

**PUBLIC HEALTH CODE (EXCERPT)**

**Act 368 of 1978**

**PART 51**

**GENERAL PROVISIONS**

**333.5101 Definitions and principles of construction.**

Sec. 5101. (1) As used in this article:

(a) "Care" includes treatment, control, transportation, confinement, and isolation in a facility or other location.

(b) "Communicable disease" means an illness due to a specific infectious agent or its toxic products that results from transmission of that infectious agent or its products from a reservoir to a susceptible host, directly as from an infected individual or animal, or indirectly through the agency of an intermediate plant or animal host, vector, or the inanimate environment.

(c) "HIV" means human immunodeficiency virus.

(d) "HIV infection" or "HIV infected" means the status of an individual who is infected with HIV, as evidenced by any of the following:

(i) An HIV test, or a combination of tests, that is considered a confirmatory diagnostic test according to prevailing medical technology and algorithms or guidance from the federal Centers for Disease Control and Prevention.

(ii) An HIV test that is approved by the department.

(e) "Immunization" means the process of increasing an individual's immunity to a disease by use of a vaccine, antibody preparation, or other substance.

(f) "Infection" means the invasion of the body with microorganisms or parasites, whether or not the invasion results in detectable pathologic effects.

(g) "Serious communicable disease or infection" means a communicable disease or infection that is designated as serious by the department under this part. Serious communicable disease or infection includes, but is not limited to, HIV infection, acquired immunodeficiency syndrome, sexually transmitted infection, and tuberculosis.

(h) "Sexually transmitted infection" means syphilis, gonorrhea, chancroid, lymphogranuloma venereum, granuloma inguinale, and other sexually transmitted infections that the department may designate and require to be reported under section 5111.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 2010, Act 119, Imd. Eff. July 13, 2010;—Am. 2016, Act 63, Eff. July 4, 2016;—Am. 2018, Act 534, Eff. Mar. 28, 2019.

**Compiler's note:** For transfer of certain powers and duties of the bureau of infectious disease control 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

**333.5110 Expedited partner therapy.**

Sec. 5110. (1) To protect and promote the public health of individuals in this state, expedited partner therapy is authorized as provided in this section. Expedited partner therapy is authorized to protect individuals in this state from the spread of sexually transmitted infections, which can cause infertility and ectopic pregnancies. The department may promulgate rules under the administrative procedures act of 1969 that it determines necessary to implement and administer this section. In addition to the requirements of section 5111, the department shall include in the list of reportable diseases, infections, and disabilities a separate list of sexually transmitted infections for which expedited partner therapy as authorized in this section is appropriate. In developing the list, the department shall consult with the federal centers for disease control and prevention and health professionals in this state.

(2) In addition to treating his or her patient, a health professional may provide expedited partner therapy if all of the following requirements are met:

(a) The patient has a laboratory-confirmed or suspected clinical diagnosis of a sexually transmitted infection.

(b) The patient indicates that he or she has a partner with whom the patient has engaged in sexual activity within the 60-day period immediately before the diagnosis of a sexually transmitted infection.

(c) The patient indicates that his or her partner is unable or is unlikely to seek clinical services in a timely

manner.

(3) A health professional who provides expedited partner therapy as authorized in this section shall do all of the following:

(a) Dispense or prescribe the therapy in the name of the partner, if known, without the physical examination of the partner by the health professional. Notwithstanding any provision of this act or rules to the contrary, if the name of the partner is not known, the health professional shall dispense or prescribe the therapy in the name of "expedited partner therapy".

(b) Convey to the patient that it is important to notify his or her partner of his or her diagnosis and that it is important for the partner to obtain medical care for a complete evaluation, testing for sexually transmitted infections, counseling, and treatment.

(c) Distribute to the patient the information sheet developed under subsection (4).

(4) The department shall develop and distribute to local health departments and, upon request, distribute to health professionals subject to this section an information sheet that includes all of the following information:

(a) A description of expedited partner therapy and its purpose.

(b) A statement that a common therapy for certain sexually transmitted infections is antibiotic therapy and that, if the expedited partner therapy dispensed or prescribed for the reader includes antibiotic therapy, the information sheet contains important warnings and information of which the reader should be aware.

(c) A warning that identifies contraindications for expedited partner therapy.

(d) A warning about the dangers of administering certain antibiotic therapies to a pregnant individual.

(e) Information about antibiotics dispensed or prescribed in antibiotic therapy and dosages of those antibiotics dispensed or prescribed.

(f) A warning about the risk of allergies to and drug interactions with antibiotics described in subdivision (e).

(g) Information about sexually transmitted infections, the treatment of diagnosed sexually transmitted infections, and the prevention of sexually transmitted infections.

(h) A notice that the partner should be tested for sexually transmitted infections.

(i) A notice of the risk to the patient, his or her partner, and others, including the public health, if a sexually transmitted infection is not completely treated.

(j) A notice of the responsibility of the patient to notify his or her sexual partners of the risk of sexually transmitted infections and the importance of examination and treatment for sexually transmitted infections.

(k) A statement advising any individual who has any questions regarding anything in the information sheet to contact his or her health professional or local health department.

(l) A statement that the cost of drugs dispensed pursuant to a prescription issued in the name of expedited partner therapy must be paid by the individual filling the prescription if that individual does not have prescription drug coverage under a health benefit plan or third-party reimbursement arrangement.

(5) This section does not require a health benefit plan or third-party reimbursement arrangement to pay for or provide reimbursement for expedited partner therapy authorized under this section unless the partner who receives the therapy is listed as a member, subscriber, contract holder, or beneficiary under the health benefit plan or third-party reimbursement arrangement.

(6) Except as otherwise provided in this subsection, a health professional who provides expedited partner therapy as authorized in this section is not liable for damages in a civil action or subject to administrative action under sections 16221 and 16226 for personal injury, death, or other consequences arising from or related in any way to the provision of expedited partner therapy by the health professional. This subsection does not apply if the action of the health professional in providing expedited partner therapy is gross negligence.

(7) As used in this section:

(a) "Expedited partner therapy" is the indirect treatment of a partner of a patient who has been diagnosed as having a sexually transmitted infection through the dispensing or prescribing of antibiotic drug or other treatment that is the standard of care for sexually transmitted infections in accordance with guidelines established by the federal centers for disease control and prevention for the treatment of the partner without the physical examination of the partner by a health professional.

(b) "Health professional" means any of the following:

(i) An individual licensed or otherwise authorized to engage in a health profession under article 15 and whose scope of practice includes the diagnosis and treatment of sexually transmitted infections.

(ii) For the purpose of dispensing therapy under this section, a pharmacist who is licensed or otherwise authorized to engage in the practice of pharmacy under article 15.

(c) "Sexual activity" includes sexual contact and sexual penetration as those terms are defined in section 5129.

