

## MUNICIPAL HEALTH FACILITIES CORPORATIONS ACT (EXCERPT)

### Act 230 of 1987

#### CHAPTER 2

##### **331.1201 Question of establishing corporation; election required.**

Sec. 201. Any county board of commissioners of a county not having a county public hospital on the effective date of this act may incorporate 1 or more corporations under this act. Except as provided in sections 203 and 204, and except in counties having a population of 100,000 or more as determined by the most recent published federal decennial census, the question of establishing a corporation shall be presented to the county electors at a special or regular county election prior to incorporation. The election proceedings under this section shall be conducted in accordance with the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws.

**History:** 1987, Act 230, Eff. Feb. 27, 1988.

##### **331.1202 Holding election; canvass; ballots.**

Sec. 202. An election required under section 201 shall be held at the usual places in the county for the election of county officers, the vote to be canvassed in the same manner as that for county officers. The ballots to be used at any election at which the question is submitted shall be printed with a statement as follows:

"Shall the county of \_\_\_\_\_ establish a county health facilities corporation in accordance with the terms of the county health facilities corporations act?

Yes \_\_\_\_ No \_\_\_\_".

**History:** 1987, Act 230, Eff. Feb. 27, 1988.

##### **331.1203 Corporation as successor to county public hospital.**

Sec. 203. (1) Upon the expiration of 90 days after the effective date of this act, a county public hospital organized and existing under Act No. 350 of the Public Acts of 1913, being sections 331.151 to 331.169 of the Michigan Compiled Laws, or Act No. 109 of the Public Acts of 1945, being sections 331.201 to 331.213 of the Michigan Compiled Laws, on the effective date of this act shall be considered to be a corporation incorporated and existing under this act without the adoption or filing of articles of incorporation, without a vote of county electors, and without diminishing the terms of office of persons serving as trustees on the effective date of this act. A county public hospital shall not be considered to be a corporation incorporated and existing under this act upon the expiration of the 90-day period if, within the 90-day period, the county board of commissioners of the county in which the county public hospital is located passes a resolution prohibiting incorporation of the county public hospital under this act. Any such resolution shall be effective for not longer than 12 months after the date of passage. Before the expiration of the 12-month period, and annually thereafter, the county board of commissioners may pass a succeeding resolution prohibiting the incorporation of the county public hospital under this act. If the county board of commissioners fails to pass a succeeding resolution before the expiration of a 12-month period, the county public hospital automatically shall be incorporated under this act. The county board of commissioners of the county may at any time after the effective date of this act adopt articles of incorporation for the corporation in accordance with section 206. Until such time as any such articles of incorporation are effective, the provisions of this act shall be considered to constitute the articles of incorporation of the corporation. Unless and until articles of incorporation providing different numbers of trustees or terms of office are effective, corporations governed by Act No. 350 of the Public Acts of 1913 on the effective date of this act shall have a board of 9 trustees serving 6-year terms, and corporations governed by Act No. 109 of the Public Acts of 1945 on the effective date of this act shall have a board of 5 trustees serving 3-year terms.

(2) Unless a resolution prohibiting incorporation of the county public hospital under this act has been passed and is in effect as provided in subsection (1), any county public hospital which has continuously operated for not less than the 15 years immediately preceding the effective date of this act and which has functioned or purported to function under Act No. 350 of the Public Acts of 1913, but which is unable to document compliance with sections 1, 2, and 3 of Act No. 350 of the Public Acts of 1913, being sections 331.151, 331.152, and 331.153 of the Michigan Compiled Laws, or any county public hospital which has continuously operated for not less than the 15 years immediately preceding the effective date of this act and which has functioned or purported to function under Act No. 109 of the Public Acts of 1945, but which is unable to document compliance with section 2 of Act No. 109 of the Public Acts of 1945, being section 331.202 of the Michigan Compiled Laws, shall be considered to be a corporation described in subsection (1). All actions taken by its board of hospital trustees in good faith prior to the effective date of this act shall be

validated, ratified, and confirmed, provided the county public hospital files a notice of its intention to utilize this subsection with the county board of commissioners and the county clerk within 90 days after the effective date of this act. If necessary, the board of trustees shall be reconstituted in accordance with section 209(2), but without diminishing the terms of office of persons serving as trustees on the effective date of this act.

(3) Upon the expiration of 90 days after the effective date of this act, unless a resolution prohibiting incorporation of the county public hospital under this act has been passed and is in effect as provided in subsection (1), each corporation described in subsection (1) or (2) shall be considered to be the successor to the county public hospital for the county, and the terms of office of trustees shall continue. The corporation shall have all of the rights, privileges, immunities, and franchises of its predecessor county public hospital, all personal property, all debts due on whatever account, and all choses in action. All interests and licenses of or belonging to the county public hospital shall be considered to be transferred to and vested in the corporation without further act or deed. Such interests and licenses shall not be considered to have undergone any change of ownership for the purpose of any law or regulation, nor shall the fiscal year of any county public hospital be considered to have ended solely because this act takes effect. The title to any real estate, or any interest in real estate, vested in any county or county public hospital, shall not revert or in any way be impaired because a corporation succeeds a county public hospital pursuant to this act.

