PUBLIC HEALTH CODE
Act 368 of 1978

AN ACT to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1985, Act 198, Eff. Mar. 31, 1986;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1988, Act 139, Imd. Eff. June 3, 1988;—Am. 1993, Act 361, Eff. Sept. 1, 1994;—Am. 1994, Act 170, Imd. Eff. June 17, 1994;—Am. 1998, Act 332, Imd. Eff. Aug. 10, 1998;—Am. 2002, Act 303, Imd. Eff. May 10, 2002;—Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003.

Compiler's note: For transfer of the Department of Insurance and Office of the Commissioner on Insurance from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For transfer of powers and duties of licensing of substance abuse programs and certification of substance abuse workers in the division of program standards, evaluation, and data services of the center for substance abuse services, from the department of public health to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

The People of the State of Michigan enact:

ARTICLE 1
PRELIMINARY PROVISIONS

PART 11
SHORT TITLE, GENERAL DEFINITIONS, AND CONSTRUCTION

333.1101 Short title.

Sec. 1101. This act shall be known and may be cited as the "public health code".

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

Compiler's note: For transfer of powers and duties of licensing of substance abuse programs and certification of substance abuse workers in the division of program standards, evaluation, and data services of the center for substance abuse services, from the department of public health to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.1103 Meanings of words and phrases.

Sec. 1103. For purposes of this code, the words and phrases defined in sections 1104 to 1108 have the meanings ascribed to them in those sections. These definitions, unless the context requires otherwise, apply to use of the defined terms in this code. Other definitions applicable to specific articles, parts, or sections of the code are found in those articles, parts, or sections.

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

Popular name: Act 368

333.1104 Definitions; A to G.

Sec. 1104. (1) "Acknowledgment of parentage" means an acknowledgment executed as provided in the

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acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013.

(2) "Administrative procedures act of 1969" means the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or a successor act.

(3) "Adult" means an individual 18 years of age or older.

(4) "Code" means this act.

(5) "Department", except as provided in articles 8, 15, and 17, means the department of health and human services.

(6) "Director", except as provided in articles 8, 15, and 17, means the director of health and human services.

(7) "Governmental entity" means a government, governmental subdivision or agency, or public corporation.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1996, Act 307, Eff. June 1, 1997;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2015, Act 155, Eff. Jan. 18, 2016.

Popular name: Act 368

333.1105 Definitions; I to M.

Sec. 1105. (1) "Individual" means a natural person.

(2) "Local health department" means:

(a) A county health department of a single county provided pursuant to section 2413 and its board of health, if any.

(b) A district health department created pursuant to section 2415 and its board of health.

(c) A city health department created pursuant to section 2421 and its board of health, if any.

(d) Any other local agency approved by the department under part 24.

(3) "Local health officer" means the individual in charge of a local health department or his or her authorized representative.

(4) "Magistrate" means a judge authorized to issue warrants by the laws of this state.

(5) "Minor" means an individual under 18 years of age.

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

Popular name: Act 368

333.1106 Definitions.

Sec. 1106. (1) "Opioid antagonist" means naloxone hydrochloride or any other similarly acting and equally safe drug approved by the federal food and drug administration for the treatment of drug overdose.

(2) "Opioid-related overdose" means a condition, including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death, that results from the consumption or use of an opioid or another substance with which an opioid was combined or that a layperson would reasonably believe to be an opioid-related overdose that requires medical assistance.

(3) "Parentage registry" means the department's compilation of data concerning children's parentage, which data the department receives from any source, including, but not limited to, a copy of an order of filiation from the circuit court or an acknowledgment of paternity or parentage under this act, under section 2114 of the estates and protected individuals code, 1998 PA 386, MCL 700.2114, or under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013.

(4) "Person" means an individual, partnership, cooperative, association, private corporation, personal representative, receiver, trustee, assignee, or other legal entity. Person does not include a governmental entity unless specifically provided.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1996, Act 307, Imd. Eff. June 20, 1996;—Am. 2000, Act 58, Eff. Apr. 1, 2000;—Am. 2014, Act 311, Imd. Eff. Oct. 14, 2014.

Popular name: Act 368

333.1108 Definitions; R, S.

Sec. 1108. (1) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969.

(2) "State" means a state, district, territory, commonwealth, or insular possession of the United States or any area subject to the lawful authority of the United States.

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

Popular name: Act 368

333.1111 Intent and construction of code.

Sec. 1111. (1) This code is intended to be consistent with applicable federal and state law and shall be

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construed, when necessary, to achieve that consistency.

(2) This code shall be liberally construed for the protection of the health, safety, and welfare of the people of this state.

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

Popular name: Act 368

333.1113 Headings or titles of code.

Sec. 1113. A heading or title of an article or part of this code shall not be considered as a part of this code or be used to construe the code more broadly or narrowly than the text of the code sections would indicate, but shall be considered as inserted for convenience to users of this code.

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

Popular name: Act 368

333.1114 Prohibited construction of code.

Sec. 1114. (1) This code shall not be construed to vest authority in the department for programs or activities otherwise delegated by state or federal law or rules to another department of state government.

(2) This code shall not be construed to divest or reduce authority or responsibility for mental health services or responsibilities vested in state or local mental health agencies by Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, or rules promulgated pursuant to that act.

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

Popular name: Act 368

333.1115 Controlling provisions.

Sec. 1115. A state statute, a rule of the department, or an applicable local health department regulation shall control over a less stringent or inconsistent provision enacted by a local governmental entity for the protection of public health.

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

Popular name: Act 368

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333.1117 References to repealed or rescinded provisions.

Sec. 1117. If a provision of a statute referred to in this code or in a rule authorized or recognized by this code is repealed, or if a provision of a rule authorized or recognized by this code is rescinded, and the provision is substantially reenacted or repromulgated, a reference in this code or the rule to the repealed or rescinded provision is considered a reference to the reenacted or repromulgated provision.

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

Popular name: Act 368

PART 12
GENERAL PROVISIONS

333.1201 Delaying promulgation of new rules.

Sec. 1201. When the department is directed to promulgate rules by this code and rules exist on the date the requirement to promulgate takes effect, which rules the department believes adequately cover the matter, the department may delay the promulgation of new rules until the department considers it advisable.

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

Popular name: Act 368

333.1203 Approval of certain plans or issuance of certain permits pursuant to code; effect.

Sec. 1203. The approval of plans or the issuance of a permit pursuant to this code which involves the construction, alteration, or renovation of a building, structure, or premises, the use of a site, or the installation or alteration of equipment does not relieve the person receiving the approval or permit from complying with all consistent applicable provisions of building and construction laws, zoning requirements, and other state and local statutes, charters, ordinances, rules, regulations, and orders.

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

Popular name: Act 368

333.1205 Contested case hearing; appeal.

Sec. 1205. (1) An applicant, licensee, or other person whose legal rights, duties, or privileges are required

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by this code to be determined by the department, after an opportunity for a hearing, has the right to a contested case hearing in the matter, which shall be conducted pursuant to the administrative procedures act of 1969 and authorized rules governing the hearing.

(2) The decision, finding, or order of the department entered after the hearing may be appealed as provided by the administrative procedures act of 1969, except where otherwise provided by this code.

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

Popular name: Act 368

333.1211 Expired. 1978, Act 368, Eff. Sept. 30, 1981.

Compiler's note: The expired section pertained to transfer of property, personnel, and funds to successor agency.

Popular name: Act 368

333.1212 Members of predecessor agency; continuation in office.

Sec. 1212. When a board, committee, council, or other agency created by or pursuant to this code was preceded by an agency with the same or similar name and functions, members of the predecessor agency shall continue in office for the duration of the terms of office for which they were appointed and with the new members appointed shall constitute the new agency. Members shall be appointed under this code only as terms of the former members expire or vacancies occur. Members of the predecessor agency may be appointed to the new agency to succeed themselves subject to the limits for the total period of service set forth in this code.

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

Popular name: Act 368

333.1213 Members of successor agency; increase or decrease in number.

Sec. 1213. (1) When the number of members of a successor agency is increased by this code, additional members shall be appointed to meet the number required for initial terms that will conform to the expiration of terms prescribed by this code. If the code would permit a choice between longer and shorter terms, appointments shall be made for the longer terms.

(2) When the number of members of a successor agency is decreased by this code, appointments shall not be made until the number of members in office falls below the total membership prescribed for the successor agency.

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

Popular name: Act 368

333.1214 New agency not succeeding former agency; terms of office.

Sec. 1214. When a new agency created by this code is not a successor to a former agency and the regular terms of office of its members are 4 years, the highest whole number of its initial members resulting from a division of the total number of members by 4 shall be appointed for terms of 1, 2, 3, and 4 years. The terms of office of an excess number of members resulting from a calculation of fourths shall be for, and spread equally over, the longer terms.

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

Popular name: Act 368

333.1216 Travel or other expenses; payment.

Sec. 1216. Travel or other expenses, or both, incurred by a public officer, agent, or employee in the performance of official functions authorized by this code which are payable out of appropriations shall be paid pursuant to the latest standardized travel regulations of the department of management and budget.

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

Popular name: Act 368

333.1221 Expired. 1978, Act 368, Eff. Sept. 30, 1983.

Compiler's note: The expired section pertained to the extension of outstanding license, registration, certificate, or permit beyond stated expiration date.

Popular name: Act 368

333.1222 Renewals; distribution of work; pro rata fee; waiver.

Sec. 1222. (1) In order to distribute the work of renewals in the interests of administrative efficiency, the appropriate state agency may:

(a) Schedule expirations established under section 16194 or otherwise under law to spread them over each

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year of a biennium or longer term.

(b) Issue initial licenses in the interim during a normal term to expire on the next normal expiration date or the first normal expiration date thereafter, and prorate the fees therefor.

(2) The issuing agency shall collect, before a renewal is issued under section 1221 or this section, a pro rata fee for the period of the extension granted under section 1221 or this section. However, to save administrative costs, the agency may waive this fee for an extension of not more than 2 months.

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

Popular name: Act 368

333.1291 Obstruction of person enforcing health law.

Sec. 1291. A person shall not wilfully oppose or obstruct a department representative, health officer, or any other person charged with enforcement of a health law in the performance of that person's legal duty to enforce that law.

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

Popular name: Act 368

333.1299 Violation as misdemeanor; prosecution.

Sec. 1299. (1) A person who violates a provision of this code for which a penalty is not otherwise provided is guilty of a misdemeanor.

(2) A prosecuting attorney having jurisdiction and the attorney general knowing of a violation of this code, a rule promulgated under this code, or a local health department regulation the violation of which is punishable by a criminal penalty may prosecute the violator.

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

Popular name: Act 368

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ARTICLE 2
ADMINISTRATION

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.

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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.

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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

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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

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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 seq.; R 325.23101 et seq.; and R 560.401 et seq. of the Michigan Administrative Code.

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

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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

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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.

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(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

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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.

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(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

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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

PART 23
BASIC HEALTH SERVICES

333.2301 Identification of priority health problems; preparation and basis of proposed list of basic health services.

Sec. 2301. (1) The department, utilizing broad participation of, and providing ample opportunity for the submission of recommendations by, the individuals and organizations described in section 2302, annually shall identify the priority health problems of this state utilizing state health plans and an assessment procedure based on data and statistics consistent with or provided for in sections 2616 and 2617. Identification of priority health problems related to mental health shall be made with the consultation and advice of the department of mental health. From these priorities, the department annually shall prepare a proposed list of basic preventive, personal, and environmental health services to be made available and accessible to all residents in need of the services in this state without regard for place of residence, marital status, sex, age, race, or inability to pay.

(2) The list of proposed basic health services shall be based upon the capabilities of the health related arts

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and sciences and upon criteria related to health needs, resources, and performance and shall take into account the services provided by private practitioners and private providers of health services. To the extent that the proposed list of basic health services includes mental health services for which responsibility has been vested in state or local mental health agencies by Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, or rules promulgated pursuant to that act, the inclusion of those services in the proposed list shall be subject to the approval of the department of mental health.

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

Compiler's note: For transfer of certain powers and duties of the bureau of child and family services, with the exception of the women, infants, and children division, 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

333.2302 Annual budget request to include proposed list of basic health services and proposed program statement; review and comment.

Sec. 2302. The proposed list of basic health services, the methodology used to derive the list, and a proposed program statement shall be included in the department's annual budget request and shall be made available for review and comment to the legislature, health planning agencies, local health departments, local governmental entities, health professional associations, and the public.

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

Popular name: Act 368

333.2305 Proposed program statement; contents.

Sec. 2305. The proposed program statement shall include:

(a) A statement describing the availability and accessibility of proposed basic health services to all residents in need in this state.

(b) The basic health services proposed to be delivered through the department.

(c) The basic health services proposed to be delivered through other public or nonpublic entities through contracts or other arrangements.

(d) The basic health services proposed to be delivered through local health departments in accordance with the criteria set forth in section 2235.

(e) A description of the methods which will be employed to make persons aware of the availability and accessibility of the proposed basic health services.

(f) A description of the proposed methods and sources of financing the proposed basic health services.

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

Popular name: Act 368

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333.2311 Proposed health services as basic health services; revision, publication, and dissemination of list and program statement.

Sec. 2311. Those health services proposed under this part which are funded by appropriations to the department or which are made available through other arrangements approved by the legislature in the appropriations process are basic health services for purposes of this code. The department shall revise the proposed list of basic health services and the program statement to reflect funds actually appropriated and shall cause the list and program statement, as revised, to be published and widely disseminated.

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

Popular name: Act 368

333.2321 Availability and accessibility of basic health services; demonstration upon request; basic health service as required service; notice of nonavailability or nonaccessibility; investigation; notice to complainant.

Sec. 2321. (1) Upon request, the department shall demonstrate the availability and accessibility of the basic health services in a manner consistent with the revised program statement and this code.

(2) A basic health service designated for delivery through a local health department is a required service under part 24 for the local fiscal year covered by the appropriation.

(3) A person who believes that a basic health service described in the revised program statement is not available or accessible may notify the department. The department shall investigate each written complaint and shall notify the complainant of the availability and source of the service. If there are grounds to believe that the service is not available or accessible, the complainant shall be given written notice, within a

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reasonable time, of the action proposed to be taken.

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

Popular name: Act 368

PART 24
LOCAL HEALTH DEPARTMENTS

333.2401 Meanings of words and phrases; general definitions and principles of construction.

Sec. 2401. (1) For purposes of this part, the words and phrases defined in sections 2403 to 2408 have the meanings ascribed to them in those sections.

(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.

Popular name: Act 368

333.2403 Definitions; A to D.

Sec. 2403. (1) "Allowable service" means a health service delivered in a city, county, district, or part thereof, which is not a required service but which the department determines is eligible for cost reimbursement pursuant to sections 2471 to 2498.

(2) "County" includes a unified county unless otherwise specified.

(3) "District" means a multi-county or city-county district served by a health department created under section 2415.

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

Popular name: Act 368

333.2406 Definitions; L.

Sec. 2406. "Local governing entity" means:

(a) In case of a single county health department, the county board of commissioners.

(b) In case of a district health department, the county boards of commissioners of the counties comprising the district.

(c) In case of a district health department which includes a single city health department, the county boards of commissioners of the counties comprising the district and the mayor and city council of the city.

(d) In case of a single city health department, the mayor and city council of the city.

(e) In the case of a local health department serving a county within which a single city health department has been created pursuant to section 2422, the county board of commissioners elected from the districts served by the county health department.

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

Popular name: Act 368

333.2408 Definitions; R to U.

Sec. 2408. (1) "Required service" means a local health service specifically required pursuant to this part or specifically required elsewhere in state law, except a service specifically excluded by this part or a rule promulgated pursuant to this part.

(2) "Unified county" means a county having an optional unified form of county government under Act No. 139 of the Public Acts of 1973, as amended, being sections 45.551 to 45.573 of the Michigan Compiled Laws.

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

Popular name: Act 368

333.2411 Division of powers and duties.

Sec. 2411. (1) Where the governing entity of a local health department includes a unified county, the powers and duties vested in the county board of commissioners and county executive in that county shall be divided in accordance with Act No. 139 of the Public Acts of 1973, as amended.

(2) Where the local governing entity of a local health department includes a city, the powers and duties vested in the mayor and city council shall be divided as provided by law and the city charter.

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

Popular name: Act 368

333.2413 County health department; county board of health.

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Sec. 2413. Except if a district health department is created pursuant to section 2415, the local governing entity of a county shall provide for a county health department which meets the requirements of this part, and may appoint a county board of health.

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

Popular name: Act 368

333.2415 Creation of district health department; composition of district board of health.

Sec. 2415. Two or more counties or a city having a population of 750,000 or more and 1 or more counties, by a majority vote of each local governing entity and with approval of the department, may unite to create a district health department. The district board of health shall be composed of 2 members from each county board of commissioners or in case of a city-county district 2 members from each county board of commissioners and 2 representatives appointed by the mayor of the city. With the consent of the local governing entities affected, a county or city may have a greater number of representatives.

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

Popular name: Act 368

333.2417 Claim against district health department; audit; allowance of claim; report; appeal; apportionment of allowed claims; formula; voucher.

Sec. 2417. A claim against a district health department shall be audited by the district board of health which has the same power to allow the claim that a local governing entity has as to claims against a county or city. If the district board of health meets less often than once a month, a claim may be allowed by the local health officer and 1 member of the district board of health who shall report the action to the board at its next regular meeting. The same right of appeal from the decision of the district board of health as to a claim exists as from a similar decision of a local governing entity. The total amount of the allowed claims shall be apportioned among the local governing entities of the district using a formula approved by the district health board. The formula determined by the district health board shall be approved by the state department of treasury. A voucher for an allowed claim shall be issued by the officers of each local governing entity for its apportioned share.

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

Popular name: Act 368

333.2419 Employment of personnel; consolidation of functions.

Sec. 2419. Two or more local governing entities may contract for the employment of personnel or the consolidation of functions of their local health departments under a plan approved by the department.

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

Popular name: Act 368

333.2421 City health department; creation; powers and duties.

Sec. 2421. A city having a population of 750,000 or more may create a city health department which shall be considered a local health department for purposes of this code, if the requirements of sections 2422 to 2424 are met. If a city creates a health department, that department and its local governing entity shall have the powers and duties of a local health department or local governing entity as provided by this part.

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

Popular name: Act 368

333.2422 Selection of option by city; notice of intent.

Sec. 2422. Not later than 6 months after the effective date of this part, a city having a population of 750,000 or more shall select an option permitted under this section in a manner consistent with its charter and shall notify the department of the city's intent to do 1 of the following:

(a) Create a city health department pursuant to a plan developed under section 2424.

(b) Join with the county or district in which the city is located to create a district health department pursuant to section 2415 and a plan developed under section 2424.

(c) Decline to exercise the options in subdivision (a) or (b), in which case the local health department otherwise having jurisdiction in the county in which the city is located, pursuant to a plan developed under section 2424, shall assume the powers and duties of a local health department in the city.

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

Popular name: Act 368

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333.2423 Selection of option by city; failure to notify department; continuing local financial support for affected services.

Sec. 2423. Failure to notify the department under section 2422 is considered an exercise of the option in section 2422(c). Selection of the option in section 2422(a) or (b) does not preclude the selection of the option in section 2422(c) and the implementation of section 2424 at a later time. During the transition period, a city exercising the option in section 2422(c) shall continue local financial support for affected services at a level considered by the department to be consistent with support previously provided by the city, or with the requirements of the approved plan.

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

Popular name: Act 368

333.2424 Selection of option by city; planning period; transition plan; responsibility for local cost of required services; approval of developed plan; disposition of federal funds.

Sec. 2424. (1) A city selecting an option under section 2422 has a planning period of:

(a) One year after the selection of the option in section 2422(a).

(b) Eighteen months after the selection of the option in section 2422(b) or (c).

(2) During the planning period the affected local governing entities shall develop and adopt a plan setting forth the arrangements, agreements, and contracts necessary to establish a local health department pursuant to the exercised option and prescribing a timetable for the indicated transition. The transition plan shall provide that a city shall assume full financial liability for the local cost of services or programs provided by the city or transferred to the city by another local governing entity by virtue of the exercise of the option in section 2422(a). The plan shall include contracts providing that an employee transferred under the plan shall not lose any benefit or right as a result of the transfer. Upon completion of the transition period, a city exercising that option is solely responsible for the local cost of all required services under this part.

(3) By the end of the planning period, the developed plan shall be submitted to the department for approval. If a plan is not submitted or approved, the department shall develop a transition plan during the 6 months after the end of the planning period and, upon completion, the plan shall be an approved plan under this section.

(4) Subject to federal law and regulations, disposition of federal funds shall be made in accordance with the approved plan and option exercised.

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

Popular name: Act 368

333.2426 Real and personal property of village or township board or department of health; title; use and administration.

Sec. 2426. The title to real and personal property of a village or township board or department of health, including cemetery and trust property, shall vest in the village or township and be held in its name as of the effective date of the repeal by this code of provisions authorizing the creation of boards or departments of health. The property shall be used and administered by the village or township, or appropriate agency thereof, as provided by law.

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

Popular name: Act 368

333.2428 Local health officer; appointment; qualifications; powers and duties.

Sec. 2428. (1) A local health department shall have a full-time local health officer appointed by the local governing entity or in case of a district health department by the district board of health. The local health officer shall possess professional qualifications for administration of a local health department as prescribed by the department.

(2) The local health officer shall act as the administrative officer of the board of health and local health department and may take actions and make determinations necessary or appropriate to carry out the local health department's functions under this part or functions delegated under this part and to protect the public health and prevent disease.

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

Popular name: Act 368

333.2431 Local health department; requirements; report; reviewing plan for organization of local health department; waiver.

Sec. 2431. (1) A local health department shall:

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(a) Have a plan of organization approved by the department.

(b) Demonstrate ability to provide required services.

(c) Demonstrate ability to defend and indemnify employees for civil liability sustained in the performance of official duties except for wanton and wilful misconduct.

(d) Meet the other requirements of this part.

(2) Each local health department shall report to the department at least annually on its activities, including information required by the department.

(3) In reviewing a plan for organization of a local health department, the department shall consider the fiscal capacity and public health effort of the applicant and shall encourage boundaries consistent with those of planning agencies established pursuant to federal law.

(4) The department may waive a requirement of this section during the option period specified in section 2422 based on acceptable plan development during the planning period described in section 2424 and thereafter based on acceptable progress toward implementation of the plan as determined by the department.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1985, Act 18, Imd. Eff. May 16, 1985.

Popular name: Act 368

333.2433 Local health department; powers and duties generally.

Sec. 2433. (1) A local health 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 health services delivery systems; and regulation of health care facilities and health services delivery systems to the extent provided by law.

(2) A local health department shall:

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

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

(c) 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.

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

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

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

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

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

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

Popular name: Act 368

333.2435 Local health department; additional powers.

Sec. 2435. A local health department may:

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

(b) Advise other local agencies and 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 a governmental entity or other person necessary or appropriate to assist the local health department in carrying out its duties and functions unless otherwise prohibited by law.

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

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

(f) Sell and convey real estate owned by the local health department.

(g) Provide services not inconsistent with this code.

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

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(i) Perform a delegated function unless otherwise prohibited by law.

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

Popular name: Act 368

333.2437 Exercise by department of public health of power vested in local health department.

Sec. 2437. The department, in addition to any other power vested in it by law, may exercise any power vested in a local health department in an area where the local health department does not meet the requirements of this part.

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

Popular name: Act 368

333.2441 Adoption of regulations; purpose; approval; effective date; stringency; conflicting regulations.

Sec. 2441. A local health department may adopt regulations necessary or appropriate to implement or carry out the duties or functions vested by law in the local health department. The regulations shall be approved or disapproved by the local governing entity. The regulations shall become effective 45 days after approval by the local health department's governing entity or at a time specified by the local health department's governing entity. The regulations shall be at least as stringent as the standard established by state law applicable to the same or similar subject matter. Regulations of a local health department supersede inconsistent or conflicting local ordinances. .

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 76, Imd. Eff. Apr. 7, 1986;—Am. 2010, Act 72, Imd. Eff. May 13, 2010.

Popular name: Act 368

333.2442 Adoption of regulation; notice of public hearing.

Sec. 2442. Before adoption of a regulation the local health department shall give notice of a public hearing and offer any person an opportunity to present data, views, and arguments. The notice shall be given not less than 10 days before the public hearing and not less than 20 days before adoption of the regulation. The notice shall include the time and place of the public hearing and a statement of the terms or substance of the proposed regulation or a description of the subjects and issues involved and the proposed effective date of the regulation. The notice shall be published in a manner calculated to give notice to persons likely to be affected by the proposed regulation. Methods which may be employed, depending on the circumstances, include publication of the notice in a newspaper of general circulation in the jurisdiction, or when appropriate, in a trade, industry, governmental, or professional publication.

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

Popular name: Act 368

333.2443 Violation of regulation or order; misdemeanor; penalty.

Sec. 2443. Except as otherwise provided in this act, a person who violates a regulation of a local health department or order of a local health officer under this act 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: Add. 2010, Act 72, Imd. Eff. May 13, 2010.

Popular name: Act 368

333.2444 Fees for services; expenses and compensation.

Sec. 2444. (1) A local governing entity, or in case of a district the district board of health, may fix and require the payment of fees for services authorized or required to be performed by the local health department. The local governing entity or district board may revoke, increase, or amend the fees. The fees charged shall not be more than the reasonable cost of performing the service.

(2) Members of a local board of health may receive necessary traveling expenses for attending meetings and may receive compensation as determined by the local governing entity for each meeting attended.

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

Popular name: Act 368

333.2446 Inspection or investigation.

Sec. 2446. To assure compliance with laws enforced by a local health department, the local health department may inspect, investigate, or authorize an inspection or investigation to be made of, any matter,

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thing, premise, place, person, record, vehicle, incident, or event. Sections 2241 to 2247 apply to an inspection or investigation made under this section.

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

Popular name: Act 368

333.2448 Intergovernmental contracts; existing contracts not affected.

Sec. 2448. (1) A city, county, district, or part thereof may enter into an intergovernmental contract necessary or appropriate to a reorganization or an assumption or relinquishing of a health jurisdiction or function authorized by this part. The contract shall provide that an employee transferred shall not lose any benefit or right as a result of the transfer.

(2) This section does not affect existing contracts between cities and counties for the provision of health services.

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

Popular name: Act 368

333.2451 Imminent danger to health or lives; informing individuals affected; order; noncompliance; petition to restrain condition or practice; "imminent danger" and "person" defined.

Sec. 2451. (1) Upon a determination that an imminent danger to the health or lives of individuals exists in the area served by the local health department, the local health officer immediately shall inform the individuals affected by the imminent danger and issue an order which 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 findings of the local health department 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 the failure of a person to comply promptly with an order issued under this section, the local health department may petition a circuit or district court having jurisdiction to restrain a condition or practice which the local health officer determines causes the imminent danger or to require action to avoid, correct, or remove the imminent danger.

(3) As used in this section:

(a) "Imminent danger" means a condition or practice which 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.

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

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

Popular name: Act 368

333.2453 Epidemic; emergency order and procedures; involuntary detention and treatment; visitation within qualified health care facility; LINDA; definitions.

Sec. 2453. (1) Subject to subsections (3) and (4), if a local health officer determines that control of an epidemic is necessary to protect the public health, the local health officer 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 by persons, including a local governmental entity, 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) A local health department or the department may provide for the involuntary detention and treatment of individuals with hazardous communicable disease in the manner prescribed in sections 5201 to 5210.

(3) 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 local health officer first declares that control of the epidemic is necessary to protect the public health.

(4) Beginning June 1, 2023, because LINDA, after 30 days after the local health officer 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.

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(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 local health officer determines that establishing the procedures is vital to maintaining a safe health care environment. The local health officer shall consult with qualified health care facilities before establishing procedures under this subparagraph.

(5) 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. 2022, Act 274, Eff. Mar. 29, 2023.

Popular name: Act 368

333.2455 Building or condition violating health laws or constituting nuisance, unsanitary condition, or cause of illness; order; noncompliance; warrant; assessment and collection of expenses; liability; judicial order; other powers not affected.

Sec. 2455. (1) A local health department or the department may issue an order to avoid, correct, or remove, at the owner's expense, a building or condition which violates health laws or which the local health officer or director reasonably believes to be a nuisance, unsanitary condition, or cause of illness.

(2) If the owner or occupant does not comply with the order, the local health department or department may cause the violation, nuisance, unsanitary condition, or cause of illness to be removed and may seek a warrant for this purpose. The owner of the premises shall pay the expenses incurred.

(3) If the owner of the premises refuses on demand to pay expenses incurred, the sums paid shall be assessed against the property and shall be collected and treated in the same manner as taxes assessed under the general laws of this state. An occupant or other person who caused or permitted the violation, nuisance, unsanitary condition, or cause of illness to exist is liable to the owner of the premises for the amount paid by the owner or assessed against the property which amount shall be recoverable in an action.

(4) A court, upon a finding that a violation or nuisance may be injurious to the public health, may order the removal, abatement, or destruction of the violation or nuisance at the expense of the defendant, under the direction of the local health department where the violation or nuisance is found. The form of the warrant to the sheriff or other law enforcement officer may be varied accordingly.

(5) This section does not affect powers otherwise granted to local governments.

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

Popular name: Act 368

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333.2458 Establishment of cemetery; requirements; determinations; approval; disposition of plats; vacating cemetery; removal and reinterment of bodies and remains.

Sec. 2458. (1) A person or governmental entity shall not establish a cemetery in this state until a description of the premises and a plat showing the cemetery's division is filed in duplicate with the local health department having jurisdiction of the premises. A local health department shall not approve a proposed cemetery if the local health department determines that establishment or operation of the cemetery would be injurious to the public health. The local health department shall determine whether it is safe and healthful for a cemetery to be established in the proposed location and if the local health department approves the location and the plat of the premises, the local health department shall indorse its approval on both plats. When the establishment of a cemetery is approved, 1 plat shall be returned to the proprietor and the other shall be retained and preserved by the local health department.

(2) The local health department shall supervise activities to vacate a cemetery and the removal and reinterment of bodies and remains.

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

Popular name: Act 368

333.2461 Violation; schedule of monetary civil penalties; issuance, contents, and delivery of citation.

Sec. 2461. (1) In the manner prescribed in sections 2441 and 2442 a local governing entity may adopt a schedule of monetary civil penalties of not more than $1,000.00 for each violation or day that the violation continues which may be assessed for a specified violation of this code or a rule promulgated, regulation adopted, or order issued which the local health department has the authority and duty to enforce.

(2) If a local health department representative believes that a person has violated this code or a rule promulgated, regulation adopted, or order issued under this code which the local health 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, order, or regulation alleged to have been violated, the civil penalty established for the violation, if any, and the right to appeal the citation pursuant to section 2462. 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

333.2462 Citation; petition for administrative hearing; decision of local health officer; review; petition for judicial review; civil penalty.