(d) "Sexually transmitted infection" means 1 of the following:

(i) Until the department establishes a separate list under subsection (1), a sexually transmitted infection for which the federal centers for disease control and prevention recommends the use of expedited partner therapy.

(ii) On and after the date the department establishes a separate list under subsection (1), a sexually transmitted infection included in that list.

**History:** Add. 2014, Act 525, Imd. Eff. Jan. 14, 2015.

**Popular name:** Act 368

### **333.5111 List of reportable diseases, infections, and disabilities; rules.**

Sec. 5111. (1) In carrying out its authority under this article, the department shall maintain a list of reportable diseases, infections, and disabilities that designates and classifies communicable, serious communicable, chronic, or noncommunicable diseases, infections, and disabilities. The department shall review and revise the list under this subsection at least annually.

(2) In carrying out its authority under this article, the department may promulgate rules to do any of the following:

(a) Establish requirements for reporting and other surveillance methods for measuring the occurrence of diseases, infections, and disabilities and the potential for epidemics. Rules promulgated under this subdivision may require a licensed health professional or health facility to submit to the department or a local health department, on a form provided by the department, a report of the occurrence of a communicable disease, serious communicable disease or infection, or disability. The rules promulgated under this subdivision may require a report to be submitted to the department not more than 24 hours after a licensed health professional or health facility determines that an individual has a serious communicable disease or infection.

(b) Investigate cases, epidemics, and unusual occurrences of diseases, infections, and situations with a potential for causing diseases.

(c) Establish procedures for controlling diseases and infections, including, but not limited to, immunization and environmental controls.

(d) Establish procedures for preventing, detecting, and treating disabilities and rehabilitating individuals suffering from disabilities or disease, including nutritional problems.

(e) Establish procedures for controlling rabies and the disposition of nonhuman agents carrying disease, including rabid animals.

(f) Establish procedures for reporting known or suspected cases of lead poisoning or undue lead body burden.

(g) Designate communicable diseases or serious communicable diseases or infections for which local health departments are required to furnish care, including, but not limited to, tuberculosis and sexually transmitted infection.

(h) Implement this part and parts 52 and 53, including, but not limited to, rules for discovering, caring for, and reporting an individual having or suspected of having a communicable disease or a serious communicable disease or infection, and establishing approved tests under section 5123 and approved prophylaxes under section 5125.

(3) The department shall promulgate rules providing for the confidentiality of reports, records, and data pertaining to testing, care, treatment, reporting, and research associated with communicable diseases and serious communicable diseases or infections.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 1989, Act 174, Imd. Eff. Aug. 22, 1989;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 2010, Act 119, Imd. Eff. July 13, 2010;—Am. 2016, Act 64, Eff. July 4, 2016.

**Popular name:** Act 368

**Administrative rules:** R 325.60 and R 325.171 et seq. of the Michigan Administrative Code.

### **333.5112 Pandemic influenza plan; establishment and maintenance; annual review and update; availability to public; report.**

Sec. 5112. (1) The department shall establish and maintain a pandemic influenza plan. The department shall consult with the United States department of health and human services and the federal centers for disease control and prevention to ensure that the pandemic influenza plan established by this state is consistent with the national preparedness efforts. The department, in consultation with the department of agriculture and the local health departments in this state, shall review and update the pandemic influenza plan at least annually. The department shall make the pandemic influenza plan and any updates to that plan available to the public through its website.

(2) Beginning 1 year after the effective date of this section and annually thereafter, the department shall prepare a report regarding the pandemic influenza plan established under subsection (1), including an

assessment of the plan's effectiveness and this state's preparedness for an influenza outbreak, and present that report to the appropriate standing committees and appropriations subcommittees of the senate and house of representatives of the legislature that primarily address public health issues.

**History:** Add. 2006, Act 163, Imd. Eff. May 26, 2006.

**Popular name:** Act 368

### **333.5113 Medical treatment, testing, or examination as violative of personal religious beliefs; compliance with provisions regarding sanitation and reporting of diseases.**

Sec. 5113. (1) Except as otherwise provided in part 52 and section 9123, this article and articles 6 and 9 or the rules promulgated under those articles shall not be construed to require the medical treatment, testing, or examination of an individual who objects on the grounds that the medical treatment, testing, or examination violates the personal religious beliefs of the individual or of the parent, guardian, or person in loco parentis of a minor.

(2) This section does not exempt an individual from compliance with applicable laws, rules, or regulations regarding sanitation and the reporting of diseases as provided by this code.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 491, Eff. Mar. 30, 1989.

**Popular name:** Act 368

### **333.5114 HIV infected test subject; report; form.**

Sec. 5114. (1) Except as otherwise provided in this section, a person or governmental entity that obtains from a test subject a confirmatory diagnostic test result that indicates that the test subject is HIV infected or from a test subject who has already been diagnosed as HIV infected a clinical test result for medical monitoring ordered to evaluate immune system status, to quantify HIV levels, or to diagnose acquired immunodeficiency syndrome shall, within a time frame determined by the department, report to the appropriate local health department or, if requested by the local health department, to the department on a form provided by the department or through electronic methods approved by the department all of the following information, if available:

- (a) The name and address of the person or governmental entity that submits the report.
- (b) The name, address, and telephone number of the health care provider who diagnosed the test subject or who ordered the test.
- (c) The name, date of birth, race, sex, address, and telephone number of the test subject.
- (d) The date on which the specimen was collected for testing.
- (e) The type of test performed.
- (f) The test result.
- (g) If known, whether or not the test subject has tested positive for the presence of HIV or an antibody to HIV on a previous occasion.
- (h) The probable method of transmission.
- (i) The purpose of the test.
- (j) Any other medical or epidemiological information considered necessary by the department for the surveillance, control, and prevention of HIV infections, as described in rules promulgated by the department.

(2) An individual who undergoes a test for HIV or an antibody to HIV in a physician's private practice office or the office of a physician employed by or under contract to a health maintenance organization or who submits a specimen for either of those tests to that physician may request that the report made by the physician under this section not include the name, address, and telephone number of the test subject. Except as otherwise provided in section 5114a, if such a request is made under this subsection, the physician shall comply with the request and submit the specimen to the laboratory without the name, address, or telephone number of the test subject.

**History:** Add. 1988, Act 489, Eff. Mar. 30, 1989;—Am. 2004, Act 514, Eff. Apr. 1, 2005;—Am. 2018, Act 539, Eff. Mar. 28, 2019.

