

PUBLIC HEALTH CODE (EXCERPT)

Act 368 of 1978

PART 22

STATE DEPARTMENT OF PUBLIC HEALTH

333.2201 Department of public health and office of director of public health continued.

Sec. 2201. The department of public health and the office of the director of public health created by sections 425 and 426 of Act No. 380 of the Public Acts of 1965, being sections 16.525 and 16.526 of the Michigan Compiled Laws, shall continue under this code.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: For transfer of powers and duties of the division of occupational health in the bureau of environmental and occupational health, with the exception of dry cleaning unit, from the department of public health to the director of the department of labor, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of certain powers and duties of the office of policy, planning and evaluation from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.2202 Director of public health; appointment, term, and qualifications; designation and responsibility of chief medical executive; "administrative experience" defined.

Sec. 2202. (1) The governor shall appoint the director of public health by the method and for a term prescribed by section 508 of Act No. 380 of the Public Acts of 1965, being section 16.608 of the Michigan Compiled Laws. The director shall be qualified in the general field of health administration. Qualification may be demonstrated by either of the following:

(a) Not less than 8 years administrative experience of which not less than 5 years have been in the field of health administration.

(b) A degree beyond the level of baccalaureate in a field related to public health or administration, and not less than 5 years of administrative experience in the field of health administration.

(2) If the director is not a physician, the director shall designate a physician as chief medical executive of the department. The chief medical executive shall be a full-time employee and shall be responsible to the director for the medical content of policies and programs.

(3) As used in this section, "administrative experience" means service in a management or supervisory capacity.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: For transfer of certain powers and duties of the chief medical executive from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of chief medical executive to the new chief medical executive in the office of chief medical executive created within the department of health and human services, and abolishment of the position of chief medical executive, see E.R.O. No. 2016-4, compiled at MCL 333.26369.

Popular name: Act 368

333.2204 Director of public health; salary; full-time performance of functions; expenses.

Sec. 2204. The director shall receive an annual salary appropriated by the legislature and payable in the same manner as salaries of other state officers. The director's full time shall be devoted to the performance of the functions of the director's office. The director shall receive expenses necessarily incurred in the performance of official functions.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2205 Assignment, vesting, and exercise of functions; internal organization of department; allocation and reallocation of duties and functions.

Sec. 2205. (1) A function assigned by this code to the department vests in the director or in an employee or agent of the department designated by the director, or in any employee or agent of the department who is assigned the function in accordance with internal administrative procedures of the department established by the director. A function vested by law in a nonautonomous entity of the department may be exercised by the director.

(2) As provided in section 7 of Act No. 380 of the Public Acts of 1965, being section 16.107 of the Michigan Compiled Laws, and except as otherwise provided by law, the director with the approval of the governor may establish the internal organization of the department and to allocate and reallocate duties and functions to provide economic and efficient administration and operation of the department.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2208 Public health advisory council; creation; appointment, qualifications, and terms of members; removal; vacancy.

Sec. 2208. (1) The public health advisory council is created in the department. The public health advisory council shall consist of 16 members. Initial members of the public health advisory council shall include those individuals currently appointed to the advisory council created under section 506 of Act No. 380 of the Public Acts of 1965, being section 16.606 of the Michigan Compiled Laws, who shall serve for the remainder of their terms under that section.

(2) The advisory council shall represent consumers and providers of health care representative of the population as to sex, race, and ethnicity and shall include representatives of a local governing entity as defined in part 24 and a local health department. New members shall be appointed by the governor with the advice and consent of the senate. Except for initial members, a member of the public health advisory council shall serve for a term of 4 years or until a successor is appointed. After the effective date of this part, an individual shall not serve more than 2 full terms and 1 partial term, consecutive or otherwise.

(3) The director may request the governor to remove a member from the public health advisory council at any time for good cause.