Sec. 2462. (1) Not later than 20 days after receipt of the citation, the alleged violator may petition the local health department for an administrative hearing which shall be held within 30 days after the receipt of the petition. After the administrative hearing, the local health officer may affirm, dismiss, or modify the citation. The decision of the local health officer shall be final, unless within 60 days of the decision the appropriate local governing entity or committee thereof, or in the case of a district department, the district board of health or committee thereof, grants review of the citation. After the review, the local governing entity, board of health, or committee thereof may affirm, dismiss, or modify the citation.

(2) A person aggrieved by a decision of a local health officer, local governing entity, or board of health under this section may petition the circuit court of the county in which the principal office of the local health department is located for review. The petition shall be filed not later than 60 days following receipt of the final decision.

(3) A civil penalty becomes final if a petition for an administrative hearing or review is not received within the time specified in this section. A civil penalty imposed under this part is payable to the appropriate local health department for deposit with the general funds of the local governing entity, or in case of a district, the funds shall be divided according to the formula used to divide other district funds. 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

333.2463 Appearance tickets.

Sec. 2463. In the manner prescribed in sections 2441 and 2442 a local governing entity may designate representatives of the local health department as public servants authorized by law to issue and serve appearance tickets pursuant to sections 9a to 9g of chapter 4 of Act No. 175 of the Public Acts of 1927, as

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amended, being sections 764.9a to 764.9g of the Michigan Compiled Laws.

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

Popular name: Act 368

333.2465 Injunctive action; liability for damages.

Sec. 2465. (1) Notwithstanding the existence and pursuit of any other remedy, a local health officer, without posting bond, may maintain injunctive action to restrain, prevent, or correct a violation of a law, rule, or order which the officer has the duty to enforce, or to restrain, prevent, or correct an activity or condition which the officer believes adversely affects the public health.

(2) A local health officer or an employee or representative of a local health department is not personally liable for damages sustained in the performance of local health department functions, except for wanton and wilful misconduct.

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

Popular name: Act 368

333.2471 Program; establishment; objectives.

Sec. 2471. The department shall establish a program pursuant to sections 2471 to 2498 with the following objectives:

(a) To prescribe responsibilities of state and local governments for local health services.

(b) To assure the availability, accessibility, and acceptability of required health services for the people of this state.

(c) To establish the basis for equitable state reimbursement of expenditures to support local health services.

(d) To assure that state reimbursement for reasonable and allowable costs for required and allowable local health services shall be provided at the level necessary to assure maintenance of the services on an equitable basis for the people of this state.

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

Popular name: Act 368

333.2472 Services eligible for cost sharing; criteria and procedures for additional services; minimum standards for delivery of services.

Sec. 2472. (1) Services which a local health department is required to provide under the program plan described in part 23 are eligible for cost sharing under this part.

(2) The department shall prescribe criteria and procedures for designating additional services proposed by a local health department as allowable services.

(3) The department shall establish minimum standards of scope, quality, and administration for the delivery of required and allowable services not inconsistent with sections 2471 to 2498.

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

Popular name: Act 368

333.2473 Specific objectives of required services; demonstrating provision of service; contracts.

Sec. 2473. (1) Required services designated pursuant to part 23 shall be directed at the following specific objectives:

(a) Prevention and control of environmental health hazards.

(b) Prevention and control of diseases.

(c) Prevention and control of health problems of particularly vulnerable population groups.

(d) Development of health care facilities and agencies and health services delivery systems.

(e) Regulation of health care facilities and agencies and health services delivery systems to the extent provided by state law.

(2) A local health department and its local governing entity shall provide or demonstrate the provision of each required service which the local health department is designated to provide.

(3) The department may enter into contracts necessary or appropriate to carry out this section.

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

Popular name: Act 368

333.2475 Reimbursement for costs of services; equitable distribution; schedule; local expenditure in excess of prior appropriation.

Sec. 2475. (1) The department shall reimburse local governing entities for the reasonable and allowable

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costs of required and allowable health services delivered by the local governing entity as provided by this section. Subject to the availability of funds actually appropriated reimbursements shall be made in a manner to provide equitable distribution among the local governing entities and pursuant to the following schedule beginning in the second state fiscal year beginning on or after the effective date of this part:

(a) First year, 20%.

(b) Second year, 30%.

(c) Third year, 40%.

(d) Fourth year and thereafter, 50%.

(2) Until the 50% level is reached, a local governing entity is not required to provide for required services if the local expenditure necessary to provide the services is greater than those funds appropriated and expended in the full state fiscal year immediately before the effective date of this part.

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

Popular name: Act 368

333.2476 Reimbursement of certain expenditures prohibited.

Sec. 2476. The following expenditures shall not be reimbursed under sections 2471 to 2498:

(a) Expenditures for required and allowable services to the extent the expenditures are reimbursed from another source such as fees for services or another state or federal program.

(b) Direct capital expenditures for facilities.

(c) Expenditures used to match other state funds.

(d) Expenditures for other services specifically excluded in rules promulgated by the department.

(e) Federal and state categorical health program funds.

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

Popular name: Act 368

333.2477 Local governing entity not to receive less than received under prior provisions; providing, designating, and reallocating funds; accountability.

Sec. 2477. (1) A local governing entity shall not receive less in any year under sections 2471 to 2498 than it received under Act No. 306 of the Public Acts of 1927, as amended, being sections 327.201 to 327.208a of the Michigan Compiled Laws, in the full state fiscal year immediately before the effective date of this part.

(2) Funds under this part shall be provided to the local governing entity which shall be accountable for substantial conformance with agreements and standards as provided by section 2484. The funds shall be designated for the local health department but may be reallocated through the local health department if services are rendered by other local agencies.

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

Popular name: Act 368

333.2479 Criteria for determining costs for services.

Sec. 2479. Not later than 1 year after the effective date of this section, the department shall prescribe criteria for determining the reasonable and allowable costs for required and allowable services.

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

Popular name: Act 368

333.2481 Condition for approval of funding.

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

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

(b) Report its performance and fiscal matters in a form and containing information the department reasonably requires to implement sections 2471 to 2498.

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

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

Popular name: Act 368

333.2482 Minimum expenditure for health services; waiving maintenance of local funding; certain services considered health services.

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Sec. 2482. (1) The total local appropriations for a local health department expended for health services shall be not less in any year than in the local health department's full fiscal year immediately before the effective date of this part. However, the department may waive maintenance of local funding in extraordinary circumstances.

(2) For purposes of this section, services for which funds under Act No. 306 of the Public Acts of 1927, as amended, were being used on the effective date of this part are considered health services.

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

Popular name: Act 368

333.2483 Conditions for reimbursement.

Sec. 2483. A local health department desiring reimbursement under sections 2471 to 2498 shall:

(a) Submit annually to the department a program statement approved by the local governing entity defining the status of the current required and allowable services the local health department provides. After review and approval by the department, the program statement shall serve as a basis of determining priorities for local development with appropriate state policy and technical assistance.

(b) Submit annually to the department the budget approved by the local governing entity. The budget shall reflect the program statement and include the required services which the local health department provides, other health services proposed for state reimbursement as allowable services, and services proposed for full local or categorical state or federal funding. After review, the department shall determine the services eligible as allowable services for state reimbursement. Determinations regarding proposed allowable services shall be made annually for each local health department.

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

Popular name: Act 368

333.2484 Agreement implementing standards; basis for reimbursement; operating advance; adjustments.

Sec. 2484. (1) Standards of scope, quality, and administration promulgated under section 2495 shall be implemented through an agreement between the department and the local governing entity. An agreement under this subsection shall specify at least the minimum activities agreed upon as necessary for substantial compliance with rules and shall be based upon findings in the annual program statement of the local health department.

(2) A local health department shall be reimbursed on the basis of approved program performance reports as required by this section and sections 2481 and 2483 and on the basis of prescribed fiscal reports reflecting actual, reasonable, and allowable costs incurred pursuant to rules promulgated under section 2495. An operating advance may be provided which shall be replenished as the costs are reported. Adjustments shall be made as necessary to compensate for payments previously made.

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

Popular name: Act 368

333.2486 Notice of appeal; informal conference; reaffirming, modifying, or revoking decision; hearing; petition for redress.

Sec. 2486. (1) Upon receipt of a notice from a local health department that the local health department wishes to appeal a department decision relative to the implementation of sections 2471 to 2498, the department shall schedule an informal conference to be attended by representatives of the jurisdiction affected by the decision and representatives of the department. After the conference the department may reaffirm, modify, or revoke its decision.

(2) Upon request, a local health department adversely affected by a decision of the department as to service eligibility, development priorities, allowable services, minimum activities necessary for substantial compliance, a decision under section 2235, or the level of reasonable and allowable costs shall be granted a hearing. The local governing entity may pursue further appeal by petition to the appropriate circuit court for redress.

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

Popular name: Act 368

333.2488 Appropriation request to include funds for reimbursement of local health departments; basis of sums requested.

Sec. 2488. A separate part of the department's annual health appropriation request shall include funds to reimburse local health departments for expenditures incurred to establish and maintain required and allowable

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health services. The sums requested shall be based on reasonable and allowable costs for required and allowable services at projected levels for the next fiscal period and shall be used for reimbursing local health departments which have complied with sections 2471 to 2498.

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

Popular name: Act 368

333.2490 Administration of MCL 333.2471 to 333.2498.

Sec. 2490. Sections 2471 to 2498 shall be administered in a manner consistent with the requirements of federal law.

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

Popular name: Act 368

333.2492 Status report; appropriation for development and implementation of evaluation and related training.

Sec. 2492. (1) At the end of the second full state fiscal year after the effective date of this part, the department shall report to the governor and legislature as to the status of required and allowable health services in relation to standards, costs, and health needs of the people of this state.

(2) An amount equal to 1% of the estimated total expenditures for the required and allowable local health services shall be appropriated to the department annually for the development and implementation of evaluation and related training for local health departments and department staffs in the delivery of the required and allowable health services authorized under sections 2471 to 2498.

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

Popular name: Act 368

333.2495 Rules; determinations; review and comment.

Sec. 2495. (1) The department shall promulgate rules and may make determinations necessary or appropriate to implement this part, consistent with this code, including the establishment of minimum standards for health officers, development plans, the designation of allowable services, and the quality, delivery, and reasonable costs for required and allowable services.

(2) Not less than 30 days before promulgation of a rule establishing minimum standards for the quality, delivery, or reasonable costs for required and allowable services, the department shall request the Michigan association of counties, the Michigan health officers association, the Michigan association of local environmental health administrators, and the Michigan association of local public health administrators to review and comment on the rule. This subsection does not limit review and comment by additional governmental and professional organizations or by other persons.

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

Popular name: Act 368

Administrative rules: R 325.13001 et seq. and R 325.13051 et seq. of the Michigan Administrative Code.

333.2497 Administrative compliance order.

Sec. 2497. Upon a finding that a local health department is not able to provide or to demonstrate the adequate provision of 1 or more of the required services, or fails to meet the requirements of this part or the rules promulgated under this part, the department may issue an administrative compliance order to the local health department's local governing entity. The order shall state the nature of the deficiencies and set forth a reasonable time by which the deficiencies shall be corrected.

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

Popular name: Act 368

333.2498 Petition for administrative hearing; finality of order or compliance date; reaffirming, modifying, or revoking order; modifying time for compliance; petition for writ of mandamus.

Sec. 2498. (1) Within 60 working days after receipt of an administrative compliance order and proposed compliance period, a local governing entity may petition the department for an administrative hearing. If the local governing entity does not petition the department for a hearing within 60 days after the receipt of an administrative compliance order, the order and proposed compliance date shall be final.

(2) After a hearing, the department may reaffirm, modify, or revoke the order or modify the time permitted for compliance.

(3) If the local governing entity fails to correct a deficiency for which a final order has been issued within

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the period permitted for compliance, the department may petition the appropriate circuit court for a writ of mandamus to compel correction.

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

Popular name: Act 368

PART 25.
HEALTH INFORMATION TECHNOLOGY

333.2501 Definitions.

Sec. 2501. As used in this part:

(a) "Commission" means the health information technology commission created under section 2503.

(b) "Department" means the department of community health.

History: Add. 2006, Act 137, Imd. Eff. May 12, 2006.

Compiler's note: For creation of department of health and human services and abolishment of department of community health, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 368

333.2503 Health information technology commission; creation; membership; appointment; representation; terms; vacancy; removal; election of chairperson and officers; meetings; conduct of business at public meeting; availability of writings; participation of professionals and advisors; compensation.

Sec. 2503. (1) The health information technology commission is created within the department to facilitate and promote the design, implementation, operation, and maintenance of an interoperable health care information infrastructure in this state. The commission shall consist of 13 members appointed by the governor in accordance with subsection (2) as follows:

(a) The director of the department or his or her designee.

(b) The director of the department of information technology or his or her designee.

(c) One individual representing a nonprofit health care corporation operating pursuant to the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1703.

(d) One individual representing hospitals.

(e) One individual representing doctors of medicine.

(f) One individual representing doctors of osteopathic medicine and surgery.

(g) One individual representing purchasers or employers.

(h) One individual representing the pharmaceutical industry.

(i) One individual representing schools of medicine in Michigan.

(j) One individual representing the health information technology field.

(k) One individual representing pharmacists.

(*l*) One individual representing health plans or other third party payers.

(m) One individual representing consumers.

(2) Of the members appointed under subsection (1), there shall be representatives from both the public and private sectors. In order to be appointed to the commission, each individual shall have experience and expertise in at least 1 of the following areas and each of the following areas shall be represented on the commission:

(a) Health information technology.

(b) Administration of health systems.

(c) Research of health information.

(d) Health finance, reimbursement, and economics.

(e) Health plans and integrated delivery systems.

(f) Privacy of health care information.

(g) Medical records.

(h) Patient care.

(i) Data systems management.

(j) Mental health.

(3) A member of the commission shall serve for a term of 4 years or until a successor is appointed. Of the members first appointed after the effective date of the amendatory act that added this part, 3 shall be appointed for a term of 1 year, 3 shall be appointed for a term of 2 years, 3 shall be appointed for a term of 3 years, and 4 shall be appointed for a term of 4 years. If a vacancy occurs on the commission, the governor shall make an appointment for the unexpired term in the same manner as the original appointment. The

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governor may remove a member of the commission for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(4) At the first meeting of the commission, a majority of the members shall elect from its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the commission shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by a majority of the members. A majority of the members of the commission appointed and serving constitute a quorum for the transaction of business at a meeting of the commission.

(5) Any business that the commission may perform shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The commission shall give public notice of the time, date, and place of the meeting in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) The commission shall make available a writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function as the commission to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) The commission shall ensure adequate opportunity for the participation of health care professionals and outside advisors with expertise in health information privacy, health information security, health care quality and patient safety, data exchange, delivery of health care, development of health information technology standards, or development of new health information technology by appointing advisory committees, including, but not limited to, advisory committees to address the following:

(a) Interoperability, functionality, and connectivity, including, but not limited to, uniform technical standards, common policies, and common vocabulary and messaging standards.

(b) Security and reliability.

(c) Certification process.

(d) Electronic health records.

(e) Consumer safety, privacy, and quality of care.

(8) Members of the commission shall serve without compensation.

History: Add. 2006, Act 137, Imd. Eff. May 12, 2006.

Popular name: Act 368

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333.2505 Commission; duties; strategic plan.

Sec. 2505. (1) The commission shall do each of the following:

(a) Develop and maintain a strategic plan in accordance with subsection (2) to guide the implementation of an interoperable health information technology system that will reduce medical errors, improve quality of care, and produce greater value for health care expenditures.

(b) Identify critical technical, scientific, economic, and other critical issues affecting the public and private adoption of health information technology.

(c) Provide recommendations on policies and measures necessary to achieve widespread adoption of health information technology.

(d) Increase the public's understanding of health information technology.

(e) Promote more efficient and effective communication among multiple health care providers, including, but not limited to, hospitals, physicians, payers, employers, pharmacies, laboratories, and any other health care entity.

(f) Identify strategies to improve the ability to monitor community health status.

(g) Develop or design any other initiatives in furtherance of the commission's purpose.

(h) Annually, report and make recommendations to the chairpersons of the standing committees of the house of representatives and senate with jurisdiction over issues pertaining to community health and information technology, the house of representatives and senate appropriations subcommittees on community health and information technology, and the senate and house fiscal agencies.

(i) Perform any and all other activities in furtherance of the above or as directed by the department or the department of information technology, or both.

(2) The strategic plan developed pursuant to subsection (1)(a) shall include, at a minimum, each of the following:

(a) The development or adoption of health care information technology standards and strategies.

(b) The ability to base medical decisions on the availability of information at the time and place of care.

(c) The use of evidence-based medical care.

(d) Measures to protect the privacy and security of personal health information.

(e) Measures to prevent unauthorized access to health information.

(f) Measures to ensure accurate patient identification.

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(g) Methods to facilitate secure patient access to health information.

(h) Measures to reduce health care costs by addressing inefficiencies, redundancy in data capture and storage, medical errors, inappropriate care, incomplete information, and administrative, billing, and data collection costs.

(i) Incorporating health information technology into the provision of care and the organization of the health care workplace.

(j) The ability to identify priority areas in which health information technology can provide benefits to consumers and a recommended timeline for implementation.

(k) Measurable outcomes.

History: Add. 2006, Act 137, Imd. Eff. May 12, 2006.

Popular name: Act 368

333.2507 Personal liability of commission or commission members.

Sec. 2507. The commission or a member of the commission shall not be personally liable for any action at law for damages sustained by a person because of an action performed or done by the commission or a member of the commission in the performance of their respective duties in the administration and implementation of this part.

History: Add. 2006, Act 137, Imd. Eff. May 12, 2006.

Popular name: Act 368

333.2511 Healthcare information technology and infrastructure development fund; administration; use; authority of director or commission to accept money or make expenditures; prohibited conduct by commission members; conflict of interest; annual report.

Sec. 2511. (1) There is established in the department the healthcare information technology and infrastructure development fund to be administered by the commission for the purpose of promoting the development and adoption of healthcare information technologies designed to improve the quality, safety, and efficiency of healthcare services.

(2) Money in the fund shall be used for established regional health information organizations and other projects authorized by the commission and may be expended by contract, loan, or grant, to develop, maintain, expand, and improve the state's healthcare information technology infrastructure and to assist healthcare facilities and health service providers in adopting healthcare information technologies shown to improve healthcare quality, safety, or efficiency. The commission shall develop criteria for the selection of projects to be funded from the fund and criteria for eligible regional health information organizations and healthcare information technology and infrastructure projects to be funded under this part.

(3) The director is authorized to accept any grant, devise, bequest, donation, gift, services in kind, assignment of money, bonds, or money appropriated by the legislature or received from insurers, for deposit in and credit of the fund. The commission is authorized to expend from the healthcare information technology and infrastructure development fund any money deposited into the fund for the purposes set forth in subsection (2). Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) Notwithstanding any provision of its articles of incorporation, bylaws, or other enabling documents or laws to the contrary, a health insurer, health maintenance organization, health plan, or nonprofit health care corporation is authorized to allocate sums of money derived from the collections of premiums to the healthcare information technology and infrastructure development fund. The commission is authorized to approve projects which are in conformance with this section.

(5) A member of the commission shall not make, participate in making, or in any way attempt to use his or her position as a member of the commission to influence a decision regarding a loan, grant, investment, or other expenditure under this part to his or her employer. A member, employee, or agent of the commission shall not engage in any conduct that constitutes a conflict of interest and shall immediately advise the commission in writing of the details of any incident or circumstances that may present the existence of a conflict of interest with respect to the performance of the commission-related work or duty of the member, employee, or agent of the commission. A member who has a conflict of interest related to any matter before the commission shall disclose the conflict of interest before the commission takes any action with respect to the matter, which disclosure shall become a part of the record of the commission's official proceedings. The member with the conflict of interest shall refrain from doing all of the following with respect to the matter that is the basis of the conflict of interest:

(a) Voting in the commission's proceedings related to the matter.

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(b) Participating in the commission's discussion of and deliberation on the matter.

(c) Being present at the meeting when the discussion, deliberation, and voting on the matter take place.

(d) Discussing the matter with any other commission member.

(6) Failure of a member to comply with subsection (5) constitutes misconduct in office subject to removal under section 2503.

(7) When authorizing expenditures and investments under this part, the commission shall not consider whether a recipient has made a contribution or expenditure under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282. Expenditures under this part shall not be used to finance or influence political activities.

(8) The commission shall prepare and issue an annual report not later than January 30 of each year outlining in specific detail the amount of funds spent from the fund in the previous year, a status report on the projects funded, progress to date in implementing a statewide healthcare information infrastructure, and recommendations for future investments and projects.

History: Add. 2006, Act 459, Imd. Eff. Dec. 20, 2006.

Popular name: Act 368

PART 26

DATA, INFORMATION, AND RESEARCH

333.2601 Applicability.

Sec. 2601. Unless otherwise provided, this part applies to all data made or received by the department.

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

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

Popular name: Act 368

333.2602 Meanings of words and phrases; general definitions and principles of construction.

Sec. 2602. (1) For purposes of this part, the words and phrases defined in sections 2603 to 2607 have the meanings ascribed to them in those sections.

(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.

Popular name: Act 368

333.2603 Definitions; D.

Sec. 2603. (1) "Data" means items of information made or received by the department which pertain to a condition, status, act, or omission, existing independently of the memory of an individual, whether the information is retrievable by manual or other means and whether or not coded. It includes the normal and computer art meanings of the word data.

(2) "Data system" means an interrelated grouping of data for use by the department.

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

Popular name: Act 368

333.2607 Definitions; R, S.

Sec. 2607. (1) "Record" means a datum or a grouping of data about a person or an object under the ownership or control of a person or governmental entity in which the person, object, or governmental entity is identifiable by name, number, symbol, or other identifying particular.

(2) "System of records" means an interrelated grouping of records for use by the department.

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

Popular name: Act 368

333.2611 Coordination of activities; establishment of policy; interests to be considered; establishment, purpose, and powers of nonprofit corporation.

Sec. 2611. (1) The department shall coordinate the health services research, evaluation, and demonstration and health statistical activities undertaken or supported by the department.

(2) The department shall establish policy consistent with this part to administer health services research, evaluation, and demonstration and health statistical activities undertaken or supported by the department. In establishing the policy the department shall consider the following interests:

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(a) The individual's right and reasonable expectation of privacy concerning its use, including the protection of privileged communications and the expectations of the individual when giving the information.

(b) The freedom of persons to do business.

(c) The public's interest in the protection of private rights.

(d) The public's interest in the free access to governmental information.

(e) The protections necessary to encourage persons to provide information.

(f) The individual's interest in being informed of dangers of which he or she would not otherwise be aware.

(g) The public's interest in the effective use of available data to protect and promote the health of individuals and the public as a whole.

(h) The public's interest in the effective and efficient management of governmental activities.

(i) The individual's interest in data about himself or herself.

(j) The interests of other governmental entities in preparing reports.

(3) The department may establish a nonprofit corporation pursuant to the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws. The purpose of the corporation shall be to plan, promote, and coordinate health services research with a public university or a consortium of public universities within the state. The corporation may research, evaluate, and demonstrate all of the following:

(a) The cause, effects, extent, and nature of illness and disability among all or a particular group of the people of this state.

(b) The impact of personal illness and disability on the economy of this state and the well-being of all or a particular group of the people of this state.

(c) Environmental, laboratory, social, and other health related issues.

(d) The health knowledge and practices of the people of this state.

(e) The quality and availability of health resources in this state including, but not limited to, health care institutions and health professions.

(f) The determinants of health and nutritional practices and status including, but not limited to, behaviors that are related to health.

(g) Access to and use of health care services by all or a particular group of the people of this state including, but not limited to, the use of ambulatory health care services. The access and use may be categorized by specialty and type of practice of the health professional or health facility providing the service.

(h) Health care costs and financing including, but not limited to, trends in health care costs, sources of payments, and federal, state, and local expenditures for health care services.

(i) Public health policies and programs.

(j) Other issues considered appropriate by the board of directors of the corporation.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1989, Act 264, Imd. Eff. Dec. 26, 1989.

Compiler's note: For transfer of certain powers and duties of the Michigan public health institute 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

333.2612 Nonprofit corporation; establishment; purpose; duties; selection and composition of board of directors; appointment and composition of internal management committee.

Sec. 2612. (1) The department may establish with Michigan state university and other parties determined appropriate by the department a nonprofit corporation pursuant to the nonprofit corporation act, Act No. 162 of the Public Acts of 1982, being sections 450.2101 to 450.3192 of the Michigan Compiled Laws. The purpose of the corporation shall be to establish and operate a center for rural health. In fulfilling its purpose, the corporation shall do all of the following:

(a) Develop a coordinated rural health program that addresses critical questions and problems related to rural health and provides mechanisms for influencing health care policy.

(b) Perform and coordinate research regarding rural health issues.

(c) Periodically review state and federal laws and judicial decisions pertaining to health care policy and analyze the impact on the delivery of rural health care.

(d) Provide technical assistance and act as a resource for the rural health community in this state.

(e) Suggest changes in medical education curriculum that would be beneficial to rural health.

(f) Assist rural communities with all of the following:

(*i*) Applications for grants.

(*ii*) The recruitment and retention of health professionals.

(*iii*) Needs assessments and planning activities for rural health facilities.

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(g) Serve as an advocate for rural health concerns.

(h) Conduct periodic seminars on rural health issues.

(i) Establish and implement a visiting professor program.

(j) Conduct consumer oriented rural health education programs.

(k) Designate a certificate of need ombudsman to provide technical assistance and consultation to rural health care providers and rural communities regarding certificate of need proposals and applications under part 222. The ombudsman shall also act as an advocate for rural health concerns in the development of certificate of need review standards under part 222.

(2) The incorporators of the corporation shall select a board of directors consisting of a representative from each of the following organizations:

(a) The Michigan state medical society or its successor. The representative appointed under this subdivision shall be a physician practicing in a county with a population of not more than 100,000.

(b) The Michigan osteopathic physicians' society or its successor. The representative appointed under this subdivision shall be a physician practicing in a county with a population of not more than 100,000.

(c) The Michigan nurses association or its successor. The representative appointed under this subdivision shall be a nurse practicing in a county with a population of not more than 100,000.

(d) The Michigan hospital association or its successor. The representative selected under this subdivision shall be from a hospital in a county with a population of not more than 100,000.

(e) The Michigan primary care association or its successor. The representative appointed under this subdivision shall be a health professional practicing in a county with a population of not more than 100,000.

(f) The Michigan association for local public health or its successor. The representative appointed from a county health department for a county with a population of not more than 100,000 or from a district health department with at least 1 member county with a population of not more than 100,000.

(g) The office of the governor.

(h) The department of public health.

(i) The department of commerce.

(j) The Michigan senate. The individual selected under this subdivision shall be from a district located at least in part in a county with a population of not more than 100,000.

(k) The Michigan house of representatives. The individual selected under this subdivision shall be from a district located at least in part in a county with a population of not more than 100,000.

(3) The board of directors of the corporation shall appoint an internal management committee for the center for rural health. The management committee shall consist of representatives from each of the following:

(a) The college of human medicine of Michigan state university.

(b) The college of osteopathic medicine of Michigan state university.

(c) The college of nursing of Michigan state university.

(d) The college of veterinary medicine of Michigan state university.

(e) The cooperative extension service of Michigan state university.

(f) The department of public health.

History: Add. 1990, Act 138, Imd. Eff. June 26, 1990.

Compiler's note: 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

333.2613 Nature of data to be defined by rule.

Sec. 2613. The department shall define by rule the nature of data collected, compiled, processed, used, or shared by the department pursuant to and consistent with section 2611(2).

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

Popular name: Act 368

333.2614 Duties of department generally.

Sec. 2614. The department shall:

(a) Establish procedures to identify the circumstances under which, the places at which, the persons from whom, and the methods by which a person may secure that data, including the procedures governing requests, and the review established pursuant to section 2639.

(b) Prescribe standards for the publication of health-related data reported pursuant to this code which will encourage characteristics including accuracy, validity, reliability, completeness, and comparability; and advise users as to the status of the quality of the data.

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(c) Prescribe the contents of forms or authorize the use of standardized forms for the collection of health-related data. The content and form shall be consistent with related local and federal requirements.

(d) Prescribe standards for the maintenance and preservation of health-related data.

(e) Establish procedures to govern the withholding and release of data as required by section 2637.

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

Popular name: Act 368

333.2615 Level of coverage; determination.

Sec. 2615. The department shall determine, not less than biennially, the level of coverage of the people of this state for each basic public health service prescribed under section 2311. This determination may be made by scientific sampling of the population or other scientific statistical techniques that will provide an accurate estimate of the level of coverage.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 226, Imd. Eff. Oct. 8, 1990.

Popular name: Act 368

333.2616 Comprehensive health information system; establishment; provisions.

Sec. 2616. The department shall establish a comprehensive health information system providing for the collection, compilation, coordination, analysis, indexing, dissemination, and utilization of both purposefully collected and extant health-related data and statistics, including the training of producers and users of the data and statistics in a manner involving the collaboration at the policy and technical levels of major state and local health operational, planning, professional, and university groups and agencies which require the data in their work.

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

Popular name: Act 368

333.2617 Comprehensive health information system; statistics.

Sec. 2617. The health information system shall include statistics relative to:

(a) The causes, effects, extent, and nature of illness and disability of the people of this state, or a grouping of its people, which may include the incidence and prevalence of various acute and chronic illnesses and infant and maternal morbidity and mortality.

(b) The impact of illness and disability of the people of this state on the economy of this state and on other aspects of the well-being of its people or a grouping of its people.

(c) Environmental, social, and other health hazards and health knowledge and practices of the people of this state.

(d) Determinants of health and nutritional practices and status, including behavior related to health.

(e) Health resources, which may include health care institutions.

(f) The utilization of health care, which may include the utilization of ambulatory health services by specialties and types of practice of the health professionals providing the services, and services of health facilities and agencies defined in section 20106 and other health care institutions.

(g) Health care costs and financing, which may include the trends in health care prices and costs, the sources of payments for health care services, and federal, state, and local governmental expenditures for health care services.

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

Popular name: Act 368

333.2617a Maternal death; submission of information for inclusion in health information system.

Sec. 2617a. A physician or an individual in charge of a health facility who is present for or is aware of a maternal death shall submit information regarding that death at the time and in the manner specified or approved by the department for inclusion in the health information system established under section 2616. As used in this section:

(a) "Health facility" means a hospital, freestanding surgical outpatient facility, or other outpatient facility that is licensed or otherwise authorized to operate in this state under article 17.

(b) "Maternal death" means the death of a woman who was pregnant at the time of her death or within 1 year before her death.

(c) "Physician" means an individual who is licensed or otherwise authorized to engage in the practice of medicine or practice of osteopathic medicine and surgery under article 15.

History: Add. 2016, Act 479, Eff. Apr. 6, 2017.

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333.2618 Publications; annual report; summary report; statement of limitations of data used.