**Popular name:** Act 368

### **333.5114a Referral of individual to local health department; assistance with partner notification; information; legal obligation to inform sexual partners; criminal sanctions; partner notification program; confidentiality; priority duty of local health department; destruction of reports, records, and data; information exempt from disclosure.**

Sec. 5114a. (1) A person or governmental entity that administers a test for HIV or an antibody to HIV to an individual shall refer the individual to the appropriate local health department for assistance with partner notification if both of the following conditions are met:

- (a) The test results indicate that the individual is HIV infected.
- (b) The person or governmental entity that administered the test determines that the individual needs assistance with partner notification.
- (2) A person or governmental entity that refers an individual to a local health department under subsection (1) shall provide the local health department with information determined necessary by the local health department to carry out partner notification. Information required under this subsection may include, but is not limited to, the name, address, and telephone number of the individual test subject.
- (3) A local health department to which an individual is referred under subsection (1) shall inform the individual that he or she has a legal obligation to inform each of his or her sexual partners of the individual's HIV infection before engaging in sexual relations with that sexual partner, and that the individual may be subject to criminal sanctions for failure to so inform a sexual partner.
- (4) A partner notification program operated by a local health department must include notification of individuals who are sexual or hypodermic needle-sharing partners of the individual tested under subsection (1). Partner notification is confidential and must be conducted in the form of a direct, one-to-one conversation between the employee of the local health department and the partner of the test subject.
- (5) If a local health department receives a report under section 5114(1) that indicates that a resident of this state or an individual located in this state is HIV infected, the local health department shall make it a priority to do all of the following:
- (a) Attempt to interview the individual and offer to contact the individual's sexual partners and, if applicable, hypodermic needle-sharing or drug-sharing partners. If the subject of the report is determined to have been infected with HIV in utero, the local health department shall attempt to interview the individual's parent or legal guardian, or both. The interview conducted under this subdivision is voluntary on the part of the individual being interviewed. A local health department shall perform the interview or attempted interview required under this subdivision within 14 days after receipt of a report under section 5114(1).
- (b) Within 35 days after the interview conducted under subdivision (a), confidentially, privately, and in a discreet manner contact each individual identified as a sexual or hypodermic needle-sharing or drug-sharing partner regarding the individual's possible exposure to HIV. The local health department shall not reveal to an individual identified as a partner the identity of the individual who has tested positive for HIV or an antibody to HIV except if authorized to do so by the individual who named the contact, and if needed to protect others from exposure to HIV or from transmitting HIV. The local health department shall provide each individual interviewed under subdivision (a) and each individual contacted under this subdivision with all of the following information:
- (i) Available medical tests for HIV, an antibody to HIV, and any other indicator of HIV infection.
- (ii) Steps to take in order to avoid transmission of HIV.
- (iii) Other information considered appropriate by the department.
- (6) Each local health department shall report to the department on the reports, records, and data pertaining to information acquired by the local health department under this section. Except as otherwise required by federal law, the reports, records, and data of a local health department, stored on the local health department's server or contained in its paper files, pertaining to information acquired by the local health department under this section, must be destroyed within 365 days after the date the local health department received the information.
- (7) Information acquired by the department or a local health department under this section or section 5114 is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** Add. 1988, Act 489, Eff. Mar. 30, 1989;—Am. 2004, Act 514, Eff. Apr. 1, 2005;—Am. 2018, Act 567, Eff. Mar. 28, 2019.

**Popular name:** Act 368

### **333.5115 Communicable diseases and serious communicable diseases and infections; minimum procedures and standards for control and elimination.**

Sec. 5115. The department may establish minimum procedures and standards for health officers and other persons charged with administration and enforcement of the laws of this state relating to the discovery and care of an individual having or suspected of having a communicable disease or a serious communicable disease or infection. The procedures shall be reasonably related to the control and elimination of communicable diseases and serious communicable diseases and infections, and shall not conflict with the procedures for the control and elimination of communicable diseases and serious communicable diseases and infections set forth in this article.

**History:** Add. 1988, Act 491, Eff. Mar. 30, 1989.

**Popular name:** Act 368



**333.5117 Individual with serious communicable disease or infection; order authorizing care; report; authority not restricted; financial liability for care.**

Sec. 5117. (1) A local health department that knows that an individual who has a serious communicable disease or infection, including, but not limited to, tuberculosis or sexually transmitted infection, but not including HIV infection and acquired immunodeficiency syndrome, regardless of the individual's domicile, is in the local health department's jurisdiction and requires care, immediately shall furnish the necessary care in accordance with requirements established by the department under section 5111(2)(g). The local health department shall issue an order authorizing the care.

(2) The local health department promptly shall report the action taken under this section to the county department of human services of the individual's probable place of domicile.

(3) This section does not restrict the authority of the local health department in furnishing care to the individual, pending determination by the local health department or, upon its request, by the county department of human services of the probable place of domicile of the individual.

(4) Financial liability for care rendered under this section shall be determined in accordance with part 53.

**History:** Add. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 2010, Act 119, Imd. Eff. July 13, 2010;—Am. 2016, Act 65, Eff. July 4, 2016.

**Popular name:** Act 368

**333.5119 Individual applying for marriage license; availability of tests for sexually transmitted infection and HIV infection; educational materials; informing HIV infected applicant of test results; definitions.**

Sec. 5119. (1) An individual who is applying for a marriage license shall be advised through the distribution of written educational materials by the county clerk regarding prenatal care and the transmission and prevention of sexually transmitted infection and HIV infection. The written educational materials must describe the availability to the applicant of tests for both sexually transmitted infection and HIV infection. The information must include a list of locations where HIV counseling and testing services funded by the department are available. The department shall approve or prepare the written educational materials.

(2) A county clerk shall not issue a marriage license to an applicant who fails to sign and file with the county clerk an application for a marriage license that includes a statement with a check-off box indicating that the applicant has received the educational materials regarding the transmission and prevention of both sexually transmitted infection and HIV infection and has been advised of testing for both sexually transmitted infection and HIV infection, under subsection (1).

(3) If either applicant for a marriage license undergoes a test for HIV or an antibody to HIV, and if the test results indicate that an applicant is HIV infected, the physician or his or her designee, the physician's assistant, the certified nurse midwife, the certified nurse practitioner, the clinical nurse specialist-certified, or the local health officer or his or her designee administering the test immediately shall inform both applicants of the test results and shall counsel both applicants regarding the modes of HIV transmission, the potential for HIV transmission to a fetus, and protective measures.

(4) As used in this section:

(a) "Certified nurse midwife" means an individual who is licensed as a registered professional nurse under part 172 who has been granted a specialty certification in the practice of nurse midwifery by the Michigan board of nursing under section 17210.

(b) "Certified nurse practitioner" means an individual who is licensed as a registered professional nurse under part 172 who has been granted a specialty certification as a nurse practitioner by the Michigan board of nursing under section 17210.

(c) "Clinical nurse specialist-certified" means an individual who is licensed as a registered professional nurse under part 172 who has been granted a specialty certification as a clinical nurse specialist by the Michigan board of nursing under section 17210.

(d) "Physician" means an individual who is licensed as a physician under part 170 or part 175.

(e) "Physician's assistant" means an individual who is licensed as a physician's assistant under part 170 or part 175.

