danger under section 2251 or~~
14 ~~2451 and the department or a local health department shall order~~
15 ~~the immediate cessation of that activity in the manner prescribed~~
16 ~~in this act.~~

17 (2) The owner or operator of a body art facility shall apply
18 to the department for a body art facility license under this part
19 on a form provided by the department and at the time of application
20 shall pay to the department the appropriate fee prescribed under
21 subsection (4). The department shall issue a license on an annual
22 basis to a body art facility that meets the requirements of this
23 part or for a time period not to exceed 14 consecutive days to a
24 temporary body art facility that meets the requirements of this
25 part.

26 (3) If the department determines that the application is
27 complete and the body art facility proposed or operated by the
28 applicant meets the requirements of this part and any rules
29 promulgated under this part, the department shall issue the

1 appropriate license to the applicant for the operation of that body
2 art facility. Except for a temporary license issued under this
3 part, the license is effective for up to 1 year and expires at 12
4 midnight on December 31. A temporary license issued under this part
5 is effective for not more than 14 consecutive days and expires at
6 12 midnight on the date prescribed on the temporary license.

7 (4) Except as otherwise provided in this part, the applicant
8 shall pay 1 of the following fees at the time of application for a
9 body art facility license:

10 (a) For an annual license..... \$ 500.00.

11 (b) For a temporary license to operate a body art
12 facility at a fixed location for not more than
13 14 consecutive days..... \$ 150.00.

14 (5) An applicant for a new annual license that is filed on or
15 after July 1 shall only pay 50% of the fee prescribed in subsection
16 (4)(a). A licensee that fails to submit an application for a
17 license renewal on or before December 1, in addition to the license
18 fee under subsection (4)(a), shall pay an additional \$250.00 late
19 fee.

20 (6) The department shall issue a duplicate license upon
21 request of a licensee and the payment of a duplicate license fee of
22 \$50.00.

23 (7) Unless a different distribution is provided for in a cost
24 reimbursement program under sections 2471 to 2498, the department
25 shall distribute a portion of a fee collected under this section
26 from an applicant or licensee to a local health department
27 authorized to enforce this part under section 13108 as follows:

28 (a) From the annual license fee under subsection (4)(a) or (5)
29 and, if applicable, from the late fee under subsection (5), 50%.

1 (b) From the temporary license fee under subsection (4) (b),
2 75%.

3 (c) From the duplicate license fee under subsection (6), 50%.

4 (8) The department shall adjust the fees prescribed in this
5 section annually by an amount determined by the state treasurer to
6 reflect the cumulative annual percentage change in the Detroit-Ann
7 Arbor-Flint ~~consumer price index~~, **Consumer Price Index**, but not by
8 an amount that exceeds 5%. As used in this subsection, "Detroit-Ann
9 Arbor-Flint ~~consumer price index~~" **Consumer Price Index**" means the
10 most comprehensive index of consumer prices available for the
11 Detroit, Ann Arbor, and Flint areas from the ~~bureau of labor~~
12 ~~statistics~~ **Bureau of Labor Statistics** of the United States
13 ~~department of labor~~. **Department of Labor**.

14 Sec. 13105a. (1) An applicant or licensee shall give the local
15 health department access to the body art facility and all of its
16 books and records during all hours of operation and during other
17 reasonable hours to allow the local health department to determine
18 if the body art facility is in compliance with this part. An
19 inspection of a body art facility under this part may be announced
20 or unannounced. An applicant or licensee shall not do any of the
21 following:

22 (a) Refuse to permit the local health department to enter or
23 inspect a body art facility.

24 (b) Refuse to produce the body art facility's books and
25 records for inspection.

26 (c) Any other activity that impedes the local health
27 department's ability to carry out its duties prescribed in this
28 part.

29 (2) As part of an inspection under this part, the local health

1 department may examine, take photographs, or make copies of the
2 books and records of the body art facility.