Sec. 2618. The department shall publish and make available periodically to agencies and individuals health statistics publications of general interest, publications bringing health statistics into focus on priority programmatic issues and health profiles. An annual report on the health information system shall be made available to the governor and the legislature and to collaborating agencies. A summary report of each area described in sections 2616 and 2617 shall be included in the annual report not less than once each 5 years. The department shall include in the report a statement of the limitations of the data used in terms of their quality, accuracy, and completeness.

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

Popular name: Act 368

333.2619 Cancer registry; establishment; purpose; reports; records; rules; medical or department examination or supervision not required; contracts; evaluation of reports; publication of summary reports; commencement of reporting; effective date of section.

Sec. 2619. (1) The department shall establish a registry to record cases of cancer and other specified tumorous and precancerous diseases that occur in the state, and to record information concerning these cases as the department considers necessary and appropriate in order to conduct epidemiologic surveys of cancer and cancer-related diseases in the state.

(2) Each diagnosed case of cancer and other specified tumorous and precancerous diseases shall be reported to the department pursuant to subsection (4), or reported to a cancer reporting registry if the cancer reporting registry meets standards established pursuant to subsection (4) to ensure the accuracy and completeness of the reported information. A person or facility required to report a diagnosis pursuant to subsection (4) may elect to report the diagnosis to the state through an existing cancer registry only if the registry meets minimum reporting standards established by the department.

(3) The department shall maintain comprehensive records of all reports submitted pursuant to this section. These reports shall be subject to the same requirements of confidentiality as provided in section 2631 for data or records concerning medical research projects.

(4) The director shall promulgate rules which provide for all of the following:

(a) A list of tumorous and precancerous diseases other than cancer to be reported pursuant to subsection (2).

(b) The quality and manner in which the cases and other information described in subsection (1) are reported to the department.

(c) The terms and conditions under which records disclosing the name and medical condition of a specific individual and kept pursuant to this section are released by the department.

(5) This section does not compel an individual to submit to medical or department examination or supervision.

(6) The department may contract for the collection and analysis of, and research related to, the epidemiologic data required under this section.

(7) Within 2 years after the effective date of this section, the department shall begin evaluating the reports collected pursuant to subsection (2). The department shall publish and make available to the public reports summarizing the information collected. The first summary report shall be published not later than 180 days after the end of the first 2 full calendar years after the effective date of this section. Subsequent annual summary reports shall be made on a full calendar year basis and published not later than 180 days after the end of each calendar year.

(8) Reporting pursuant to subsection (2) shall begin the next calendar year after the effective date of this section.

(9) This section shall take effect July 1, 1984.

History: Add. 1984, Act 82, Eff. July 1, 1984.

Popular name: Act 368

333.2621 Comprehensive policy for conduct and support of research and demonstration activities; conducting and supporting demonstration projects and scientific evaluations.

Sec. 2621. (1) The department shall establish a comprehensive policy pursuant to and consistent with section 2611(2) for the conduct and support of research and demonstration activities related to the department's responsibility for the health care needs of the people of this state.

(2) The department shall conduct research and demonstration activities related to the department's responsibility for the environmental, preventive, and personal health needs of the communities and people of

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this state, including:

(a) The causes, effects, and methods of prevention of illness.

(b) The determinants of health, including behavior related to health.

(c) The accessibility, acceptability, availability, organization, distribution, utilization, quality, and financing of health care, especially those services for the medically needy.

(3) The department may conduct and support demonstration projects to carry out subsection (2).

(4) The department shall conduct or support the conduct of scientific evaluations of the effectiveness, efficiency, and relevance of programs conducted or supported by the department.

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

Popular name: Act 368

333.2623 Publication and dissemination of results and information obtained under MCL 333.2621.

Sec. 2623. The department may:

(a) Publish, make available, and disseminate, promptly and on as broad a basis as practicable, the results of health services research, demonstrations, and evaluations conducted and supported under section 2621.

(b) Provide indexing, abstracting, translation, publication, and other services leading to a more effective and timely dissemination of information as to health services, research, demonstrations, and evaluations conducted or supported under section 2621 to public and private entities and persons engaged in the improvement of health and to the general public.

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

Popular name: Act 368

333.2624 Grants and contracts to conduct or support research activities and scientific evaluations.

Sec. 2624. The department may make grants to and contracts with persons and governmental entities to conduct or support research activities and scientific evaluations authorized under sections 2621 and 2623.

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

Popular name: Act 368

333.2631 Data concerning medical research project; confidentiality; use.

Sec. 2631. The information, records of interviews, written reports, statements, notes, memoranda, or other data or records furnished to, procured by, or voluntarily shared with the department in the conduct of a medical research project, or a person, agency, or organization which has been designated in advance by the department as a medical research project which regularly furnishes statistical or summary data with respect to that project to the department for the purpose of reducing the morbidity or mortality from any cause or condition of health are confidential and shall be used solely for statistical, scientific, and medical research purposes relating to the cause or condition of health.

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

Popular name: Act 368

333.2632 Data concerning medical research project; inadmissible as evidence; exhibition or disclosure.

Sec. 2632. The information, records, reports, statements, notes, memoranda, or other data described in section 2631 are not admissible as evidence in an action in a court or before any other tribunal, board, agency, or person. Furnishing the data to the department in the conduct of a medical research project or to a designated medical research project does not result in the loss of any privilege which the data may otherwise have making them inadmissible as evidence. The information, records, reports, notes, memoranda, or other data shall not be exhibited nor their contents disclosed in any way, in whole or in part, by the department or its representative, or by any other person, agency, or organization, except as is necessary for the purpose of furthering the medical research project to which they relate consistent with section 2637 and the rules promulgated under section 2678. A person participating in a designated medical research project shall not disclose the information obtained except in strict conformity with the research project.

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

Popular name: Act 368

333.2633 Data concerning medical research projects; liability for furnishing.

Sec. 2633. The furnishing of information, records, reports, statements, notes, memoranda, or other data to

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the department, either voluntarily or as required by this code, or to a person, agency, or organization designated as a medical research project does not subject a physician, hospital, sanatorium, rest home, nursing home, or other person or agency furnishing the information, records, reports, statements, notes, memoranda, or other data to liability in an action for damages or other relief, and is not considered to be the willful betrayal of a professional secret or the violation of a confidential relationship.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 122, Eff. Mar. 30, 1989.

Popular name: Act 368

333.2635 Power to demand or require data.

Sec. 2635. Sections 2631 to 2633 do not confer on the department the power to demand or require that a health professional furnish information, records of interviews, written reports, statements, notes, memoranda, or other data other than as expressly required by law.

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

Popular name: Act 368

333.2637 Procedures protecting confidentiality and regulating disclosure of data and records.

Sec. 2637. (1) The department shall establish procedures pursuant to section 2678 to protect the confidentiality of, and regulate the disclosure of, data and records contained in a departmental data system or system of records.

(2) The procedures established under subsection (1) shall be consistent with the policy established under sections 2611 and 2613.

(3) Except as provided in section 2640, the procedures established under subsection (1) shall specify the data contained in a departmental data system or system of records that shall not be disclosed unless items identifying a person by name, address, number, symbol, or any other identifying particular are deleted.

(4) The procedures established under subsection (1) shall regulate the use and disclosure of data contained in a departmental data system or system of records released to researchers, other persons, including designated medical research projects as described in section 2631, or governmental entities. A person who receives data pursuant to this section shall not disclose an item of information contained in the data except in conformance with the authority granted by the department and with the purpose for which the data was originally requested by the researcher. The director may contract with researchers or other persons to implement and enforce this subsection. A contract made pursuant to this subsection shall do both of the following:

(a) Require the department to provide monitoring to assure compliance with this section.

(b) Provide for termination if this section or the contract is violated.

(5) An officer or employee of the department shall not disclose data contained in a departmental data system or system of records except as authorized in the procedures adopted pursuant to this section.

(6) The department periodically shall review the procedures adopted under this section.

(7) A person whose contract is terminated pursuant to subsection (4)(b) is not eligible to make a subsequent contract with the department.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1998, Act 496, Eff. Mar. 1, 1999.

Popular name: Act 368

333.2638 Violation; penalty.

Sec. 2638. A person who discloses confidential information in violation of sections 2631 to 2633 or who violates section 2637 or a rule implementing section 2637 is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than $1,000.00, or both, and if the person is an employee of the department shall be subject to immediate dismissal.

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

Popular name: Act 368

333.2639 Review of personal records upon request; procedures for reviewing request; administrative hearing; records of requests.

Sec. 2639. (1) Upon written request, an individual shall be permitted to review his or her personal records maintained or made under the authority of this part, in accordance with this section.

(2) The department shall establish procedures for reviewing a request from a person concerning access to or the amendment of a record or data pertaining to the person, or from a researcher, other person, or governmental entity requesting information or access to information possessed by the department, including a

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method of making a determination on the request for access or amendment. A person or researcher aggrieved by a decision under this section may request an administrative hearing.

(3) The department shall maintain records of requests for access to or amendments of data with the accuracy, relevance, timeliness, and completeness necessary to assure fairness to the person making the request.

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

Popular name: Act 368

333.2640 Parentage registry; use and access by family independence agency; access to child's medical records and information; immunity; exception.

Sec. 2640. (1) The department shall give prompt access to the parentage registry to the family independence agency or its agent for the purpose of the family independence agency's duty to aid in the establishment or enforcement of child support obligations. The family independence agency or its agent may use or disclose the information from the parentage registry in carrying out that duty.

(2) Notwithstanding section 2637, if there is a compelling need for medical records or information to determine whether child abuse or neglect has occurred or to take action to protect a child where there may be a substantial risk of harm, the department shall give access to a family independence agency caseworker or administrator directly involved in the investigation to the child's medical records and information that are pertinent to the child abuse or neglect investigation. Medical records or information disclosed under this section shall include the identity of the individual to whom the record or information pertains.

(3) The department shall provide the access described by subsection (2) only upon receipt of a written request from a caseworker or administrator directly involved in the investigation and shall provide that access within 14 calendar days after the record holder receives the written request. The department shall provide that access regardless of the consent of the person from whom consent would otherwise be required.

(4) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, an individual who in good faith provides access to medical records or information under subsection (2) is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

(5) This section does not apply to a report, record, datum, or information whose confidentiality and disclosure are governed by section 5131.

History: Add. 1996, Act 307, Imd. Eff. June 20, 1996;—Am. 1998, Act 496, Eff. Mar. 1, 1999.

Popular name: Act 368

333.2641 Fees; disposition of collections.

Sec. 2641. (1) The department may charge fees for the reasonable cost of:

(a) Reproduction, duplication, amendment, certification, or authentication of data.

(b) Data searches other than those for which a fee is prohibited under section 3 of Public Law 93-579, 5 U.S.C. 552a.

(2) Collections under this section shall be transmitted to the department of treasury and credited to the general fund of this state.

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

Popular name: Act 368

333.2651 Repealed. 2006, Act 301, Imd. Eff. July 20, 2006.

Compiler's note: The repealed section pertained to creation of the anatomy board.

Popular name: Act 368

333.2652 Receiving and allocating bodies or parts; purpose; records of receipt and disposition; universities designated to perform duties and responsibilities; powers.

Sec. 2652. (1) The department shall receive dead human bodies, or parts of dead human bodies, designated for scientific uses and allocate the bodies or parts to hospitals and educational institutions requiring them for use in medical instruction or for the purpose of instruction, study, and use in the promotion of education in the health sciences in this state. The department shall keep permanent records of the receipt and disposition of dead bodies and parts.

(2) The department may designate Michigan state university, Wayne state university, or the university of Michigan to perform the duties and responsibilities of this section and sections 2653 to 2663.

(3) A university designated under subsection (2) may exercise all of the powers of the department contained in this section and sections 2653 to 2663 as delegated by the department.

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 301, Imd. Eff. July 20, 2006.

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

Popular name: Act 368

333.2653 "Unclaimed body" defined; notice to persons with authority to control disposition of unclaimed body; availability of unclaimed body to department; request for notification concerning unclaimed body; time, manner, and contents of notice; release of body; notice and surrender of body to benevolent association.

Sec. 2653. (1) As used in sections 2652 to 2663, "unclaimed body" means a dead human body for which the deceased has not provided a disposition, for which an estate or assets to defray costs of burial do not exist, and that is not claimed for burial by a person, relative, or court appointed fiduciary who has the right to control disposition of the body.

(2) An official of a public institution or a state or local officer in charge or control of an unclaimed body which would have to be buried at public expense shall use due diligence to notify the persons with authority to control the interment or disposition of the unclaimed body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206. If there is no person under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, to direct the disposition of the unclaimed body in a manner other than provided by this section and sections 2655 to 2659, the unclaimed body shall become available to the department. Upon written request by the department for notification concerning unclaimed bodies coming under his or her jurisdiction, the officer, for the definite period specified in the request of the department, shall notify the department by telephone, facsimile, or electronic mail immediately following 72 hours after death, excluding Sundays and holidays, stating, when possible, the name, age, sex, religion, and cause of death of the deceased, and shall release the body according to the regulations or instructions of the department.

(3) If the deceased was a member of a religious faith maintaining a benevolent association that will provide for the burial of the deceased in accordance with the tenets of the religion, the department shall notify the benevolent association of the death of the deceased by telephone, facsimile, or electronic mail, and shall surrender the body to the benevolent association upon request.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 301, Imd. Eff. July 20, 2006.

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

Popular name: Act 368

333.2655 Embalming and disposing of unclaimed body; standards; holding period; identification and claim by person with authority over body.

Sec. 2655. An unclaimed body retained by the department for scientific or educational purposes shall be embalmed and disposed of in accordance with standards adopted under section 2678. The unclaimed body shall be held for 30 days by the person to whom it has been assigned for scientific or educational purposes. The body is subject during this period to identification and claim by an authenticated person with authority over the body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, for the purpose of interment or other disposition in accordance with the directions of that person.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 301, Imd. Eff. July 20, 2006.

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

Popular name: Act 368

333.2656 Receiving unclaimed body for educational purposes; expense; record; disposition.

Sec. 2656. A person receiving an unclaimed body for educational purposes shall bear all reasonable expense incurred in the preservation and transportation of the body and shall keep a permanent record of bodies received, giving the identification number, name, age, religion, and sex, the place of last residence of the deceased, and the source and disposition, with dates, of the body. A person receiving an unclaimed body, or part thereof, for educational purposes shall dispose of the body in accordance with the standards adopted under section 2678.

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

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

Popular name: Act 368

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333.2658 Postmortem examination of unclaimed body; certification of body unfit for scientific or education purposes; interment of unclaimed body; expense.

Sec. 2658. A person, unless specifically authorized by law, shall not hold a postmortem examination of an unclaimed body without the express permission of the director of the department. When, through the failure of a person to notify the department or promptly to release an unclaimed body as required by the department, the body becomes unfit for scientific or educational purposes, the department shall so certify, and the unclaimed body shall be interred at the expense of those responsible for the noncompliance.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 301, Imd. Eff. July 20, 2006.

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

Popular name: Act 368

333.2659 Adoption of standards for unclaimed bodies or parts.

Sec. 2659. The department may adopt standards pursuant to section 2678 for the transportation, reception, preservation, storage, records, and allocation of unclaimed bodies or parts.

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

Popular name: Act 368

Administrative rules: R 325.951 et seq. of the Michigan Administrative Code.

333.2661 Repealed. 2006, Act 301, Imd. Eff. July 20, 2006.

Compiler's note: The repealed section pertained to autopsy upon and disposition of an unclaimed body.

Popular name: Act 368

333.2663 Violations; misdemeanor.

Sec. 2663. A person who unlawfully disposes, uses, or sells an unclaimed body or who violates sections 2652 to 2661 is guilty of a misdemeanor.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 301, Imd. Eff. July 20, 2006.

Popular name: Act 368

333.2671 Public health and welfare dependent on humane use of animals for certain purposes.

Sec. 2671. The public health and welfare depend on the humane use of animals for the diagnosis and treatment of human and animal diseases; the advancement of veterinary, dental, medical, and biological sciences; and the testing, diagnosis, improvement, and standardization of laboratory specimens, biologic products, pharmaceuticals, and drugs.

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

Popular name: Act 368

333.2672 Animal research advisory board; creation; membership.

Sec. 2672. The animal research advisory board is created in the department. The animal research advisory board consists of the dean of the medical school of the university of Michigan, the dean of the veterinary college of Michigan state university, the dean of the medical school of Wayne state university, the dean of the dental school of the university of Detroit, the dean of the optometry college at Ferris state university, the secretary of the Michigan association of osteopathic physicians and surgeons, a representative from a research laboratory within this state and subject to the control of the United States public health service, and 2 member representatives of the Michigan federation of humane societies.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1987, Act 159, Imd. Eff. Nov. 5, 1987.

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

Popular name: Act 368

333.2673 Animal research advisory board; powers.

Sec. 2673. The animal research advisory board may regulate and establish standards pursuant to section 2678 controlling the humane use of animals for the diagnosis and treatment of human and animal diseases; the advancement of veterinary, dental, optometrical, medical, and biological sciences; and the testing, diagnosis, improvement, and standardization of laboratory specimens, biologic products, pharmaceuticals, and drugs.

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

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

Popular name: Act 368

333.2674 Administration of MCL 333.2671 to 333.2675; expenses of members.

Sec. 2674. (1) The department shall administer sections 2671 to 2675.

(2) The members of the animal research advisory board shall serve without compensation, but shall be entitled to expenses incurred in performance of official duties in accordance with section 1216.

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

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

Popular name: Act 368

333.2675 Inspection of premises or property on which animals kept for experimental purposes; purpose.

Sec. 2675. The department, its representative, or a member of the animal research advisory board may inspect any premises or property on or in which animals are kept for experimental purposes for the purpose of investigation of compliance with board standards. The standards shall provide for the humane treatment of animals reasonably necessary for the purposes of this part.

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

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

Popular name: Act 368

333.2676 Registration for humane use of animals for experimental purposes; compliance with standards; grounds for suspension or revocation of registration; findings of fact conclusive; application for review of questions of law; orders.

Sec. 2676. A person shall not keep or use animals for experimental purposes unless registered to do so by the department. The department shall grant registration for the humane use of animals for experimental purposes upon compliance with board standards. The department may suspend or revoke a registration for failure to comply with this part or board standards. Findings of fact by the department, in the absence of fraud or arbitrariness, shall be conclusive, but the circuit court for the county in which the defendant resides or has his or her principal place of business may review questions of law involved in a final decision or determination of the department if the aggrieved party applies for the review not later than 30 days after the determination. The circuit court has jurisdiction to make orders as justice requires.

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

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

Popular name: Act 368

333.2678 Rules.

Sec. 2678. The department shall promulgate rules to implement section 2637 and may promulgate rules to implement this part including the establishment of fees, standards pertaining to unclaimed bodies, or parts thereof, standards pertaining to the use of animals for experimental purposes, and the implementation of sections 2616 and 2617.

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

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

Popular name: Act 368

Administrative rules: R 325.921 et seq. and R 325.951 et seq. of the Michigan Administrative Code.

333.2681 Definitions.

Sec. 2681. As used in sections 2681 to 2683:

(a) "Cord blood unit" means the blood collected from a single placenta and umbilical cord.

(b) "Donor" means a mother who has delivered a baby and consents to donate the newborn's blood remaining in the placenta and umbilical cord.

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(c) "Donor bank" means a qualified cord blood stem cell bank that enters into a contract with the director under section 2682.

(d) "Human cord blood stem cells" means hematopoietic stem cells and any other stem cells contained in the neonatal blood collected immediately after the birth from the separated placenta and umbilical cord.

(e) "Network" means the statewide network of qualified cord blood stem cell banks established under section 2682.

History: Add. 2006, Act 635, Imd. Eff. Jan. 4, 2007.

Popular name: Act 368

333.2682 Statewide network of cord blood stem cell banks.

Sec. 2682. (1) If funding is made available, the department shall establish a statewide network of cord blood stem cell banks. The director of the department shall enter into contracts with qualified cord blood stem cell banks to assist in the establishment, provision, and maintenance of the network.

(2) A cord blood stem cell bank is eligible to enter the network and be a donor bank if it satisfies each of the following:

(a) Has obtained all applicable federal and state licenses, accreditations, certifications, registrations, and other authorizations required to operate and maintain a cord blood stem cell bank.

(b) Has implemented donor screening and cord blood collection practices adequate to protect both donors and transplant recipients and to prevent transmission of potentially harmful infections and other diseases.

(c) Has established a system of strict confidentiality to protect the identity and privacy of patients and donors in accordance with existing federal and state law and consistent with regulations promulgated under the health insurance portability and accountability act of 1996, Public Law 104-191, for the release of the identity of donors, recipients, or identifiable records.

(d) Has established a system for encouraging donation by an ethnically and racially diverse group of donors.

(e) Has developed adequate systems for communication with other cord blood stem cell banks, transplant centers, and physicians with respect to the request, release, and distribution of cord blood units nationally and has developed such systems, consistent with the regulations promulgated under the health insurance portability and accountability act of 1996, Public Law 104-191, to track recipients' clinical outcomes for distributed units.

(f) Has developed an objective system for educating the public, including patient advocacy organizations, about the benefits of donating and utilizing cord blood stem cells in appropriate circumstances.

(3) A donor bank that enters into the network shall do all of the following:

(a) Acquire, tissue-type, test, cryopreserve, and store donated units of human cord blood acquired with the informed consent of the donor, in a manner that complies with applicable federal regulations.

(b) Make cord blood units collected under this section, or otherwise, available to transplant centers for stem cell transplantation.

(c) Allocate up to 10% of the cord blood inventory each year for peer-reviewed research. This quota may be met by using cord blood units that did not meet the cell count standards necessary for transplantation.

(4) A board of directors shall govern and administer the state cord blood stem cell bank network. The board shall be appointed by the director and consist of members who represent each of the following:

(a) Cord blood stem cell transplant centers.

(b) Physicians from participating birthing hospitals.

(c) The cord blood stem cell research community.

(d) Recipients of cord blood stem cell transplants.

(e) Family members who have made a donation to a statewide cord blood stem cell bank.

(f) Individuals with expertise in the social sciences.

(g) Members of the general public.

(h) Each network donor bank.

(5) Except as otherwise provided under this subsection, each member of the board shall serve for a 3-year term and may be reappointed for 1 or more additional terms. Appointments for the initial members shall be for terms of 1, 2, and 3 years, respectively, so as to provide for the subsequent appointment of an equal number of members each year. The board shall elect a chairperson and do each of the following:

(a) Ensure that the donor banks within the network meet the requirements of subsection (2) on a continuing basis.

(b) Encourage network donor banks to work collaboratively with other network donor banks and encourage network donor banks to focus their resources in their respective local or regional area.

(c) Designate 1 or more established national or international cord blood registries to serve as a statewide

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cord blood stem cell registry.

(d) Coordinate the donor banks in the network.

History: Add. 2006, Act 637, Imd. Eff. Jan. 4, 2007.

Popular name: Act 368

333.2683 Educational materials on uses and benefits of cord blood stem cells; development and dissemination; availability.

Sec. 2683. (1) If funding is made available, the department shall promote public awareness and increase knowledge about the statewide network of cord blood stem cell banks, cord blood banking options, and the benefits of cord blood stem cells by developing and disseminating educational materials on the uses and benefits of cord blood stem cells, the viability of cord blood stem cells, information on research results utilizing cord blood stem cells, and any other related materials and information to enable the public to make informed decisions about the utilization of cord blood stem cells. Information shall include, but is not limited to, all of the following:

(a) An explanation of the differences between public and private cord blood banking.

(b) Information on the statewide network of cord blood stem cell banks.

(c) Cord blood options available.

(d) The medical process and risks involved in the collection of cord blood.

(e) Medically accepted uses and benefits of cord blood collection and transplantation.

(f) A statement that due to ongoing research and development there may be future uses and benefits of cord blood collection and transplantation.

(g) An explanation of any costs to the donor associated with cord blood donation and storage.

(h) Information on how to request printed materials and how to access other information available on the department's website.

(i) Options for ownership and future use of the donated material.

(j) An explanation of the storage, maintenance, and viability for transplantation of cord blood stem cells.

(2) The department, on its website, shall make the materials and information gathered and developed under subsection (1) available in printable format to the public and to health care facilities and agencies, cord blood banks, and health care professionals.

(3) The department shall encourage health care professionals and health care facilities and agencies, including, but not limited to, physicians, nurse midwives, nurses, hospitals, birthing facilities, and local health departments to disseminate information to a pregnant woman before her third trimester of pregnancy about cord blood donation and the options for cord blood banking.

History: Add. 2006, Act 638, Imd. Eff. Jan. 4, 2007.

Popular name: Act 368

333.2683a Statewide network of cord blood stem cell banks; public awareness efforts; report on expenditure of funds.

Sec. 2683a. On or before April 1, 2007 and annually thereafter, the department shall submit to the house and senate appropriations subcommittees on community health, the house and senate standing committees on public health, the house and senate fiscal agencies, and the state budget director a report detailing the expenditure of funds related to both of the following:

(a) The statewide network of cord blood stem cell banks established under section 2682.

(b) The public awareness efforts required in this section.

History: Add. 2006, Act 636, Imd. Eff. Jan. 4, 2007.

Popular name: Act 368

333.2685 Use of live human embryo, fetus, or neonate for nontherapeutic research; prohibitions; presumption.

Sec. 2685. (1) A person shall not use a live human embryo, fetus, or neonate for nontherapeutic research if, in the best judgment of the person conducting the research, based upon the available knowledge or information at the approximate time of the research, the research substantially jeopardizes the life or health of the embryo, fetus, or neonate. Nontherapeutic research shall not in any case be performed on an embryo or fetus known by the person conducting the research to be the subject of a planned abortion being performed for any purpose other than to protect the life of the mother.

(2) For purposes of subsection (1) the embryo or fetus shall be conclusively presumed not to be the subject of a planned abortion if the mother signed a written statement at the time of the research, that she was not planning an abortion.

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

Popular name: Act 368

333.2686 Diagnostic, assessment, or treatment procedures not prohibited.

Sec. 2686. Sections 2685 to 2691 shall not prohibit or regulate diagnostic, assessment, or treatment procedures, the purpose of which is to determine the life or status or improve the health of the embryo, fetus, or neonate involved or the mother involved.

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

Popular name: Act 368

333.2687 Embryo, fetus, or neonate considered live.

Sec. 2687. An embryo, fetus, or neonate is a live embryo, fetus, or neonate for purposes of sections 2685 to 2691 if, in the best medical judgment of a physician, it shows evidence of life as determined by the same medical standards as are used in determining evidence of life in a spontaneously aborted embryo or fetus at approximately the same stage of gestational development.

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

Popular name: Act 368

333.2688 Research on dead embryo, fetus, or neonate; consent of mother; presumption; authorized transfer to medical research facilities; research standards.

Sec. 2688. (1) Research may not knowingly be performed upon a dead embryo, fetus, or neonate unless the consent of the mother has first been obtained. Consent shall not be required in the case of a routine pathological study.

(2) For purposes of this section, consent shall be conclusively presumed to have been granted by a written statement, signed by the mother that she consents to the use of her dead embryo, fetus, or neonate for research.

(3) Written consent shall constitute lawful authorization for the transfer of the dead embryo, fetus, or neonate to medical research facilities.

(4) Research being performed upon a dead embryo, fetus, or neonate shall be conducted in accordance with the same standards applicable to research conducted pursuant to part 101.

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

Popular name: Act 368

333.2689 Abortion; consideration.

Sec. 2689. A person shall not perform or offer to perform an abortion where part or all of the consideration for the performance is that the embryo, or fetus, whether alive or dead, may be used for research or study.

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

Popular name: Act 368

333.2690 Selling, collecting fee for, transferring, distributing, or giving away embryo, fetus, or neonate; financial benefit or compensation prohibited; exception; definitions.

Sec. 2690. (1) A person shall not knowingly sell, collect any fee for, transfer, distribute, or give away an embryo, fetus, or neonate for a use that is in violation of sections 2685 to 2689.

(2) Except as otherwise provided in subsection (3), a physician, or a person associated with the physician, who, as a result of the physician's performing an abortion, possesses a dead embryo, fetus, or neonate shall not knowingly financially benefit from or receive any type of compensation for either of the following:

(a) Allowing a person that was not involved in the performance of the abortion to have access to the embryo, fetus, or neonate for the purpose of the person taking possession and control of the embryo, fetus, or neonate, including the organs, tissues, or cells of the embryo, fetus, or neonate.

(b) Transferring possession and control of the embryo, fetus, or neonate, including the organs, tissues, or cells of the embryo, fetus, or neonate, to a person that was not involved in the performance of the abortion.

(3) Subsection (2) does not apply to any of the following:

(a) A hospital.

(b) A person that is performing an activity as part of that person's employment with a hospital or a contract with a hospital.

(c) A person that performs an activity under section 2688.

(4) As used in this section:

(a) "Abortion" means that term as defined in section 2803.

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(b) "Hospital" means a hospital licensed under article 17.

(c) "Person associated with the physician" means any of the following:

(*i*) An employee of the physician or other individual who assists the physician in performing an abortion.

(*ii*) A private physician practice, professional corporation, or freestanding surgical outpatient facility licensed under article 17, that is owned or operated by the physician and in which an abortion is performed.

(*iii*) A private physician practice, professional corporation, or freestanding surgical outpatient facility licensed under article 17, that employs or contracts with the physician to perform an abortion.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2016, Act 386, Eff. Mar. 29, 2017;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

Popular name: Act 368

333.2691 Violation; penalty.

Sec. 2691. A person who violates sections 2685 to 2690 is guilty of a felony, punishable by imprisonment for not more than 5 years.

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

Popular name: Act 368

333.2692 "Nontherapeutic research" defined.

Sec. 2692. As used in sections 2685 to 2691, "nontherapeutic research" means scientific or laboratory research, or other kind of experimentation or investigation not designed to improve the health of the research subject.

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

Popular name: Act 368

PART 27
MICHIGAN ESSENTIAL HEALTH PROVIDER RECRUITMENT STRATEGY

333.2701 Definitions.

Sec. 2701. As used in this part:

(a) "Board certified" means certified to practice in a particular medical specialty by a national board recognized by the American Board of Medical Specialties or the American Osteopathic Association.

(b) "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.

(c) "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.

(d) "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.

(e) "Dental school" means an accredited program for the training of individuals to become dentists.

(f) "Dentist" means an individual who is licensed to engage in the practice of dentistry under part 166.

(g) "Designated advanced practice registered nurse" means a certified nurse midwife, certified nurse practitioner, or clinical nurse specialist-certified.

(h) "Designated mental health professional" means an individual who is qualified in the area of mental illness or developmental disabilities and who is 1 of the following:

(*i*) A nurse.

(*ii*) A psychologist.

(*iii*) A licensed master's social worker.

(*iv*) A licensed professional counselor.

(*v*) A marriage and family therapist.