**History:** Add. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 1990, Act 46, Imd. Eff. Mar. 30, 1990;—Am. 1994, Act 75, Imd. Eff. Apr. 11, 1994;—Am. 2000, Act 209, Eff. Jan. 1, 2001;—Am. 2016, Act 66, Eff. July 4, 2016;—Am. 2016, Act 499, Eff. Apr. 9, 2017.

**Popular name:** Act 368

**333.5121 Prohibited conduct; misdemeanor.**

Sec. 5121. A person who commits any of the following acts is guilty of a misdemeanor:

(a) A county clerk who issues a marriage license to an individual who fails to present a certificate required under section 5119(2).

(b) A person who knows that an applicant for a marriage license has taken a test for sexually transmitted infection or HIV infection, or both, and who discloses either the fact that the applicant has taken the test or the results of the test, or both, except as required by law, and except as provided under section 5131.

**History:** Add. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 2016, Act 67, Eff. July 4, 2016.

**Popular name:** Act 368

### **333.5123 Initial examination or third trimester of pregnant woman or woman recently delivering infant; test specimens required; exceptions; record; availability of test results and records.**

Sec. 5123. (1) Except as otherwise provided in subsection (3), a physician or an individual otherwise authorized by law to provide medical treatment to a pregnant woman shall take or cause to be taken at the time of the woman's initial examination test specimens of the woman for the purpose of performing tests for HIV, syphilis, and hepatitis B, and take or cause to be taken during the third trimester of the woman's pregnancy test specimens of the woman for the purpose of performing tests for HIV, hepatitis B, and syphilis in accordance with guidelines established by the federal Centers for Disease Control and Prevention, and shall submit the specimens to a clinical laboratory approved by the department for the purpose of performing tests approved by the department for the infections described in this subsection.

(2) Except as otherwise provided in subsection (3), if, when a woman appears at a health care facility to deliver an infant or for care in the immediate postpartum period having recently delivered an infant outside a health care facility, no record of results from the tests required under subsection (1) is readily available to the physician or individual otherwise authorized to provide care in such a setting, then the physician or individual otherwise authorized to provide care shall take or cause to be taken test specimens of the woman and shall submit the specimens to a clinical laboratory approved by the department for the purpose of performing tests approved by the department for syphilis, HIV, and hepatitis B.

(3) Subsections (1) and (2) do not apply if, in the professional opinion of a physician, the tests are medically inadvisable or the woman does not consent to be tested. The woman may orally communicate her decision to decline the testing.

(4) The physician or other individual described in subsections (1) and (2) shall make and retain a record showing the date the tests required under subsections (1) and (2) were ordered and the results of the tests. If the tests were not ordered by the physician or other person, the record must contain an explanation of why the tests were not ordered.

(5) The test results and the records required under subsection (4) are not public records, but are available to a local health department and to a physician who provides medical treatment to the woman or her offspring.

**History:** Add. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 2016, Act 68, Eff. July 4, 2016;—Am. 2018, Act 538, Eff. Mar. 28, 2019.

**Popular name:** Act 368

### **333.5125 Birth of infant; treatment of eyes; report.**

Sec. 5125. A licensed health professional in charge of the care of a newborn infant, or if none, the licensed health professional in charge at the birth of an infant, shall treat the eyes of the infant with 1 or more of the prophylaxes approved by the department within 1 hour after the birth of the infant, or as soon after the birth of the infant as the health professional is present. If any redness, swelling, inflammation, or gathering of pus appears in the eyes of the infant or upon the lids or about the eyes of the infant within 2 weeks after the date of birth, a nurse, nurse-midwife, or other person having care of the infant shall report the condition to the physician in charge of the care of the infant, or if there is not a physician in charge of the care of the infant, to the local health department, within 6 hours after the discovery of the redness, swelling, inflammation, or gathering of pus.

**History:** Add. 1988, Act 491, Eff. Mar. 30, 1989.

**Popular name:** Act 368

### **333.5127 Minor infected with sexually transmitted infection or HIV; consent to treatment; informing spouse, parent, guardian, or person in loco parentis; financial responsibility.**

Sec. 5127. (1) Subject to section 5133, the consent to the provision of medical or surgical care, treatment, or services by a hospital, clinic, or physician that is executed by a minor who is or professes to be infected with a sexually transmitted infection or HIV is valid and binding as if the minor had achieved the age of majority. The consent is not subject to later disaffirmance by reason of minority. The consent of any other

person, including a spouse, parent, or guardian, or person in loco parentis, is not necessary to authorize the services described in this subsection to be provided to a minor.

(2) For medical reasons a treating physician, and on the advice and direction of the treating physician, a physician, a member of the medical staff of a hospital or clinic, or other health professional, may inform the spouse, parent, guardian, or person in loco parentis as to the treatment given or needed. The information may be given to or withheld from these persons without consent of the minor and notwithstanding the express refusal of the minor to the providing of the information.

(3) A spouse, parent, guardian, or person in loco parentis of a minor is not financially responsible for surgical care, treatment, or services provided under this section.

**History:** Add. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 2016, Act 69, Eff. July 4, 2016.

**Popular name:** Act 368

**333.5129 Individuals arrested and charged, bound over, or convicted of certain crimes; examination or testing for certain diseases; partner notification; expedited examination or testing; information and counseling; providing name, address, and telephone number of victim or individual; providing test results to victim or individual; transmitting test results and other medical information; confidentiality; referral of individual for appropriate medical care; financial responsibility; applicability of subsections (2), (3), and (4) to certain individuals; costs; definitions.**

Sec. 5129. (1) An individual arrested and charged with violating section 448, 449, 449a, 450, 452, or 455 of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, 750.449a, 750.450, 750.452, and 750.455, or a local ordinance prohibiting prostitution or engaging or offering to engage the services of a prostitute may, upon order of the court, be examined or tested to determine whether the individual has sexually transmitted infection, hepatitis B infection, hepatitis C infection, HIV infection, or acquired immunodeficiency syndrome. Examination or test results that indicate the presence of sexually transmitted infection, hepatitis B infection, hepatitis C infection, HIV infection, or acquired immunodeficiency syndrome must be reported to the defendant and, pursuant to sections 5114 and 5114a, to the department and the appropriate local health department for partner notification.

(2) Except as otherwise provided in this section, if an individual is arrested and charged with violating section 145a, 338, 338a, 338b, 448, 449, 449a, 450, 452, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.338, 750.338a, 750.338b, 750.448, 750.449, 750.449a, 750.450, 750.452, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or section 7404 by intravenously using a controlled substance, or a local ordinance prohibiting prostitution, solicitation, gross indecency, or the intravenous use of a controlled substance, the judge or magistrate responsible for setting the individual's conditions of release pending trial shall distribute to the individual the information on sexually transmitted infection and HIV infection required to be distributed by county clerks under section 5119(1) and shall recommend that the individual obtain additional information and counseling at a local health department testing and counseling center regarding sexually transmitted infection, hepatitis B infection, hepatitis C infection, HIV infection, and acquired immunodeficiency syndrome. Counseling under this subsection is voluntary on the part of the individual.