(4) Upon the expiration of 90 days after the effective date of this act, unless a resolution prohibiting incorporation of the county public hospital under this act has been passed and is in effect as provided in subsection (1), each corporation described in subsection (1) or (2) shall be considered to be the owner of all money and other property then deposited in the treasury of the county to the credit of the hospital fund and shall be entitled to all interest and other earnings accruing on those funds on and after the effective date of this act. The corporation shall be the owner of all other personal property used exclusively by or for the county public hospital. The treasurer of any county having custody of money and other property belonging to a corporation pursuant to this subsection shall arrange for the prompt transfer of such money and other property to the custody of the corporation.

(5) Upon the expiration of 90 days after the effective date of this act, unless a resolution prohibiting incorporation of the county public hospital under this act has been passed and is in effect as provided in subsection (1), each corporation described in subsection (1) or (2) shall be the employer of all persons employed by the county public hospital and shall assume and be bound by any labor agreement in existence on the effective date of this act and applicable to the county public hospital, but shall not be subject to greater obligations with respect to the terms, conditions, or duration of employment than was the county public hospital immediately preceding the effective date of this act. A representative of the employees or a group of employees who is entitled to represent the employees or group of employees under Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.216 of the Michigan Compiled Laws, shall continue to be the representative of the employees or group of employees. This subsection does not limit the rights of the hospital employees, under applicable law, to assert that a bargaining representative protected by this subsection is no longer the representative of the employees.

(6) Upon the expiration of 90 days after the effective date of this act, unless a resolution prohibiting incorporation of the county public hospital under this act has been passed and is in effect as provided in subsection (1), each corporation described in subsection (1) or (2) shall be responsible and liable for all liabilities and obligations of the county public hospital it succeeds. A claim existing or an action or proceeding pending by or against a county public hospital may be prosecuted by the corporation succeeding it in the name of the county public hospital, or the corporation may be substituted. The rights of creditors and any lien upon the property of a county or a county public hospital existing on the effective date of the act shall not be impaired.

**History:** 1987, Act 230, Eff. Feb. 27, 1988.

### **331.1204 Organization of health care facilities.**

Sec. 204. Any county owning and operating a county hospital pursuant to charter or any statute other than Act No. 350 of the Public Acts of 1913, or Act No. 109 of the Public Acts of 1945, may organize any or all of the health care facilities, other than county medical care facilities, as a corporation under this act by the adoption and filing of articles of incorporation in accordance with section 206 without a vote of the county electors.

**History:** 1987, Act 230, Eff. Feb. 27, 1988.

### **331.1205 Corporation or subsidiary corporation; incorporation; name.**

Sec. 205. If, in accordance with sections 201 and 202, a majority of all the votes cast upon the question are in favor of establishing a corporation, or if no vote of the electors is required for the establishment of a

corporation pursuant to section 201 or 204, the county board of commissioners may incorporate a corporation in order to implement or further the public purposes stated in section 102 through the exercise of all or some of the powers provided in this act. The board of trustees of a corporation may incorporate 1 or more subsidiary corporations in order to implement or further the public purposes stated in section 102 through the exercise of all or some of the powers provided in this act. The county board of commissioners shall adopt a suitable name for any corporation which it incorporates. The board of trustees of a corporation shall adopt a suitable name for any subsidiary corporation which it incorporates.

**History:** 1987, Act 230, Eff. Feb. 27, 1988.

### **331.1206 Articles of incorporation; approval; contents.**

Sec. 206. Except as provided in section 203, the incorporation of a corporation by a county shall be accomplished by approval of articles of incorporation by resolution of the county board of commissioners. The incorporation of a subsidiary corporation by a county shall be accomplished by approval of articles of incorporation by resolution of the county board of commissioners. The articles of incorporation of a corporation or subsidiary corporation established by a county shall set forth the name of the corporation or subsidiary corporation; the purposes for which it is created, which may include all of the purposes for which a corporation or subsidiary corporation may be organized under this act; the number, terms, and manner of selection of the officers of its board of trustees or subsidiary board, which shall include a chairperson and a secretary, and a general description of their respective powers and duties; the date upon which the incorporation becomes effective; and the name of the newspaper in which the articles of incorporation shall be published. The articles of incorporation of a subsidiary corporation shall also contain the name of the corporation acting as its parent, and shall specify the size of the subsidiary board in accordance with section 209(1). The articles of incorporation of a corporation established by a county may specify transactions otherwise within the powers of its board of trustees which shall require approval by resolution of the county board of commissioners, and may also contain other matters considered expedient to be included in the articles of incorporation. The articles of incorporation of a subsidiary corporation incorporated by a county may specify transactions otherwise within the powers of its subsidiary board which shall require approval by resolution of the board of trustees of its designated parent corporation, and may also contain other matters considered expedient to be included in the articles of incorporation.