(i) "Designated physician" means a physician qualified in 1 of the physician specialty areas identified in section 2711.

(j) "Designated professional" means a designated physician, designated advanced practice registered nurse, dentist, physician's assistant, or designated mental health professional.

(k) "Health resource shortage area" means a geographic area, population group, or health facility designated by the department under section 2717.

(*l*) "Licensed master's social worker" means an individual who is licensed under part 185 to engage in the practice of social work at the master's level.

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(m) "Licensed professional counselor" means an individual who is licensed under part 181 to engage in the practice of counseling without supervision.

(n) "Marriage and family therapist" means an individual who is licensed under part 169 to engage in the practice of marriage and family therapy.

(o) "Medicaid" means benefits under the program of medical assistance established under title XIX of the social security act, 42 USC 1396 to 1396w-6, and administered by the department under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

(p) "Medical school" means an accredited program for the training of individuals to become physicians.

(q) "Medicare" means benefits under the federal Medicare program established under title XVIII of the social security act, 42 USC 1395 to 1395*lll*.

(r) "Mental health professional program" means an accredited program for the training of individuals to become a designated mental health professional.

(s) "National Health Service Corps" means the agency established under 42 USC 254d.

(t) "Nurse" means an individual who is licensed to engage in the practice of nursing under part 172.

(u) "Nursing program" means an accredited program for the training of individuals to become nurses.

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

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

(x) "Physician's assistant program" means an accredited program for the training of individuals to become physician's assistants.

(y) "Psychologist" means an individual licensed to engage in the practice of psychology under part 182.

(z) "Service obligation" means the contractual obligation undertaken by an individual under section 2705 or section 2707 to provide health care services for a determinable time period at a site designated by the department.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990;—Am. 2014, Act 172, Imd. Eff. June 17, 2014;—Am. 2016, Act 499, Eff. Apr. 9, 2017 ;—Am. 2022, Act 38, Imd. Eff. Mar. 23, 2022.

Compiler's note: For transfer of certain powers and duties of the bureau of child and family services, with the exception of the women, infants, and children division, and the division of managed care the bureau of health systems, 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

333.2703 Michigan essential health provider recruitment strategy; creation; purpose; duties of department.

Sec. 2703. (1) The Michigan essential health provider recruitment strategy is created in the department to facilitate the placement and retention of designated professionals in health resource shortage areas.

(2) In operating the Michigan essential health provider recruitment strategy, the department shall do all of the following:

(a) Recruit and place designated professionals in health resource shortage areas, as provided in this part.

(b) Coordinate with the national health service corps activities in this state.

(c) Provide consultation to communities and health resource shortage areas in securing, placing, and retaining designated professionals.

(d) Perform other duties as set forth in this part.

(e) Engage in other activities appropriate to the purposes of the program.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990.

Popular name: Act 368

333.2705 Essential health provider repayment program for designated professionals; administration; repayment of debt or expenses; contract; requirements; lump sum payment; forfeiture; discretionary debt or expense repayment; maximum amount of debt or expense repayment; source of funds; distribution of funds; priority.

Sec. 2705. (1) The department shall administer an essential health provider repayment program for designated professionals who have incurred a debt or expenses as a result of a loan taken to attend a medical school, dental school, mental health professional program, nursing program for the training of certified nurse midwives, certified nurse practitioners, or clinical nurse specialists-certified, or physician's assistant program or as a result of providing services in a health resource shortage area. The department may each year repay all or part of a designated professional's debt or expenses, but the amount repaid in any 1 year shall not exceed the amount described in subsection (3). The department shall repay a debt or expenses only for a designated

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professional who has entered into a written contract with the department that requires the designated professional to engage in the full-time practice of health care services in a health resource shortage area to which he or she is assigned by the department for a period equal in years to the number of years for which the department has agreed in the contract to make a debt or expense repayment, or for a period of 2 years, whichever is greater.

(2) A debt or expense repayment on behalf of a designated professional under subsection (1) for fulfilling a service obligation for a particular year must be paid in a lump sum at the completion of the service obligation for that year. A designated professional who does not fulfill a service obligation for a particular year forfeits his or her right to the debt or expense repayment or any part of it for that year and the department may treat an agreement for further debt or expense repayment in a subsequent year as void. In its sole discretion, the department may make a debt or expense repayment before or during each year of service if there are extenuating circumstances. In its sole discretion, the department may pay a pro rata amount of an agreed debt or expense repayment to a designated professional or his or her estate if 1 of the following occurs before the completion of the designated professional's service obligation:

(a) The designated professional dies.

(b) The designated professional is unable, by reason of permanent disability, to render the service.

(c) Other circumstances prevail that are considered by the department to constitute a compelling reason to consider the service obligation fulfilled.

(3) In any year of a debt or expense repayment program, the maximum amount of a debt or expense repayment is $40,000.00 per year. The maximum amount of debt or expense repayment the department may pay on behalf of a designated professional is $300,000.00, paid over a period of 10 years or more. The written contract described in subsection (1) must include the amount the department shall pay on behalf of a designated professional and the amount payable for each year of service.

(4) The department may accept funds from any source for the operation of the essential health provider repayment program, and the department shall distribute those funds in a manner consistent with this section.

(5) The department shall give the essential health provider repayment program created by this section priority over the other programs created under this part.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990;—Am. 2014, Act 172, Imd. Eff. June 17, 2014;—Am. 2016, Act 499, Eff. Apr. 9, 2017 ;—Am. 2022, Act 37, Eff. Mar. 29, 2023.

Popular name: Act 368

333.2707 Grant program for minority students; administration; eligibility; condition for award of grant; priority; determination of appropriate grant; failure to fulfill service obligation or complete training program; repayment; disposition of amounts repaid; service obligation considered fulfilled; source of funds; distribution of funds; definition.

Sec. 2707. (1) The department shall administer a grant program for minority students enrolled in medical schools, dental schools, nursing programs, or physician's assistant programs. Only minority students who meet the financial resources eligibility standards for federal student loan programs under title IV of the higher education act of 1965, Public Law 89-329, are eligible to receive a grant under this section.

(2) The department may award a grant to a minority student enrolled in a medical school who is training to become a designated physician, to a minority student enrolled in a dental school who is training to become a dentist, or to a minority student enrolled in a nursing program or physician's assistant program. As a condition for the award of the grant, the recipient of the grant shall enter into a written contract with the department that requires the recipient to provide, upon completion of training, full-time health care services in a health resource shortage area to which he or she is assigned by the department for a period equal to the number of years for which a grant is accepted. In awarding grants, the department shall give priority to students who are residents of this state and enrolled in a medical school, dental school, nursing program, or physician's assistant program in this state.

(3) The department shall determine an appropriate grant amount for each academic year for each health care profession.

(4) An individual who incurs a service obligation under subsection (2) and who completes the training program for which the grant was awarded but fails to fulfill the service obligation shall repay to the department an amount equal to 2 times the amount of all grants the individual accepted under this section plus interest. The interest shall be at a rate determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index. An individual who incurs a service obligation under subsection (2) and who fails to complete the training program for which the grant was awarded shall repay to the department an amount equal to the actual amount of all grants the individual accepted under this section.

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Repayment to the department under this subsection shall be made within 3 years after the repayment obligation is incurred. Amounts repaid under this subsection shall be deposited with the state treasurer and credited to the minority health profession grant fund created in section 2721.

(5) An obligated individual shall be considered to have fulfilled the service obligation incurred under subsection (2) if any of the following occur:

(a) Service has been rendered for the obligated period.

(b) The obligated individual dies.

(c) The obligated individual is unable, by reason of permanent disability, to render the service.

(d) The obligated individual fails to satisfy the academic requirements for completion of the training program in which he or she is enrolled after having made a good faith effort.

(e) The obligated individual fails to satisfy the requirements for licensure, certification, or other form of authorization to practice the profession for which he or she has been trained.

(f) Other circumstances occur that are considered by the department to constitute a compelling reason to consider the service obligation fulfilled.

(6) The department may accept funds for the operation of the grant program from any source and distribute those funds in a manner consistent with this section.

(7) As used in this section, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990;—Am. 2014, Act 173, Imd. Eff. June 17, 2014.

Popular name: Act 368

333.2709 Placement of certified nurse midwives.

Sec. 2709. The department may cooperate with a certified nurse midwifery service to support the placement of certified nurse midwives in health resource shortage areas.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990.

Popular name: Act 368

333.2711 Recruitment for programs created in MCL 333.2705 and 333.2707; designated physician specialty areas; preference; "qualified" defined.

Sec. 2711. (1) For the programs created in sections 2705 and 2707, the department shall only recruit physicians who are qualified or students who are training to become qualified in 1 or more of the following designated physician specialty areas:

(a) General practice.

(b) Family practice.

(c) Obstetrics.

(d) Pediatrics.

(e) Emergency medicine.

(f) Internal medicine.

(g) Preventive medicine.

(h) Psychiatry or behavioral sciences.

(i) Geriatrics.

(2) When enrolling individuals to participate in the programs created in sections 2705 and 2707, the department may give preference to an individual who is qualified or studying in 1 or more of the specific designated physician specialty areas of general practice, family practice, obstetrics, pediatrics, or internal medicine over an individual who is qualified or studying in another designated physician specialty area described in subsection (1).

(3) As used in this section, "qualified" means board certified or eligible for board certification.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990;—Am. 2014, Act 172, Imd. Eff. June 17, 2014;—Am. 2022, Act 38, Imd. Eff. Mar. 23, 2022.

Popular name: Act 368

333.2713 Fulfillment of service obligation; commencement; guidelines for assignment of designated professionals; condition for placement.

Sec. 2713. (1) The department shall determine when a participant in the grant program or essential health provider repayment program shall begin to fulfill a service obligation.

(2) The department shall prepare and annually revise guidelines for the assignment of designated professionals with service obligations to practice sites located in health resource shortage areas.

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(3) As a condition for the placement of a designated professional in a health resource shortage area, the department may require a reasonable demonstration of the intent and the ability of the community to support and retain a designated professional.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990.

Popular name: Act 368

333.2715 Individuals ineligible to receive funds under MCL 333.2705 or 333.2707.

Sec. 2715. An individual who participates in the national health service corps scholarship program under section 338A of title III of the public health service act, 42 U.S.C. 254*l*, or who has entered into an agreement that limits the individual's ability to serve in a Michigan health resource shortage area is not eligible to receive funds under section 2705 or 2707.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990.

Popular name: Act 368

333.2717 Health resource shortage area; criteria for identification and designation.

Sec. 2717. (1) The department shall develop criteria for identifying and designating a geographic area, population group, or health facility as a health resource shortage area. In developing the criteria, the department shall consider the needs of rural areas. The criteria may include, but are not limited to, all of the following:

(a) Infant mortality rate.

(b) Percentage of population below 100% of the poverty line.

(c) Percentage of population age 65 and over.

(d) Appropriate physician to population ratio.

(e) Percentage of population eligible for Medicaid.

(f) Aggregate unemployment rate.

(g) Percentage of practicing physicians who accept Medicare or Medicaid assignment.

(h) Geographic proximity of physicians to the resident population.

(i) Average time the resident population must travel to obtain physician services from physicians in a designated physician specialty area.

(2) On the basis of the criteria set forth in subsection (1), the department shall identify and designate geographic areas, population groups, and health facilities in this state as health resource shortage areas for 1 or more designated professionals.

(3) Each of the following is considered a health resource shortage area:

(a) A health professional shortage area, as designated under section 332 of title III of the public health service act, 42 USC 254e, that is located in this state.

(b) A population of an urban or rural area designated as an area with a shortage of personal health services, as designated under section 330(b)(3) of title III of the public health service act, 42 USC 254c, that is located within this state.

(c) A population group designated as having a shortage of personal health services, as designated under section 330(b)(3) of title III of the public health service act, 42 USC 254c, that is located within this state.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990;—Am. 2022, Act 38, Imd. Eff. Mar. 23, 2022.

Popular name: Act 368

333.2719 Departmental discretion; guidelines for priority.

Sec. 2719. The department shall exercise its discretion in selecting a health resource shortage area for assignment of a designated professional. The department may establish guidelines for priority among health resource shortage areas in assignments of designated professionals to those areas.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990.

Popular name: Act 368

333.2721 Minority health profession grant fund; creation; funding; use; investments; crediting earnings to fund.

Sec. 2721. (1) There is created the minority health profession grant fund as a separate fund in the state treasury, to be administered by the department. The department shall deposit amounts repaid under section 2707 with the state treasurer, who shall credit the amounts to the fund. The fund shall be used to fund grants made under section 2707.

(2) The state treasurer shall direct the investment of the fund money and shall credit earnings to the fund.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990.

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Popular name: Act 368

333.2723 Rules; status report.

Sec. 2723. (1) The department may promulgate rules necessary for the implementation of the department's functions under this part.

(2) The department shall report biennially to the house and senate appropriations subcommittees on the department of community health, the house and senate fiscal agencies, the governor, the state health planning council, and the public health advisory council on the status of the Michigan essential health provider recruitment strategy for the preceding 2 years. In addition to the status report, the report shall include, but not be limited to, all of the following:

(a) Review of state and federal legislation, rules, guidelines, and policy directives affecting the health personnel of health resource shortage areas.

(b) Recommendations concerning physician specialty areas or other health professions for inclusion in the Michigan essential health provider recruitment strategy based upon a determination of the need for various types of health care providers in this state.

(c) An assessment of whether the amount of debt or expense repayment an individual may receive under section 2705(3) is sufficient to facilitate the placement and retention of designated professionals in health resource shortage areas, or whether that maximum amount should be adjusted to reflect changes in tuition costs for students enrolled in medical schools, dental schools, nursing programs, or physician's assistant programs.

(d) An analysis of the return on investment and effectiveness of the grant program under section 2707 and the essential health provider repayment program under section 2705.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990;—Am. 2014, Act 173, Imd. Eff. June 17, 2014.

Popular name: Act 368

333.2725 Short title.

Sec. 2725. This part shall be known and may be cited as the "Michigan essential health provider recruitment strategy act".

History: Add. 1990, Act 16, Eff. Oct. 1, 1990.

Popular name: Act 368

333.2727 Conditional effective date.

Sec. 2727. This part shall take effect October 1, 1990, except that this part shall not take effect unless before that date legislation is enacted that contains funding for the program created by this part.

History: Add. 1990, Act 16, Eff. Oct. 1, 1990.

Compiler's note: In Sec. 101 of Act 198 of 1990, the legislature appropriated $400,000 for the “Michigan essential health care provider program.” Act 198 was approved by the governor on July 24, 1990, and filed with the Secretary of State on July 25, 1990.

Popular name: Act 368

PART 28
VITAL RECORDS

333.2801 Meanings of words and phrases; general definitions and principles of construction.

Sec. 2801. (1) For purposes of this part, the words and phrases defined in sections 2803 to 2805 have the meanings ascribed to them in those sections.

(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.

Compiler's note: 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 MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.2803 Definitions; A to F.

Sec. 2803. (1) "Abortion" means a medical treatment that is intended to terminate a diagnosable intrauterine pregnancy for a purpose other than to produce a live birth. Abortion does not include the use or prescription of a drug or device that prevents pregnancy or a medical treatment used to remove a dead fetus or embryo whose death was the result of a spontaneous abortion.

(2) "Allowable individual" means an individual who is the subject of a birth record that is only available

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through the office of the state registrar and who meets any of the following:

(a) The individual was born in the jurisdiction of the office of the local registrar where the certified copy of the birth record is being sought.

(b) If the individual was adopted, the individual's adoption was ordered by a probate court that is located in the jurisdiction of the office of the local registrar where the certified copy of the birth record is being sought.

(3) "Dead body" means a human body or fetus, or a part of a dead human body or fetus, in a condition from which it may reasonably be concluded that death has occurred.

(4) "Fetal death" means the death of a fetus that has completed at least 20 weeks of gestation or weighs at least 400 grams. Fetal death includes a stillbirth. The definition of fetal death must conform in all other respects as closely as possible to the definition recommended by the federal agency responsible for vital statistics.

(5) "Fetal remains" means a dead fetus or part of a dead fetus that has completed at least 10 weeks of gestation or has reached the stage of development that, upon visual inspection of the fetus or part of the fetus, the head, torso, or extremities appear to be supported by skeletal or cartilaginous structures. Fetal remains do not include the umbilical cord or placenta.

(6) "File" means to present a certificate, report, or other record to the local registrar for registration by the state registrar.

(7) "Final disposition" means the burial, cremation, interment, or other legal disposition of a dead body or fetal remains.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 562, Imd. Eff. Oct. 1, 2002;—Am. 2012, Act 499, Eff. Mar. 31, 2013;—Am. 2020, Act 54, Eff. June 1, 2020;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

Popular name: Act 368

333.2804 Definitions; I to R.

Sec. 2804. (1) "Institution" means a public or private establishment that provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domiciliary care to 2 or more unrelated individuals, including an establishment to which individuals are committed by law.

(2) "Law enforcement agency" means a police agency of a city, village, or township; a sheriff's department; the department of state police; and any other governmental law enforcement agency.

(3) "Live birth" means that term as defined in section 1 of the born alive infant protection act, 2002 PA 687, MCL 333.1071.

(4) "Local registrar" means the county clerk or the clerk's deputy, or in the case of a city having a population of 40,000 or more, the city clerk or city department designated by the governing body of the city; or a registrar appointed pursuant to section 2814. Population shall be determined according to the latest federal decennial census.

(5) "Miscarriage" means the spontaneous expulsion of a nonviable fetus that has completed less than 20 weeks of gestation.

(6) "Registration" means the acceptance by the state registrar and the incorporation of certificates provided for in this part into the official vital records.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1985, Act 20, Imd. Eff. May 16, 1985;—Am. 1990, Act 149, Imd. Eff. June 27, 1990;—Am. 2012, Act 499, Eff. Mar. 31, 2013.

Popular name: Act 368

333.2805 Definitions; S to V.

Sec. 2805. (1) "State registrar" means the official appointed under section 2813 or his or her authorized representative.

(2) "System of vital statistics" means the collection, certification, compilation, amendment, coordination, and preservation of vital records, including the tabulation, analysis, and publication of vital statistics.

(3) "Vital record" means a certificate or registration of birth, death, marriage, or divorce; an acknowledgment of parentage; or related data.

(4) "Vital statistics" means data derived from vital records and related reports.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1996, Act 307, Eff. June 1, 1997.

Popular name: Act 368

333.2811 Form and content of vital records and certificates.

Sec. 2811. The department shall prescribe the form and content of vital records and certificates, which, except as otherwise provided in this part, must conform as nearly as possible to recognized national standardized forms including, as required to comply with federal law, requirements for the entry of Social

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Security numbers.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1998, Act 332, Imd. Eff. Aug. 10, 1998;—Am. 2024, Act 252, Eff. Apr. 2, 2025.

Compiler's note: Enacting section 2 of 1998 PA 332 provides:

"Enacting section 2. The family independence agency shall request from the federal government an exemption from the provisions regarding the recording of social security numbers added by this 1998 amendatory act, which are intended to be used for the collection of child support, as required by federal law in order for this state to receive certain federal funds. Upon the granting of the exemption, those provisions referred to by this enacting section shall not be utilized or enforced by the state or a local governmental entity."

Popular name: Act 368

333.2813 State registrar; appointment; duties; inclusion of social security number; disclosure prohibited; violation; penalty.

Sec. 2813. (1) The director shall appoint, subject to civil service rules, a state registrar to administer the system of vital statistics.

(2) The state registrar shall:

(a) Administer and control the only system of vital statistics for this state, as authorized in this part and the rules promulgated pursuant to this part.

(b) Be the custodian of the system of vital statistics.

(c) Exercise superintending control over local registrars and administer and control the activities of local officials and all other persons as to the operation of the system of vital statistics. The state registrar shall require each local registrar to require, as required to comply with federal law, the entry of the social security number of each applicant on an application for his or her marriage license and of the deceased on his or her death certificate. The directive under this subdivision for the inclusion of a social security number on an application shall not be required of an applicant who is exempt under federal law from obtaining a social security number or who is exempt under federal or state law from including his or her social security number on such an application. The state registrar shall not require a marriage license applicant's social security number to be displayed on the marriage license.

(d) Issue instructions for the administration of the system of vital statistics and conduct training programs to promote uniformity of policy and procedures throughout the state in matters pertaining to the system of vital statistics.

(e) Prescribe, furnish, and distribute forms for vital records and vital statistics or prescribe other means of transmitting vital records and vital statistics information as required by this part and the rules promulgated pursuant to this part.

(f) Prepare and publish reports of vital statistics.

(3) A person shall not disclose, in a manner not authorized by law or rule, a social security number collected as required by this section. A violation of this subsection is a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both. A second or subsequent violation of this subsection is a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1998, Act 332, Imd. Eff. Aug. 10, 1998.

Popular name: Act 368

333.2814 City clerk or city department as local registrar; rules.

Sec. 2814. (1) A city having a population of less than 40,000 and an institution located within the city limits may request the state registrar to approve the governing body's appointment of a city clerk or a city department as a local registrar.

(2) The department shall promulgate rules for the administration of this section.

History: Add. 1985, Act 20, Imd. Eff. May 16, 1985.

Popular name: Act 368

333.2815 Local registrar; duties.

Sec. 2815. (1) A county board of commissioners and the governing body of a city having a population of 40,000 or more may agree that the county clerk or the clerk's deputy shall act as the local registrar for the city.

(2) A local registrar shall do all of the following:

(a) Record and transmit vital records and statistics as required by this part.

(b) Furnish blank forms and instructions provided by the state registrar to persons required to file vital records and vital statistics. A form or blank, including, but not limited to, a form or blank in an electronic format, other than those provided or approved by the state registrar shall not be used.

(c) Examine each vital record before accepting the record for registration. If the record is incomplete or

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unsatisfactory, the local registrar shall require the submission of additional information necessary to complete the record before accepting it for registration.

(d) Affix his or her identification to each vital record accepted for registration and document the date of its acceptance.

(e) Transmit, in the manner prescribed by the state registrar, the vital record to the department. The local registrar shall preserve at the local registrar's office information prescribed by the state registrar.

(f) Issue a certificate of registration for a live birth on a form approved by the state registrar and issue certified copies of vital records documents on file pursuant to sections 2881, 2882, and 2891.

(g) Issue a permit for final disposition of a dead body upon receipt of sufficient evidence that death occurred within the local registrar's jurisdiction.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1985, Act 20, Imd. Eff. May 16, 1985;—Am. 1997, Act 30, Imd. Eff. June 19, 1997.

Popular name: Act 368

333.2821 Birth registration required; filing record of birth; time of registration; transmission to childhood immunization registry.

Sec. 2821. (1) Birth registration is required for each individual born in this state.

(2) A record of birth for each live birth that occurs in this state shall be filed at the office of the local registrar not more than 5 days after the birth. The birth shall be registered when the filing is completed.

(3) Upon receipt of a vital record consisting of a birth registration transmitted by a local registrar pursuant to section 2815(2), the state registrar shall transmit the information contained in the birth registration to the childhood immunization registry created in section 9207 .

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1996, Act 540, Imd. Eff. Jan. 15, 1997.

Popular name: Act 368

333.2822 Individuals required to report live birth occurring in state; "surrender" defined.

Sec. 2822. (1) The following individuals shall report a live birth that occurs in this state:

(a) If a live birth occurs in an institution or enroute to an institution, the individual in charge of the institution or that individual's designated representative shall obtain the personal data, prepare the certificate of birth, secure the signatures required by the certificate of birth, and file the certificate of birth with the local registrar or as otherwise directed by the state registrar within 5 days after the birth. The physician or other individual in attendance shall provide the medical information required by the certificate of birth and certify to the facts of birth not later than 72 hours after the birth. If the physician or other individual does not certify to the facts of birth within 72 hours, the individual in charge of the institution or the individual's authorized representative shall complete and certify the facts of birth.

(b) If a live birth occurs outside an institution, the record must be prepared, certified, and filed with the local registrar by 1 of the following individuals in the following order of priority:

(*i*) The physician in attendance at or immediately after the live birth.

(*ii*) Any other individual in attendance at or immediately after the live birth.

(*iii*) A parent, or, in the absence of a parent, the individual in charge of the premises where the live birth occurs.

(c) If a newborn is surrendered under the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, the live birth must be reported in the same manner as provided in subdivision (a), except that the parents must be listed as "unknown" and the newborn must be listed as "Baby Doe".

(d) If a live birth occurs during an attempted abortion and the mother of the newborn has expressed a desire not to assume custody and responsibility for the newborn by refusing to authorize necessary life-sustaining medical treatment, the live birth must be reported as follows:

(*i*) If the attempted abortion took place in an institution, the live birth must be reported in the same manner as provided in subdivision (a), except that the parents must be listed as "unknown" and the newborn must be listed as "Baby Doe".

(*ii*) If the attempted abortion took place outside an institution, the live birth must be reported in the same manner as provided in subdivision (b), except that the parents must be listed as "unknown" and the newborn must be listed as "Baby Doe".

(2) As used in this section, "surrender" means that term as defined in section 1 of the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 691, Eff. Mar. 31, 2003;—Am. 2017, Act 142, Eff. Jan. 28, 2018;—Am. 2024, Act 25, Eff. Apr. 2, 2025.

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Popular name: Act 368

333.2823 Registration of live birth occurring in moving conveyance.

Sec. 2823. (1) When a live birth occurs in a moving conveyance in the United States and the child is first removed from the conveyance in this state, the birth must be registered in this state. Except as otherwise provided in section 2823a, the place where the child is first removed from the conveyance must be shown as the place of birth.

(2) When a live birth occurs in a moving conveyance while in international waters or air space or a foreign country and the child is first removed from the conveyance in this state, the birth must be registered in this state but the certificate must show the actual place of birth if the place can be determined.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.2823a Certificate; place of live birth.

Sec. 2823a. (1) Except as otherwise provided in subsection (2), when a live birth occurs in this state, the place of birth must be listed on the certificate as follows:

(a) If the live birth occurs in an institution or en route to an institution, the place of birth must be listed as the institution.

(b) If the live birth occurs in or en route to a freestanding birth center licensed under article 17, the place of birth must be listed as the freestanding birth center.

(c) If the live birth occurs in a home, the place of birth must be listed as "home".

(2) The place of birth of a child of unknown parentage who is found is as provided in section 2825.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.2824 Registering name of spouse as parent of child; registering surname of child; consent; acknowledgment of parentage; designating surname of child; entering name of other parent and surname of child on birth certificate; other parent not named on birth registration; reference to legitimacy or illegitimacy prohibited.

Sec. 2824. (1) Except as otherwise provided by law, the name of the spouse at the time of conception or, if none, the spouse at birth must be registered as the other parent of the child. The surname of the child must be registered as designated by the child's parents.

(2) Except as otherwise provided by law, if the child's mother was not married at the time of conception or birth, the name of the other parent must not be entered on the certificate of birth without the written consent of the mother and without the completion, and filing with the state registrar, of an acknowledgment of parentage by the mother and the individual to be named as the other parent. The acknowledgment of parentage must be completed in the manner provided in the acknowledgment of parentage act. For a certificate of birth completed under this subsection and on the written request of both parents, the surname of the child must be designated by the child's parents.

(3) If the name of the child's other parent cannot be shown under subsection (1) or (2), the child must be given the surname designated by the mother.

(4) If the parentage of a child is determined by a court of competent jurisdiction, the name of a parent must be entered on the certificate of birth as found and ordered by the court. The surname of the child must be entered on the certificate of birth as designated by the child's mother.

(5) If the child's other parent is not named on the birth registration, no other information about the other parent may be entered on the registration.

(6) After May 30, 1979, a birth certificate must not contain a reference to the legitimacy or illegitimacy of a child.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1979, Act 23, Imd. Eff. May 30, 1979;—Am. 1993, Act 115, Imd. Eff. July 20, 1993;—Am. 1996, Act 307, Eff. June 1, 1997;—Am. 2024, Act 25, Eff. Apr. 2, 2025.

Popular name: Act 368

333.2825 Assuming custody of live born child of unknown parentage; form, contents, and filing of report; place of birth; report as birth registration; sealing and opening of report.

Sec. 2825. (1) A person who assumes custody of a live born child of unknown parentage shall report on a form and in a manner prescribed by the state registrar the following information:

(a) The date and place of finding the child.

(b) The sex and approximate birth date of the child.

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(c) The name and address of the person or institution with whom the child is placed for care.

(d) The name given to the child by the custodian of the child.

(e) Other data required by the state registrar.

(2) The report shall be filed in the manner prescribed by the state registrar not later than 5 days after the person assumes custody.

(3) The place where the child is found shall be entered as the place of birth.

(4) A report made under this section constitutes the birth registration for the child.

(5) If the child is identified and a birth registration is found or obtained, a report registered under this section shall be sealed and may be opened only by order of a court of competent jurisdiction or as provided by rule.

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

Popular name: Act 368

333.2827 Failure to register birth within time prescribed; filing certificate of birth; registration of birth subject to evidentiary requirements; marking certificate “delayed” and showing date of delayed registration; endorsing summary statement of evidence on certificate; failure to register due to conflict of information.

Sec. 2827. (1) When the birth of an individual born in this state has not been registered within the time period prescribed in section 2821, a certificate of birth may be filed in accordance with procedures established pursuant to section 2896 or as otherwise provided under subsection (4). The certificate shall be registered subject to evidentiary requirements the department prescribes to substantiate the alleged facts of birth.

(2) Except as otherwise provided under subsection (4), a certificate of birth registered 1 year or more after the date of birth shall be marked "delayed" and show on its face the date of the delayed registration.

(3) A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate.

(4) A certificate of birth that was not originally registered due to a conflict of information provided pursuant to section 2824(1) shall be registered upon the resolution of that conflict or upon the child who is the subject of the certificate of birth reaching the age of 18. A certificate of birth registered pursuant to this subsection is considered to have been filed and registered on the date the department originally received the birth information and shall not be marked "delayed".

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 567, Imd. Eff. Jan. 3, 2007.

Popular name: Act 368

333.2828 Conditions prohibiting registration of delayed certificate of birth; advising applicant of reasons and right of appeal; dismissal of application; judicial findings and order; forwarding order to state registrar; registration of order as certificate of birth; forwarding copy of delayed registration to local registrar.

Sec. 2828. (1) If an applicant does not submit the minimum documentation required by rules for delayed registration of a birth or if the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statement or the documentary evidence, the state registrar shall not register the delayed certificate of birth and shall advise the applicant of the reasons for this action and of the applicant's right of appeal to the probate court of the county of residence or birth.

(2) The department may provide for the dismissal of an application which is not actively prosecuted.

(3) If, on the basis of the evidence presented, the court finds that the individual for whom a delayed certificate of birth is sought was born in this state, the court shall make findings as to the place and date of birth, parentage, and other findings required by the case and shall issue an order on a form prescribed and furnished by the state registrar to establish a certificate of birth. The order shall include the birth data to be registered, a description of the evidence presented, and the date of the court's action.