3 (3) Upon completion of an inspection under this part, the
4 local health department shall reduce its findings to writing on a
5 form prescribed by the department. The inspection report ~~shall~~**must**
6 include a summary of all findings of the inspection with regard to
7 items of compliance with this part. If any critical violations are
8 found, the inspection report ~~shall~~**must** include a compliance
9 schedule for the body art facility to follow, which schedule is
10 consistent with the department's standards established under this
11 part for body art facilities.

12 (4) An authorized representative of the local health
13 department who participated in the conduct of the inspection shall
14 sign and date the inspection report and obtain the signature of the
15 licensee on the report. A copy of the signed and dated inspection
16 report ~~shall~~**must** be delivered to the licensee.

17 ~~(5) If the local health department determines that the~~
18 ~~continued operation of a body art facility is an imminent danger~~
19 ~~under section 2451, the local health department shall order the~~
20 ~~immediate cessation of the operation of that facility in the manner~~
21 ~~prescribed in this act. A body art facility ordered to cease~~
22 ~~operations under this subsection shall immediately cease operations~~
23 ~~and shall not resume operations until the local health department~~
24 ~~has conducted an inspection, has determined that the operation of~~
25 ~~the body art facility is no longer an imminent danger, and has~~
26 ~~issued an order allowing the body art facility to resume~~
27 ~~operations.~~

28 (5) ~~(6)~~At any time it determines appropriate, a local health
29 department may place limitations on the license of a body art

1 facility, which limitations include the imposition of restrictions
 2 or conditions, or both, on the operations of that body art
 3 facility. A body art facility shall comply with all license
 4 limitations imposed under this subsection until the local health
 5 department has conducted an inspection, has determined that the
 6 license limitations are no longer necessary, and has issued an
 7 order allowing the body art facility to resume operations without
 8 the license limitations.

9 Sec. 13108. (1) Pursuant to section 2235, the department ~~shall~~
 10 **may** authorize a local health department to enforce this part and
 11 any rules promulgated under this part. ~~A~~**If a** local health
 12 department **is** authorized to enforce this part and any rules
 13 promulgated under this part, **the local health department** shall
 14 enforce this part and any rules promulgated under this part.
 15 ~~pursuant to sections 2461(2) and 2462.~~ In addition to the penalties
 16 and remedies under this part, a local health department may enforce
 17 this part and any rules promulgated under this part through ~~an~~
 18 ~~action commenced pursuant to section 2465 or any other~~ appropriate
 19 action authorized by law.

20 (2) If a local health department of a county or city under
 21 part 24 is unable or unwilling to perform the functions required in
 22 this section and the county or city is not part of a district that
 23 has created a district health department pursuant to section 2415,
 24 the county or city, through an intergovernmental agreement, may
 25 contract with another local governing entity to have that entity's
 26 local health department perform the functions required in this
 27 section. The contracting parties under this subsection shall obtain
 28 the department's approval before execution of the intergovernmental
 29 agreement.

1 (3) Pursuant to section 2444, a local governing entity of a
 2 local health department authorized to enforce this part under this
 3 section may fix and require the payment of fees by applicants and
 4 licensees for services required to be performed by the local health
 5 department under this part.

6 (4) A local health department shall use as guidance in
 7 enforcing this part any safety standards or other requirements
 8 issued by the department applicable to body art facilities.

9 (5) In addition to any other enforcement action authorized by
 10 law, a person alleging a violation of this part may bring a civil
 11 action in a court of competent jurisdiction for appropriate
 12 injunctive relief.