**History:** 1987, Act 230, Eff. Feb. 27, 1988;—Am. 1994, Act 398, Imd. Eff. Dec. 29, 1994.

### **331.1207 Articles of incorporation; execution; delivery; filing; publication; certificate; effective date of incorporation; validity of incorporation conclusively presumed; section inapplicable to articles of incorporation of restructured corporation or subsidiary.**

Sec. 207. (1) The articles of incorporation of a corporation incorporated by a county shall be executed in duplicate by the chairperson of the county board of commissioners or other commissioner designated by the county board of commissioners. The articles of incorporation of a subsidiary corporation of a corporation incorporated by a county shall be executed in duplicate by the chairperson of the board of trustees of the parent corporation, or other trustee designated by the board of trustees. The articles of incorporation shall then be delivered to the county clerk who shall file 1 copy in his or her office and the other with the secretary of the corporation or subsidiary corporation when a secretary is selected. The county clerk shall cause a copy of the articles of incorporation to be published once in a newspaper designated in the articles of incorporation and circulating within the county accompanied by a statement that the right exists to question the validity of the incorporation in court as provided in this section.

(2) The county clerk shall file 1 printed copy of articles of incorporation delivered to him or her under subsection (1) with the secretary of state and 1 printed copy in his or her office. The county clerk shall attach to each of the printed copies his or her certificate setting forth that the copy is a true and complete copy of the original articles of incorporation on file in his or her office.

(3) The incorporation of a corporation or a subsidiary corporation described in this section is effective at the time provided in the articles of incorporation.

(4) The validity of the incorporation of a corporation or a subsidiary corporation described in this section is conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the certified copy of the articles of incorporation of that corporation or subsidiary corporation is filed with the secretary of state under subsection (2).

(5) This section does not apply to articles of incorporation of a restructured corporation or restructured subsidiary corporation described in section 305a.

**History:** 1987, Act 230, Eff. Feb. 27, 1988;—Am. 2010, Act 331, Imd. Eff. Dec. 21, 2010.

### **331.1208 Articles of incorporation; amendment.**

Sec. 208. (1) The articles of incorporation of a corporation incorporated by a county may be amended by resolution approved by the affirmative vote of a majority of the members serving on the county board of commissioners. The articles of incorporation of a subsidiary corporation of a corporation incorporated by a county may be amended by resolution approved by the affirmative vote of a majority of the trustees serving on the board of trustees of the parent corporation.

(2) The county clerk shall file certified copies of any amendment to the articles of incorporation of a corporation or subsidiary corporation approved under subsection (1) in his or her office, with the secretary of state, and with the secretary of the corporation or subsidiary corporation. The amendment is effective when filed with the secretary of state unless a later effective date is specified in the resolution adopting the amendment. This subsection does not apply to an amendment to the articles of incorporation of a restructured corporation or a restructured subsidiary corporation.

(3) The articles of incorporation of a corporation or subsidiary corporation described in this section may be amended to include any provision that could be lawfully included in articles of incorporation initially adopted under this act at the time the amendment is approved, and may provide for the alteration or changing of the name, structure, organization, purposes, powers, programs, or activities of the corporation or subsidiary corporation. However, an amendment shall not be effective to impair the obligation of a corporation obligation, bond, note, or contract.

**History:** 1987, Act 230, Eff. Feb. 27, 1988;—Am. 2010, Act 331, Imd. Eff. Dec. 21, 2010.

### **331.1209 Board of trustees and subsidiary board incorporated by county; appointment and terms of trustees; qualifications; oath; removal from office; notice of hearing; hearing; vote.**

Sec. 209. (1) All of the following apply to each board of trustees of a corporation and subsidiary board of a subsidiary corporation incorporated by a county:

(a) The board shall consist of at least 5 and not more than 15 trustees. The exact number of trustees and the length of their terms of office shall be as specified in the articles of incorporation or as provided under section 203(1).

(b) Except for the initial appointments to a board of trustees or subsidiary board of a newly incorporated corporation or subsidiary corporation, the term of office of a trustee begins on January 1.

(c) The term of office of a trustee appointed to fill a vacancy on a board of trustees or subsidiary board begins when he or she is appointed and continues for the remainder of the term of the former trustee whose position became vacant.

(d) Terms of office of trustees shall be staggered so that an approximately equal number of terms expire at the end of each year or each 2 years, except that terms may be fixed so that the shortest terms do not expire until the end of the second year following the incorporation of a corporation or a subsidiary corporation.

(e) A trustee whose term of office has expired shall continue to serve until his or her successor is appointed.