(4) A vacancy shall be filled in the same manner as an original appointment for the balance of the unexpired term.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: For transfer of powers and duties of the public health advisory council to the director of the department of community health and abolishment of the council, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

Popular name: Act 368

333.2209 Public health advisory council; election and terms of chairperson and vice-chairperson; quorum; reimbursement; staff support.

Sec. 2209. (1) The public health advisory council shall elect a chairperson and vice-chairperson for terms of 2 years and shall determine the number of voting members constituting a quorum for the transaction of business.

(2) Public health advisory council members shall be reimbursed pursuant to section 1216.

(3) The department shall provide staff support to the public health advisory council.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: For transfer of powers and duties of the public health advisory council to the director of the department of community health and abolishment of the council, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

Popular name: Act 368

333.2210 Public health advisory council; powers and duties generally.

Sec. 2210. (1) The public health advisory council shall advise and consult with the director on public health programs and policies.

(2) The public health advisory council may:

(a) Study issues, problems, and programs which the council and director jointly determine are of priority in the implementation of the responsibilities of the state and local health departments.

(b) Advise the director on selected issues related to health planning and department implementation of long-term health policies.

(c) Make recommendations as to the department's state health plan development responsibilities and duties delegated to the department pursuant to law.

(d) Make recommendations as to the activities of all advisory committees, councils, boards, task forces, and commissions created in the department under this code or any other law and report annually to the director on the activities of those entities with particular attention to areas of overlapping functions and activities.

(e) Provide other assistance the director reasonably requests.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: For transfer of powers and duties of the public health advisory council to the director of the department of community health and abolishment of the council, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

Popular name: Act 368

333.2211 Coordination between local health departments and local health planning agencies;

review; annual assessment; information.

Sec. 2211. (1) In each of the 3 years immediately after the effective date of this part, the public health advisory council shall review the coordination between local health departments and local health planning agencies, and make annual assessments by January 1 of those years to the director including actions which should be taken to improve coordination. The annual assessment shall be available to the governor, legislature, county boards of commissioners, local health departments, health planning agencies, and other interested persons.

(2) The department shall provide the public health advisory council with information necessary to carry out its functions under this code.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: For transfer of powers and duties of the public health advisory council to the director of the department of community health and abolishment of the council, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

Popular name: Act 368

333.2213 Task forces.

Sec. 2213. (1) The public health advisory council may appoint task forces composed of council members and other individuals in a number the council determines is appropriate when the council determines that either of the following exists:

(a) A task force is appropriate to provide professional or technical expertise related to a department or council function under this code.

(b) A task force is appropriate to provide additional public participation in a department or council function under this code.

(2) The department may request that the public health advisory council establish a task force when the department determines that the task force is appropriate to the functions vested in the department by this code.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: For transfer of powers and duties of the public health advisory council to the director of the department of community health and abolishment of the council, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

Popular name: Act 368

333.2215 Termination of advisory committee or task force; exception; review of advisory council, commission, board, task force, or body.

Sec. 2215. (1) An advisory committee to the department created in this code or task force created under section 2213 shall terminate 2 years after the date of its creation or renewal unless the public health advisory council not later than 90 days before an advisory committee is to terminate reviews the need for the continued existence of the advisory committee or task force and thereafter recommends its continuance.

(2) Upon the recommendation of the public health advisory council the director may reappoint or request reappointment of an advisory committee which would have been otherwise terminated pursuant to subsection (1). Subsection (1) does not apply to advisory councils, commissions, boards, task forces, or other advisory bodies which are not specifically designated as advisory committees.

(3) Not later than 2 years after the effective date of this code, and biennially thereafter, the public health advisory council shall review and advise the director on the need for, and alternatives to, each advisory council, commission, board, task force, or body established in the department.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: For transfer of powers and duties of the public health advisory council to the director of the department of community health and abolishment of the council, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

Popular name: Act 368

333.2221 Organized programs to prevent disease, prolong life, and promote public health; duties of department.

Sec. 2221. (1) Pursuant to section 51 of article 4 of the state constitution of 1963, the department shall continually and diligently endeavor to prevent disease, prolong life, and promote the public health through organized programs, including prevention and control of environmental health hazards; prevention and control of diseases; prevention and control of health problems of particularly vulnerable population groups; development of health care facilities and agencies and health services delivery systems; and regulation of health care facilities and agencies and health services delivery systems to the extent provided by law.