13 Sec. 13516. ~~(1) When~~ **Subject to subsection (2), if** the
 14 department finds that an emergency exists requiring immediate
 15 action to protect occupational or public health and safety, the
 16 department shall issue an order, with or without notice or hearing,
 17 reciting the existence of the emergency and providing for the
 18 protection of public health and safety. Notwithstanding this act or
 19 the administrative procedures act of 1969, the order ~~shall be~~ **is**
 20 effective immediately. A person to whom the order is directed shall
 21 comply ~~therewith~~ **with the order** immediately but, on request to the
 22 department, ~~the department shall be granted~~ **grant the person** a
 23 hearing within 15 days. On the basis of the hearing, the emergency
 24 order ~~shall~~ **must** be continued, modified, or revoked within 30 days
 25 after the hearing.

26 **(2) The department shall issue an emergency order under this**
 27 **section only if it is necessary to enforce this part or a rule**
 28 **promulgated under this part.**

29 Sec. 13736. (1) A person who holds a license or permit issued

1 under this part may be subject to sanctions as provided in
2 subsection (2) for negligence or a failure to exercise due care,
3 including negligent supervision, regarding the license or permit
4 holder's contractors, employees, agents, or subordinates.

5 (2) The department may suspend, revoke, annul, withdraw,
6 recall, or cancel a license or permit issued under this part in
7 accordance with the administrative procedures act of 1969, ~~Act No.~~
8 ~~306 of the Public Acts of 1969, being sections 24.201 to 24.328 of~~
9 ~~the Michigan Compiled Laws,~~ if any of the following exists:

10 (a) Fraud or deceit in obtaining a permit or license or in
11 registering under this part.

12 (b) A violation of this part, an order issued or a rule
13 promulgated under this part, or the conditions of a registration,
14 permit, or license under this part.

15 (c) Negligence or failure to exercise due care, including
16 negligent supervision, regarding contractors, employees, agents, or
17 subordinates.

18 (3) In addition to or in lieu of any action authorized in
19 subsection (2), if the department finds any of the circumstances
20 listed in subsection (2) (a) to (c), the department may issue an
21 order directing the person to do either of the following:

22 (a) Discontinue handling or otherwise possessing waste.

23 (b) Comply with specific requirements of a permit or license
24 issued under this part.

25 (4) The department may establish procedures, hold hearings,
26 administer oaths, issue subpoenas, and order testimony to be taken
27 at a hearing or by deposition in a proceeding under this part. A
28 person may be compelled to appear and testify and to produce books,
29 papers, or documents in a proceeding. In case of disobedience of a

1 subpoena, a party to a hearing may invoke the aid of the circuit
2 court of the county in which the hearing is held to require the
3 attendance and testimony of witnesses. The circuit court may issue
4 an order requiring an individual to appear and give testimony.

5 (5) An application for a license or permit under this part may
6 be denied on a finding of any condition or practice that would
7 constitute a violation of this part or any rules promulgated under
8 this part if the applicant were a holder of the permit or a license
9 that the applicant seeks or if there is fraud or deceit in
10 attempting to obtain a permit or license under this part.

11 (6) The director or ~~his or her~~ **the director's** authorized
12 representatives may enter the disposal site or other location where
13 waste is located or reasonably believed to be located at any time
14 for the purpose of monitoring, surveillance, and inspection, and
15 may enter at all reasonable times upon any public or private
16 property, building, premises, place, or vehicle for the purpose of
17 determining compliance with this part, or a permit, registration,
18 or license condition, rule, or an order issued pursuant to this
19 part. In the conduct of an investigation, the director or ~~his or~~
20 ~~her~~ **the director's** authorized representatives may collect samples,
21 conduct tests and inspections, and examine any book, record, paper,
22 document, or other physical evidence related to the generation,
23 management, processing, collecting, transport, storage, or disposal
24 of waste.

25 (7) The department shall conduct unannounced spot checks of
26 the premises of generators and processors who hold permits issued
27 under this part to assure the proper packaging of waste. The
28 unannounced spot checks provided for in this subsection shall only
29 occur to the extent that the department has access to the premises

1 of the generator and processor under federal law.