(f) The chief executive of a corporation established by a county and governed by 1913 PA 350, MCL 331.151 to 331.169, shall serve as a member of the board of trustees until and unless the duly adopted articles of incorporation provide otherwise. The chief executive officer of any other corporation or subsidiary corporation established by a county is eligible to serve on the board of trustees or a subsidiary board, either by appointment or, if provided in the articles of incorporation, ex officio.

(2) If a county incorporates a corporation under this act, the county board of commissioners shall appoint the initial board of trustees. After the initial board of trustees, when a trustee's term of office expires or if a trustee's office is otherwise vacant, the remaining members of the board of trustees shall fill the vacancy with the advice and consent of the county board of commissioners. This subsection does not apply to an ex officio member of a board of trustees who is appointed by a chief executive officer.

(3) Adoption of articles of incorporation for a corporation succeeding a county public hospital organized and existing under 1913 PA 350, MCL 331.151 to 331.169, or 1945 PA 109, MCL 331.201 to 331.213, on February 27, 1988 does not constitute incorporation of a corporation for purposes of subsection (2). The terms of office of trustees serving on the board of that county public hospital shall not be diminished, except that the adopted articles may prospectively establish new lengths of terms of office for the board of trustees, and may prospectively alter the board size.

(4) If a county incorporates a subsidiary corporation, the board of trustees of the parent corporation shall appoint the initial subsidiary board with the advice and consent of the county board of commissioners. After the initial subsidiary board, when a trustee's term of office expires or if a trustee's office is otherwise vacant,

the board of trustees of the parent corporation shall fill the vacancy with the advice and consent of the county board of commissioners. This subsection does not apply to an ex officio member of a subsidiary board who is appointed by a chief executive officer.

(5) A trustee of a corporation or subsidiary corporation established by a county shall be chosen based on his or her qualifications for that office, but not more than 1/3 of the trustees serving at any time shall be direct providers of health care. A trustee shall be a resident of the county unless the articles of incorporation permit individuals who are not residents of the county to be a trustee. A trustee of the parent corporation, the chief executive officer of the parent corporation, and the chief executive officer of a subsidiary corporation are eligible for appointment to a subsidiary board and a trustee or chief executive officer of a parent corporation are eligible for appointment as chief executive officer of a subsidiary corporation, and those offices are not incompatible. A trustee is eligible for reappointment.

(6) Within 9 days after commencing his or her term of office, a trustee shall take the oath of office as provided in section 1 of article XI of the state constitution of 1963.

(7) A trustee of a corporation incorporated by a county may be removed from office for cause either by vote of a majority of the members then serving on the county board of commissioners or by vote of a majority of the members then serving on the board of trustees of the corporation. A trustee of a subsidiary corporation incorporated by a county may be removed from office for cause either by vote of a majority of the members then serving on the county board of commissioners or by vote of a majority of the members then serving on the board of trustees of the parent corporation. As used in this subsection, "cause" includes, but is not limited to, incompetency to properly exercise duties; official misconduct; or habitual or willful neglect of duty, including, but not limited to, failure to attend meetings, including committee meetings, in accordance with standards determined by the board of trustees of the corporation or subsidiary board.

(8) A trustee shall not be removed from office on grounds of misconduct or neglect unless the trustee is served with a notice of hearing and a copy of the asserted ground for removal, and is given full opportunity to be heard, either in person or by counsel, before a vote is taken on the question of removal from office.

**History:** 1987, Act 230, Eff. Feb. 27, 1988;—Am. 1994, Act 398, Imd. Eff. Dec. 29, 1994;—Am. 2011, Act 195, Imd. Eff. Oct. 18, 2011.

### **331.1210 Board of trustees and subsidiary board; quorum; action by vote of majority.**

Sec. 210. A majority of the trustees serving on a board or subsidiary board shall constitute a quorum for the transaction of business of the corporation or subsidiary corporation, respectively. Except as otherwise specifically provided in this act, actions taken by a board of trustees or subsidiary board shall be by a vote of a majority of the members serving on the board or subsidiary board.

**History:** 1987, Act 230, Eff. Feb. 27, 1988.

### **331.1211 Availability of writings to public; confidentiality.**

Sec. 211. A writing prepared, owned, used, in the possession of, or retained by a board of trustees or subsidiary board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. This section does not abrogate any confidentiality provisions established by state or federal law, including, but not limited to, those pertaining to the provision or review of health services.

**History:** 1987, Act 230, Eff. Feb. 27, 1988.

### **331.1212 Compensation of trustees; bond; trustees as public servants; conflicts of interest; disclosure.**

Sec. 212. (1) Each trustee of a corporation or subsidiary corporation may receive compensation as shall be established by the county board of commissioners for his or her services as a trustee, including, but not limited to, attendance at meetings of the board of trustees or subsidiary board, or their committees, and per diem and travel expenses, at rates approved by the county board of commissioners. A trustee may receive reimbursement for other necessary expenses which are properly substantiated and approved by the board of trustees or subsidiary board. A corporation or subsidiary corporation may provide travel and accident insurance for its trustees.