(2) The department shall:

(a) Have general supervision of the interests of the health and life of the people of this state.

(b) Implement and enforce laws for which responsibility is vested in the department.

(c) Collect and utilize vital and health statistics and provide for epidemiological and other research studies for the purpose of protecting the public health.

(d) Make investigations and inquiries as to:

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

(ii) The causes of morbidity and mortality.

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

(e) Plan, implement, and evaluate health education by the provision of expert technical assistance and financial support.

(f) Take appropriate affirmative action to promote equal employment opportunity within the department and local health departments and to promote equal access to governmental financed health services to all individuals in the state in need of service.

(g) Have powers necessary or appropriate to perform the duties and exercise the powers given by law to the department and which are not otherwise prohibited by law.

(h) Plan, implement, and evaluate nutrition services by the provision of expert technical assistance and financial support.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2223 Biennial plan for rural health; preparation; submission to standing committees.

Sec. 2223. The center for rural health created under section 2612, in consultation with the department and professional associations representing health facilities and health professions, shall prepare a biennial plan for rural health. The center for rural health, in consultation with the department, shall submit the plan to the standing committees in the senate and house of representatives with jurisdiction over matters pertaining to public health.

History: Add. 1990, Act 125, Imd. Eff. June 26, 1990.

Compiler's note: For transfer of certain powers and duties of the center for rural health from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of the center for rural health to the director of the department of community health and abolishment of the center, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

Popular name: Act 368

333.2224 Promotion of local health services; coordination and integration of public health services.

Sec. 2224. Pursuant to this code, the department shall promote an adequate and appropriate system of local health services throughout the state and shall endeavor to develop and establish arrangements and procedures for the effective coordination and integration of all public health services including effective cooperation between public and nonpublic entities to provide a unified system of statewide health care.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2226 Powers of department.

Sec. 2226. The department may:

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

(b) Advise governmental entities or other persons as to the location, drainage, water supply, disposal of solid waste, heating, and ventilation of buildings.

(c) Enter into an agreement, contract, or arrangement with governmental entities or other persons necessary or appropriate to assist the department in carrying out its duties and functions.

(d) Exercise authority and promulgate rules to safeguard properly the public health; to prevent the spread of diseases and the existence of sources of contamination; and to implement and carry out the powers and duties vested by law in the department.

(e) Accept gifts, grants, bequests, and other donations in the name of this state. Funds or property accepted shall be used as directed by its donor and in accordance with the law, rules, and procedures of this state.

(f) Either directly or by interagency contract, develop and deliver health services to vulnerable population groups.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

Administrative rules: R 325.60; R 325.921 et seq.; R 325.951 et seq.; R 325.2101 et seq.; R 325.2111 et seq.; R 325.3271 et seq.; R 325.3401 et seq.; R 325.3801 et seq.; R 325.5801 et seq.; R 325.9001 et seq.; R 325.9901 et seq.; R 325.13051 et seq.; R 325.13091 et

333.2227 Racial and ethnic health disparities; duties of department.

Sec. 2227. The department shall do all of the following:

- (a) Develop and implement a structure to address racial and ethnic health disparities in this state.
- (b) Monitor minority health progress.
- (c) Establish minority health policy.
- (d) Develop and implement an effective statewide strategic plan for the reduction of racial and ethnic health disparities.
- (e) Utilize federal, state, and private resources, as available and within the limits of appropriations, to fund minority health programs, research, and other initiatives.
- (f) Provide the following through interdepartmental coordination:
 - (i) Data and technical assistance to minority health coalitions and any other local entities addressing the elimination of racial and ethnic health disparities.
 - (ii) Measurable objectives to minority health coalitions and any other local health entities for the development of interventions that address the elimination of racial and ethnic health disparities.
- (g) Establish a web page on the department's website, in coordination with the state health disparities reduction and minority health section, that provides information or links to all of the following:
 - (i) Research within minority populations.
 - (ii) A resource directory that can be distributed to local organizations interested in minority health.
 - (iii) Racial and ethnic specific data including, but not limited to, morbidity and mortality.
- (h) Develop and implement recruitment and retention strategies to increase the number of minorities in the health and social services professions.
- (i) Develop and implement awareness strategies targeted at health and social service providers in an effort to eliminate the occurrence of racial and ethnic health disparities.
- (j) Identify and assist in the implementation of culturally and linguistically appropriate health promotion and disease prevention programs that would emphasize prevention and incorporate an accessible, affordable, and acceptable early detection and intervention component.
- (k) Promote the development and networking of minority health coalitions.
- (l) Appoint a department liaison to provide the following services to local minority health coalitions:
 - (i) Assist in the development of local prevention and intervention plans.
 - (ii) Relay the concerns of local minority health coalitions to the department.
 - (iii) Assist in coordinating minority input on state health policies and programs.
 - (iv) Serve as the link between the department and local efforts to eliminate racial and ethnic health disparities.
- (m) Provide funding, within the limits of appropriations, to support evidence-based preventative health, education, and treatment programs that include outcome measures and evaluation plans in minority communities.
- (n) Provide technical assistance to local communities to obtain funding for the development and implementation of a health care delivery system to meet the needs, gaps, and barriers identified in the statewide strategic plan for eliminating racial and ethnic health disparities.
- (o) One year after the effective date of this section and each year thereafter, submit a written report on the status, impact, and effectiveness of the amendatory act that added this section to the standing committees in the senate and house of representatives with jurisdiction over issues pertaining to public health, the senate and house of representatives appropriations subcommittees on community health, and the senate and house fiscal agencies.

History: Add. 2006, Act 653, Imd. Eff. Jan. 9, 2007.

Compiler's note: Act 368

333.2228 Heads of intra-departmental units and employees; appointment; salaries and expenses; liability for damages; quarters and facilities.

Sec. 2228. (1) The director may appoint, subject to civil service procedures, heads of intra-departmental units and employees necessary to perform the functions prescribed by this code or any other law. Salaries and expenses incurred under this code shall be paid out of the amount appropriated for that purpose with the approval of the director.

(2) The director or an employee or representative of the department is not personally liable for damages sustained in the performance of departmental functions, except for wanton and wilful misconduct.

(3) The department of management and budget shall provide suitable quarters and facilities for the

department.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2229 Employees at veterans' facility physically injured by assault; wages; supplement; fringe benefits.

Sec. 2229. A person employed by the department at the Michigan veterans' facility at Grand Rapids, or the D.J. Jacobetti veterans' facility at Marquette established under Act No. 152 of the Public Acts of 1885, being sections 36.1 to 36.12 of the Michigan Compiled Laws, or any other veterans' facility operated by the department after the effective date of this section who is physically injured during the course of his or her employment as the result of an assault by a recipient of department services shall receive his or her full wages from the department until worker's compensation benefits begin and then shall receive in addition to worker's compensation benefits a supplement from the department which together with the worker's compensation benefits shall equal but not exceed the weekly net wage of the employee at the time of the injury. This supplement shall only apply while the person is on the department's payroll and is receiving worker's compensation benefits due to an injury covered by this section and shall include an employee who is receiving worker's compensation benefits on the effective date of this section due to an injury covered by this section. This supplement shall not exceed a 100 week period. Fringe benefits normally received by an employee shall be in effect during the time the employee receives the supplement provided by this section from the department.