2 (8) The department shall advise the authority of regulatory
3 actions taken under this part and shall evaluate and respond within
4 30 days to information received from the authority in which the
5 authority recommends that regulatory action should be undertaken by
6 the department.

7 (9) An agent or employee of the department may apply for ~~an~~
8 ~~administrative inspection warrant pursuant to sections 2241 to~~
9 ~~2247, or for a search warrant for purposes of collecting samples,~~
10 testing, inspecting, or examining any radioactive material or any
11 public or private property, building, premises, place, vehicle,
12 book, record, paper, sample results, or other physical evidence
13 related to the generation, processing, collecting, management,
14 transport, storage, disposal, or possession of waste. It ~~shall be~~
15 **is** sufficient probable cause to show any of the following:

16 (a) The sample collection, test, inspection, or examination is
17 pursuant to a general administrative action to determine compliance
18 with this part.

19 (b) An agent or employee of the department has reason to
20 believe that a violation of this part has occurred or may occur.

21 (c) An agent or employee of the department has been refused
22 access to the waste, property, building, premise, place, vehicle,
23 book, record, document, paper, sample results, or other physical
24 evidence related to the generation, management, processing,
25 collecting, transport, or disposal of waste, or has been prevented
26 from collecting samples or conducting tests, surveillance,
27 inspections, monitoring, or examinations.

28 Sec. 13737. ~~(1)~~ Notwithstanding the existence and pursuit of
29 any other remedy, the director, without posting a bond, may request

1 the attorney general to bring an action in the name of the people
 2 of this state to restrain, enjoin, prevent, or correct a violation
 3 of this part, rules promulgated under this part, or a permit or
 4 license or order issued under this part.

5 ~~(2) The department may promulgate rules to adopt a schedule of~~
 6 ~~monetary civil fines in accordance with sections 2262 and 2263 to~~
 7 ~~enforce this part.~~

8 Sec. 13738. (1) If the director finds that a person is in
 9 violation of this part, a rule promulgated under this part, or a
 10 permit or license issued under this part, the director may issue an
 11 order requiring the person to comply with this part, rule, permit,
 12 or license. An order issued pursuant to this section may require
 13 remedial actions considered necessary by the department to correct
 14 violations. ~~An order issued by the director pursuant to this~~
 15 ~~section may be an emergency order as authorized by section 2251~~
 16 ~~upon a finding and determination that an imminent danger to the~~
 17 ~~health or lives of individuals exists as a result of conditions~~
 18 ~~associated with the generation, processing, collecting, management,~~
 19 ~~transporting, handling, disposal, or possession of waste.~~ The
 20 attorney general may commence a civil action against a person for
 21 appropriate relief, including injunctive relief for a violation of
 22 this part or a rule promulgated under this part. An action under
 23 this subsection may be brought in the circuit court for the county
 24 of Ingham or for the county in which the defendant is located,
 25 resides, or is doing business. In addition to any other relief
 26 granted under this subsection, the court may impose a civil fine of
 27 not more than \$25,000.00 for each instance of violation and, if the
 28 violation is continuous, for each day of continued noncompliance. A
 29 fine collected under this subsection ~~shall~~ **must** be forwarded to the

1 state treasurer for deposit in the general fund.

2 (2) A person who possesses, generates, processes, collects,
3 transports, or disposes of waste in violation of this part, or
4 contrary to a license, permit, order, or rule issued or promulgated
5 under this part, or who makes a false statement, representation, or
6 certification in an application for, or form pertaining to, a
7 permit or license, is guilty of a misdemeanor, punishable by a fine
8 of not more than \$25,000.00 for each instance of violation and, if
9 the violation is continuous, for each day of violation, or
10 imprisonment for not more than 1 year, or both. If the conviction
11 is for a violation committed after a first conviction of the person
12 under this subsection, the person is guilty of a misdemeanor,
13 punishable by a fine of not more than \$50,000.00 for each instance
14 of violation and, if the violation is continuous, for each day of
15 violation, or by imprisonment for not more than 5 years, or both.