(2) A bond shall not be required for trustees or officers of corporations or subsidiary corporations.

(3) Trustees shall be considered public servants subject to Act No. 317 of the Public Acts of 1968, being sections 15.321 to 15.330 of the Michigan Compiled Laws, to the extent provided in that act, and subject to any other applicable law with respect to conflict of interest. A board of trustees may establish policies and procedures for a corporation and any subsidiary corporations requiring periodic disclosure of relationships



which may give rise to conflicts of interest. A board of trustees may require that a trustee who has a direct interest in any matter before a corporation or a subsidiary corporation disclose the trustee's interest and any reasons reasonably known to the trustee why the transaction may not be in the best interest of the corporation or the subsidiary corporation before the corporation or subsidiary corporation takes any action with respect to the matter. The disclosure shall become part of the record of the corporation's or subsidiary corporation's proceedings.

**History:** 1987, Act 230, Eff. Feb. 27, 1988.

### **331.1213 Corporation and subsidiary corporation as body corporate; power to sue and be sued; official seal; liability or debt.**

Sec. 213. Each corporation and subsidiary corporation organized or existing under this act shall be a body corporate with power to sue and be sued and to adopt an official seal and alter it at its discretion. A debt, claim, liability, corporation obligation, note, bond, or other obligation incurred by a corporation or a subsidiary corporation after the effective date of this act shall not be a liability or debt of or enforceable against the county, except as specifically otherwise provided by written agreement of the county approved by its board of commissioners. A debt, claim, liability, corporation obligation, note, bond, or other obligation incurred by a subsidiary corporation shall not be a liability or debt of or enforceable against its parent corporation or another subsidiary corporation nor shall any debt, claim, liability, corporation obligation, note, bond, or other obligation incurred by a corporation be a liability or debt of or enforceable against its subsidiaries, except as specifically otherwise provided in writing duly authorized by the corporation or subsidiary corporation charged.

**History:** 1987, Act 230, Eff. Feb. 27, 1988.

### **331.1251 Public hospital or other health care facility; incorporation of corporation; election required.**

Sec. 251. The city council of a city or the village council of a village that owns or operates a public hospital may incorporate 1 or more corporations under this act. The city council of a city or the village council of a village that does not own or operate a public hospital may also establish such a hospital or other health care facility, or both, by incorporating 1 or more corporations under this act. The question of establishing 1 or more corporations under this act shall be presented to the city or village electors at a special or regular city or village election before incorporation. An election under this section shall be conducted pursuant to the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws.

**History:** Add. 1988, Act 502, Eff. Jan. 1, 1989.

### **331.1252 Election; place; canvassing vote; ballots.**

Sec. 252. An election required under section 251 shall be held at the usual places in the city or village for the election of city or village officers, the vote to be canvassed in the same manner as that for city or village officers. The ballots to be used at any election at which the question is submitted shall be printed with a statement as follows:

"Shall the city (or village) of \_\_\_\_\_ establish a health facilities corporation in accordance with the terms of the municipal health facilities corporations act?

Yes \_\_\_\_ No \_\_\_\_".

**History:** Add. 1988, Act 502, Eff. Jan. 1, 1989.

### **331.1253 Corporation as successor to city or village public hospital; terms of trustees continued; rights, privileges, immunities, and franchises, personal property, debts, and choses in action; interests and licenses; title or interest in real estate; transfer of money and other property; corporation as employer; labor agreement; bargaining representative; liabilities and obligations; claims; pending action or proceeding; rights of creditors; liens.**

Sec. 253. (1) If the city or village electors approve the incorporation of a corporation under this act, the corporation shall be considered to be the successor to the city public hospital for the city or the village public hospital for the village, and the terms of office of the trustees of the city public hospital or village public hospital shall continue. The corporation shall have all of the rights, privileges, immunities, and franchises of its predecessor city public hospital or village public hospital, all personal property, all debts due on whatever account, and all choses in action. All interests and licenses of or belonging to the city public hospital or village public hospital shall be considered to be transferred to, and vested in, the corporation without further act or deed. Such interests and licenses shall not be considered to have undergone any change of ownership

for the purpose of any law or regulation, nor shall the fiscal year of any city public hospital or village public hospital be considered to have ended solely because the city or village incorporates a corporation under this act. The title to any real estate, or any interest in real estate, vested in any city or city public hospital or village or village public hospital, shall not revert or in any way be impaired because a corporation succeeds a city public hospital or village public hospital pursuant to this act.