(3) If a defendant is bound over to circuit court for violating section 145a, 338, 338a, 338b, 450, 452, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.338, 750.338a, 750.338b, 750.450, 750.452, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, and the district court determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant, the district court shall order the defendant to be examined or tested for sexually transmitted infection, hepatitis B infection, and hepatitis C infection and for the presence of HIV or an antibody to HIV. The circuit court shall order the examination or testing if the defendant is brought before it by way of indictment for any of the violations described in this subsection. If a defendant is bound over to or brought before the circuit court for violating section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, the court shall, upon the victim's request, order the examination or testing to be done not later than 48 hours after the date that the information or indictment is presented and the defendant is in custody or has been served with the information or indictment. The court shall include in its order for expedited examination or testing at the victim's request under this subsection a provision that requires follow-up examination or testing that is considered medically appropriate based on the results of the initial examination or testing. Except as provided in subsection (5), (6), or (7), or as otherwise provided by law, the examinations and tests must be confidentially administered by a licensed physician, the department, or a local health department. The court also shall order the defendant to



receive counseling regarding sexually transmitted infection, hepatitis B infection, hepatitis C infection, HIV infection, and acquired immunodeficiency syndrome, including, at a minimum, information regarding treatment, transmission, and protective measures.

(4) Except as otherwise provided in this section, upon conviction of a defendant or the issuance by the probate court of an order adjudicating a child to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for violating section 145a, 338, 338a, 338b, 448, 449, 449a, 450, 452, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.338, 750.338a, 750.338b, 750.448, 750.449, 750.449a, 750.450, 750.452, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or section 7404 by intravenously using a controlled substance, or a local ordinance prohibiting prostitution, solicitation, gross indecency, or the intravenous use of a controlled substance, the court that has jurisdiction of the criminal prosecution or juvenile hearing shall order the defendant or child to be examined or tested for sexually transmitted infection, hepatitis B infection, and hepatitis C infection and for the presence of HIV or an antibody to HIV. Except as provided in subsection (5), (6), or (7), or as otherwise provided by law, the examinations and tests must be confidentially administered by a licensed physician, the department, or a local health department. The court also shall order the defendant or child to receive counseling regarding sexually transmitted infection, hepatitis B infection, hepatitis C infection, HIV infection, and acquired immunodeficiency syndrome, including, at a minimum, information regarding treatment, transmission, and protective measures.

(5) If the victim or individual with whom the defendant or child found to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, engaged in sexual penetration or sexual contact or who was exposed to a body fluid during the course of the crime consents, the court or probate court shall provide the person or agency conducting the examinations or administering the tests under subsection (3) or (4) with the name, address, and telephone number of the victim or individual with whom the defendant or child engaged in sexual penetration or sexual contact or who was exposed to a body fluid of the defendant during the course of the crime. If the victim or individual with whom the defendant or child engaged in sexual penetration during the course of the crime is a minor or otherwise incapacitated, the victim's or individual's parent, guardian, or person in loco parentis may give consent for purposes of this subsection. After the defendant or child is examined or tested as to the presence of sexually transmitted infection, hepatitis B infection, hepatitis C infection, or HIV or an antibody to HIV, or if the defendant or child receives appropriate follow-up testing for the presence of HIV, the person or agency conducting the examinations or administering the tests shall immediately provide the examination or test results to the victim or individual with whom the defendant or child found to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, engaged in sexual penetration or sexual contact or who was exposed to a body fluid during the course of the crime and shall refer the victim or other individual for appropriate counseling.

(6) The examination or test results and any other medical information obtained from the defendant or child found to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, by the person or agency conducting the examinations or administering the tests under subsection (3) or (4) must be transmitted to the court or probate court and, after the defendant or child is sentenced or an order of disposition is entered, made part of the court record. The examination or test results and any other medical information described in this subsection are confidential and may be disclosed only to 1 or more of the following:

(a) The defendant or child.

(b) The local health department.

(c) The department.

(d) The victim or other individual required to be informed of the results under this subsection or subsection (5) or, if the victim or other individual is a minor or otherwise incapacitated, to the victim's or other individual's parent, guardian, or person in loco parentis.

(e) Upon written authorization of the defendant or child found to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or the child's parent, guardian, or person in loco parentis.

(f) As otherwise provided by law.

(7) If the defendant is placed in the custody of the department of corrections, the court shall transmit a copy of the defendant's examination and test results and other medical information to the department of corrections. If the child found to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is placed by the probate court in the custody of an individual related to the child or a public or private agency, institution, or facility, the probate court shall transmit a copy of the child's examination or test results to the individual related to the child or the director of the agency,

institution, or facility. A person or agency that discloses information in compliance with this subsection or subsection (6) is not civilly or criminally liable for making the disclosure. A person or agency that receives test results or other medical information pertaining to HIV infection or acquired immunodeficiency syndrome under this subsection or subsection (6) is subject to section 5131 and shall not disclose the test results or other medical information except as specifically permitted under that section.

(8) If an individual receives counseling or is examined or tested under this section and is found to be infected with sexually transmitted infection, hepatitis B, or hepatitis C or to be HIV infected, the individual must be referred by the agency providing the counseling or testing for appropriate medical care. The department, the local health department, or any other agency providing counseling or testing under this section is not financially responsible for medical care received by an individual as a result of a referral made under this subsection.

(9) The requirements for the distribution of information concerning sexually transmitted infection, counseling concerning sexually transmitted infection, and examining or testing for sexually transmitted infection under subsections (2), (3), and (4) do not apply to an individual charged with or convicted of violating section 7404 by intravenously using a controlled substance or violating a local ordinance prohibiting the intravenous use of a controlled substance.

(10) The court may, upon conviction or the issuance by the probate court of an order adjudicating a child to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, order an individual who is examined or tested under this section to pay the actual and reasonable costs of that examination or test incurred by the licensed physician or local health department that administered the examination or test.

(11) An individual who is ordered to pay the costs of an examination or test under subsection (10) shall pay those costs within 30 days after the order is issued or as otherwise provided by the court. The amount ordered to be paid under subsection (10) must be paid to the clerk of the court, who shall transmit the appropriate amount to the physician or local health department named in the order. If an individual is ordered to pay a combination of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments upon conviction in addition to the costs ordered under subsection (10), the payments must be allocated as provided under the probate code of 1939, 1939 PA 288, MCL 710.21 to 712B.41, the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, and the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. An individual who fails to pay the costs within the 30-day period or as otherwise ordered by the court is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

(12) As used in this section:

(a) "Sexual contact" means that term as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

(b) "Sexual penetration" means that term as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

(c) "Victim" includes, but is not limited to, a victim as that term is defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

**History:** Add. 1988, Act 471, Eff. Mar. 30, 1989;—Am. 1994, Act 1, Imd. Eff. Feb. 16, 1994;—Am. 1994, Act 72, Imd. Eff. Apr. 11, 1994;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 1995, Act 253, Imd. Eff. Jan. 5, 1996;—Am. 2004, Act 98, Imd. Eff. May 13, 2004;—Am. 2014, Act 321, Eff. Jan. 12, 2015;—Am. 2016, Act 70, Eff. July 4, 2016.