(4) The clerk of the court shall forward the order to the state registrar not later than the tenth day of the calendar month following the month in which the order was entered. The order shall be registered by the state registrar and shall constitute the certificate of birth.

(5) The state registrar shall forward a copy of a delayed registration to the local registrar of the district where the birth occurred.

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

Popular name: Act 368

333.2829 Report of adoption; form; contents; report when adoption order amended,

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annulled, or rescinded; duty of probate register or clerk; requirements of birth certificate issued to adopted individual.

Sec. 2829. (1) For each adoption ordered by the probate court in this state, the court shall prepare a report of adoption on a form prescribed and furnished by the state registrar. The report shall:

(a) Include the facts necessary to locate and identify the certificate of live birth of the individual adopted.

(b) Provide information necessary to establish a new certificate of live birth of the individual adopted.

(c) Identify the adoption order.

(d) Be certified by the probate register or clerk.

(2) When an adoption order is amended, annulled, or rescinded, the court shall prepare a report which shall include the facts necessary to identify the original adoption report and the facts amended in the adoption order necessary to properly amend the birth record. The report of a rescission of adoption shall include the current names and addresses of the petitioners.

(3) Not later than the tenth day of the calendar month, the probate register or clerk shall forward:

(a) To the state registrar, reports of adoption orders, and amendments, annulments, and rescissions of the orders, entered during the preceding month for individuals born in this state.

(b) To the appropriate registration authority in another state, the United States department of state, or the United States immigration and naturalization service, reports of adoption orders, and amendments, annulments, and rescissions of the orders, entered during the preceding month for individuals born outside this state.

(4) A birth certificate issued to an adopted individual shall conform to the requirements of sections 67 and 68 of chapter X of Act No. 288 of the Public Acts of 1939, as amended, being sections 710.67 and 710.68 of the Michigan Compiled Laws.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1979, Act 208, Eff. May 14, 1980;—Am. 1992, Act 248, Imd. Eff. Nov. 19, 1992.

Popular name: Act 368

333.2830 Adoption of child born outside United States, territory of United States, or Canada; filing, form, and contents of delayed registration of birth; petition for issuance of delayed registration of birth; entering change of name.

Sec. 2830. (1) If a child whose birth occurred outside the United States, a territory of the United States, or Canada is adopted by a resident of this state under the laws of this state or under the laws of a foreign country, the probate court, on motion of the adopting parent, may file a delayed registration of birth on a form provided by the department. The delayed registration shall contain the date and place of birth and other facts specified by the department.

(2) If the date and place of birth of a child described in subsection (1) cannot be documented from foreign records or a medical assessment of the development of the child indicates that the date of birth as stated in the immigration records is not correct, the court shall determine the facts and establish a date and place of birth and may file a delayed registration of birth as provided in subsection (1).

(3) Upon the petition of a child adopted in this state whose birth occurred outside the United States, a territory of the United States, or Canada, or a petition of the child's adoptive parents, the court that issued an order of adoption for that child before the effective date of this section may issue a delayed registration of birth for the adopted child as provided in subsection (1).

(4) A probate court may, at the request of the adopting parent when filing a delayed registration of birth under subsection (1), enter a new name for the child on the delayed registration of birth. After the filing of a delayed registration of birth that includes a change of name, the new name shall be the legal name of the adopted child.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1994, Act 242, Eff. July 5, 1994;—Am. 2005, Act 22, Imd. Eff. May 19, 2005.

Popular name: Act 368

333.2831 New certificate of birth; establishment; requirements.

Sec. 2831. The state registrar shall establish a new certificate of birth for an individual born in this state when the registrar receives any of the following:

(a) A report of adoption as provided in section 2829, a report of adoption prepared and filed under the laws of another state or foreign country, or a certified copy of the adoption order, together with the information necessary to identify the original certificate of birth and to establish a new certificate of live birth. However, the state registrar shall not establish a new certificate of live birth if so requested by the court ordering the adoption; the adopting parent; or the adoptee, if the adoptee is an adult.

(b) A request that a new certificate be established and the evidence required by the department proving that

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the individual's parentage has been established.

(c) A request that a new certificate be established to show a sex designation other than that designated at birth. The request must be accompanied by a form approved by the director and signed by the individual indicating a sex designation. If the form is accompanied by a court order changing the name of the individual, the new certificate must also reflect the new legal name. The state registrar may not require any additional document or certification other than the form, or, if applicable, the court order, required under this subdivision.

(d) A judgment or a parentage judgment under section 203 or 308 of the assisted reproduction and surrogacy parentage act, 2024 PA 24, MCL 722.1803 and 722.1908, together with the information necessary to identify the original certificate of birth and to establish a new certificate of live birth.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1996, Act 307, Eff. June 1, 1997;—Am. 2024, Act 25, Eff. Apr. 2, 2025;—Am. 2024, Act 230, Eff. Apr. 2, 2025.

Popular name: Act 368

333.2832 New certificate of birth; actual place and date of birth to be shown; substitution for original certificate; inspection; restoration of original certificate upon notice of annulment or rescission of adoption; preparing new certificate on delayed birth certificate form; sealing or forwarding original certificate.

Sec. 2832. (1) When a new certificate of live birth is established, the actual place and date of birth must be shown. The new certificate must be substituted for the original certificate of live birth. Thereafter, the original certificate and the evidence of adoption, sex designation, or assisted reproduction or surrogacy under the assisted reproduction and surrogacy parentage act are not subject to inspection except as otherwise provided in section 2882(2) or (3) or on a court order. Evidence in support of other birth record changes is subject to inspection as provided in sections 2882 and 2883.

(2) On the receipt of notice of annulment of adoption or a copy of an order of rescission, the original certificate of live birth must be restored to its place in the files. The certificate created under subsection (1) is not subject to inspection except on a court order.

(3) If a certificate of live birth is not on file for the individual for whom a new live birth certificate is to be established under section 2831, a new live birth certificate may be prepared on the delayed birth certificate form in use at the time of the adoption, legitimation, parentage determination, or judgment or parentage judgment under section 203 or 308 of the assisted reproduction and surrogacy parentage act.

(4) When a new certificate of live birth is established by the state registrar, all copies of the original certificate of birth in the custody of a custodian of permanent records in this state must be sealed from inspection or forwarded to the state registrar, as the state registrar directs.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 248, Imd. Eff. Nov. 19, 1992;—Am. 1994, Act 206, Eff. Jan. 1, 1995;—Am. 1996, Act 307, Eff. June 1, 1997;—Am. 2024, Act 25, Eff. Apr. 2, 2025.

Popular name: Act 368

333.2833 Recording death on decedent's birth certificate; notification; recordation by department or local registrar; recordation on face of copies of certificate; correction of record.

Sec. 2833. (1) The death of a person whose birth is registered under this code shall be recorded on the decedent's birth certificate in compliance with this section.

(2) Upon receipt of a certificate of death for a person under 45 years of age, the department shall notify the local registrar of the registration district in which a birth certificate for the decedent is maintained and, if a birth certificate for the decedent is maintained by the department, record the fact of death on the decedent's birth certificate.

(3) If the person was born in another state, the state registrar shall notify the state registrar of vital records in the state of birth that the person is deceased.

(4) Upon receipt of a notice from the department that there is on file in the local registrar's office a birth certificate of a deceased person, the local registrar shall record the fact of death on the birth record of the decedent.

(5) A copy of a birth certificate or certificate of registration issued for records identified and marked in accordance with subsections (1) and (2) shall have recorded on the face of the copy or certificate of registration the fact that the individual is deceased.

(6) Upon receipt of a notice that a record identified and marked in accordance with subsections (1) and (2) has been marked in error, the record may be corrected in accordance with this part.

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 385, Imd. Eff. Jan. 6, 1981.

Popular name: Act 368

333.2834 Report of fetal death; time, form, and manner; prohibited information; report if dead fetus delivered in or outside institution; notice to medical examiner; investigation and report; use and disposition of confidential statistical reports; disclosure identifying biological parents prohibited; incorporation of records into system of vital statistics; certificate of stillbirth.

Sec. 2834. (1) A fetal death occurring in this state shall be reported to the state registrar within 5 days after delivery. The state registrar shall prescribe the form and manner for reporting fetal deaths.

(2) The fetal death reporting form shall not contain the name of the biological parents, common identifiers such as social security or drivers license numbers, or other information identifiers that would make it possible to identify in any manner or in any circumstances the biological parents of the fetus. A state agency shall not compare data in an information system file with data in another computer system that would result in identifying in any way a woman or father involved in a fetal death. Statistical information that may reveal the identity of the biological parents involved in a fetal death shall not be maintained. This subsection does not apply after June 1, 2003.

(3) If a dead fetus that has completed at least 20 weeks of gestation or weighs at least 400 grams is delivered in an institution, the individual in charge of the institution or his or her authorized representative shall prepare and file the fetal death report and shall follow the protocols in place for the institution in the event of a death that occurs after a live birth but before being discharged from the institution.

(4) If a dead fetus that has completed at least 20 weeks of gestation or weighs at least 400 grams is delivered outside an institution, the physician in attendance shall prepare and file the fetal death report.

(5) If a fetal death occurs without medical attendance at or after the delivery or if inquiry is required by the medical examiner, the attendant, mother, or other person having knowledge of the fetal death shall notify the medical examiner who shall investigate the cause and prepare and file the fetal death report.

(6) The fetal death reports required under this section and filed before June 1, 2003 are confidential statistical reports to be used only for medical and health purposes and shall not be incorporated into the permanent official records of the system of vital statistics. A schedule for the disposition of these reports shall be provided for by the department. The department or any employee of the department shall not disclose to any person outside the department the reports or the contents of the reports required by this section and filed before June 1, 2003 in a way that permits the person to whom the report is disclosed to identify the biological parents.

(7) The fetal death reports required under this section and filed on or after June 1, 2003 are permanent vital records documents and shall be incorporated into the system of vital statistics. Access to a fetal death report or information contained on a fetal death report is the same as a live birth record under sections 2882, 2883, and 2888.

(8) With information provided to the department under subsection (7), the department shall create a certificate of stillbirth that conforms as nearly as possible to recognized national standardized forms and includes, but is not limited to, the following information:

(a) The name of the fetus, if it was given a name by the parent or parents.

(b) The number of weeks of gestation completed.

(c) The date of delivery and weight at the time of delivery.

(d) The name of the parent or parents.

(e) The name of the institution in which the fetus was delivered or the name of the health professional in attendance if the delivery was outside an institution.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 562, Imd. Eff. Oct. 1, 2002;—Am. 2012, Act 499, Eff. Mar. 31, 2013.

Popular name: Act 368

333.2835-333.2837 Repealed. 2023, Act 209, Eff. Feb. 13, 2024.

Compiler's note: The repealed sections pertained to the reporting of abortions and any physical complications or death resulting from abortion and the disposal of fetal remains.

Popular name: Act 368

333.2841 Death registration required; place of death; failure to report death to law enforcement agency, funeral home, or 9-1-1 operator; violation; penalty.

Sec. 2841. (1) Death registration is required for each individual who dies in this state. If the place of death is unknown, but the body is found in this state, the death registration shall show this fact and shall be

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completed and filed in accordance with this section and section 2842. The place where the body is found shall be shown as the place of death.

(2) Except as otherwise provided under this part, an individual who discovers the body of an individual he or she knows or has reason to know is dead and fails to inform a law enforcement agency, a funeral home, or a 9-1-1 operator of the discovery is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both. This subsection does not apply to an individual who knows or has reason to know that a law enforcement agency, a funeral home, or a 9-1-1 operator has been informed of the discovery of the body.

(3) A person who violates subsection (2) with the purpose of concealing the fact or cause of death of the individual is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both.

(4) A sentence imposed for a violation of this section may be imposed to run consecutively to any other sentence imposed for a conviction that arises out of the same transaction.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 538, Eff. Apr. 1, 2013.

Popular name: Act 368

333.2842 Death registration; death occurring in moving conveyance.

Sec. 2842. (1) When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death registration shall show this fact and be completed and filed in accordance with this part. The place where the body is first removed from the conveyance, shall be shown as the place of death.

(2) When death occurs in a moving conveyance while in international waters or air space or a foreign country and the body is first removed from the conveyance in this state, the death shall be registered in this state in accordance with this part, but the certificate shall show the actual place of death insofar as the place can be determined.

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

Popular name: Act 368

333.2843 Report of death by funeral director; "dead body" defined; personal data; medical certification; neglecting or refusing to sign death certificate as misdemeanor; penalty; certification and filing of death record; deceased infant; information.

Sec. 2843. (1) A funeral director who first assumes custody of a dead body, either personally or through his or her authorized agent, shall report the death. For purposes of this subsection, "dead body" includes, but is not limited to, the body of an infant who survived an attempted abortion as described in the born alive infant protection act and who later died. The funeral director or the authorized agent shall obtain the necessary personal data from the next of kin or the best qualified individual or source available and shall obtain medical certification as follows:

(a) If the death occurred outside an institution, the medical certification portion of the death record shall be completed and certified not later than 48 hours after death by the attending physician; or in the absence of the attending physician, by a physician acting as the attending physician's authorized representative; or in the absence of an authorized representative, by the county medical examiner; or in the absence of the county medical examiner, by the county health officer or the deputy county medical examiner. If the death occurred in an institution, the medical certification shall be completed and signed not later than 48 hours after death by the attending physician; or in the absence of the attending physician, by a physician acting as the attending physician's authorized representative; or in the absence of an authorized representative, by the chief medical officer of the institution in which death occurred, after reviewing pertinent records and making other investigation as considered necessary, or by a pathologist.

(b) A physician described in subdivision (a), who for himself or herself or as an agent or employee of another individual neglects or refuses to certify a death record properly presented to him or her for certification by a funeral director or who refuses or neglects to furnish information in his or her possession, is guilty of a misdemeanor punishable by imprisonment for not more than 60 days, or a fine of not less than $25.00 nor more than $100.00, or both.

(2) A physician described in subsection (1)(a) shall provide the medical certification described in subsection (1)(a) within 48 hours after the death.

(3) A death record shall be certified by a funeral director who is licensed under article 18 of the occupational code, 1980 PA 299, MCL 339.1801 to 339.1812, or by an individual who holds a courtesy license under section 1806a of that act, MCL 339.1806a, and shall be filed with the local registrar of the district where the death occurred within 72 hours after the death.

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(4) Except as otherwise provided in this subsection, the death of an infant who was born alive following an attempted abortion and was surrendered to an emergency service provider under the safe delivery of newborns law, sections 1 to 20 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, and then died shall be reported in the same manner as for any death. However, the deceased infant shall be listed as "Baby Doe" and no information that would directly identify the deceased infant or the deceased infant's parents shall be reported, including, but not limited to, the following information:

(a) The name of the mother or father.

(b) The address of the mother or father.

(c) The name of the informant.

(d) The address of the informant.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 691, Eff. Mar. 31, 2003;—Am. 2013, Act 79, Eff. Sept. 26, 2013.

Popular name: Act 368

333.2843a Ascertaining if deceased person veteran; releasing information for graves registration list of all burials of veterans.

Sec. 2843a. A funeral director or his or her agent shall ascertain if the deceased person was a veteran of the armed forces of the United States. If the deceased person was a veteran of the armed forces of the United States, the funeral director or his or her agent shall release to the Michigan veterans' trust fund board of trustees and to the department of management and budget all information required for the compilation and maintenance of a graves registration list of all burials of veterans in this state, pursuant to Act No. 9 of the Public Acts of the First Extra Session of 1946, as amended, being sections 35.601 to 35.610 of the Michigan Compiled Laws.

History: Add. 1980, Act 479, Imd. Eff. Jan. 20, 1981.

Popular name: Act 368

333.2843b Physician having actual knowledge of presence in deceased individual of infectious agent; notification of funeral director or authorized agent; refusal to render services prohibited; effective date of subsection (1); confidentiality; rules; violation as misdemeanor.

Sec. 2843b. (1) If, at the time of death, a physician who is required to complete the medical certification under section 2843(1)(a) has actual knowledge of the presence in the deceased individual of an infectious agent, including acquired immunodeficiency syndrome-related virus, the physician shall notify the funeral director or the funeral director's authorized agent of the appropriate infection control precautions to be taken. The notification required by this subsection shall occur before the body is released to the funeral director or the funeral director's authorized agent. A funeral director or funeral director's authorized agent who receives notification under this subsection shall not refuse to render services as a result of having received the notification. This subsection shall take effect on the effective date of the rules required by subsection (3).

(2) The information contained in the notification required by subsection (1) shall be confidential. A person who receives confidential information under this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.

(3) Within 30 days after the effective date of this subsection, the department shall submit for promulgation under section 48 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.248 of the Michigan Compiled Laws, rules which define the term "infectious agent" for purposes of this section.

(4) The department may promulgate rules to administer this section.

(5) A person who violates subsection (2) is guilty of a misdemeanor.

History: Add. 1986, Act 185, Imd. Eff. July 8, 1986.

Compiler's note: Subsection (1) of this section took effect September 2, 1986, the date emergency rules required by subsection (3) were promulgated by the Department of Public Health.

Popular name: Act 368

333.2844 Referral of case to county medical examiner; determining and certifying cause of death; investigation; completing and signing medical certification; notice to funeral director; final disposition.

Sec. 2844. (1) When death occurs more than 10 days after the deceased was last seen by a physician, if the cause of death appears to be other than the illness or condition for which the deceased was being treated, or if the attending physician cannot accurately determine the cause of death, the case shall be referred to the county medical examiner for investigation to determine and certify the cause of death. If the county medical

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examiner determines that the case does not fall within his or her jurisdiction, the county medical examiner shall refer the case back to the deceased's physician within 24 hours for completion of the medical certification.

(2) When an investigation is required under Act No. 181 of the Public Acts of 1953, as amended, being sections 52.201 to 52.216 of the Michigan Compiled Laws, the county medical examiner shall determine the cause of death and shall complete and sign the medical certification within 48 hours after taking charge of the case.

(3) If the cause of death cannot be determined within 48 hours after death, the medical certification may be completed as provided by the department. The attending physician or county medical examiner shall give the funeral director in custody of the body notice of the reason for the delay, and final disposition shall not be made until authorized by the attending physician or medical examiner.

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

Popular name: Act 368

333.2844a Dental examination of dead body; forwarding records to law enforcement agency; entering information into national crime information center; cancellation of information.

Sec. 2844a. (1) In deaths investigated by the county medical examiner or deputy county medical examiner where he or she is not able to establish and verify, as required under section 5 of 1953 PA 181, MCL 52.205, the identity of the dead body by visual means, fingerprints, DNA, or other definitive identification procedures, the county medical examiner or deputy county medical examiner may have a qualified dentist, as determined by the county medical examiner or deputy county medical examiner, carry out a dental examination of the dead body. If the county medical examiner or deputy county medical examiner, with the aid of the dental examination and other identifying findings, is still not able to establish the identity of the dead body, the county medical examiner or deputy county medical examiner shall forward the dental examination records to the appropriate law enforcement agency. The law enforcement agency shall enter the information from the dental examination records into the national crime information center pursuant to section 8 of 1968 PA 319, MCL 28.258.

(2) If a person reported missing has not been found within 30 days, the law enforcement agency conducting the investigation for the missing person shall request the family or next of kin of the missing person to give them written consent to contact and request from the dentist of the missing person the person's dental records. The information from the dental records of the missing person shall be entered into the national crime information center by the law enforcement agency pursuant to section 8 of 1968 PA 319, MCL 28.258.

(3) If a person reported missing has been found, the law enforcement agency that entered the information under subsection (2) shall cancel the information.

History: Add. 1980, Act 418, Imd. Eff. Jan. 13, 1981;—Am. 1990, Act 149, Imd. Eff. June 27, 1990;—Am. 2006, Act 570, Imd. Eff. Jan. 3, 2007.

Popular name: Act 368

333.2845 Inability to locate body; registration of death upon receipt of findings of probate court; marking death registration; extension of time periods.

Sec. 2845. (1) When a death is presumed to have occurred in this state but the body cannot be located, the state registrar may register the death upon receipt of the findings of the probate court, including the personal and medical data required to complete the death registration. The death registration shall be marked "presumptive" and shall show on its face the date of registration and identify the court and the date of decree.

(2) The state registrar may provide for the extension of time periods prescribed for the filing of death registrations in cases where compliance would result in undue hardship.

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

Popular name: Act 368

333.2846 Failure to register death within prescribed time period; filing, registering, and marking certificate; evidentiary requirements.

Sec. 2846. (1) When a death occurring in this state is not registered within the time period prescribed by section 2843, a certificate may be filed in accordance with department procedures. The certificate shall be registered subject to evidentiary requirements the department prescribes to substantiate the alleged facts of death.

(2) A certificate of death registered 1 year or more after the date of death shall be marked "delayed" and shall show on its face the date of the delayed registration.

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

Popular name: Act 368

333.2847 Death of individual in county in which individual not a resident; information; issuance of certified copy or certificate of registration prohibited.

Sec. 2847. When a death registration returned by a local registrar to the state registrar indicates that an individual died in a county in which the individual was not a resident, the state registrar shall forward the necessary information monthly to the local registrar of the county in which the individual was a resident. A certified copy or certificate of registration based on this information shall not be issued by a local registrar receiving information under this section.

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

Popular name: Act 368

333.2848 Authorization for final disposition of dead body or fetus; time; form; retention of permit; religious service or ceremony not required; cremation; moving body; permit issued by other state.

Sec. 2848. (1) Except as otherwise provided in sections 2844 and 2845, a funeral director or person acting as a funeral director, who first assumes custody of a dead body, not later than 72 hours after death or the finding of a dead body and before final disposition of the body, shall obtain authorization for the final disposition. The authorization for final disposition of a dead body must be issued on a form prescribed by the state registrar and signed by the local registrar or the state registrar.

(2) Unless the mother has provided written consent for research on the dead fetus under section 2688, before final disposition of a dead fetus, irrespective of the duration of pregnancy, the funeral director or person assuming responsibility for the final disposition of the fetus or fetal remains shall obtain from the parents, or parent if the mother is unmarried, an authorization for final disposition on a form prescribed and furnished or approved by the state registrar. The authorization may allow final disposition to be by a funeral director, the individual in charge of the institution where the fetus was delivered or miscarried, or an institution or agency authorized to accept donated bodies, fetuses, or fetal remains under this act. The parents, or parent if the mother is unmarried, may direct the final disposition to be interment or cremation as those terms are defined in section 2 of the cemetery regulation act, 1968 PA 251, MCL 456.522, or incineration. After final disposition, the funeral director, the individual in charge of the institution, or other person making the final disposition shall retain the permit for not less than 7 years. This section as amended by 2012 PA 499 does not require a religious service or ceremony as part of the final disposition of fetal remains.

(3) If final disposition is by cremation, the medical examiner of the county in which death occurred shall sign the authorization for final disposition.

(4) A body may be moved from the place of death to be prepared for final disposition with the consent of the physician or county medical examiner who certifies the cause of death.

(5) A permit for disposition issued under the law of another state that accompanies a dead body or dead fetus brought into this state is authorization for final disposition of the dead body or dead fetus in this state.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 562, Imd. Eff. Oct. 1, 2002;—Am. 2012, Act 499, Eff. Mar. 31, 2013;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

Popular name: Act 368

333.2850 Interment or other disposition of dead body or fetus; duty of individual in charge of premises; record of final disposition.

Sec. 2850. An individual in charge of premises in which interments or other disposition of dead bodies is made shall not inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by an authorization for final disposition. An individual in charge of a place for final disposition shall keep a record of a final disposition made in the premises under his or her charge. The record shall state the name of the deceased, date and place of death, date of final disposition, and the name and address of the funeral director or person acting as a funeral director.

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

Popular name: Act 368

333.2851 Permit request for disinterment of dead human body.

Sec. 2851. (1) Subject to any other provision of this part, a person who has authority to make arrangements for a dead human body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206, also has authority to request a permit for the disinterment of a dead human body under section 2853

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notwithstanding the lack of consent of, or 1 or more objections of, a person who owns or possesses ownership rights over the place of repose. A person who owns or possesses ownership rights over the place of repose shall not bear any cost associated with the disinterment unless that person initiates the disinterment or is otherwise legally obligated for the costs of the disinterment.

(2) This section does not void or otherwise affect a gift made pursuant to part 101.

History: Add. 1996, Act 284, Imd. Eff. June 17, 1996;—Am. 2006, Act 301, Imd. Eff. July 20, 2006.

Popular name: Act 368

333.2852 Weather conditions requiring storage of dead body; authorization for delayed interment; disinterment and reinterment permit not required.

Sec. 2852. When weather conditions prevent an immediate interment of a dead body and storage is necessary, the individual in charge of a cemetery shall obtain written authorization for delayed interment signed by the next of kin or authorized agent. The authorization shall specify the approximate hour and date of interment and place of temporary storage. This storage is not considered interment and a disinterment and reinterment permit is not required.

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

Popular name: Act 368

333.2853 Permit for disinterment and reinterment required; issuance; forms for permits and applications; retention of application; copy of permit as permanent record; petition for disinterment order.

Sec. 2853. (1) A permit for disinterment and reinterment is required before disinterment of a dead body. The local health department in whose jurisdiction the body is interred shall issue the permit upon proper application by a licensed funeral director or person acting as a funeral director in accordance with rules promulgated by the department.

(2) A person shall not disinter or permit the disinterment of a dead body in a cemetery and the body's reinterment in a cemetery or removal from the cemetery unless a disinterment and reinterment permit is issued by the local health department in the jurisdiction in which the cemetery is located.

(3) The department shall prepare and furnish to local health departments the forms for permits and applications therefor, which shall be used in the procedures prescribed by this section and section 2852.

(4) The local health department shall retain an application for a disinterment and reinterment permit for not less than 5 years. A duplicate copy of the permit shall be maintained in permanent records of the cemetery from which the body was disinterred.

(5) If a required consent cannot be obtained, a person may petition the circuit court of the county in which the cemetery is located for a disinterment order.

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

Popular name: Act 368

Administrative rules: R 325.8051 et seq. of the Michigan Administrative Code.

333.2854 Failure to comply with provisions of MCL 333.2848; violation; state civil infraction; civil fine.

Sec. 2854. A person who violates this part by failing to obtain the proper authorization for final disposition of a dead body as provided under section 2848 is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $1,000.00 per violation.

History: Add. 2012, Act 499, Eff. Mar. 31, 2013;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

Popular name: Act 368

333.2855 Autopsy; physician to perform; consent; ordering of autopsy; exceptions; removal, retention, or use of pituitary gland; conditions; charge; submitting pituitary gland for treatment of human being; agreement.

Sec. 2855. (1) An autopsy shall not be performed upon the body of a deceased individual except by a physician who has been granted written consent to perform the autopsy by the person with authority over the burial or disposition of the body under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206. This section does not prevent the ordering of an autopsy by a medical examiner or a local health officer.

(2) This section does not apply to a department of anatomy in a school of medicine in this state or to an

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autopsy, postmortem, or dissection performed pursuant to and under the authority of any other law.

(3) A local health officer may order an autopsy if necessary to carry out the functions vested in a local health department by this code.

(4) A physician, including a medical examiner, performing an autopsy pursuant to subsection (1), (2), or (3) may remove, retain, or use the pituitary gland of the deceased individual if the removal, retention, or use of the pituitary gland is for purposes of medical research, education, or therapy, and the physician is unaware of any direction made by the deceased individual before death or of an objection made by the next of kin of the deceased individual that a part of the deceased individual's body not be removed.

(5) If consent for the performance of the autopsy is required pursuant to subsection (1), the physician shall obtain consent from the same individual for the removal, retention, or use of the pituitary gland of the deceased individual pursuant to subsection (4).

(6) Except for a reasonable charge related to the actual costs incurred and incident to removing and handling the pituitary gland, the removed pituitary gland shall be submitted, without charge, to hospitals, medical education or research institutions, or to individuals or organizations for the purpose of treating another human being. The hospital, medical education or research institution, or other individual or organization receiving the gland shall agree to furnish the gland, or a hormone produced from the gland, without charge.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 3, Imd. Eff. Feb. 4, 1982;—Am. 2006, Act 301, Imd. Eff. July 20, 2006

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Popular name: Act 368

333.2855a Public display of autopsy photograph; court action; applicability of section to internet service provider; constitutionally protected speech or activity not prohibited; definitions.

Sec. 2855a. (1) A person shall not publicly display an autopsy photograph of a decedent that identifies the decedent by name, face, or other identifying physical feature unless 1 of the following conditions is met:

(a) One of the following individuals specifically provides written authorization for the public display of the autopsy photograph:

(*i*) A person nominated by will or other writing signed by the decedent.

(*ii*) If an individual described in subparagraph (*i*) cannot be identified or located following a diligent and good faith effort, the decedent's spouse.

(*iii*) If an individual described in subparagraph (*i*) or (*ii*) cannot be identified or located following a diligent and good faith effort, an adult child of the decedent.

(*iv*) If an individual described in subparagraph (*i*), (*ii*), or (*iii*) cannot be identified or located following a diligent and good faith effort, a parent of the decedent.

(*v*) If an individual described in subparagraph (*i*), (*ii*), (*iii*), or (*iv*) cannot be identified or located following a diligent and good faith effort, the next of kin of the decedent.

(*vi*) If an individual described in subparagraph (*i*), (*ii*), (*iii*), (*iv*), or (*v*) cannot be identified or located following a diligent and good faith effort, an individual charged by law with the responsibility for burial or cremation of the decedent's body.

(b) The public display of the autopsy photograph is 1 of the following:

(*i*) Upon written authorization by the prosecuting attorney having jurisdiction for a purpose directly related to the investigation or prosecution of a criminal case.

(*ii*) Authorized by a court of competent jurisdiction for a purpose directly related to the proceedings in a civil case.

(*iii*) Required for a health department to carry out its lawful duties.

(*iv*) Necessary for legitimate research or teaching of only medical, public health, or public safety personnel or students enrolled at a postsecondary educational institution.

(2) A decedent's parent, surviving spouse, and children who are injured as a result of a violation of this section may bring an action in a court of competent jurisdiction to recover $1,000.00 or actual damages, whichever is greater, plus costs and reasonable attorney fees.

(3) This section does not apply to an internet service provider or computer network service provider who in good faith, and without knowledge of the content of the photograph, provides the medium for public display of the photograph. As used in this subsection, "internet service provider" means a person who provides a service that enables users to access content, information, electronic mail, or other services offered over the internet.

(4) This section does not prohibit constitutionally protected speech or activity.

(5) As used in this section:

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(a) "Autopsy photograph" means an image of a decedent obtained during an autopsy of that decedent in this state, and includes an image on videotape, motion picture or other film, or an image captured by digital means.

(b) "Decedent" means a deceased human being.

(c) "Public display" means to knowingly communicate, exhibit, or display in open view or to distribute to members of the public or in a public manner, whether or not for commercial purposes, through any medium of communication including, but not limited to, the internet or a computer, computer network, computer program, or computer system, as those terms are defined in section 2 of 1979 PA 53, MCL 752.792.