(2) A corporation incorporated by a city or village under this act shall be considered to be the owner of all money and other property then deposited in the treasury of the city or village to the credit of the hospital fund and shall be entitled to all interest and other earnings accruing on those funds on and after the effective date of the incorporation. The corporation shall be the owner of all other personal property used exclusively by or for the city public hospital or village public hospital. The treasurer of any city or village having custody of money and other property belonging to a corporation pursuant to this subsection shall arrange for the prompt transfer of such money and other property to the custody of the corporation.

(3) A corporation incorporated by a city or village under this act shall be the employer of all persons employed by the city public hospital or village public hospital and shall assume and be bound by any labor agreement in existence on the effective date of the incorporation and applicable to the city public hospital or village public hospital, but shall not be subject to greater obligations with respect to the terms, conditions, or duration of employment than was the city public hospital or village public hospital immediately preceding the effective date of the incorporation. A representative of the employees or a group of employees who is entitled to represent the employees or group of employees under Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.216 of the Michigan Compiled Laws, shall continue to be the representative of the employees or group of employees. This subsection does not limit the rights of the hospital employees, under applicable law, to assert that a bargaining representative protected by this subsection is no longer the representative of the employees.

(4) A corporation incorporated by a city or village under this act shall be responsible and liable for all liabilities and obligations of the city public hospital or village public hospital it succeeds. A claim existing or an action or proceeding pending by or against a city public hospital or village public hospital may be prosecuted by the corporation succeeding it in the name of the city public hospital or village public hospital, or the corporation may be substituted. The rights of creditors and any lien upon the property of a city or a city public hospital or a village or village public hospital existing on the effective date of the incorporation shall not be impaired.

**History:** Add. 1988, Act 502, Eff. Jan. 1, 1989.

### **331.1254 Incorporation of corporation and subsidiary corporations; names.**

Sec. 254. If, in accordance with sections 251 and 252, a majority of all the votes cast upon the question are in favor of establishing a corporation, the city council or village council may incorporate a corporation in order to implement or further the public purposes stated in section 102 through the exercise of all or some of the powers provided in this act. The board of trustees of a corporation may incorporate 1 or more subsidiary corporations in order to implement or further the public purposes stated in section 102 through the exercise of all or some of the powers provided in this act. The city council or village council shall adopt a suitable name for any corporation which it incorporates. The board of trustees of a corporation shall adopt a suitable name for any subsidiary corporation which it incorporates.

**History:** Add. 1988, Act 502, Eff. Jan. 1, 1989.

### **331.1255 Articles of incorporation generally.**

Sec. 255. The incorporation of a corporation by a city or village shall be accomplished by approval of articles of incorporation by resolution of the city council or village council. The incorporation of a subsidiary corporation shall be accomplished by approval of articles of incorporation by resolution of the city council or village council. The articles of incorporation shall set forth the name of the corporation or subsidiary corporation; the purposes for which it is created, which may include all of the purposes for which a corporation or subsidiary corporation may be organized under this act; the number, terms, and manner of selection of the officers of its board of trustees or subsidiary board, which shall include a chairperson and a secretary, and a general description of their respective powers and duties; the date upon which the incorporation shall become effective; and the name of the newspaper in which the articles of incorporation shall be published. The articles of incorporation of a subsidiary corporation shall also contain the name of the corporation acting as its parent, and shall specify the size of the subsidiary board in accordance with section 258(2). The articles of incorporation of a corporation may specify transactions otherwise within the powers of its board of trustees which shall require approval by resolution of the city council or village council, and may also contain other matters considered expedient to be included in the articles of incorporation. The articles of

incorporation of a subsidiary corporation may specify transactions otherwise within the powers of its subsidiary board which shall require approval by resolution of the board of trustees of its designated parent corporation, and may also contain other matters considered expedient to be included in the articles of incorporation.

**History:** Add. 1988, Act 502, Eff. Jan. 1, 1989.

**331.1256 Articles of incorporation; execution; delivery; publication; filing; certificate; effective date; validity of incorporation; section inapplicable to articles of incorporation of restructured corporation or subsidiary.**

Sec. 256. (1) The articles of incorporation of a corporation incorporated by a city or village shall be executed in duplicate by the chairperson of the city council or the president of the village council or other member of the city council or village council designated by the city council or village council. The articles of incorporation of a subsidiary corporation of a corporation incorporated by a city or village shall be executed in duplicate by the chairperson of the board of trustees of the parent corporation, or other trustee designated by the board of trustees. The articles of incorporation shall then be delivered to the city clerk or village clerk who shall file 1 copy in his or her office and the other with the secretary of the corporation or subsidiary corporation when a secretary is selected. The city clerk or village clerk shall cause a copy of the articles of incorporation to be published once in a newspaper designated in the articles of incorporation and circulating within the city or village accompanied by a statement that the right exists to question the validity of the incorporation in court as provided in this section.