16 (3) Any person who knowingly possesses, generates, processes,
17 collects, transports, or disposes of waste in violation of
18 subsection (2) and who knows at that time that ~~he or she~~ **the person**
19 thereby places another person in imminent danger of death or
20 serious bodily injury, and if ~~his or her~~ **the person's** conduct in
21 the circumstances manifests an unjustified and inexcusable
22 disregard for human life, or if ~~his or her~~ **the person's** conduct in
23 the circumstances manifests an extreme indifference for human life,
24 is guilty of a misdemeanor, punishable by a fine of not more than
25 \$250,000.00 or imprisonment for not more than 2 years, or both,
26 except that any person whose actions constitute an extreme
27 indifference for human life is guilty of a felony punishable by a
28 fine of not less than \$250,000.00 and not more than \$500,000.00 and
29 imprisonment for not less than 5 years and not more than 20 years.

1 A defendant that is not an individual and not a governmental entity
 2 ~~shall be~~ **is** subject, upon conviction, to a fine of not more than
 3 \$1,000,000.00.

4 (4) For the purposes of subsection (3), a person's state of
 5 mind is knowing with respect to:

6 (a) ~~His or her~~ **The person's** conduct, if ~~he or she~~ **the person**
 7 is aware of the nature of ~~his or her~~ **the person's** conduct.

8 (b) An existing circumstance, if ~~he or she~~ **the person** is aware
 9 or believes that the circumstance exists.

10 (c) A result of ~~his or her~~ **the person's** conduct, if ~~he or she~~
 11 **the person** is aware or believes that ~~his or her~~ **the person's**
 12 conduct is substantially certain to cause danger of death or
 13 serious bodily injury.

14 (5) For purposes of subsection (3), in determining whether a
 15 defendant who is an individual knew that ~~his or her~~ **the person's**
 16 conduct placed another person in imminent danger of death or
 17 serious bodily injury, both of the following apply:

18 (a) The person is responsible only for actual awareness or
 19 actual belief that ~~he or she~~ **the person** possessed.

20 (b) Knowledge possessed by a person other than the defendant
 21 but not by the defendant ~~himself or herself~~ **personally** may not be
 22 attributed to the defendant. However, in proving the defendant's
 23 possession of actual knowledge, circumstantial evidence may be
 24 used, including evidence that the defendant took affirmative steps
 25 to shield ~~himself or herself~~ **the defendant** from relevant
 26 information.

27 (6) It is an affirmative defense to a prosecution under this
 28 part that the conduct charged was consented to by the person
 29 endangered and that the danger and conduct charged were reasonably

1 foreseeable hazards of either of the following:

2 (a) An occupation, business, profession, or through the
3 undertaking of an inspection of the disposal site as a
4 representative of the local monitoring committee of the host site
5 community.

6 (b) Medical treatment or professionally approved methods and
7 such other person had been made aware of the risks involved prior
8 to giving consent.

9 (7) The defendant may establish an affirmative defense under
10 subsection (6) by a preponderance of the evidence.

11 (8) For purposes of subsection (3), "serious bodily injury"
12 means each of the following:

13 (a) Bodily injury which involves a substantial risk of death.

14 (b) Unconsciousness.

15 (c) Extreme physical pain.

16 (d) Protracted and obvious disfigurement.

17 (e) Protracted loss or impairment of the function of a bodily
18 member, organ, or mental faculty.

19 (9) In addition to a fine, the attorney general may bring an
20 action in a court of competent jurisdiction to recover the full
21 value of the damage done to the natural resources of this state and
22 the costs of surveillance and enforcement by the state resulting
23 from the violation. The damages and cost collected under this
24 subsection shall be forwarded to the state treasurer for deposit in
25 the general fund.