History: Add. 2003, Act 322, Eff. Mar. 31, 2004.

333.2861 Original marriage license certificates; filing; incorporating information relating to marriages in system of vital statistics.

Sec. 2861. (1) A local registrar shall file with the state registrar original marriage license certificates, including applications and licenses, in accordance with Act No. 128 of the Public Acts of 1887, as amended, being sections 551.101 to 551.111 of the Michigan Compiled Laws, and Act No. 180 of the Public Acts of 1897, as amended, being sections 551.201 to 551.204 of the Michigan Compiled Laws.

(2) The state registrar shall incorporate the information relating to marriages in this state in the system of vital statistics.

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

Popular name: Act 368

333.2864 Report of divorce proceedings; filing; forms; specifying number of divorces granted; report by party petitioning for divorce; signing and filing report; incorporating divorce reports in system of vital statistics.

Sec. 2864. (1) Before the fifth day of each calendar month the clerk of a circuit court shall file with the state registrar a report of divorce proceedings in the court for the preceding month.

(2) The report shall be made on forms prescribed by the state registrar and shall specify the number of divorces granted.

(3) A party petitioning for a divorce shall file with the petition a report, on a form prescribed and furnished by the state registrar to the county clerk, which shall include the information prescribed by the state registrar. When a divorce is granted the clerk of the court shall sign and file the report with the state registrar together with the monthly reports required by this section.

(4) The state registrar shall incorporate the divorce reports in the system of vital statistics.

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

Popular name: Act 368

333.2867 Information necessary to complete birth, death, marriage, or divorce registration; furnishing on demand; attesting accuracy of personal data regarding live birth registration.

Sec. 2867. (1) Upon the demand of the state registrar, local registrar, or other person responsible for the filing of vital records, a person who has information necessary to complete a birth, death, marriage, or divorce registration shall furnish that information to the person making the demand, who shall forward the information to the state registrar.

(2) A parent of a child shall attest to the accuracy of the personal data provided for in a live birth registration in time to permit filing within the 5 days prescribed in section 2821.

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

Popular name: Act 368

333.2871 Amendment of certificate or record; procedures; requirements; rules.

Sec. 2871. (1) A certificate or record registered under this part may be amended only in accordance with this part or procedures adopted under section 2896.

(2) Except as provided in subsection (3) and section 2872(1), a certificate or record amended under this section, section 2872, or section 2873 shall:

(a) Have the original information contained in the amended item expunged.

(b) Be marked "amended".

(c) Contain the date of the amendment.

(d) Identify the item amended.

(3) The department shall promulgate rules to prescribe the conditions under which an addition or minor

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amendment may be made to a certificate or record not later than 1 year after the date of the event without the certificate or record being considered as amended.

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

Popular name: Act 368

333.2872 Acknowledgement of paternity; creating new certificate of birth; changing surname of child; sealing original certificate; addendum to certificate of live birth; creating new live birth certificate and sealing original.

Sec. 2872. (1) Upon written request and receipt of an acknowledgment of paternity from the probate court of a child born out of wedlock, the state registrar shall create a new certificate of birth to show paternity. Upon the written request of the parents, the surname of the child must be changed on the certificate to that designated by the parents. The certificate must not be marked "amended". The original certificate of live birth must be sealed in accordance with section 2832.

(2) Upon receipt of a certified copy of a court order changing the name of an individual born in this state and upon request of the individual or the individual's parents, guardian, or legal representative, the state registrar shall affix an addendum to the individual's certificate of live birth, which must state the individual's new name and identify the court order. The state registrar shall create a new live birth certificate and seal the original certificate only if the court order changing the individual's name specifically directs the state registrar to do so or if the request relates to a minor whose name is changed under section 1 of chapter XI of the probate code of 1939, 1939 PA 288, MCL 711.1.

(3) The requirement under subsection (2) that a court order changing the individual's name must include a specific direction to the state registrar for the state registrar to create a new live birth certificate and seal the original certificate does not apply to a new certificate of birth established under section 2831(c).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2024, Act 230, Eff. Apr. 2, 2025.

Popular name: Act 368

333.2873 Conditions precluding amendment of vital record; reason for refusal; appeal; reporting amendment; preservation of original information.

Sec. 2873. (1) If an applicant does not submit the minimum documentation required by the department for amending a vital record or if the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statement or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise the applicant of the reason for the refusal. The applicant shall have the right to appeal to a circuit court.

(2) When a certificate is amended under this section or section 2871 or 2872, the state registrar shall report the amendment to the appropriate custodian of permanent local records who shall amend the record accordingly.

(3) The original information contained in a vital record which is amended shall be preserved by the state registrar in accordance with section 2876.

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

Popular name: Act 368

333.2876 Preservation of vital records and vital statistics; procedures.

Sec. 2876. The department shall provide by electronic or other means or by reproduction pursuant to the records media act for the preservation of vital records and vital statistics made or received by the department. Procedures shall be consistent with those established under the authority of part 26. The procedures shall require that vital records be stored in a manner reasonably calculated to assure the indefinite preservation of the information contained in the vital records against loss or destruction.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 196, Imd. Eff. Oct. 5, 1992.

Popular name: Act 368

333.2881 Procedures applicable to system of vital statistics; request and fee for verification of facts; request and fee for name and location of court which finalized adoption.

Sec. 2881. (1) The procedures established by the department pursuant to part 26 to protect the confidentiality of records and to regulate the disclosure of data contained in a departmental data system or system of records are applicable to the system of vital statistics.

(2) Except as otherwise provided in section 2890, upon written request and payment of the prescribed fee, the state registrar or local registrar shall verify for any person the following facts:

(a) The name or names of the individual to whom the vital record pertains.

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(b) The nature of the event.
(c) The date of the event.
(d) The place of the event.
(e) The date of filing.
(3) Upon written request of an adult person who has been adopted, and payment of a fee as prescribed in section 2891, the department shall inform the requester of the name and location of the court which finalized the adoption.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1979, Act 208, Eff. May 14, 1980;—Am. 1987, Act 83, Imd. Eff. June 29, 1987.

Popular name: Act 368

333.2882 Issuance of certain certified copies; request; fee; request of adopted adult or confidential intermediary; phrase to be marked on certificate provided under subsection (2) or (3).

Sec. 2882. (1) Except as otherwise provided in section 2890, on receipt of a written request and payment of the prescribed fee, if any, the state registrar or local registrar shall issue the appropriate 1 of the following:
(a) A certified copy of a live birth record, an affidavit of parentage filed after June 1, 1997, or a certificate or other record of stillbirth filed after June 1, 2003 to 1 of the following:
(*i*) The individual who is the subject of the record.
(*ii*) A parent named in the record.
(*iii*) An heir, a legal representative, or a legal guardian of the individual who is the subject of the record.
(*iv*) A court of competent jurisdiction.
(b) If the live birth record is 100 or more years old, a certified copy of the live birth record to any applicant.
(c) A certified copy of a death record, including the cause of death, to any applicant.
(d) A certified copy of a marriage or divorce record to any applicant, except as provided by rule.
(e) A certified copy of a fetal death record that was filed before September 30, 1978, to any applicant.
(2) On receipt of a written request of an adult who has been adopted and payment of the prescribed fee, the state registrar shall issue to that individual a copy of his or her original certificate of live birth, if the written request identifies the name of the adult adoptee and is accompanied by a copy of a central adoption registry clearance reply form that was completed by the department and delivered to that individual as required under section 68(9) of the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.68.
(3) On receipt of a written request of a confidential intermediary appointed under section 68b of the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.68b, presentation of a certified copy of the order of appointment, identification of the name of the adult adoptee, and payment of the required fee, the state registrar shall issue to the confidential intermediary a copy of the original certificate of live birth of the adult adoptee on whose behalf the intermediary was appointed.
(4) A copy of the original certificate of live birth provided under subsection (2) or (3) must have the following phrase marked on the face of the copy: "This document is a copy of a sealed record and is not the active birth certificate of the individual whose name appears on this document".

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1987, Act 83, Imd. Eff. June 29, 1987;—Am. 1994, Act 186, Imd. Eff. June 20, 1994;—Am. 1994, Act 206, Eff. Jan. 1, 1995;—Am. 1996, Act 307, Eff. June 1, 1997;—Am. 1997, Act 54, Imd. Eff. July 1, 1997;—Am. 2002, Act 544, Imd. Eff. July 26, 2002;—Am. 2002, Act 691, Eff. Mar. 31, 2003;—Am. 2020, Act 209, Imd. Eff. Oct. 15, 2020.

Popular name: Act 368

333.2882a Heirloom birth certificate; issuance; administration; fee; design; seal; signature of governor; marketing and promotion; certificate not official record; section to be referred to as "Pam Posthumus law."

Sec. 2882a. (1) In addition to the birth record copies and certificates issued under section 2882 and subject to the limitations of section 2882(1)(a) and (b), the state registrar shall issue, upon request and payment of the fee prescribed in subsection (2), an heirloom birth certificate representing the birth of the individual named on the original birth record or certificate. The state registrar may establish procedures for the administration of an heirloom birth certificate. The state registrar shall establish procedures to allow the purchase of a gift card or certificate that can be redeemed by a person eligible to purchase an heirloom birth certificate under this section.
(2) The fee for each heirloom certificate of birth is $40.00. The state registrar shall transmit $20.00 of each fee collected under this section to the state treasurer for deposit as a gift or donation into the children's trust

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fund created in 1982 PA 249, MCL 21.171 to 21.172.

(3) The department shall design each heirloom birth certificate available for issue under subsection (1) consistent with the form and content prescribed under section 2811 and so that it is suitable for display. An heirloom birth certificate may bear the seal of the state and may be signed by the governor.

(4) The department shall market and promote heirloom birth certificates available under this section.

(5) An heirloom birth certificate issued under this section is not an official record of birth and is not the active birth certificate of the individual whose name appears on the document.

(6) This section may be referred to as the "Pam Posthumus law".

History: Add. 2011, Act 28, Imd. Eff. May 16, 2011;—Am. 2012, Act 127, Imd. Eff. May 8, 2012.

Popular name: Act 368

333.2883 Furnishing copies or data from system of vital statistics; requirements; availability of copies of certificates or reports.

Sec. 2883. (1) The department may furnish copies or data from the system of vital statistics to the federal agency responsible for national vital statistics if the federal agency shares in the cost of collecting, processing, and transmitting the data, and if the data is not used for other than statistical purposes by the federal agency unless authorized by the state registrar.

(2) The department may furnish copies or data from the system of vital statistics to federal, state, local, and other public or private agencies for statistical or administrative purposes upon terms or conditions prescribed by the department if the copies or data are used only for the purpose for which requested unless otherwise authorized by the state registrar.

(3) The department may make available copies of certificates or reports required under this part or data derived from the certificates or reports that the department determines are necessary to local health agencies for local health planning and program activities.

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

Popular name: Act 368

333.2884 Transmitting transcripts of records and other reports to offices of vital statistics outside state; agreement; return of transcripts; transcripts received from other jurisdictions.

Sec. 2884. The state registrar, by agreement, may transmit transcripts of records and other reports required by this part to offices of vital statistics outside this state when the records or other reports relate to residents of those jurisdictions or individuals born in those jurisdictions. The agreement shall require that the transcripts be used for statistical and administrative purposes only as specified in the agreement. The transcripts shall be returned by the other jurisdiction not later than 2 years after the date of the event or after the statistical tabulations have been accomplished, whichever is sooner. Transcripts received from other jurisdictions by the department in this state shall be handled in the same manner.

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

Popular name: Act 368

333.2885 Transmission of vital records to library of Michigan.

Sec. 2885. (1) The state registrar may transmit on microfilm or microfiche or by other electronic means copies of the following vital record certificates or reports or indexes of the certificates or reports from the system of vital statistics to the library of Michigan to be made available to the public to facilitate genealogical research:

(a) Each death record certificate that is 75 years old or older.

(b) Each marriage record certificate that is 75 years old or older, excluding those marriage record certificates issued under 1897 PA 180, MCL 551.201 to 551.204.

(c) Each divorce record that is 75 years old or older.

(d) Each birth record certificate that is 110 years old or older unless the certificate has been sealed or the disclosure of that certificate is otherwise prohibited by law.

(2) To further facilitate genealogical research, the state registrar may do 1 or more of the following:

(a) Establish and implement a web-based mechanism to provide the public with internet access to those vital record certificates or reports or indexes of the certificates or reports described under subsection (1).

(b) Transmit copies of those vital record certificates or reports or indexes of the certificates or reports described under subsection (1) to federal, state, local, and other public or private entities.

(3) Vital records described under subsection (1)(a), (b), and (c) that were previously sealed by law or rule shall be unsealed and may be released by the state registrar as historical copies of the certificate of a vital

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event.

(4) The state registrar shall establish procedures for the transmission of those documents described in subsection (1). The state registrar may establish procedures for the updating and correcting of those documents described under subsection (1) that are subsequently amended or replaced.

(5) Vital records copies or information released by the state registrar in accordance with this section and no longer under the supervisory control of the state registrar shall not be considered prima facie evidence of the facts within those copies or other information.

History: Add. 2006, Act 73, Imd. Eff. Mar. 20, 2006.

Popular name: Act 368

Compiler's note: For transfer of powers and duties of library of Michigan and state librarian, except pertaining to services for blind and physically handicapped and those related to census data functions, to department of education, see E.R.O. No. 2009-26, compiled at MCL 399.752.

333.2886 Certified copies considered same as original; prima facie evidence.

Sec. 2886. A certified copy of a vital record, or any part thereof, or a certificate of registration issued in accordance with sections 2881 and 2882 is considered for all purposes the same as the original and is prima facie evidence of the facts stated in the original.

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

Popular name: Act 368

333.2888 Inspection of vital records, disclosure of information, and issuance of copies; procedures; appeal to state registrar.

Sec. 2888. (1) To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the system of vital statistics, a person or governmental entity shall not permit inspection of, disclose information contained in vital records, or copy or issue a copy of all or part of a record except as authorized by this part, by rule, or by order of a court of competent jurisdiction. Vital records and information or any part of the information contained in a vital record is not subject to the provisions of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Procedures shall provide for adequate standards of security and confidentiality of vital records.

(2) The department may establish procedures for the disclosure of information contained in vital records for research purposes.

(3) An appeal from a decision of a custodian of permanent local records refusing to disclose information, or to permit inspection of or copying of records under the authority of this section and procedures adopted under section 2896, shall be made to the state registrar, whose decision is binding on the local custodian of permanent local records.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 562, Imd. Eff. Oct. 1, 2002.

Popular name: Act 368

Administrative rules: R 325.3231 et seq. of the Michigan Administrative Code.

333.2889 Tagging birth certificate of missing child; notifying state police of request for copy of certificate; matching LEIN entry and certificate; tagging by local registrar; removal of tag.

Sec. 2889. (1) Upon notification pursuant to section 8 of Act No. 319 of the Public Acts of 1968, being section 28.258 of the Michigan Compiled Laws, that a person less than 17 years of age who was born in this state is missing, the state registrar shall immediately tag the birth certificate of that person in a manner that will alert the registrar to the fact that the birth certificate is that of a missing child. The state registrar shall immediately notify the appropriate local registrars to similarly tag the birth certificate or appropriate document of the missing child. The state registrar shall check to see if a request for a copy of the missing child's birth certificate was received within 14 days preceding the tagging of the birth certificate. If a request had been received, the state registrar shall immediately notify the state police of the request.

(2) The state registrar may access the law enforcement information network to obtain from the law enforcement agency reporting the missing person information necessary to provide a positive match between the missing person's LEIN entry and the missing person's birth certificate.

(3) Upon notification by the state registrar pursuant to subsection (1), the local registrar shall immediately tag the birth certificate or appropriate document of a missing child in a manner that will alert the registrar to the fact that the birth certificate is that of a missing child.

(4) Upon notification pursuant to section 8 of Act No. 319 of the Public Acts of 1968 that the information entered into the law enforcement information network regarding a missing child has been canceled, the state

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registrar shall remove the tag from the child's birth certificate not later than 7 days after receiving the notice.

(5) Upon removal of a tag by the state registrar pursuant to subsection (4), the state registrar shall immediately notify the local registrar who shall remove the tag from the missing child's birth certificate or appropriate document not later than 7 days after receiving the notice from the state registrar.

History: Add. 1987, Act 83, Imd. Eff. June 29, 1987.

Popular name: Act 368

333.2890 Issuing birth certificate, certificate of registration, or information by mail; marking phrase “missing person” on face of document; telephoning state registrar upon receipt of request for tagged record; providing state registrar with certain information; telephoning state police; notice to law enforcement agency.

Sec. 2890. (1) If a missing child's birth certificate is tagged pursuant to section 2889, the state registrar and local registrar shall only issue a copy of the missing child's birth certificate, certificate of registration, or otherwise verify, certify, or provide information concerning the items indicated in section 2881(2) by mail. The document mailed shall have the phrase "missing person" marked on the face of the document and shall not be mailed until at least 72 hours have passed from the time the registrar notified the department of state police pursuant to subsection (2).

(2) A local registrar shall immediately telephone the state registrar upon receipt of a request for a record tagged pursuant to section 2889 and shall provide as soon as possible a copy of the written request and any pertinent information such as the requester's name, address, and if requested in person, the requester's driver's license number, to the state registrar. If the state registrar receives a request for a record tagged pursuant to section 2889 or the local registrar notifies the state registrar of the receipt of a request for a tagged record, the state registrar shall immediately telephone the state police and shall provide as soon as possible a copy of the written request and any pertinent information such as the requester's name, address, and if requested in person, the requester's driver's license number, to the department of state police. The department of state police shall immediately notify the appropriate law enforcement agency of a request for a tagged record and shall forward to that agency the information received from the registrar.

History: Add. 1987, Act 83, Imd. Eff. June 29, 1987.

Popular name: Act 368

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333.2891 Search for vital record; request; fee; official statement if record not located; verification of identity; fees for search, establishment, or registration; furnishing copies without charge; fees for creation of new vital records and corrections of vital records; additional fees; disposition of fees; system of fees for local registrars; vital records fund; "central issuance system" defined.

Sec. 2891. (1) The state registrar or a local registrar shall, on receipt of a written request and payment of the prescribed fee, conduct a search for a vital record for an individual who purports to be eligible under section 2882 or for an agency under section 2883(2) to receive a certified copy, administrative use copy, or a statistical use copy of the requested vital record. However, if a local registrar receives a written request and payment of the fee charged by the local registrar under this section from an individual who purports to be eligible under section 2882 to receive a certified copy of an allowable individual's birth record, the local registrar shall notify the state registrar. On receipt of the notification, the state registrar shall conduct a search for the allowable individual's birth record within 24 hours and shall do 1 of the following, as applicable:

(a) If the local registrar has access to the central issuance system, electronically transmit the allowable individual's birth record to the local registrar. If the local registrar does not have access to the central issuance system, mail a copy of the allowable individual's birth record to the local registrar. This subdivision does not apply to a request for a birth record described in section 2882(2) or (3). As used in this subdivision, "central issuance system" means the database maintained by the state registrar from which a state certified copy of a birth record may be issued.

(b) If the allowable individual's birth record cannot be located after conducting the search for the record, notify the local registrar of that fact.

(2) Except as otherwise provided in subsection (1)(b), if a search for a vital record is conducted by the state registrar and the vital record cannot be located, the state registrar shall issue an official statement that the vital record could not be located instead of a certified copy or an administrative use copy of the vital record. If a search for a vital record is conducted by a local registrar and the vital record cannot be located, the local registrar may issue an official statement as described in this subsection, and the local registrar may waive the prescribed fee.

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(3) The state registrar or a local registrar may require an applicant who requests a certified copy, an administrative use copy, or a statistical use copy of a vital record to provide verification of the applicant's identity before releasing the vital record if eligibility for the vital record is restricted under section 2882.

(4) Subject to subsection (8), (19), or (20), the fees for a search for a vital record are as follows:

(a) A search including 1 certified copy, 1 administrative use copy, or 1 statistical use copy of a vital record or an official statement issued by the state registrar that a vital record could not be located	$34.00
(b) Additional identical copies ordered at the same time	$16.00 per copy
(c) Additional years searched	$12.00 per year
(d) An authenticated copy	$42.00
(e) Additional authenticated copies ordered at the same time	$26.00 per copy
(f) Verification of facts delineated in section 2881(2)	$18.00
(g) Except as otherwise provided in subdivision (h), a request for an expedited search for a vital record under this subsection	$12.00
(h) A request for an expedited search for an authenticated copy of a vital record under subdivision (d)	$25.00

(5) The fees for establishment or registration of a vital record are as follows:

(a) Application for establishment of a delayed certificate of birth or death that includes 1 certified copy or an official denial of the application	$50.00
(b) Registration of a delayed certificate of birth for a foreign born adopted child that includes 1 certified copy	$50.00

(6) On receipt of a formal application of a soldier; sailor; marine; member of the United States Coast Guard; nurse; member of a women's auxiliary; or other individual who is entitled to a bonus, a pension, or other compensation under a law of this state, the United States, or another state or territory of the United States or a service auxiliary for a vital record for the purpose of obtaining the bonus, pension, or compensation, the state registrar shall furnish 1 certified copy of the vital record requested without charge. If the individual who is entitled to the vital record is deceased or mentally incompetent, the state registrar may furnish the copy to an heir, guardian, or legal representative of the individual. The state registrar shall label a certified copy furnished under this subsection with the following statement: "for veteran's benefits only, not for personal use".

(7) On receipt of a formal application, the state registrar or a local registrar shall furnish a certified copy of a vital record without charge to a licensed child placing agency representing a child for adoption purposes. The state registrar or local registrar shall label a certified copy provided under this subsection with the following statement: "for adoption purposes only, not for personal use".

(8) The state registrar shall comply with all of the following:

(a) Subject to subdivision (b), on formal application, charge an individual who is 65 years of age or older a fee of $14.00 for a search for and 1 certified copy of the individual's birth record.

(b) If the state registrar receives notice from a local registrar under subsection (1), conduct the search and provide the birth record or notification as provided in that subsection without charge to the local registrar or the individual requesting the record.

(9) The state registrar shall charge the following fees for the creation of new vital records and corrections of vital records:

(a) Application to create a new certificate of birth following an adoption; legal change of name for minors; acknowledgement of parentage; sex change; legitimation; order of filiation; a judgment or parentage judgment under the assisted reproduction and surrogacy parentage act; or a request to replace a court filed certificate of adoption	$50.00
(b) Subject to subsection (10), application received within 1 year of the date of the event to create a new certificate of birth or death to correct obvious minor errors and omissions	$50.00
(c) An application with a request for an expedited creation of a new certificate under this subsection	$25.00

(10) The errors and omissions that may be corrected under subsection (9)(b) are limited to the following:

(a) The addition of a given first or middle name if a name was not recorded at the time of filing.

(b) A change to a Social Security number.

(c) The addition of information originally specified as unknown or that was omitted by error.

(d) A minor spelling change.

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(11) The state registrar shall charge a fee of $50.00 for an application to amend birth and death records more than 1 year after the date of the event for the purpose of adding information or correcting an error in information recorded on the document. The state registrar shall charge a fee of $25.00 for an application with a request for an expedited amendment to a birth or death record under this subsection.

(12) The state registrar shall not charge a fee for any of the following:

(a) Changing a vital record to correct an error made within the office of a local registrar or the state registrar.

(b) Correcting an error if the correction is initiated by the state registrar.

(c) Correcting a vital record if the correction is requested by a county medical examiner for a case within the county medical examiner's jurisdiction.

(d) Correcting a record if the correction is ordered by a court of competent jurisdiction following denial by the department of an application to make the correction.

(e) Correcting a vital record if the correction is requested by a public agency that is the guardian of the individual to whom the vital record pertains.

(13) The state registrar shall charge a fee of $50.00 for an application to amend a birth record regarding a documented legal change of name for an adult. The state registrar shall charge a fee of $25.00 for an application with a request for an expedited amendment to a birth record under this subsection.

(14) The state registrar or a local registrar with approval of the state registrar may charge a reasonable fee to cover the costs of special services performed under section 2883, 2884, or 2888.

(15) A local registrar shall deposit fees collected under this section as the governing body of the city or county directs. The state registrar shall transmit fees collected under this section to the state treasurer for deposit into the vital records fund created in section 2892.

(16) The state registrar shall charge a fee of $12.00 for an application for a copy or a certified copy of a vital records-related document, including, but not limited to, a completed application submitted under this section or a document submitted under this section to support a requested change to a vital record.

(17) The state registrar or a local registrar shall not charge a fee other than a fee prescribed in this section. However, a local governmental unit may adopt a system of fees for local registrars under the jurisdiction of the local governmental unit for a search that provides for fees less than those set forth in this section, and a charter county with a population of more than 1,500,000 may adopt a system of fees for a local registrar under the jurisdiction of that charter county that provides for fees more than those set forth in this section. However, a charter county shall not impose a fee that is greater than the cost of the service for which the fee is charged.

(18) For searches under subsection (4), a local registrar shall charge fees according to the following:

(a) The governing body of a local governmental unit that has jurisdiction over a local registrar may adopt a system of fees for the local registrar that provides for fees less than or equal to the fees set forth in subsection (4). These fees must only be used for the maintenance and sustenance of the vital records fees program, to alleviate any burden to the taxpayers to provide this worthwhile program. A charter county with a population of more than 1,500,000 may adopt a system of fees for a local registrar under the jurisdiction of that charter county that provides for fees that are more than the fees set forth in subsection (4). A charter county shall not impose a fee that is greater than the cost of the service for which the fee is charged. A system of fees adopted under this subdivision must be used by all local registrars under the jurisdiction of the local governmental unit and must be reasonably related to the cost incurred by the local registrar in making the search.

(b) If a system of fees is not adopted by a local registrar's local governmental unit under subdivision (a), the local registrar shall not charge a fee other than a fee prescribed in subsection (4).

(19) On receipt of a formal application, the state registrar shall conduct a search for and furnish to an individual 1 certified copy of the individual's vital record, without charge, if the individual presents all of the following to the state registrar:

(a) A homeless verification letter that states that the individual meets the definition of category 1 homeless as that term is defined by the United States Department of Housing and Urban Development. A verification letter provided under this subdivision must be submitted on the official letterhead of a public service agency. The department may verify the information contained in the letter with the agency of issuance before issuing a certified copy of the vital record.

(b) A photo identification card for the individual that is generated from the United States Department of Housing and Urban Development homeless management information system.

(c) Any information required by the state registrar under subsection (3).

(20) The state registrar shall not charge a fee under subsection (4) for a search and not more than 2 certified copies or authenticated copies of a certificate or other record of stillbirth described in section 2882(1)(a).

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 522, Imd. Eff. Jan. 26, 1981;—Am. 1981, Act 63, Imd. Eff. June 8, 1981;—Am. 1984, Act 296, Imd. Eff. Dec. 20, 1984;—Am. 1992, Act 78, Imd. Eff. June 2, 1992;—Am. 2001, Act 31, Imd. Eff. June 29, 2001;—Am. 2004, Act 467, Imd. Eff. Dec. 28, 2004;—Am. 2013, Act 136, Imd. Eff. Oct. 15, 2013;—Am. 2019, Act 89, Imd. Eff. Oct. 7, 2019;—Am. 2020, Act 53, Eff. June 1, 2020;—Am. 2020, Act 209, Imd. Eff. Oct. 15, 2020;—Am. 2024, Act 25, Eff. Apr. 2, 2025.

Compiler's note: Enacting section 1 of Act 136 of 2013 provides:
"Enacting section 1. This amendatory act takes effect October 1, 2013."

Popular name: Act 368

333.2892 Vital records fund creation; duties of state treasurer; disposition of fund; administrator of fund; expenditures; limitation.

Sec. 2892. (1) The vital records fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the vital records fund. The state treasurer shall direct the investment of money or other assets in the vital records fund. The state treasurer shall credit to the vital records fund interest and earnings from the investment of money or other assets in the vital records fund. Money in the vital records fund at the close of the fiscal year shall remain in the vital records fund and shall not lapse to the general fund.

(2) The department of technology, management, and budget is the administrator of the fund for auditing purposes. The department of technology, management, and budget shall expend money from the fund, upon appropriation, only for the maintenance and sustainability of the system of vital statistics in this state.

History: Add. 2013, Act 136, Imd. Eff. Oct. 15, 2013.

Compiler's note: Enacting section 1 of Act 136 of 2013 provides:
"Enacting section 1. This amendatory act takes effect October 1, 2013."

Popular name: Act 368

333.2894 Prohibited conduct.

Sec. 2894. (1) A person shall not:

(a) Wilfully and knowingly refuse to provide vital records information required by this part or the rules promulgated pursuant to this part.

(b) Wilfully and knowingly make a false statement in a vital record or report required to be filed under this code, or in an application for an amendment or for a certified copy of a vital record.

(c) Wilfully and knowingly supply false information intending that the information be used in the preparation of a vital record or amendment thereof.

(d) Wilfully and knowingly obtain, possess, use, sell, furnish, or attempt to obtain, possess, use, sell, or furnish to another person, for any purpose of deception, a counterfeited, altered, amended, or mutilated vital record or certified copy thereof.

(e) Wilfully and knowingly furnish or process a vital record or a certified copy of a vital record with the knowledge or intention that it be used for the purposes of deception.

(2) A person shall not make, counterfeit, alter, amend, or mutilate a vital record or report required to be filed under this part with the intent to deceive.

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

Popular name: Act 368

333.2895 Inspection or copying of information contained in system of vital statistics.

Sec. 2895. The state registrar or a local registrar or an agent or employee of the state or local registrar shall not disclose or permit the inspection or copying of information contained in the system of vital statistics except as authorized by this part or the procedures adopted under section 2896.

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

Popular name: Act 368

333.2896 Rules; minimum requirements.

Sec. 2896. The department may promulgate rules necessary or appropriate to implement this part. The rules shall include, at a minimum, procedures relating to filings; form and content of vital records; minimum documentation required for the issuance or amendment of certificates or permits; inspection or disclosure of records and sealed files; fees; and the disposition of reports and applications not actively pursued.

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

Popular name: Act 368

Administrative rules: R 325.1141 et seq.; R 325.3201 et seq.; R 325.3231 et seq.; and R 325.3251 et seq. of the Michigan Administrative Code.

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333.2898 Violation; penalty.

Sec. 2898. A person who violates section 2894 or 2895 is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than $1,000.00, or both.

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

Popular name: Act 368

333.2899 Reporting violation; statement; initiation of proceedings.

Sec. 2899. The state registrar may report a violation of this part or the rules promulgated pursuant to this part to the attorney general. A statement of the facts and circumstances of the violation shall be submitted with the report. Upon receipt of the report, the attorney general, either directly or through the prosecuting attorney of the county in which the violation occurred, may initiate appropriate proceedings against the person committing and responsible for the alleged violation.