**Popular name:** Act 368

### **333.5131 HIV infection and acquired immunodeficiency syndrome; confidentiality of reports, records, data, and information; test results; limitations and restrictions on disclosures in response to court order and subpoena; information released to legislative body; applicability of subsection (1); immunity; identification of individual; violation as misdemeanor; penalty.**

Sec. 5131. (1) All reports, records, and data pertaining to testing, care, treatment, reporting, and research, and information pertaining to partner notification under section 5114a, that are associated with HIV infection and acquired immunodeficiency syndrome are confidential. A person shall release reports, records, data, and information described in this subsection only pursuant to this section.

(2) Except as otherwise provided by law, the test results of a test for HIV infection or acquired immunodeficiency syndrome and the fact that such a test was ordered is information that is subject to section 2157 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157.

(3) The disclosure of information pertaining to HIV infection or acquired immunodeficiency syndrome in

response to a court order and subpoena is limited to only the following cases and is subject to all of the following restrictions:

- (a) A court that is petitioned for an order to disclose the information shall determine both of the following:
  - (i) That other ways of obtaining the information are not available or would not be effective.
  - (ii) That the public interest and need for the disclosure outweigh the potential for injury to the patient.
- (b) If a court issues an order for the disclosure of the information, the order must do all of the following:
  - (i) Limit disclosure to those parts of the patient's record that are determined by the court to be essential to fulfill the objective of the order.
  - (ii) Limit disclosure to those persons whose need for the information is the basis for the order.
  - (iii) Include any other measures as considered necessary by the court to limit disclosure for the protection of the patient.
- (4) A person who releases information pertaining to HIV infection or acquired immunodeficiency syndrome to a legislative body shall not identify in the information a specific individual who was tested or is being treated for HIV infection or acquired immunodeficiency syndrome.
- (5) Subject to subsection (7), subsection (1) does not apply to the following:
  - (a) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is disclosed to the department, a local health department, or other health care provider for 1 or more of the following purposes:
    - (i) To protect the health of an individual.
    - (ii) To prevent further transmission of HIV.
    - (iii) To diagnose and care for a patient.
  - (b) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is disclosed by a physician or local health officer to an individual who is known by the physician or local health officer to be a contact of the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the physician or local health officer determines that the disclosure of the information is necessary to prevent a reasonably foreseeable risk of further transmission of HIV. This subdivision imposes an affirmative duty upon a physician or local health officer to disclose information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome to an individual who is known by the physician or local health officer to be a contact of the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome. A physician or local health officer may discharge the affirmative duty imposed under this subdivision by referring the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome to the appropriate local health department for assistance with partner notification under section 5114a. The physician or local health officer shall include as part of the referral the name and, if available, address and telephone number of each individual known by the physician or local health officer to be a contact of the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome.
  - (c) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is disclosed by an authorized representative of the department or by a local health officer to an employee of a school district, and if the department representative or local health officer determines that the disclosure is necessary to prevent a reasonably foreseeable risk of transmission of HIV to pupils in the school district. An employee of a school district to whom information is disclosed under this subdivision is subject to subsection (1).
  - (d) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the disclosure is expressly authorized in writing by the individual. This subdivision applies only if the written authorization is specific to HIV infection or acquired immunodeficiency syndrome. If the individual is a minor or incapacitated, the written authorization may be executed by the parent or legal guardian of the individual.
  - (e) Information disclosed under section 5114, 5114a, 5119(3), 5129, 5204, or 20191 or information disclosed as required by rule promulgated under section 5111.
  - (f) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is part of a report required under the child protection law, 1975 PA 238, MCL 722.621 to 722.638.
  - (g) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is disclosed by the department, the probate court, or a child placing agency in order to care for a minor and to place the minor with a child care organization licensed under 1973 PA 116, MCL 722.111 to 722.128. The person disclosing the information shall disclose it only to the director of the child care organization or, if the child care organization is a private home, to the individual

who holds the license for the child care organization. An individual to whom information is disclosed under this subdivision is subject to subsection (1). As used in this subdivision, "child care organization" and "child placing agency" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.

(6) A person who releases the results of an HIV test or other information described in subsection (1) in compliance with subsection (5) is immune from civil or criminal liability and administrative penalties including, but not limited to, licensing sanctions, for the release of that information.

(7) A person who discloses information under subsection (5) shall not include in the disclosure information that identifies the individual to whom the information pertains, unless the identifying information is determined by the person making the disclosure to be reasonably necessary to prevent a foreseeable risk of transmission of HIV, to protect the health of the individual to whom the information pertains, to prevent the further transmission of HIV, or to diagnose and care for a patient. A person disclosing identifying information under this subsection shall disclose only the minimum information necessary to accomplish the intended purpose of the disclosure. This subsection does not apply to information disclosed under subsection (5)(d), (f), or (g).

(8) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both, and is liable in a civil action for actual damages or \$1,000.00, whichever is greater, and costs and reasonable attorney fees. This subsection also applies to the employer of a person who violates this section, unless the employer had in effect at the time of the violation reasonable precautions designed to prevent the violation.

**History:** Add. 1988, Act 488, Eff. Mar. 30, 1989;—Am. 1989, Act 174, Imd. Eff. Aug. 22, 1989;—Am. 1989, Act 271, Imd. Eff. Dec. 26, 1989;—Am. 1992, Act 86, Eff. Mar. 31, 1993;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 1997, Act 57, Eff. Jan. 1, 1998;—Am. 2010, Act 119, Imd. Eff. July 13, 2010;—Am. 2018, Act 536, Eff. Mar. 28, 2019.

**Popular name:** Act 368

**Administrative rules:** R 325.9001 et seq. of the Michigan Administrative Code.

### **333.5133 Information on HIV testing; notification of testing and opportunity for questions; authority to decline; partner notification; HIV test performed for purpose of research; inapplicability of section; conditions; informing patient of test results.**

Sec. 5133. (1) Except as otherwise provided by law, a physician who orders an HIV test or a health facility that performs an HIV test shall provide information appropriate to the test subject both before and after the test is administered.

(2) A test subject or his or her authorized representative who provides general informed consent for medical care is considered to have consented to an HIV test. A separate consent form for an HIV test is not required. However, except as otherwise provided by law, a health care provider shall not order an HIV test for a test subject without first doing both of the following:

(a) Informing the test subject or his or her legally authorized representative verbally or in writing that an HIV test will be performed unless the test subject or his or her legally authorized representative declines the HIV test.