History: Add. 1987, Act 285, Imd. Eff. Jan. 6, 1988.

Popular name: Act 368

333.2231 Furnishing information relating to public health; report.

Sec. 2231. (1) To assist the department in its duties and functions, officials of this state and persons transacting business in this state shall furnish the department with information relating to public health which may be requested by the department.

(2) The department shall report periodically to the governor and legislature as to the activities carried on under this code.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2232 Repealed. 1986, Act 79, Eff. Apr. 1, 1987.

Compiler's note: The repealed section pertained to material safety data sheets, lists of hazardous chemicals, and access to information from employees regarding hazardous chemicals in workplace.

Popular name: Act 368

333.2232a Repeal of MCL 333.2232.

Sec. 2232a. Section 2232 is repealed on April 1, 1987.

History: Add. 1986, Act 79, Imd. Eff. Apr. 7, 1986.

Popular name: Act 368

333.2233 Rules.

Sec. 2233. (1) The department may promulgate rules necessary or appropriate to implement and carry out the duties or functions vested by law in the department.

(2) If the Michigan supreme court rules that sections 45 and 46 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.245 and 24.246 of the Michigan Compiled Laws, are unconstitutional, and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling, the department shall not promulgate rules under this act.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1996, Act 67, Imd. Eff. Feb. 26, 1996.

Compiler's note: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. Blank v Department of Corrections, 462 Mich 103 (2000).

Popular name: Act 368

Administrative rules: R 287.1; R 287.451 et seq.; R 287.481 et seq.; R 325.60; R 325.151 et seq.; R 325.921 et seq.; R 325.951 et seq.; R 325.1053 et seq.; R 325.1213 et seq.; R 325.1281 et seq.; R 325.1541 et seq.; R 325.2101 et seq.; R 325.2111 et seq.; R 325.2581; R 325.3271 et seq.; R 325.3311 et seq.; R 325.3401 et seq.; R 325.3801 et seq.; R 325.5810 et seq.; R 325.9001 et seq.; R 325.13051 et seq.; R 325.13091 et seq.; R 325.17101 et seq.; R 325.23101 et seq.; R 338.3801; and R 338.3821 et seq. of the Michigan Administrative Code.

333.2235 Local health department; authorization to exercise power or function; primary organization as to services and programs; exceptions; summary reports.

Sec. 2235. (1) Except as provided in subsection (3), the department may authorize a local health department to exercise a power or function of the department where not otherwise prohibited by law or rule.

(2) The director, in determining the organization of services and programs which the department may establish or require under this code, shall consider a local health department which meets the requirements of part 24 to be the primary organization responsible for the organization, coordination, and delivery of those services and programs in the area served by the local health department.

(3) Subsections (1) and (2) do not apply if the director determines that 1 of the following exists:

(a) The local health department does not have and is unable or unwilling to obtain qualified personnel or does not have and is unable or unwilling to obtain the administrative capacity or programmatic mechanisms to perform a specific function.

(b) The services or programs are so specialized in nature and of such technical complexity that cost benefit or cost effectiveness does not justify administration through the local health department.

(c) Legal constraints preclude the assignment of the responsibility.

(4) When a branch of the state department of public health directly delivers services within a local health department area, the state department of public health shall provide summary reports of those activities to the local health department upon the request of the local health officer.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2237 Duties of department as to health education; "health education" defined.

Sec. 2237. (1) The department shall:

(a) Exercise overall leadership in recognizing the importance of public health education objectives in the planning, developing, and carrying out of public health programs within the department's jurisdiction.

(b) Encourage local health departments to give priority to community health education activities as an essential part of local health programs.

(c) Develop and apply standards for the evaluation of public health education activities both at the state and local level and in cooperation with other public and private agencies.

(d) Collect and disseminate information about public health education activities and research in this state.