(2) The city clerk or village clerk shall file 1 printed copy of articles of incorporation delivered to him or her under subsection (1) with the secretary of state and 1 printed copy in his or her office. The city clerk or village clerk shall attach to each of the printed copies his or her certificate setting forth that the copy is a true and complete copy of the original articles of incorporation on file in his or her office.

(3) The incorporation of a corporation or a subsidiary corporation described in this section is effective at the time provided in the articles of incorporation, but not before approval of the question of incorporation by the city or village electors under section 251.

(4) The validity of the incorporation of a corporation or a subsidiary corporation described in this section is conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the certified copy of the articles of incorporation of that corporation or subsidiary corporation is filed with the secretary of state under subsection (2).

(5) This section does not apply to articles of incorporation of a restructured corporation or restructured subsidiary corporation described in section 305a.

**History:** Add. 1988, Act 502, Eff. Jan. 1, 1989;—Am. 2010, Act 331, Imd. Eff. Dec. 21, 2010.

**331.1257 Articles of incorporation; amendment.**

Sec. 257. (1) The articles of incorporation of a corporation incorporated by a city or village may be amended by resolution approved by the affirmative vote of a majority of the members serving on the city council or village council. The articles of incorporation of a subsidiary corporation of a corporation incorporated by a city or village may be amended by resolution approved by the affirmative vote of a majority of the trustees serving on the board of trustees of the parent corporation.

(2) The city clerk or village clerk shall file certified copies of any amendment to the articles of incorporation of a corporation or subsidiary corporation approved under subsection (1) in his or her office, with the secretary of state, and with the secretary of the corporation or subsidiary corporation. The amendment is effective when filed with the secretary of state unless a later effective date is specified in the resolution adopting the amendment. This subsection does not apply to an amendment to the articles of incorporation of a restructured corporation or a restructured subsidiary corporation.

(3) The articles of incorporation of a corporation or subsidiary corporation described in this section may be amended to include any provision that could be lawfully included in articles of incorporation initially adopted under this act at the time the amendment is approved, and may provide for the alteration or changing of the name, structure, organization, purposes, powers, programs, or activities of the corporation or subsidiary corporation. However, an amendment shall not be effective to impair the obligation of a corporation obligation, bond, note, or contract.

**History:** Add. 1988, Act 502, Eff. Jan. 1, 1989;—Am. 2010, Act 331, Imd. Eff. Dec. 21, 2010.

**331.1258 Board of trustees and subsidiary board incorporated by city or village; appointment and terms of trustees; qualifications; oath; removal from office; notice of hearing; hearing; vote.**



Sec. 258. (1) All of the following apply to each board of trustees and subsidiary board of a corporation incorporated by a city or village:

(a) The board shall consist of at least 5 and not more than 15 trustees. The exact number of trustees and the length of their terms of office shall be as specified in the articles of incorporation.

(b) Except for the initial appointments to a board of trustees or subsidiary board of a newly incorporated corporation or subsidiary corporation, the term of office of a trustee begins on January 1.

(c) The terms of office of trustees shall be staggered so that an approximately equal number of terms expire at the end of each year or each 2 years, except that terms may be fixed so that the shortest terms do not expire until the end of the second year following the incorporation of a corporation or a subsidiary corporation. A trustee whose term of office has expired shall continue to serve until his or her successor is appointed.

(2) If a city or village incorporates a corporation under this act, the city council or village council shall appoint the initial board of trustees. After the initial board of trustees, when a trustee's term of office expires or if a trustee's office is otherwise vacant, the remaining members of the board of trustees shall fill the vacancy with the advice and consent of the city council or village council. This subsection does not apply to an ex officio member of a board of trustees who is appointed by a chief executive officer.

(3) The terms of office of trustees serving on the board of a city public hospital or village public hospital before incorporation that is subsequently incorporated under this act shall not be diminished, except that the articles of incorporation for that successor corporation may prospectively establish new lengths of terms of office for the board of trustees, and may prospectively alter the board size.

(4) If a city or village incorporates a subsidiary corporation, the board of trustees of the parent corporation shall appoint the initial subsidiary board with the advice and consent of the city council or village council. After the initial subsidiary board, when a trustee's term of office expires or if a trustee's office is otherwise vacant, the board of trustees of the parent corporation shall fill the vacancy with the advice and consent of the city council or village council. This subsection does not apply to an ex officio member of a subsidiary board who is appointed by a chief executive officer.

(5) A trustee of a corporation or subsidiary corporation established by a city or village shall be chosen based on his or her qualifications for that office, but not more than 1/3 of the trustees serving at any time shall be direct providers of health care. The articles of incorporation of the corporation or subsidiary corporation may require that a trustee be a resident of the city or village. A trustee of the parent corporation, including its chief executive officer, and the chief executive officer of a subsidiary corporation are eligible for appointment to a subsidiary board, and those offices are not incompatible. A trustee is eligible for reappointment.