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

Popular name: Act 368

PART 32
EMERGENCY MEDICAL SERVICES SYSTEM

333.3201-333.3249 Repealed. 1981, Act 79, Imd. Eff. June 30, 1981.

Popular name: Act 368

PART 36
NUTRITION SERVICES SYSTEM

333.3601-333.3625 Expired. 1978, Act 368, Eff. Oct. 1, 1980.

Popular name: Act 368

ARTICLE 5
PREVENTION AND CONTROL OF DISEASES AND DISABILITIES

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

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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

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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

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(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.

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(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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

PART 52
HAZARDOUS COMMUNICABLE DISEASES

333.5201 Definitions and principles of construction.

Sec. 5201. (1) As used in this part:

(a) "Carrier" means an individual who serves as a potential source of infection and who harbors or who the department reasonably believes to harbor a specific infectious agent or a serious communicable disease or

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infection, whether or not there is present discernible disease.

(b) "Health threat to others" means that an individual who is a carrier has demonstrated an inability or unwillingness to conduct himself or herself in such a manner as to not place others at risk of exposure to a serious communicable disease or infection. Health threat to others includes, but is not limited to, 1 or more of the following:

(*i*) Behavior by the carrier that has been demonstrated epidemiologically to transmit, or that evidences a careless disregard for transmission of, a serious communicable disease or infection to others.

(*ii*) A substantial likelihood that the carrier will transmit a serious communicable disease or infection to others, as evidenced by the carrier's past behavior or statements made by the carrier that are credible indicators of the carrier's intention to do so.

(*iii*) Affirmative misrepresentation by the carrier of his or her status as a carrier before engaging in behavior that has been demonstrated epidemiologically to transmit the serious communicable disease or infection.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 490, Eff. Mar. 30, 1989.

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

333.5203 Warning notice generally.

Sec. 5203. (1) Upon a determination by a department representative or a local health officer that an individual is a carrier and is a health threat to others, the department representative or local health officer shall issue a warning notice to the individual requiring the individual to cooperate with the department or local health department in efforts to prevent or control transmission of serious communicable diseases or infections. The warning notice may also require the individual to participate in education, counseling, or treatment programs, and to undergo medical tests to verify the person's status as a carrier.

(2) A warning notice issued under subsection (1) shall be in writing, except that in urgent circumstances, the warning notice may be an oral statement, followed by a written statement within 3 days. A warning notice shall be individual and specific and shall not be issued to a class of persons. A written warning notice shall be served either by registered mail, return receipt requested, or personally by an individual who is employed by, or under contract to, the department or a local health department.

(3) A warning notice issued under subsection (1) shall include a statement that unless the individual takes the action requested in the warning notice, the department representative or local health officer shall seek an order from the probate court, pursuant to this part. The warning notice shall also state that, except in cases of emergency, the individual to whom the warning notice is issued has the right to notice and a hearing and other rights provided in this part before the probate court issues an order.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 490, Eff. Mar. 30, 1989.

Popular name: Act 368

333.5204 Request for testing made by officer, employee, or individual making lawful arrest; procedures; rules; definitions.

Sec. 5204. (1) A police officer, a fire fighter, a local correctional officer or other county employee, a court employee, or an individual making a lawful arrest may proceed under this section if he or she has received training in the transmission of bloodborne diseases under the rules governing exposure to bloodborne diseases in the workplace promulgated by the occupational health standards commission or incorporated by reference under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(2) A police officer, a fire fighter, a local correctional officer or other county employee, a court employee, or an individual making a lawful arrest who has received the training described in subsection (1) and who, while performing his or her official duties or otherwise performing the duties of his or her employment, determines that he or she has sustained a percutaneous, mucous membrane, or open wound exposure to the blood or body fluids of an arrestee, correctional facility inmate, parolee, or probationer may request that the arrestee, correctional facility inmate, parolee, or probationer be tested for HIV infection, HBV infection, HCV infection, or all 3 infections, pursuant to this section.

(3) An officer or employee or an individual making a lawful arrest who desires to make a request described in subsection (2) shall make the request to his or her employer in writing on a form provided by the department as soon as possible, but not later than 72 hours, after the exposure occurs. The request form shall

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be dated and shall contain, at a minimum, the name and address of the officer, employee, or individual making a lawful arrest making the request and a description of his or her exposure to the blood or other body fluids of the arrestee, correctional facility inmate, parolee, or probationer. The request form shall also contain a statement that the requester is subject to the confidentiality requirements of subsection (7) and section 5131. The request form shall not contain information that would identify the arrestee, correctional facility inmate, parolee, or probationer by name, except if necessary to identify the individual for purposes of testing under this section.

(4) The employer of an individual making a request under subsections (2) and (3) shall accept as fact the requester's description of his or her exposure to blood or other body fluids as described in subsection (2). The requester's employer shall have the test for HIV infection, HBV infection, HCV infection, or all 3 infections performed by the local health department or by a health care provider designated by the local health department. If the test subject consents to the performance of the test or tests named in the request, the requester's employer shall transport the test subject to the local health department or designated health care provider for testing, or a representative of the local health department or designated health care provider shall come to where the test subject is held or housed to take a blood or other body fluid sample for testing, as soon as practicable after the local health department receives the request for testing from the requester's employer. If the test subject refuses to undergo 1 or more tests specified in the request, the requester's employer may proceed with a petition to the family division of the circuit court in the manner provided in section 5205 or 5207, as appropriate.

(5) A local health department or a health care provider designated by the local health department that performs 1 or more tests under this section may charge the officer or employee or arresting individual requesting the test for the reasonable and customary charges of each test. The officer or employee or arresting individual requesting the test is responsible for the payment of the charges if the charges are not payable by the officer's or employee's or arresting individual's employer, pursuant to an agreement between the officer or employee or arresting individual and the employer, or by the officer's or employee's or arresting individual's health care payment or benefits plan. A local health department or a health care provider designated by the local health department to perform an HIV test under this section is not required to provide HIV counseling pursuant to section 5133(1) to an officer or employee or arresting individual who requests that an arrestee, correctional facility inmate, parolee, or probationer be tested for HIV under this section, unless the local health department or designated health care provider tests the officer or employee or arresting individual for HIV.

(6) A local health department or a health care provider designated by the local health department to perform a test under this section shall, on a form provided by the department, notify the requesting officer or employee or arresting individual of the HIV test, HBV test, or HCV test results, as applicable, whether positive or negative, within 2 days after the test results are obtained by the local health department or designated health care provider. The notification shall be transmitted directly to the requesting officer or employee or arresting individual or, upon request of the requesting officer or employee or arresting individual, to his or her primary care physician or to another health professional designated by the officer or employee or arresting individual. The notification required under this subsection shall include an explanation of the confidentiality requirements of subsection (7). The notification required under this subsection shall also contain a statement recommending that the requesting officer, employee, or arresting individual undergo an HIV test, an HBV test, or an HCV test, or all 3 tests.

(7) The notice required under subsection (6) shall not contain information that would identify the arrestee, correctional facility inmate, parolee, or probationer who tested positive or negative for HIV, HBV, or HCV. The information contained in the notice is confidential and is subject to this section, the rules promulgated under section 5111, and section 5131. A person who receives confidential information under this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.

(8) The department may promulgate rules to administer this section. The department shall develop and distribute the forms required under this section.

(9) In addition to the penalties prescribed in the rules promulgated under section 5111 and in section 5131, a person who discloses information in violation of subsection (7) is guilty of a misdemeanor.

(10) A local health department or designated health care provider shall report to the department each test result obtained under this section that indicates that an individual is HIV infected, in compliance with section 5114.

(11) A person or governmental entity that makes a good faith effort to comply with subsections (1) to (6) is immune from civil liability or criminal penalty based on compliance with, or the failure to comply with, those subsections.

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(12) As used in this section and section 5205:

(a) "Correctional facility" means a municipal or county jail, work camp, lockup, holding center, halfway house, community corrections center, or any other facility maintained by a municipality or county that houses adult prisoners. Correctional facility does not include a facility owned or operated by the department of corrections.

(b) "Employee" means a county employee or a court employee.

(c) "HBV" means hepatitis B virus.

(d) "HBV infected" or "HBV infection" means the status of an individual who is tested as HBsAg-positive.

(e) "HCV" means hepatitis C virus.

(f) "HCV infected" or "HCV infection" means the status of an individual who has tested positive for the presence of HCV antibodies or has tested positive for HBV using an RNA test.

(g) "HIV" means human immunodeficiency virus.

(h) "HIV infected" means that term as defined in section 5101.

(i) "Individual making a lawful arrest" or "arresting individual" means 1 of the following:

(*i*) A private security police officer authorized to make an arrest without a warrant under section 30 of the private security business and security alarm act, 1968 PA 330, MCL 338.1080, and section 15 of the code of criminal procedure, 1927 PA 175, MCL 764.15.

(*ii*) A merchant, agent of a merchant, employee of a merchant, or independent contractor providing security for a merchant authorized to make an arrest in the merchant's store and in the course of his or her employment as prescribed by section 16(d) of the code of criminal procedure, 1927 PA 175, MCL 764.16. Individual making a lawful arrest or arresting individual does not include a private person authorized to make an arrest under section 16(a) and (b) of the code of criminal procedure, 1927 PA 175, MCL 764.16.

(j) "Local correctional officer" means an individual employed by a local governmental unit in a correctional facility as a corrections officer.

(k) "Officer" means a law enforcement officer, motor carrier officer, or property security officer employed by the state, a law enforcement officer employed by a local governmental unit, a fire fighter employed by or volunteering for a local governmental unit, or a local correctional officer.

History: Add. 1997, Act 57, Eff. Jan. 1, 1998;—Am. 2010, Act 119, Imd. Eff. July 13, 2010.

Popular name: Act 368

333.5205 Failure or refusal to comply with warning notice; petition; hearing; notice; waiver; orders; recommendation and duties of commitment review panel and circuit court; appeal to circuit court; termination or continuation of commitment; cost of implementing order; right to counsel; appeal to court of appeals; leaving facility or refusal to undergo testing for certain infections as contempt.

Sec. 5205. (1) If a department representative or a local health officer knows or has reasonable grounds to believe that an individual has failed or refused to comply with a warning notice issued under section 5203, the department or local health department may petition the circuit court for the county of Ingham or for the county served by the local health department for an order as described in subsection (6).

(2) A petition filed under subsection (1) shall state all of the following:

(a) The grounds and underlying facts that demonstrate that the individual is a health threat to others and, unless an emergency order is sought under section 5207, has failed or refused to comply with a warning notice issued under section 5203.

(b) The petitioner's effort to alleviate the health threat to others before the issuance of the warning notice, unless an emergency order is sought under section 5207.

(c) The type of relief sought.

(d) A request for a court hearing on the allegations set forth in the petition.

(3) If a test subject refuses to undergo a test requested by an officer or employee or an arresting individual under section 5204, the officer's or employee's or arresting individual's employer may petition the circuit court for the county in which the employer is located or the appropriate district court for an order as described in subsection (7).

(4) A petition filed under subsection (3) shall state all of the following:

(a) Substantially the same information contained in the request made to an officer's or employee's or arresting individual's employer under section 5204(2) and (3), except that the petition shall contain the name of the arrestee, correctional facility inmate, parolee, or probationer who is the proposed test subject.

(b) The reasons for the officer's or employee's or arresting individual's determination that the exposure described in the request made under section 5204(2) and (3) could have transmitted HIV, HBV, or HCV, or

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all or a combination of those viruses, along with the date and place the officer or employee or arresting individual received the training in the transmission of bloodborne diseases required under section 5204(1).

(c) The fact that the arrestee, correctional facility inmate, parolee, or probationer has refused to undergo the test or tests requested under section 5204(2) and (3).

(d) The type of relief sought.

(e) A request for a court hearing on the allegations set forth in the petition.

(5) Upon receipt of a petition filed under subsection (1), the circuit court shall fix a date for hearing that shall be as soon as possible, but not later than 14 days after the date the petition is filed. Notice of the petition and the time and place of the hearing shall be served personally on the individual and on the petitioner not less than 3 days before the date of the hearing. Notice of the hearing shall include notice of the individual's right to appear at the hearing, the right to present and cross-examine witnesses, and the right to counsel as provided in subsection (12). The individual and the petitioner may waive notice of hearing, and upon filing of the waiver in writing, the circuit court may hear the petition immediately. Upon receipt of a petition filed under subsection (3), the circuit court or the district court shall fix a date for hearing that shall be as soon as possible, but not later than 24 hours after the time and date the petition is filed. Notice of the petition and the time and place of the hearing shall be served personally on both the proposed test subject under section 5204 and the petitioner within a time period that is reasonable under the circumstances. Notice of the hearing shall include notice of the proposed test subject's right to appear at the hearing, the right to present and cross-examine witnesses, and the right to counsel as provided in subsection (12). The proposed test subject and the petitioner may waive notice of the hearing, and upon filing of the waiver in writing, the circuit court or the district court may hear the petition filed under subsection (3) immediately.

(6) Upon a finding by the circuit court that the department or local health department has proven the allegations set forth in a petition filed under subsection (1) by clear and convincing evidence, the circuit court may issue 1 or more of the following orders:

(a) An order that the individual participate in a designated education program.

(b) An order that the individual participate in a designated counseling program.

(c) An order that the individual participate in a designated treatment program.

(d) An order that the individual undergo medically accepted tests to verify the individual's status as a carrier or for diagnosis.

(e) An order that the individual notify or appear before designated health officials for verification of status, testing, or other purposes consistent with monitoring.

(f) An order that the individual cease and desist conduct that constitutes a health threat to others.

(g) An order that the individual live part-time or full-time in a supervised setting for the period and under the conditions set by the circuit court.

(h) Subject to subsection (8), an order that the individual be committed to an appropriate facility for the period and under the conditions set by the circuit court. A commitment ordered under this subdivision shall not be for more than 6 months, unless the director of the facility, upon motion, shows good cause for continued commitment.

(i) Any other order considered just by the circuit court.

(7) Upon a finding by the circuit court or the district court that the officer's or employee's or arresting individual's employer has proven the allegations set forth in a petition filed under subsection (3), including, but not limited to, the requesting officer's or employee's or arresting individual's description of his or her exposure to the blood or body fluids of the proposed test subject, the circuit court or the district court may issue an order requiring the proposed test subject to undergo a test for HIV infection, HBV infection, or HCV infection, or all or a combination of the 3 infections.

(8) The circuit court shall not issue an order authorized under subsection (6)(h) unless the court first considers the recommendation of a commitment review panel appointed by the court under this subsection to review the need for commitment of the individual to a health facility. The commitment review panel shall consist of 3 physicians appointed by the court from a list of physicians submitted by the department. Not less than 2 of the physicians shall have training and experience in the diagnosis and treatment of serious communicable diseases and infections. However, upon the motion of the individual who is the subject of the order, the court shall appoint as 1 member of the commitment review panel a physician who is selected by the individual. The commitment review panel shall do all of the following:

(a) Review the record of the proceeding.

(b) Interview the individual, or document the reasons why the individual was not interviewed.

(c) Recommend either commitment or an alternative or alternatives to commitment, and document the reasons for the recommendation.

(9) An individual committed to a facility under subsection (6)(h) may appeal to the circuit court for a

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commitment review panel recommendation as to whether or not the patient's commitment should be terminated. Upon the filing of a claim of appeal under this subsection, the court shall reconvene the commitment review panel appointed under subsection (5) as soon as practicable, but not more than 14 days after the filing of the claim of appeal. Upon reconvening, the commitment review panel shall do all of the following:

(a) Review the appeal and any other information considered relevant by the commitment review panel.

(b) Interview the individual, or document the reasons why the individual was not interviewed.

(c) Recommend to the court either termination or continuation of the commitment, and document the reasons for the recommendation.

(10) Upon receipt of the recommendation of the commitment review panel under subsection (9), the circuit court may terminate or continue the commitment.

(11) The cost of implementing an order issued under subsection (6) shall be borne by the individual who is the subject of the order, unless the individual is unable to pay all or a part of the cost, as determined by the circuit court. If the court determines that the individual is unable to pay all or a part of the cost of implementing the order, then the state shall pay all of the cost or that part of the cost that the individual is unable to pay, upon the certification of the department. The cost of implementing an order issued under subsection (7) shall be borne by the arrestee, correctional facility inmate, parolee, or probationer who is tested under the order.

(12) An individual who is the subject of a petition filed under this section or an affidavit filed under section 5207 has the right to counsel at all stages of the proceedings. If the individual is unable to pay the cost of counsel, the circuit court shall appoint counsel for the individual.

(13) An order issued by the circuit court under subsection (6) may be appealed to the court of appeals. The court of appeals shall hear the appeal within 30 days after the date the claim of appeal is filed with the court of appeals. However, an order issued by the circuit court under subsection (6) shall not be stayed pending appeal, unless ordered by the court of appeals on motion for good cause. An order issued by the circuit court under subsection (7) may be appealed to the court of appeals. The court of appeals shall hear the appeal within 15 days after the date the claim of appeal is filed with the court of appeals. However, an order issued by the circuit court under subsection (7) shall not be stayed pending appeal, unless ordered by the court of appeals on motion for good cause. An order issued by a district court under subsection (7) may be appealed to the circuit court for the county in which the district court is located. The circuit court shall hear the appeal within 15 days after the date the claim of appeal is filed with the circuit court. However, an order issued by a district court under subsection (7) shall not be stayed pending appeal, unless ordered by the circuit court on motion for good cause.

(14) An individual committed to a facility under this section who leaves the facility before the date designated in the commitment order without the permission of the circuit court or who refuses to undergo a test for HIV infection, HBV infection, HCV infection, or all or a combination of the 3 infections is guilty of contempt.

History: Add. 1988, Act 490, Eff. Mar. 30, 1989;—Am. 1997, Act 57, Eff. Jan. 1, 1998;—Am. 2000, Act 37, Imd. Eff. Mar. 17, 2000.

Popular name: Act 368

333.5207 Protection of public health in emergency; affidavit; court order; taking individual into custody; transporting individual to emergency care or treatment facility; temporary detention; notice of hearing; continued temporary detention; petition.

Sec. 5207. (1) To protect the public health in an emergency, upon the filing of an affidavit by a department representative or a local health officer, the circuit court may order the department representative, local health officer, or a peace officer to take an individual whom the court has reasonable cause to believe is a carrier and is a health threat to others into custody and transport the individual to an appropriate emergency care or treatment facility for observation, examination, testing, diagnosis, or treatment and, if determined necessary by the court, temporary detention. If the individual is already institutionalized in a facility, the court may order the facility to temporarily detain the individual. An order issued under this subsection may be issued in an ex parte proceeding upon an affidavit of a department representative or a local health officer. The court shall issue an order under this subsection upon a determination that reasonable cause exists to believe that there is a substantial likelihood that the individual is a carrier and a health threat to others. An order under this subsection may be executed on any day and at any time, and shall be served upon the individual who is the subject of the order immediately upon apprehension or detention.

(2) An affidavit filed by a department representative or a local health officer under subsection (1) shall set forth the specific facts upon which the order is sought including, but not limited to, the reasons why an

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emergency order is sought.

(3) An individual temporarily detained under subsection (1) shall not be detained longer than 72 hours, excluding Saturdays, Sundays, and legal holidays, without a court hearing to determine if the temporary detention should continue.

(4) Notice of a hearing under subsection (3) shall be served upon the individual not less than 24 hours before the hearing is held. The notice shall contain all of the following information:

(a) The time, date, and place of the hearing.

(b) The grounds and underlying facts upon which continued detention is sought.

(c) The individual's right to appear at the hearing.

(d) The individual's right to present and cross-examine witnesses.

(e) The individual's right to counsel, including the right to counsel designated by the circuit court, as described in section 5205(13).

(5) The circuit court may order that the individual continue to be temporarily detained if the court finds, by a preponderance of the evidence, that the individual would pose a health threat to others if released. An order under this subsection to continued temporary detention shall not continue longer than 5 days, unless a petition is filed under section 5205. If a petition is filed under section 5205, the temporary detention shall continue until a hearing on the petition is held under section 5205.

History: Add. 1988, Act 490, Eff. Mar. 30, 1989;—Am. 1997, Act 57, Eff. Jan. 1, 1998.

Popular name: Act 368

333.5209 Power not limited.

Sec. 5209. This part does not limit the power of the department, a local health department, or the probate court to deal with the prevention and control of communicable diseases and infections.

History: Add. 1988, Act 490, Eff. Mar. 30, 1989.

Popular name: Act 368

333.5210 Intercourse with specific intent or reckless disregard to infect with HIV; felony; violations as misdemeanor.

Sec. 5210. (1) A person who knows that he or she has the human immunodeficiency virus (HIV) who engages in anal or vaginal intercourse with another person without having first informed the other person that he or she has HIV with the specific intent that the uninfected person contract HIV is guilty of a felony.

(2) A person who knows that he or she has HIV who, without having first informed the other person that he or she has HIV, engages in vaginal or anal intercourse, and transmits HIV to an uninfected person causing that person to become HIV positive, acts with reckless disregard and is guilty of a felony.

(3) A person who knows that he or she has HIV who, without having first informed the other person that he or she has HIV, engages in vaginal or anal intercourse, and who acts with reckless disregard but does not transmit HIV, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(4) A person who knows that he or she has HIV who is adherent with the treatment plan of an attending physician and has been medically suppressed per accepted medical standards is not acting with reckless disregard.

History: Add. 1988, Act 490, Eff. Mar. 30, 1989;—Am. 2018, Act 537, Eff. Mar. 28, 2019.

Popular name: Act 368

333.5211-333.5269 Repealed. 1988, Act 491, Eff. Mar. 30, 1989.

Compiler's note: The repealed sections pertained to hazardous communicable diseases.

Popular name: Act 368

PART 53
EXPENSE OF CARE

333.5301 County chargeable with expense of care; reimbursement by state; individuals with tuberculosis or honorable discharges considered domiciled in state at large; expense of care paid by state on certification of department; reasonableness of claims and accounts; appeal.

Sec. 5301. (1) The county in which an individual receiving care under section 5117 has a domicile is chargeable with the expense of the care, and this state shall reimburse that county for all or a portion of the expense in the amounts the legislature appropriates for that purpose. An individual who has tuberculosis and

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has not acquired a legal settlement in this state in accordance with the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws, or an individual who was honorably discharged from a branch of the military services of the United States and not otherwise hospitalized for the purpose of this part shall be considered to be domiciled in this state at large, and the expense of that individual's care, while the care continues with the approval of the department, shall be paid by the state on certification of the department. The reasonableness and propriety of all claims and accounts under this subsection shall be passed upon and determined by the department, subject to appeal to the circuit court for the county of Ingham as to questions of law.

(2) An individual committed to an inpatient facility for tuberculosis pursuant to a probate court order under section 5205 and not otherwise hospitalized for the purpose of part 51 or 52 shall be considered to be domiciled in this state at large, and the expense of that individual's care, while the care continues with the approval of the department, shall be paid by the state on certification of the department. The reasonableness and propriety of all claims and accounts under this subsection shall be passed upon and determined by the department, subject to appeal to the circuit court for the county of Ingham as to questions of law.

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

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

333.5303 Care provided where individual found at expense of county where individual domiciled; notice; return of individual to county of domicile; disputed or contested claim arising between 2 or more counties; decision.

Sec. 5303. (1) Upon determination by the county department of social services that the place of domicile of an individual receiving care under section 5117 is in another county in this state, care shall be provided where the individual is found at the expense of the county where the individual is domiciled. The county department of social services, not later than 1 month after the commencement of care, shall mail written notice that the care is being provided to the local department of social services of the individual's county of domicile. The local health department of the county of domicile may provide for the return of the individual to, and care in, that county.

(2) If the domicile of the individual is not acknowledged by the alleged county of domicile within 1 month after mailing the notice under subsection (1), the question of domicile may be submitted for decision to the state department of social services. If a disputed or contested claim arises between 2 or more counties as to the county of domicile, the director of social services shall determine the county of domicile when so requested or on his or her own motion. The decision of the director of social services is final. However, pending determination, the county in which the individual is found shall provide the necessary care.

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

Popular name: Act 368

333.5305 Determination that county where individual found not county of domicile; reimbursement.

Sec. 5305. Upon determination by the director of social services that the county where the individual is found is not the county of domicile, the county of domicile, as determined by the director of social services, shall reimburse the county where the individual is found for all expenses incurred, less any reimbursements from the state or other source for the care.

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

Popular name: Act 368

333.5307 Expenditure under MCL 333.5117 considered expenditure for protection of public health, not welfare or relief; reimbursement; notice and hearing; finding; order; distribution of receipts.

Sec. 5307. An expenditure of public funds under section 5117 for the care of an individual is considered an expenditure for the protection of the public health, and not money advanced as welfare or relief. An individual is not legally obligated to reimburse the expense incurred, unless the department and the county of domicile, after reasonable notice and upon a hearing, find that the individual hospitalized or treated, or the persons legally liable for the individual's support, are possessed of sufficient income or estate to enable them to make the reimbursement in whole or in part without materially affecting their reasonable economic security or support, in view of their respective resources, obligations, and responsibilities to dependents and order

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reimbursement. The order shall not be made retroactive unless the department and the county of domicile find that the person to be charged is guilty of misrepresenting or withholding knowledge of facts material to the issue. Receipts under the order, and money voluntarily paid as reimbursement, shall be distributed pro rata to the funds out of which the expenditure was made.

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

Popular name: Act 368

PART 54
CHRONIC DISEASES

333.5401 "Chronic disease" defined; general definitions and principles of construction.

Sec. 5401. (1) As used in this part, "chronic disease" includes an impairment or deviation from normal having 1 or more of the following characteristics:

(a) It is permanent.

(b) It leaves residual disability.

(c) It is caused by nonreversible pathological alterations.

(d) It requires special training of the patient for rehabilitation.

(e) It may be expected to require a long period of supervision, observation, or care.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

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

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

Popular name: Act 368

333.5411 Chronic disease prevention and control program; statewide program as to mental disabilities; establishment; scope; programs continued.

Sec. 5411. (1) The department shall establish a chronic disease prevention and control program which shall include arthritis, cancer, dental disease, diabetes, genetic disease, heart disease, hypertension, renal disease, and any other disease the department designates as chronic pursuant to section 5439. The department shall cooperate with the department of mental health in establishment of a statewide program for genetic screening and counseling in the area of mental disabilities.

(2) Programs established under this part shall continue, at a minimum, the programs established pursuant to Act No. 96 of the Public Acts of 1975, being sections 329.551 to 329.557 of the Michigan Compiled Laws, and Act No. 335 of the Public Acts of 1974, being sections 325.531 to 325.533 of the Michigan Compiled Laws.

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

Popular name: Act 368

333.5412 Scope of chronic disease program; availability of services subject to appropriation; contracts for programs; evaluation of program; recommending discontinuance of program.

Sec. 5412. (1) The chronic disease program shall include the prevention of chronic diseases; the early detection and reporting of cases; and surveillance, treatment, education, rehabilitation, and maintenance of patients suffering from chronic diseases. The availability of services under this program is subject to appropriations.

(2) The program may include the promotion, support, or conduct of studies or research on chronic diseases and their relation to the health and welfare of the people of this state; the promotion, support, and conduct of programs of community and professional education; the development or purchase and distribution of educational and informational material; the furnishing of laboratory services; and the promotion and establishment of cooperative relationships or programs with hospitals, clinics, social and health agencies, educational and research organizations, and other related groups.

(3) The department may contract with local health departments, other agencies of government, nonprofit corporations, and individuals for carrying out any of these programs.

(4) Periodically, but not less than each 3 years, the department shall evaluate the program to determine its effectiveness.

(5) The public health advisory council, based on appropriate data, may recommend discontinuance of a

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disease program established under this part.

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

Popular name: Act 368

333.5413-333.5415 Repealed. 1992, Act 25, Eff. Mar. 30, 1996.

Compiler's note: The repealed sections pertained to establishment of a registry to record cases of spinal cord injury and traumatic brain injury; creation of a spinal cord injury and traumatic brain injury committee; and, appropriation of funds to implement the sections.

Popular name: Act 368

333.5421 Chronic disease advisory committee; creation; appointment of members; committee subject to MCL 333.2215.

Sec. 5421. The chronic disease advisory committee is created in the department. The governor shall appoint the members with the advice and consent of the senate. The committee is subject to section 2215.

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

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the chronic disease advisory committee to the director of the Michigan state department of public health, see E.R.O. No 1994-1, compiled at MCL 333.26322 of the Michigan Compiled Laws.

Popular name: Act 368

333.5423 Chronic disease advisory committee; advising and assisting department; reimbursement for travel expenses.

Sec. 5423. (1) The chronic disease advisory committee shall advise and assist the department in the implementation of this part.

(2) The chronic disease advisory committee members shall be reimbursed for their necessary travel expenses for attendance at meetings pursuant to section 1216.

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

Popular name: Act 368

333.5425 Chronic disease advisory committee; creation and purpose of subcommittee; chairperson; membership.

Sec. 5425. Except as otherwise provided in section 5414, the chronic disease advisory committee may create a subcommittee to advise it as to a specific chronic disease, determine the size of the subcommittee, and appoint its members, who need not all be members of the committee. The chairperson of a subcommittee shall be a member of the committee. The members of a subcommittee shall be individuals concerned with the prevention and control of the specific chronic disease.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 122, Eff. Mar. 30, 1989.

Popular name: Act 368

333.5429 Terminated. 1978, Act 368, Eff. Sept. 30, 1980.

Compiler's note: Subsection (2) of this section provided :

"(2) This section shall terminate when the renal disease subcommittee of the committee is appointed or 2 years after the effective date of this part, whichever occurs first."

The date the renal disease subcommittee was appointed is not determinable.

Popular name: Act 368

333.5430 Newborn screening quality assurance advisory committee; membership; appointment; screening tests; annual review of list; report; recommendations; approval or rejection by legislature.

Sec. 5430. (1) The newborn screening quality assurance advisory committee is created in the department. The newborn screening quality assurance advisory committee shall consist of 10 members and be appointed by the department as follows:

(a) One individual representing a Michigan nonprofit health care corporation.

(b) One individual representing the Michigan health and hospital association.

(c) One individual representing the Michigan state medical society.

(d) One individual representing the Michigan osteopathic association.

(e) One individual representing the department's medical services administration.

(f) One individual representing the department's public health administration.

(g) One individual who is a neonatologist with experience and background in newborn screening.

(h) One individual representing health maintenance organizations.

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(i) Two individuals representing the general public.

(2) The newborn screening quality assurance advisory committee shall meet annually to review the list of newborn screening tests required under section 5431 and under department rules, regulations, and guidelines. The newborn screening quality assurance advisory committee shall, on an annual basis, submit a written report to the department regarding the appropriateness of the existing list of required newborn screening tests. The newborn screening quality assurance advisory committee shall also include in the report recommendations to revise the list to include additional newborn screening tests that are nationally recognized in the scientific literature or national standards for conditions that can be ameliorated or treated if identified by a newborn screening test and to remove certain tests that are no longer supported in the scientific literature or national standard as being effective for ameliorating or treating conditions that can be identified by newborn screening.