(b) Offering the test subject or his or her legally authorized representative an opportunity to ask questions and decline the HIV test.

(3) If a test subject or the test subject's legally authorized representative declines an HIV test under subsection (2), the decision must be documented in the test subject's medical record.

(4) If a test subject undergoes an HIV test at a department approved testing site and the test results of the HIV test performed under this subsection indicate that the test subject is HIV infected, the staff of the department approved testing site shall proceed with partner notification in the same manner in which a local health department would proceed as described in section 5114a(3) to (5).

(5) This section does not apply to an HIV test performed for the purpose of research, if the test is performed in such a manner that the identity of the test subject is not revealed to the researcher and the test results are not made known to the test subject.

(6) Except as otherwise provided in subsection (8), this section does not apply to an HIV test performed on a patient in a health facility if the conditions in subdivisions (a) and (b) or the conditions in subdivisions (a) and (c) are met:

(a) The patient is informed in writing upon admission to the health facility that an HIV test may be performed on the patient without his or her right to decline under circumstances described in subdivision (b) or (c). As used in this subdivision, "admission" means the provision of an inpatient or outpatient health care service in a health facility.

(b) The HIV test is performed after a health professional, health facility employee, police officer, or fire

fighter, or a medical first responder, emergency medical technician, emergency medical technician specialist, or paramedic licensed under section 20950 or 20952 sustains in the health facility, while treating the patient before transport to the health facility, or while transporting the patient to the health facility, a percutaneous, mucous membrane, or open wound exposure to the blood or other body fluids of the patient.

(c) The HIV test is performed pursuant to a request made under section 20191(2).

(7) Except as otherwise provided in subsection (8), this section does not apply if the test subject is unable to receive or understand the information described in subsections (1) and (2) or to decline the test as described in subsection (3), and a legally authorized representative of the test subject is not readily available to receive the information or decline for the test subject.

(8) If the results of an HIV test performed under this section indicate that the patient is HIV infected, the health facility shall inform the patient of the positive test results and shall provide the patient with appropriate counseling regarding HIV infection and acquired immunodeficiency syndrome and referrals to expedite HIV treatment and services. If the results of an HIV test performed under this section indicate that the patient is not HIV infected, that information must be provided to the patient through normal health care provider procedures.

**History:** Add. 1988, Act 488, Eff. Mar. 30, 1989;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 1994, Act 420, Eff. Mar. 30, 1995;—Am. 2010, Act 320, Eff. Jan. 1, 2011;—Am. 2018, Act 535, Eff. Mar. 28, 2019.

**Popular name:** Act 368

### **333.5139 Report by physician or optometrist; definitions.**

Sec. 5139. (1) A physician or an optometrist has no affirmative obligation to but may voluntarily report to the secretary of state or warn third parties regarding a patient's mental and physical qualifications to operate a motor vehicle in a manner as not to jeopardize the safety of persons and property due to an episode. A physician or an optometrist who chooses not to make a report to the secretary of state or warn third parties as provided for under this subsection is immune from any criminal or civil liability to the patient or third party that may have been injured by the patient's actions.

(2) A physician or an optometrist may make a report under this section and submit that report to the secretary of state for the purpose of initiating or contributing to an examination of an applicant's physical and mental qualifications to operate a motor vehicle in a manner as not to jeopardize the safety of persons and property pursuant to section 309 of the Michigan vehicle code, 1949 PA 300, MCL 257.309. In making that report, the physician or optometrist shall recommend a period of suspension as determined appropriate by the physician or optometrist as follows:

(a) In the case of a patient holding an operator's license, that the suspension be for at least 6 months or longer.

(b) In the case of a patient holding a commercial license, that the suspension be for at least 12 months or longer.

(3) A physician or an optometrist making a report under subsection (2), acting in good faith and exercising due care as evidenced by documenting his or her file or medical record regarding an episode, is immune from any civil or criminal liability resulting from the report to the patient or a third party that may have been injured by the patient's actions.

(4) As used in this section:

(a) "Episode" means any of the following:

(i) An experience derived from a condition that causes or contributes to loss of consciousness, blackout, seizure, a fainting spell, syncope, or any other impairment of the level of consciousness.

(ii) An experience derived from a condition that causes an impairment of an individual's driving judgment.

(iii) An experience derived from an impairment of an individual's vision.

(b) "Optometrist" means that term as defined under part 174.

(c) "Physician" means that term as defined under part 170 or 175.

**History:** Add. 2012, Act 354, Imd. Eff. Dec. 13, 2012.

### **333.5141 Reflex sympathetic dystrophy/complex regional pain syndrome (RSD/CRPS); work group; education program; materials and brochures; funds.**

Sec. 5141. (1) Upon appropriation of the necessary funding to support the work group and the education program, the department shall establish a reflex sympathetic dystrophy/complex regional pain syndrome (RSD/CRPS) work group that is composed of both public and private sector members. The RSD/CRPS work group, in consultation with health care providers and health-related organizations, shall develop and coordinate an RSD/CRPS education program to promote public awareness of the causes of RSD/CRPS and the value of early detection, diagnosis, and treatment of this disease. The RSD/CRPS program shall include a



public education and outreach campaign utilizing written materials and brochures to promote awareness of RSD/CRPS among consumers, health care providers, teachers, and human services providers and to enable individuals to make informed decisions about their health. The written materials and brochures shall include, but are not limited to, information regarding each of the following:

- (a) Cause and nature of RSD/CRPS.
- (b) Risk factors that contribute to the manifestation of RSD/CRPS.
- (c) All available treatment options for RSD/CRPS including the risks and benefits of each of those options.
- (d) Environmental safety and injury prevention.
- (e) Rest and use of appropriate body mechanics.
- (f) Any other information that is relevant to RSD/CRPS.

(2) The educational materials and brochures developed under subsection (1) shall be made available to the public through the department's website or health promotions clearinghouse hotline and, if sufficient funding is available, the educational materials and brochures shall be distributed to local health departments, hospitals, and health care providers for distribution to the public. The RSD/CRPS work group shall also facilitate as a part of the RSD/CRPS program educational workshops that are open to the public. The workshops shall include, at a minimum, at least 1 physician presenter who is licensed under article 15 and is knowledgeable about RSD/CRPS.

(3) The department may accept and utilize federal or state funds or other public or private grants, gifts, donations, or appropriations to carry out the purposes of this section, including, but not limited to, promoting research to accurately identify, diagnose, and treat this disease.