(2) As used in this section, "health education" means that dimension of health care that directs attention of individuals to their health behavior with the goal of enabling the individuals to make reasoned decisions about their own health practices and those within the various communities in which the individuals live, work, and play. The basic components of reasoned health decision-making education include both:

(a) The acquisition of accurate, unbiased, authoritative knowledge of subjects such as human biology, efficacy of early prevention, disease detection and control, nutritional practices, detection and control of environmental hazards, alternative health practices and the consequences of each, and the affective assessment of an individual's own beliefs on health outcomes.

(b) The acquisition of the behavior skills required to carry out the desired alternative.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2241 Inspection or investigation to assure compliance; application for warrant.

Sec. 2241. (1) To assure compliance with laws enforced by the department, the department may inspect, investigate, or authorize an inspection or investigation to be made of any matter, thing, premises, place, person, record, vehicle, incident, or event.

(2) The department may apply for an inspection or investigation warrant under section 2242 to carry out this section.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2242 Warrant; affidavit required for issuance.

Sec. 2242. Upon receipt of an affidavit made on oath establishing grounds for issuing a warrant pursuant to

section 2243, a magistrate shall issue an inspection or investigation warrant authorizing the department applying for the warrant to conduct an inspection or investigation.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2243 Warrant; grounds for issuance.

Sec. 2243. A magistrate shall issue an inspection or investigation warrant if either of the following exists:

(a) Reasonable legislative or administrative standards for conducting a routine or area inspection are satisfied with respect to the particular thing, premises, place, person, record, vehicle, incident, or event.

(b) There is reason to believe that noncompliance with laws enforced by the state or local health department may exist with respect to the particular thing, premises, place, person, record, vehicle, incident, or event.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2244 Warrant; finding of cause.

Sec. 2244. The magistrate's finding of cause shall be based on the facts stated in the affidavit. The affidavit may be based upon reliable information supplied to the applicant from a credible individual, named or unnamed, if the affidavit contains affirmative allegations that the individual spoke with personal knowledge of the matters contained in the affidavit.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2245 Warrant; directing to law enforcement officer; contents.

Sec. 2245. An inspection or investigation warrant may be directed to the sheriff or any law enforcement officer, commanding the officer to assist the state or local health department in the inspection or investigation. A warrant shall designate and describe the location or thing to be inspected and the property or thing to be seized. The warrant shall state the grounds or cause for its issuance or a copy of the affidavit shall be attached to the warrant.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2246 Warrant; execution.

Sec. 2246. The officer to whom an inspection or investigation warrant is directed or a person assisting the officer may break an outer or inner door or window of a house or building, or anything therein, to execute the warrant, if, after notice of his or her authority and purpose, the officer is refused admittance, or when necessary to liberate the officer or person assisting the officer in execution of the warrant.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2247 Warrant; procuring maliciously or without cause; misdemeanor.

Sec. 2247. A person who maliciously and without cause procures an inspection or investigation warrant to be issued and executed is guilty of a misdemeanor.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2251 Imminent danger to health or lives; informing individuals affected; order; noncompliance; petition to restrain condition or practice; conditions constituting menace to public health; promulgation of emergency rule under MCL 24.248; definitions.

Sec. 2251. (1) Upon a determination that an imminent danger to the health or lives of individuals exists in this state, the director immediately shall inform the individuals affected by the imminent danger and issue an order that shall be delivered to a person authorized to avoid, correct, or remove the imminent danger or be posted at or near the imminent danger. The order shall incorporate the director's findings and require immediate action necessary to avoid, correct, or remove the imminent danger. The order may specify action to be taken or prohibit the presence of individuals in locations or under conditions where the imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove the imminent danger.

(2) Upon failure of a person to comply promptly with a department order issued under this section, the department may petition the circuit court having jurisdiction to restrain a condition or practice which the

director determines causes the imminent danger or to require action to avoid, correct, or remove the imminent danger.

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

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

(5) As used in this section:

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

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

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

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 180, Imd. Eff. June 19, 2012.