26 (10) The court, in issuing a final order in an action brought
27 under this part, may award costs of litigation, including
28 reasonable attorney and expert witness fees to a party, including
29 the state, if the court determines that the award is appropriate.

1 (11) A person who has an interest which is or may be affected
2 by a civil or administrative action commenced under this part shall
3 have a right to intervene in that action.

4 Sec. 20919. (1) A medical control authority shall establish
5 written protocols for the practice of life support agencies and
6 licensed emergency medical services personnel within its region.
7 The medical control authority shall develop and adopt the protocols
8 required under this section in accordance with procedures
9 established by the department and shall include all of the
10 following:

11 (a) The acts, tasks, or functions that may be performed by
12 each type of emergency medical services personnel licensed under
13 this part.

14 (b) Medical protocols to ensure the appropriate dispatching of
15 a life support agency based upon medical need and the capability of
16 the emergency medical services system.

17 (c) Protocols for complying with the Michigan do-not-
18 resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067.

19 (d) Protocols defining the process, actions, and sanctions a
20 medical control authority may use in holding a life support agency
21 or emergency medical services personnel accountable.

22 (e) Protocols to ensure that if the medical control authority
23 determines that an immediate threat to the public health, safety,
24 or welfare exists, appropriate action to remove medical control can
25 immediately be taken until the medical control authority has had
26 the opportunity to review the matter at a medical control authority
27 hearing. The protocols must require that the hearing is held within
28 3 business days after the medical control authority's
29 determination.

1 (f) Protocols to ensure that if medical control has been
2 removed from a participant in an emergency medical services system,
3 the participant does not provide prehospital care until medical
4 control is reinstated and that the medical control authority that
5 removed the medical control notifies the department of the removal
6 within 1 business day.

7 (g) Protocols to ensure that a quality improvement program is
8 in place within a medical control authority and provides data
9 protection as provided in 1967 PA 270, MCL 331.531 to 331.534.

10 (h) Protocols to ensure that an appropriate appeals process is
11 in place.

12 (i) Protocols to ensure that each life support agency that
13 provides basic life support, limited advanced life support, or
14 advanced life support is equipped with epinephrine or epinephrine
15 auto-injectors and that each emergency medical services personnel
16 authorized to provide those services is properly trained to
17 recognize an anaphylactic reaction, to administer the epinephrine,
18 and to dispose of the epinephrine auto-injector or vial.

19 (j) Protocols to ensure that each life support vehicle that is
20 dispatched and responding to provide medical first response life
21 support, basic life support, or limited advanced life support is
22 equipped with an automated external defibrillator and that each
23 emergency medical services personnel is properly trained to utilize
24 the automated external defibrillator.

25 (k) Protocols to ensure that each life support vehicle that is
26 dispatched and responding to provide medical first response life
27 support, basic life support, or limited advanced life support is
28 equipped with opioid antagonists and that each emergency medical
29 services personnel is properly trained to administer opioid

1 antagonists. However, a medical control authority, at its
2 discretion, may rescind or continue the protocol adopted under this
3 subdivision.

4 (1) Protocols for complying with part 56B.

5 (2) A medical control authority shall not establish a protocol
6 under this section that conflicts with the Michigan do-not-
7 resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067,
8 or part 56B.

9 (3) The department shall establish procedures for the
10 development and adoption of written protocols under this section.
11 The procedures must include at least all of the following
12 requirements:

13 (a) At least 60 days before the adoption of a protocol, the
14 medical control authority shall circulate a written draft of the
15 proposed protocol to all significantly affected persons within the
16 emergency medical services system served by the medical control
17 authority and submit the written draft to the department for
18 approval.

19 (b) The department shall review a proposed protocol for
20 consistency with other protocols concerning similar subject matter
21 that have already been established in this state and shall consider
22 any written comments received from interested persons in its
23 review.