**History:** Add. 2006, Act 678, Imd. Eff. Jan. 10, 2007.

**Popular name:** Act 368

### **333.5145 Report on implementation of recommendations for nursing home COVID-19 preparedness; statewide policy for nursing home visitations; care and recovery center requirements; designated area for positive coronavirus patients; "coronavirus" defined.**

Sec. 5145. (1) The department, in consultation with the department of licensing and regulatory affairs, shall do all of the following:

(a) By November 15, 2020, develop and submit a report to the house and senate standing committees on health policy that is based on relevant guidance issued by the federal Centers for Disease Control and Prevention and incorporates recommendations from the Michigan nursing homes COVID-19 preparedness task force. The report must include, but is not limited to, a description of any updates to the final recommendations of the Michigan nursing homes COVID-19 preparedness task force in its report dated August 30, 2020, the status on implementing the recommendations, and a description of any barriers to implementing the recommendations. The department may use health care systems and hospital capacity data when preparing the report. The report must also address each of the following quality-of-life recommendations from the task force report described in this subdivision:

- (i) Outdoor visits.
- (ii) Small-group noncontact activities.
- (iii) Communal dining for residents.
- (iv) Indoor visitation participation opt-in.
- (v) Resident small-group "pod" opt-in.
- (vi) Increased virtual visitation opportunities.
- (vii) Staff access to creative engagement ideas.
- (viii) Support for meaningful engagement activities.
- (ix) Ancillary service providers.
- (x) Visitation volunteers.
- (xi) Off-campus health and wellness visits.
- (xii) Window visits.

(b) By November 15, 2020, implement a statewide policy for nursing homes on providing in-person indoor and outdoor visitations to all nursing home residents. The department shall post a copy of the policy on the department's publicly available website and post any updates to the policy within 48 hours after making the updates. The department shall also provide a copy of the policy to the house and senate standing committees on health policy. The policy may limit in-person indoor and outdoor visitations for a nursing home resident who tests positive for coronavirus, if a nursing home is experiencing an outbreak of coronavirus, or if a community is experiencing an outbreak of coronavirus.

(c) By November 15, 2020, develop and submit a report to the house and senate standing committees on health policy on the department's plans to identify laboratories that will process and prioritize coronavirus

diagnostic tests from nursing homes. The report must include the department's plans for issuing requests for proposals that include a provision requiring a successful bidder to be able to process a high volume of tests, including, but not limited to, rapid testing for coronavirus and provide expedited results.

(d) By November 15, 2020, implement a process for the creation of care and recovery centers within nursing homes for the purpose of providing care to individuals who have tested positive for coronavirus who have not met the criteria for the discontinuation of transmission-based precautions from the federal Centers for Disease Control and Prevention. The department shall require a nursing home seeking to operate a care and recovery center to apply to the department on a form provided by the department and meet all of the following requirements:

(i) Demonstrate each of the following to the department:

(A) That the nursing home has at least an overall rating of 3 stars or a 3-star rating in the staffing category, based on the Five-Star Quality Rating System established by the federal Centers for Medicare and Medicaid Services.

(B) That the nursing home is not operating under a denial of payment for new admissions under 42 CFR 488.417.

(C) That the nursing home is not designated on the Nursing Home Compare website of the federal Centers for Medicare and Medicaid Services as a "red hand facility", indicating a citation for abuse.

(D) That the nursing home meets physical plant capacity to designate a distinct area within the nursing home for individuals who have tested positive for coronavirus.

(E) That the nursing home has dedicated staff for the sole purpose of treating individuals in the care and recovery center.

(ii) Agrees to comply with any facility requirements that the department considers appropriate to prevent the spread of coronavirus in nursing homes, including, but not limited to, infection control safeguards, personal protective equipment, testing for coronavirus, and operational capacity.

(iii) Agrees to comply with all of the following if an individual tests positive for coronavirus and needs to be transferred to a care and recovery center or other location described in this section:

(A) Provide a notice to the individual; if applicable, the individual's legal representative; and, if the individual consents, the individual's emergency contact.

(B) That a physician, a nurse practitioner, or a physician's assistant shall provide, in writing and in a time frame and manner determined by the department, that the individual is medically stable for the transfer.

(iv) Any other requirement established by the department in consultation with the department of licensing and regulatory affairs.

(e) By November 15, 2020, implement a process for the approval of designated areas within nursing homes for individuals who test positive for coronavirus. The department shall require a nursing home seeking to establish a designated area within its facility to apply to the department on a form provided by the department and meet all of the following requirements:

(i) Demonstrate each of the following to the department:

(A) That the nursing home has a program for retaining and providing the appropriate level of care necessary for individuals who test positive for coronavirus and that the program has an adequate supply of personal protective equipment and adequate testing capabilities, dedicated staffing, and operational capacity at the time of an individual's diagnosis.

(B) That the nursing home's designated area meets proper infection control safeguards.

(C) That there is no longer capacity at a care and recovery center and additional facilities are needed for individuals who test positive for coronavirus, unless the department determines that there are rare and unique circumstances that must be taken to protect the health and safety of an individual.

(ii) Agrees to continually evaluate and ensure its ability to meet each requirement for the approval of a designated area under this subdivision.

(iii) Any other requirement established by the department in consultation with the department of licensing and regulatory affairs.

(2) As used in this section, "coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

**History:** Add. 2020, Act 231, Imd. Eff. Oct. 22, 2020;—Am. 2020, Act 311, Imd. Eff. Dec. 29, 2020.

**Popular name:** Act 368

### **333.5145a Weekly posting of nursing home data related to coronavirus; "coronavirus" defined.**

Sec. 5145a. (1) By November 15, 2020, and each week thereafter, the department, in consultation with the department of licensing and regulatory affairs, shall post data on the department's publicly accessible website

that includes, but is not limited to, all of the following for each nursing home in this state or any information that the department determines is similar to the following:

(a) The new number of coronavirus positive cases among nursing home residents and staff for the reporting period.

(b) The new number of coronavirus deaths among nursing home residents and staff for the reporting period.

(c) The new number of nursing homes conducting new coronavirus tests for the reporting period.

(d) The new number of nursing home residents from another nursing home that were previously diagnosed with coronavirus and continue to require transmission-based precautions.

(e) The cumulative number of coronavirus positive cases among nursing home residents and staff, to date.

(f) The cumulative number of coronavirus deaths among nursing home residents and staff, to date.

(g) The cumulative number of nursing home residents from another nursing home who were previously diagnosed with coronavirus and continue to require transmission-based precautions.

(h) An inventory of current stock of medical supplies and personal protective equipment.

(i) The current version of any visitation policy issued by the department affecting nursing homes.

(2) By November 15, 2020, and weekly thereafter, the department shall also post on the department's publicly available website the historical data that the department has collected regarding coronavirus in nursing homes. The data described in this subsection must be posted in a manner that provides for longitudinal tracking and trending of, at a minimum, cases of coronavirus, deaths resulting from coronavirus, and testing for coronavirus in nursing homes.

(3) As used in this section, "coronavirus" means that term as defined in section 5145.

**History:** Add. 2020, Act 244, Imd. Eff. Nov. 5, 2020.

**Popular name:** Act 368