Popular name: Act 368

333.2253 Epidemic; emergency order and procedures; avian influenza; conditions requiring assistance of department of agriculture and rural development; visitation within qualified health care facility; LINDA; definitions.

Sec. 2253. (1) Subject to subsections (4) and (5), if the director determines that control of an epidemic is necessary to protect the public health, the director by emergency order may make a declaration of that determination and may within that emergency order prohibit the gathering of people for any purpose and establish procedures to be followed during the epidemic to ensure continuation of essential public health services and enforcement of health laws. Emergency procedures are not limited to this code.

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

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

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

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

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

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

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

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

(6) As used in this section:

(a) "Assisted living facility" means an unlicensed entity that offers community-based residential care for at

least 3 unrelated adults who are 65 years of age or older or who need assistance with activities of daily living that are available 24 hours a day, including, but not limited to, personal, supportive, or intermittent health-related services.

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

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

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

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

(i) A family member.

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

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

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

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

(ii) An assisted living facility.

(iii) A physician's private practice office.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 157, Imd. Eff. May 26, 2006;—Am. 2022, Act 274, Eff. Mar. 29, 2023.

Popular name: Act 368

333.2255 Injunctive action.

Sec. 2255. Notwithstanding the existence and pursuit of any other remedy, the department, without posting bond, may maintain injunctive action in the name of the people of this state to restrain, prevent, or correct a violation of a law, rule, or order which the department has the duty to enforce or to restrain, prevent, or correct an activity or condition which the department believes adversely affects the public health.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2261 Violation as misdemeanor; penalty.

Sec. 2261. Except as otherwise provided by this code, a person who violates a rule or order of the department is guilty of a misdemeanor punishable by imprisonment for not more than 6 months, or a fine of not more than \$200.00, or both.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2262 Violation; rules adopting schedule of monetary civil penalties; issuance, contents, and delivery of citation.

Sec. 2262. (1) The department may promulgate rules to adopt a schedule of monetary civil penalties, not to exceed \$1,000.00 for each violation or day that a violation continues, which may be assessed for a specified violation of this code or a rule promulgated or an order issued under this code and which the department has the authority and duty to enforce.

(2) If a department representative believes that a person has violated this code or a rule promulgated or an order issued under this code which the department has the authority and duty to enforce, the representative may issue a citation at that time or not later than 90 days after discovery of the alleged violation. The citation shall be written and shall state with particularity the nature of the violation, including reference to the section, rule, or order alleged to have been violated, the civil penalty established for the violation, if any, and the right to appeal the citation pursuant to section 2263. The citation shall be delivered or sent by registered mail to the alleged violator.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2263 Citation; petition for administrative hearing; decision of hearings officer; review; provisions governing hearings and appeals; civil penalty.

Sec. 2263. (1) Not later than 20 days after receipt of the citation, the alleged violator may petition the

department for an administrative hearing, which shall be held within 60 days after receipt of the petition by the department. The administrative hearing may be conducted by a hearings officer who may affirm, dismiss, or modify the citation. The decision of the hearings officer shall be final, unless within 30 days after the decision the director grants a review of the citation. Upon review, the director may affirm, dismiss, or modify the citation.

(2) Hearings and appeals under this section shall conform to the administrative procedures act of 1969.

(3) A civil penalty shall become final if a petition for an administrative hearing is not received within the time specified in subsection (1). A civil penalty imposed shall be paid to the state treasury for deposit in the general fund. A civil penalty may be recovered in a civil action brought in the county in which the violation occurred or the defendant resides.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.2264 Patient safety organization; certification of more than 1 entity.

Sec. 2264. Notwithstanding any other provision of this act to the contrary, more than 1 entity may be certified as a patient safety organization under section 924 of the patient safety and quality improvement act of 2005, 42 USC 299b-24.

History: Add. 2006, Act 643, Imd. Eff. Jan. 5, 2007.

Compiler's note: Act 368