24 (c) Within 60 days after receiving a written draft of a
25 proposed protocol from a medical control authority, the department
26 shall provide a written recommendation to the medical control
27 authority with any comments or suggested changes on the proposed
28 protocol. If the department does not respond within 60 days after
29 receiving the written draft, the proposed protocol is considered to

1 be approved by the department.

2 (d) After department approval of a proposed protocol, the
3 medical control authority may formally adopt and implement the
4 protocol.

5 ~~(c) A medical control authority may establish an emergency
6 protocol necessary to preserve the health or safety of individuals
7 within its region in response to a present medical emergency or
8 disaster without following the procedures established by the
9 department under this subsection for an ordinary protocol. An
10 emergency protocol established under this subdivision is effective
11 only for a limited period and does not take permanent effect unless
12 it is approved according to the procedures established by the
13 department under this subsection.~~

14 (4) A medical control authority shall provide an opportunity
15 for an affected participant in an emergency medical services system
16 to appeal a decision of the medical control authority. Following
17 appeal, the medical control authority may affirm, suspend, or
18 revoke its original decision. After appeals to the medical control
19 authority have been exhausted, the affected participant in an
20 emergency medical services system may appeal the medical control
21 authority's decision to the state emergency medical services
22 coordination committee created in section 20915. The state
23 emergency medical services coordination committee shall issue an
24 opinion on whether the actions or decisions of the medical control
25 authority are in accordance with the department-approved protocols
26 of the medical control authority and state law. If the state
27 emergency medical services coordination committee determines in its
28 opinion that the actions or decisions of the medical control
29 authority are not in accordance with the medical control

1 authority's department-approved protocols or with state law, the
2 state emergency medical services coordination committee shall
3 recommend that the department take any enforcement action
4 authorized under this code.

5 (5) If adopted in protocols approved by the department, a
6 medical control authority may require life support agencies within
7 its region to meet reasonable additional standards for equipment
8 and personnel, other than medical first responders, that may be
9 more stringent than are otherwise required under this part. If a
10 medical control authority proposes a protocol that establishes
11 additional standards for equipment and personnel, the medical
12 control authority and the department shall consider the medical and
13 economic impact on the local community, the need for communities to
14 do long-term planning, and the availability of personnel. If either
15 the medical control authority or the department determines that
16 negative medical or economic impacts outweigh the benefits of those
17 additional standards as they affect public health, safety, and
18 welfare, the medical control authority shall not adopt and the
19 department shall not approve protocols containing those additional
20 standards.

21 (6) If adopted in protocols approved by the department, a
22 medical control authority may require medical first response
23 services and licensed medical first responders within its region to
24 meet additional standards for equipment and personnel to ensure
25 that each medical first response service is equipped with an
26 epinephrine auto-injector, and that each licensed medical first
27 responder is properly trained to recognize an anaphylactic reaction
28 and to administer and dispose of the epinephrine auto-injector, if
29 a life support agency that provides basic life support, limited

1 advanced life support, or advanced life support is not readily
2 available in that location.

3 (7) If a decision of the medical control authority under
4 subsection (5) or (6) is appealed by an affected person, the
5 medical control authority shall make available, in writing, the
6 medical and economic information it considered in making its
7 decision. On appeal, the state emergency medical services
8 coordination committee created in section 20915 shall review this
9 information under subsection (4) and shall issue its findings in
10 writing.

11 Enacting section 1. Sections 1299, 2241, 2242, 2243, 2244,
12 2245, 2246, 2255, 2261, 2262, 2263, 2437, 2443, 2446, 2455, 2461,
13 2462, 2463, and 2465 of the public health code, 1978 PA 368, MCL
14 333.1299, 333.2241, 333.2242, 333.2243, 333.2244, 333.2245,
15 333.2246, 333.2255, 333.2261, 333.2262, 333.2263, 333.2437,
16 333.2443, 333.2446, 333.2455, 333.2461, 333.2462, 333.2463, and
17 333.2465, are repealed.