(6) Within 9 days after commencing his or her term of office, a trustee shall take the oath of office as provided in section 1 of article XI of the state constitution of 1963.

(7) A trustee of a corporation incorporated by a city or village may be removed from office for cause either by vote of a majority of the members then serving on the city council or village council or by vote of a majority of the members then serving on the board of trustees of the corporation. A trustee of a subsidiary corporation may be removed from office for cause either by vote of a majority of the members then serving on the city council or village council or by vote of a majority of the members then serving on the board of trustees of the parent corporation. As used in this subsection, "cause" includes, but is not limited to, incompetency to properly exercise duties; official misconduct; or habitual or willful neglect of duty, including, but not limited to, failure to attend meetings, including committee meetings, in accordance with standards determined by the board of trustees of the corporation or subsidiary board.

(8) A trustee shall not be removed from office on grounds of misconduct or neglect unless the trustee is served with a notice of hearing and a copy of the asserted ground for removal, and is given full opportunity to be heard, either in person or by counsel, before a vote is taken on the question of removal from office.

**History:** Add. 1988, Act 502, Eff. Jan. 1, 1989;—Am. 1990, Act 273, Imd. Eff. Dec. 3, 1990;—Am. 2011, Act 195, Imd. Eff. Oct. 18, 2011.

### **331.1259 Board of trustees and subsidiary board; quorum; actions.**

Sec. 259. A majority of the trustees serving on a board or subsidiary board of a corporation incorporated by a city or village shall constitute a quorum for the transaction of business of the corporation or subsidiary corporation, respectively. Except as otherwise specifically provided in this act, actions taken by a board of trustees or subsidiary board shall be by a vote of a majority of the members serving on the board or subsidiary board.

**History:** Add. 1988, Act 502, Eff. Jan. 1, 1989.

### **331.1260 Board of trustees and subsidiary board; availability of writings to public; confidentiality.**

Sec. 260. A writing prepared, owned, used, in the possession of, or retained by a board of trustees or subsidiary board of a corporation incorporated by a city or village in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. This section does not abrogate any confidentiality provisions established by state or federal law, including, but not limited to, those pertaining to the provision or review of health services.

**History:** Add. 1988, Act 502, Eff. Jan. 1, 1989.

**331.1261 Board of trustees and subsidiary board; compensation and expenses; bond; trustees as public servants; policies and procedures; conflicts of interest; disclosure.**

Sec. 261. (1) Each trustee of a corporation or subsidiary corporation incorporated by a city or village may receive compensation as established by the city council or village council for his or her services as a trustee, including, but not limited to, attendance at meetings of the board of trustees or subsidiary board, or their committees, and per diem and travel expenses, at rates approved by the city council or village council. A trustee may receive reimbursement for other necessary expenses which are properly substantiated and approved by the board of trustees or subsidiary board. A corporation or subsidiary corporation may provide travel and accident insurance for its trustees.

(2) A bond shall not be required for trustees or officers of corporations or subsidiary corporations incorporated by a city or village.

(3) Trustees shall be considered public servants subject to Act No. 317 of the Public Acts of 1968, being sections 15.321 to 15.330 of the Michigan Compiled Laws, to the extent provided in that act, and subject to any other applicable law with respect to conflict of interest. A board of trustees may establish policies and procedures for a corporation and any subsidiary corporations requiring periodic disclosure of relationships which may give rise to conflicts of interest. A board of trustees may require that a trustee who has a direct interest in any matter before a corporation or a subsidiary corporation disclose the trustee's interest and any reasons reasonably known to the trustee why the transaction may not be in the best interest of the corporation or the subsidiary corporation before the corporation or subsidiary corporation takes any action with respect to the matter. The disclosure shall become part of the record of the corporation's or subsidiary corporation's proceedings.

**History:** Add. 1988, Act 502, Eff. Jan. 1, 1989.

**331.1262 Corporation and subsidiary corporation as body corporate; powers; liability or debt.**

Sec. 262. Each corporation and subsidiary corporation incorporated by a city or village and organized under this act shall be a body corporate with power to sue and be sued and to adopt an official seal and alter the official seal at its discretion. A debt, claim, liability, corporation obligation, note, bond, or other obligation incurred by a corporation or a subsidiary corporation after the effective date of the incorporation shall not be a liability or debt of or enforceable against the city or village, except as specifically otherwise provided by written agreement of the city or village approved by the city council or village council. A debt, claim, liability, corporation obligation, note, bond, or other obligation incurred by a subsidiary corporation shall not be a liability or debt of or enforceable against its parent corporation or another subsidiary corporation nor shall any debt, claim, liability, corporation obligation, note, bond, or other obligation incurred by a corporation be a liability or debt of or enforceable against its subsidiaries, except as specifically otherwise provided in writing duly authorized by the corporation or subsidiary corporation charged.

**History:** Add. 1988, Act 502, Eff. Jan. 1, 1989.