(3) The newborn screening quality assurance advisory committee shall conduct a financial review of any recommended changes to the list of newborn screening tests and shall include in the written report required under subsection (2) a recommendation for the increase or decrease in the amount charged pursuant to section 5431 for newborn screening tests. The recommended change shall not exceed any net change in the amount of the actual cost of any proposed additional tests and follow-up minus savings from any proposed deleted tests and follow-up.

(4) Within 30 days after the department has received the report required under subsection (2), the department may approve or reject the recommendations of the newborn screening quality assurance advisory committee. If the department does not reject the recommendations or fails to act within the 30 days, then the recommendations shall be forwarded to the standing committees in the senate and house of representatives that consider issues pertaining to public health for approval.

(5) Within 45 days after the recommendations are forwarded and received, the legislature shall approve or reject those recommendations without amendment by concurrent resolution adopted by both standing committees of the senate and house of representatives that consider issues pertaining to public health and both houses of the legislature by recorded vote. If the proposed recommendations are not submitted on a legislative session day, the 45 days commence on the first legislative session day after the recommendations are submitted. The 45 days shall include not less than 9 legislative session days. If the recommendations are not rejected within the 45-day period, the recommendations shall be considered approved, shall be adopted by the department, and shall take effect 6 months after the recommendations are adopted by both houses of the legislature or considered approved as provided under this subsection.

History: Add. 2006, Act 31, Imd. Eff. Feb. 23, 2006.

Compiler's note: For transfer of powers and duties of the medical services administration to the health and aging services administration created within the department of health and human services; and abolishment of the medical services administration, see E.R.O. No. 2021-2, compiled at MCL 400.562.

Popular name: Act 368

333.5431 Testing newborn infant for certain conditions; reporting positive test results to parents, guardian, or person in loco parentis; compliance; fee; "Detroit consumer price index" defined; violation as misdemeanor; hardship waiver; conduct of department regarding blood specimens; pamphlet; additional blood specimen for future identification.

Sec. 5431. (1) A health professional in charge of the care of a newborn infant or, if none, the health professional in charge at the birth of an infant shall administer or cause to be administered to the infant a test for each of the following:

(a) Phenylketonuria.

(b) Galactosemia.

(c) Hypothyroidism.

(d) Maple syrup urine disease.

(e) Biotinidase deficiency.

(f) Sickle cell anemia.

(g) Congenital adrenal hyperplasia.

(h) Medium-chain acyl-coenzyme A dehydrogenase deficiency.

(i) Other treatable but otherwise disabling conditions as designated by the department.

(2) The informed consent requirements of sections 17020 and 17520 do not apply to the tests required under subsection (1). The tests required under subsection (1) shall be administered and reported within a time and under conditions prescribed by the department. The department may require that the tests be performed by the department.

(3) If the results of a test administered under subsection (1) are positive, the results shall be reported to the

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infant's parents, guardian, or person in loco parentis. A person is in compliance with this subsection if the person makes a good faith effort to report the positive test results to the infant's parents, guardian, or person in loco parentis.

(4) Subject to the annual adjustment required under this subsection and subject to subsection (6), if the department performs 1 or more of the tests required under subsection (1), the department may charge a fee for the tests of not more than $53.71. The department shall adjust the amount prescribed by this subsection annually by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

(5) A person who violates this section or a rule promulgated under this part is guilty of a misdemeanor.

(6) The department shall provide for a hardship waiver of the fee authorized under subsection (4) under circumstances found appropriate by the department.

(7) The department shall do all of the following in regard to the blood specimens taken for purposes of conducting the tests required under subsection (1):

(a) By April 1, 2000, develop a schedule for the retention and disposal of the blood specimens used for the tests after the tests are completed. The schedule shall meet at least all of the following requirements:

(*i*) Be consistent with nationally recognized standards for laboratory accreditation and federal law.

(*ii*) Require that the disposal be conducted in compliance with section 13811.

(*iii*) Require that the disposal be conducted in the presence of a witness. For purposes of this subparagraph, the witness may be an individual involved in the disposal or any other individual.

(*iv*) Require that a written record of the disposal be made and kept, and that the witness required under subparagraph (*iii*) signs the record.

(b) Allow the blood specimens to be used for medical research during the retention period established under subdivision (a), as long as the medical research is conducted in a manner that preserves the confidentiality of the test subjects and is consistent to protect human subjects from research risks under subpart A of part 46 of subchapter A of title 45 of the code of federal regulations.

(8) The department shall rewrite its pamphlet explaining the requirements of this section when the supply of pamphlets in existence on March 15, 2000 is exhausted. When the department rewrites the explanatory pamphlet, it shall include at least all of the following information in the pamphlet:

(a) The nature and purpose of the testing program required under this section, including, but not limited to, a brief description of each condition or disorder listed in subsection (1).

(b) The purpose and value of the infant's parent, guardian, or person in loco parentis retaining a blood specimen obtained under subsection (9) in a safe place.

(c) The department's schedule for retaining and disposing of blood specimens developed under subsection (7)(a).

(d) That the blood specimens taken for purposes of conducting the tests required under subsection (1) may be used for medical research pursuant to subsection (7)(b).

(9) In addition to the requirements of subsection (1), the health professional described in subsection (1) or the hospital or other facility in which the birth of an infant takes place, or both, may offer to draw an additional blood specimen from the infant. If such an offer is made, it shall be made to the infant's parent, guardian, or person in loco parentis at the time the blood specimens are drawn for purposes of subsection (1). If the infant's parent, guardian, or person in loco parentis accepts the offer of an additional blood specimen, the blood specimen shall be preserved in a manner that does not require special storage conditions or techniques, including, but not limited to, lamination. The health professional or hospital or other facility employee making the offer shall explain to the parent, guardian, or person in loco parentis at the time the offer is made that the additional blood specimen can be used for future identification purposes and should be kept in a safe place. The health professional or hospital or other facility making the offer may charge a fee that is not more than the actual cost of obtaining and preserving the additional blood specimen.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 300, Eff. Mar. 31, 1987;—Am. 1987, Act 14, Imd. Eff. Apr. 14, 1987;—Am. 1988, Act 264, Imd. Eff. July 15, 1988;—Am. 1992, Act 81, Imd. Eff. June 2, 1992;—Am. 1998, Act 88, Imd. Eff. May 13, 1998;—Am. 1999, Act 138, Imd. Eff. Oct. 5, 1999;—Am. 2000, Act 33, Imd. Eff. Mar. 15, 2000;—Am. 2002, Act 691, Eff. Apr. 1, 2003.

Popular name: Act 368

Administrative rules: R 325.1471 et seq. of the Michigan Administrative Code.

333.5432 Hearing test and screening.

Sec. 5432. If a health professional in charge of the care of a newborn infant or, if none, the health professional in charge at the birth of an infant, the hospital, the health department, or other facility administers

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or causes to be administered to the infant a hearing test and screening, then that person or facility shall report to the department, on a form as prescribed by the department, the results of all hearing tests and screens conducted on infants who are less than 12 months of age and on children who have been diagnosed with hearing loss and are less than 3 years of age. The report shall include the type, degree, and symmetry of the diagnosis, along with where and when the diagnosis was made.

History: Add. 2006, Act 31, Imd. Eff. Feb. 23, 2006.

333.5439 Rules.

Sec. 5439. The department may promulgate rules to implement this part including rules designating additional chronic diseases and the time and conditions under which tests required by section 5431 shall be administered.

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

Popular name: Act 368

Administrative rules: R 325.1471 et seq. of the Michigan Administrative Code.

PART 54A
LEAD ABATEMENT

333.5451 Short title of part.

Sec. 5451. This part shall be known and may be cited as the "lead abatement act".

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

Popular name: Act 368

333.5452 Words and phrases; meanings.

Sec. 5452. For purposes of this part, the words and phrases defined in sections 5453 to 5460 have the meanings ascribed to them unless the context requires otherwise.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

Popular name: Act 368

333.5453 Definitions; A.

Sec. 5453. (1) "Abatement", except as otherwise provided in subsection (2), means a measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes all of the following:

(a) The removal of lead-based paint and dust lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, the removal or covering of soil lead hazards, and all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

(b) A project for which there is a written contract or other documentation that provides that a person will be conducting activities in or to a residential dwelling or child occupied facility that will result in the permanent elimination of lead-based paint hazards or that are designed to permanently eliminate lead-based paint hazards.

(c) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person certified under this part, except a project that is exempt from this part.

(d) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person who, through their company name or promotional literature, represents, advertises, or holds themselves out to be in the business of performing lead-based paint activities except a project that is exempt from this part.

(e) A project resulting in the permanent elimination of lead-based paint hazards that is conducted in response to a state or local government abatement order.

(2) Abatement does not include any of the following:

(a) Renovation, remodeling, landscaping, or other activity, if the activity is not designed to permanently eliminate lead-based paint hazards, but is instead designed to repair, restore, or remodel a structure, target housing, or dwelling even though the activity may incidentally result in a reduction or elimination of a lead-based paint hazard.

(b) An interim control, operation, and maintenance activity, or other measure or activity designed to temporarily, but not permanently, reduce a lead-based paint hazard.

(c) Any lead-based paint activity performed by the owner of an owner-occupied residential dwelling or an owner-occupied multifamily dwelling containing 4 or fewer units if the activity is performed only in that owner-occupied unit of the multifamily dwelling.

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(d) The scraping or removal of paint, painting over paint, or other similar activity that may incidentally result in a reduction or elimination of a lead-based paint hazard, if the activity meets all of the following:

(*i*) The activity is performed only on residential or multifamily dwellings containing 4 or fewer units.

(*ii*) The activity is coordinated by a nonprofit charitable or volunteer organization that meets all of the following:

(A) Is in compliance with the procedures established under subpart J of part 35 of title 24 of the code of federal regulations, 24 CFR 35.900 to 35.940.

(B) Has written guidelines in place to ensure safe work practices to protect residents and volunteers from hazards including, but not limited to, lead exposure and asbestos exposure.

(C) In writing, discloses to the owner of the residential or multifamily dwelling all of the following:

(I) The presence of any known lead-based paint and lead-based paint hazards.

(II) Information regarding the lead safe housing registry maintained by the department under section 5474b.

(III) Information regarding the owner's obligations under the federal lead-based paint or lead-based paint hazard disclosure rule under subpart F of part 745 of title 40 of the code of federal regulations, 40 CFR 745.100 to 745.119.

(D) Notifies the department that the residential or multifamily dwelling may be required to be on the lead safe housing registry maintained by the department.

(*iii*) The activity is performed only by unpaid volunteers and the organization receives no remuneration directly from the owner or occupant of the residential dwelling or multifamily dwelling.

(*iv*) The activity does not involve the use of a lead-based paint encapsulating product that requires certification from the department.

(*v*) The activity does not involve the use of high-pressure water or compressed air cleaning equipment on, the dry sanding of, or the scraping of, asbestos siding prior to painting.

(3) "Accredited training program" means a training program that has been accredited by the department under this part to provide training for individuals engaged in lead-based paint activities.

(4) "Adequate quality control" means a plan or design that ensures the authenticity, integrity, and accuracy of a sample including, but not limited to, a dust sample, a soil or paint chip sample, or a paint film sample. Adequate quality control also includes a provision in a plan or design described in this subsection for representative sampling.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002;—Am. 2008, Act 45, Imd. Eff. Mar. 27, 2008.

Popular name: Act 368

333.5454 Definitions; C.

Sec. 5454. (1) "Certified abatement worker" means an individual who has been trained to perform abatements by an accredited training program and who is certified by the department under this part to perform abatement.

(2) "Certified clearance technician" means an individual who has completed an approved training course and been certified by the department under this part to conduct clearance testing following interim controls.

(3) "Certified firm" means a person that performs a lead-based paint activity for which the department has issued a certificate of approval under this part.

(4) "Certified inspector" means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and take samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

(5) "Certified project designer" means an individual who has been trained by an accredited training program and certified by the department under this part to prepare abatement project designs, occupant protection plans, and abatement reports.

(6) "Certified risk assessor" means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and risk assessments and to take samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

(7) "Certified supervisor" means an individual who has been trained by an accredited training program and certified by the department under this part to supervise and conduct abatements and to prepare occupant protection plans and abatement reports.

(8) "Child occupied facility" means a building or portion of a building constructed before 1978 that is visited regularly by a child who is 6 years of age or less, on at least 2 different days within a given week, if each day's visit is at least 3 hours and the combined weekly visit is at least 6 hours in length, and the combined annual visits are at least 60 hours in length. Child occupied facility includes, but is not limited to, a

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day-care center, a preschool, and a kindergarten classroom.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5455 Definitions; C.

Sec. 5455. (1) "Clearance levels" means the values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement as listed in rules promulgated by the department.

(2) "Clearance professional" means 1 or more of the following individuals when performing clearance testing:

(a) A certified inspector.

(b) A certified risk assessor.

(c) A certified clearance technician.

(3) "Common area" means a portion of a building that is generally accessible to all occupants of the building. Common area includes, but is not limited to, a hallway, a stairway, a laundry and recreational room, a playground, a community center, a garage, and a boundary fence.

(4) "Component" or "building component" means a specific design or structural element or fixture of a building, residential dwelling, or child occupied facility that is distinguished by its form, function, and location. Component or building component, includes but is not limited to, a specific interior or exterior design or structural element or fixture.

(5) "Containment" means a process to protect workers and the environment by controlling exposure to a dust lead hazard and debris created during an abatement.

(6) "Course agenda" means an outline of the key topics to be covered during an accredited training program, including the time allotted to teach each topic.

(7) "Course test" means an evaluation of the overall effectiveness of the accredited training program by testing a trainee's knowledge and retention of the topics covered during the accredited training program.

(8) "Course test blueprint" means written documentation identifying the proportion of course test questions devoted to each major topic in the accredited training program curriculum.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5456 Definitions; D, E.

Sec. 5456. (1) "Department" means the department of community health.

(2) "Deteriorated paint" means paint or other surface coating that is cracking, flaking, chipping, peeling, or otherwise damaged or separating from the substrate of a building component.

(3) "Discipline" means 1 of the specific types or categories of lead-based paint activities identified in this part for which an individual may receive training from an accredited training program and become certified by the department.

(4) "Distinct painting history" means the application history, as indicated by its visual appearance or a record of application, over time of paint or other surface coatings to a component or room.

(5) "Documented methodology" means a method or protocol used to do either or both of the following:

(a) Sample and test for the presence of lead in paint, dust, and soil.

(b) Perform related work practices as described in rules promulgated under this part.

(6) "Dust lead hazard" means surface dust in a residential dwelling or child occupied facility that contains a concentration of lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

(7) "Elevated blood level" or "EBL" means for purposes of lead abatement an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 ug/dl, micrograms of lead per deciliter of whole blood, for a single venous test or of 15-19 ug/dl in 2 consecutive tests taken 3 to 4 months apart. For purposes of case management of children 6 years of age or less, elevated blood level means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 10 ug/dl.

(8) "Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials, or an adhesively bonded covering material.

(9) "Encapsulation" means the application of an encapsulant.

(10) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

(11) "EPA" means the United States environmental protection agency.

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History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Compiler's note: For creation of department of health and human services and abolishment of department of community health, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 368

333.5457 Definitions; G to I.

Sec. 5457. (1) "Guest instructor" means an individual designated by the manager or principal instructor of an accredited training program to provide instruction specific to the lecture, hands-on activities, or work practice components of a course in the accredited training program.

(2) "Hands-on skills assessment" means an evaluation that tests a trainee's ability to satisfactorily perform the work practices, work procedures, or any other skill taught in an accredited training program.

(3) "Hazardous waste" means waste as defined in 40 C.F.R. 261.3.

(4) "Inspection" means a surface-by-surface investigation in target housing or a child occupied facility to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

(5) "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards including, but not limited to, specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5458 Definitions; L.

Sec. 5458. (1) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5% by weight.

(2) "Lead-based paint activity" means inspection, risk assessment, and abatement in target housing and child occupied facilities or in any part thereof.

(3) "Lead-based paint hazard" means any of the following conditions:

(a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface are equal to or greater than the dust lead hazard levels identified in rules promulgated under this part.

(b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component.

(c) Any chewable lead-based painted surface on which there is evidence of teeth marks.

(d) Any other deterioriated lead-based paint in or on any residential building or child occupied facility.

(e) Surface dust in a residential dwelling or child occupied facility that contains lead in a mass-per-area concentration equal to or exceeding the levels established by rules promulgated under this part.

(f) Bare soil on residential real property or property of a child occupied facility that contains lead equal to or exceeding levels established by rules promulgated under this part.

(4) "Lead-based paint investigation" means an activity designed to determine the presence of lead-based paint or lead-based paint hazards in target housing and child occupied facilities.

(5) "Living area" means an area of a residential dwelling used by 1 or more children age 6 and under including, but not limited to, a living room, kitchen area, den, playroom, and a children's bedroom.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5459 Definitions; M to S.

Sec. 5459. (1) "Multifamily dwelling" means a structure that contains more than 1 separate residential dwelling unit and that is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(2) "Paint in poor condition" means 1 or more of the following:

(a) More than 10 square feet of deteriorated paint on an exterior component with a large surface area.

(b) More than 2 square feet of deteriorated paint on an interior component with large surface areas.

(c) More than 10% of the total surface area of the component is deteriorated on an interior or exterior component with a small surface area.

(3) "Permanently covered soil" means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials including, but not limited to, pavement or concrete but not including grass, mulch, or other landscaping materials.

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(4) "Person" means that term as defined in section 1106 but including the state and a political subdivision of the state.

(5) "Principal instructor" means the individual who has the primary responsibility for organizing and teaching a particular course in an accredited training program.

(6) "Recognized laboratory" means an environmental laboratory recognized by the EPA pursuant to section 405 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2685, as being capable of performing an analysis for lead compounds in paint, soil, and dust.

(7) "Reduction" means a measure designed to reduce or eliminate human exposure to a lead-based paint hazard through methods including, but not limited to, interim controls and abatement.

(8) "Residential dwelling" means either of the following:

(a) A detached single family dwelling unit, including, but not limited to, attached structures such as porches and stoops and accessory structures such as garages, fences, and nonagricultural or noncommercial outbuildings.

(b) A building structure that contains more than 1 separate residential dwelling unit that is used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(9) "Risk assessment" means both of the following:

(a) An on-site investigation in target housing or a child occupied facility to determine the existence, nature, severity, and location of a lead-based paint hazard.

(b) The provision of a report by the person conducting the risk assessment explaining the results of the investigation and options for reducing the lead-based paint hazard.

(10) "Soil lead hazard" means bare soil on a residential dwelling or on the property of a child occupied facility that contains lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5460 Definitions; T to V.

Sec. 5460. (1) "Target housing" means housing constructed before 1978, except any of the following:

(a) Housing for the elderly or persons with disabilities, unless any 1 or more children age 6 years or less resides or is expected to reside in that housing.

(b) A 0-bedroom dwelling.

(c) An unoccupied dwelling unit pending demolition, provided the dwelling unit remains unoccupied until demolition.

(2) "Third party examination" means the examination for certification under this part in the disciplines of clearance technician, inspector, risk assessor, worker, and supervisor offered and administered by a party other than an accredited training program.

(3) "Training curriculum" means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

(4) "Training hour" means not less than 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, or hands-on experience or a combination of those activities.

(5) "Training manager" means the individual responsible for administering an accredited training program and monitoring the performance of principal instructors and guest instructors.

(6) "Visual inspection for clearance testing" means the visual examination of a residential dwelling or a child occupied facility following an abatement designed to determine whether the abatement has been successfully completed.

(7) "Visual inspection for risk assessment" means the visual examination of a residential dwelling or a child occupied facility to determine the existence of deteriorated paint or other potential sources of lead-based paint hazards.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5460a Lead-based paint activities; procedures and requirements.

Sec. 5460a. (1) This part contains procedures and requirements for the accreditation of lead-based paint activities training programs, procedures and requirements for the certification of individuals and other persons engaged in lead-based paint activities, and work practice standards for performing lead-based paint activities as that term is defined in section 5458. This part requires that all lead-based paint activities be performed by certified individuals and persons, except for those circumstances and persons described in section 5453(2).

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(2) This part does not apply to individuals and persons engaged in lead-based paint activities conducted within or on certain owner-occupied residential and multifamily dwellings as further described in section 5453(2) except in certain dwellings in which a residing child is identified as having an elevated blood lead level.

(3) This part does not require the owner or occupant to undertake any lead-based paint activities.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

Popular name: Act 368

333.5461 Persons engaged in lead-based paint activity; certification required.

Sec. 5461. (1) A person shall not engage or offer to engage in a lead-based paint activity unless certified in the appropriate discipline under this part. A person conducting a lead-based paint activity shall comply with the standards for performing lead-based paint activities contained in this part and the rules promulgated under this part.

(2) The department shall certify a person applying for certification under this part if that person demonstrates to the department that he or she is licensed, certified, or registered in another state and the standards for obtaining that license, certification, or registration are substantially similar to those imposed under this part.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5461a Lead-based paint activities; training program; accreditation required.

Sec. 5461a. (1) A person shall not provide or offer to provide a training program for lead-based paint activities unless the training program is accredited under the appropriate discipline under this part. A person providing an accredited training program shall comply with the standards for accreditation and training certification prescribed in this part and the rules promulgated under this part.

(2) The department shall accredit a training program if the training program is registered by the department under the department's voluntary registration program by August 30, 1998 if the training program submits an application under section 5462.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5462 Lead-based paint activities; training program; accreditation generally.

Sec. 5462. (1) A person may seek accreditation for a training program to offer courses in lead-based paint activities in 1 or more of the following disciplines:

(a) Inspector.

(b) Risk assessor.

(c) Supervisor.

(d) Project designer.

(e) Abatement worker/laborer.

(f) Clearance technician.

(2) A person may also seek accreditation for a training program to offer refresher courses for each of the disciplines described in subsection (1).

(3) A person shall not provide, offer, or claim to provide EPA-accredited courses in lead-based paint activities without applying for and receiving accreditation from the department under this part.

(4) A person seeking accreditation for a training program shall submit a written application to the department containing all of the following:

(a) If the applicant is a sole proprietorship or corporation, its "doing business as" or corporate identification number.

(b) The fee required by section 5471.

(c) The name of each principal position, partner, shareholder, member, or owner.

(d) The training program's proposed name, address, and telephone number.

(e) A list of courses and disciplines for which it is seeking accreditation.

(f) A statement signed by the training program manager certifying that the training program meets the requirements established by this part and the rules promulgated under this part.

(g) A copy of the student and instructor manuals or other materials to be used for each course.

(h) A copy of the course agenda for each course.

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(i) A description of the facilities and equipment to be used for lecture and hands-on training.

(j) A copy of the course test blueprint for each course.

(k) A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course.

(*l*) A copy of the quality control plan as defined in rules promulgated by the department.

(5) The department shall approve an application for accreditation of a training program within 180 days after receiving a complete application from the training program if the department determines that the applicant meets the requirements of this part and the rules promulgated under this part. In the case of approval, the department shall send a certificate of accreditation to the applicant. Before disapproving an application, the department may advise the applicant as to specific inadequacies in the application for accreditation or specific instances where the training program does not meet the requirements of this part or the rules promulgated under this part, or both. The department may request additional information or materials from the training program under this section. If the department disapproves a training program's application for accreditation, the applicant may reapply for accreditation at any time.

(6) A training program shall meet all of the following requirements in order to become accredited to offer courses in lead-based paint activities:

(a) Employ a training manager who has training, education, and experience as described in rules promulgated by the department.

(b) Provide that the training manager described in subdivision (a) designate a qualified principal instructor for each course who has training, education, and experience as described in rules promulgated by the department.

(c) Provide that the principal instructor described in subdivision (b) be responsible for the organization of the course and oversight of the teaching of all course material. A training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(7) The following documents are recognized by the department as evidence that a training manager or a principal instructor has the education, work experience, training requirements, or demonstrated experience specifically listed in rules promulgated by the department, which documentation is not required to be submitted with the accreditation application but, if not submitted, must be retained by the training program as required by the record-keeping requirements contained in this part:

(a) An official academic transcript or diploma as evidence of meeting the education requirements.

(b) A resume, letter of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) A certificate from a train-the-trainer course or a lead-specific training course, or both, as evidence of meeting the training requirements.

(8) A training program accredited under this part shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities including, but not limited to, providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities of the training program, as needed.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5463 Training program; training hour requirements for accreditation in certain disciplines; rules; course test; hands-on skills assessment; course completion certificates; quality control plan; teaching work practice standards; duties of training manager.

Sec. 5463. (1) A training program accredited under section 5462 shall provide training courses that meet the following training hour requirements in order to become accredited in the following disciplines:

(a) An inspector course shall last a minimum of 24 training hours, with a minimum of 8 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the inspector course.

(b) A risk assessor course shall last a minimum of 16 training hours, with a minimum of 4 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the risk assessor course.

(c) A supervisor course shall last a minimum of 32 training hours, with a minimum of 8 hours devoted to hands-on activities. The department shall promulgate rules to determine the minimum curriculum

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requirements for the supervisor course.

(d) A project designer course shall last a minimum of 8 training hours. The department shall promulgate rules to determine the minimum curriculum requirements for the project designer course.

(e) An abatement worker course shall last a minimum of 16 training hours, with a minimum of 8 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the abatement worker course.

(f) A clearance technician course shall last a minimum of 8 training hours, with a minimum of 2 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the clearance technician course. Until rules are promulgated, a clearance technician course shall use the curriculum for the lead sampling technician course approved by the EPA under subpart Q of part 745 of title 40 of the code of federal regulations.

(2) The department may promulgate rules to modify 1 or more of the requirements imposed under subsection (1) if changes are needed to comply with federal mandates or for another reason considered appropriate by the department.

(3) For each course offered, the training program shall conduct a course test at the completion of the course and, if applicable, a hands-on skills assessment. Each individual enrolled in the training program must successfully complete the hands-on skills assessment, if conducted for that course, and receive a passing score on the course test in order to pass a course.

(4) The training manager shall maintain the validity and integrity of a hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in rules promulgated under this section and the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(5) A training program's course test shall be developed in accordance with the test blueprint submitted with the training program accreditation application.

(6) A training program shall issue course completion certificates to each individual who passes the training course. The course completion certificates shall include:

(a) The name and address of the individual, along with a unique identification number.

(b) The name of the particular course that the individual passed.

(c) Dates of course completion and test passage.

(d) Expiration date of course certificate.

(e) The name, address, and telephone number of the training program.

(7) The training manager shall develop and implement a quality control plan designed to maintain and improve the quality of the training program. The quality control plan shall contain at least both of the following elements:

(a) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

(b) Procedures for the training manager's annual review of each principal instructor's competence.

(8) The training program shall offer courses that teach the work practice standards for conducting lead-based paint activities and other standards developed by the EPA pursuant to title IV of the toxic substances control act and considered appropriate or necessary by the department. The work practice standards shall be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities.

(9) The training manager shall ensure that the training program complies at all times with all of the requirements of this section and the rules promulgated under this section.

(10) The training manager shall allow the department to audit the training program to verify the contents of the application for accreditation.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5464 Accreditation of refresher course.

Sec. 5464. (1) A training program may seek accreditation to offer refresher training courses in 1 or more of the disciplines described in section 5462(1). A training program shall meet those minimum requirements contained in rules promulgated by the department in order to obtain department accreditation.

(2) A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course pursuant to rules promulgated by the department.

(3) The department shall approve an application for accreditation of a refresher course within 180 days

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after receiving a complete application. Upon approval, the department shall send a certificate of accreditation to the applicant. Before disapproval, the department may advise the applicant as to specific inadequacies in the application for accreditation or specific instances where the continuing education course does not meet the requirements of this part and the rules promulgated under this part, or both. The department may also request additional information or materials retained by the training program. If the department denies a training program's application for accreditation of a refresher course, the applicant may reapply for accreditation at any time.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5465 Reaccreditation of training program.

Sec. 5465. (1) Unless reaccredited, a training program's accreditation under section 5462, including refresher course training accredited under section 5464, expires 1 year after the date of issuance.

(2) A training program seeking reaccreditation shall submit an application to the department no later than 45 days before its accreditation expires.

(3) A training program's application for reaccreditation shall include any fees and information required pursuant to rules promulgated by the department.

(4) Upon request, a training program shall allow the department to audit the training program to verify the contents of the application for reaccreditation.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

Popular name: Act 368

333.5466 Suspension, revocation, or modification of accreditation.

Sec. 5466. (1) The department may, after notice and an opportunity for hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, suspend, revoke, or modify a training program accreditation or a refresher course training program accreditation if the department determines that a training program, training manager, or other person with supervisory authority over the training program has done 1 or more of the following:

(a) Misrepresented the contents of a training course to the department or the trainees enrolled in the training program, or both.

(b) Failed to submit required information or notifications in a timely manner.

(c) Failed to maintain required records.

(d) Falsified accreditation records, student certificates, instructor qualifications, or other accreditation-related information or documentation.

(e) Failed to comply with the training standards and requirements of this part and the rules promulgated under this part.

(f) Failed to comply with a federal, state, or local statute, rule, or regulation involving lead-based paint activities.

(g) Made false or misleading statements to the department in its application for accreditation or reaccreditation that the department relied upon in approving the application.

(2) In addition to an administrative or judicial finding of a violation, the execution of a consent agreement in settlement of an enforcement action is considered, for purposes of this section, evidence of a failure to comply with the standards and requirements of this part and the rules promulgated under this part or other relevant statutes or regulations involving lead-based paint activities.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5467 Accreditation training program; availability and retention of records; notice of change of address.

Sec. 5467. (1) An accredited training program shall maintain, and make available to the department, upon request, all of the following records:

(a) Each document that demonstrates the qualifications of a training manager or a principal instructor.

(b) Current curriculum and course materials and documents reflecting changes made to these materials.

(c) The course test blueprint.

(d) Information regarding how the hands-on skills assessment is conducted including, but not limited to, all of the following:

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(*i*) The person conducting the hands-on skills assessment.

(*ii*) The method of grading the hands-on skills.

(*iii*) A description of the facilities used.

(*iv*) The pass/fail rate.

(e) The quality control plan.

(f) The results of the students' hands-on skills assessments and course tests and a record of each student's participation, including name, social security number, and score, within 10 calendar days of the last day of the course taken.

(g) Any other material that was submitted to the department as part of the program's application for accreditation.

(2) A training program shall retain the records described in subsection (1) for at least 3-1/2 years at the address specified on the training program accreditation application.

(3) The training program shall notify the department in writing within 30 days of changing the address specified on its training program accreditation application or transferring the records from that address.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5468 Certification to engage in lead-based paint activities; fees; application; requirements for certification in specific discipline.

Sec. 5468. (1) An individual seeking certification by the department to engage in lead-based paint activities shall pay the appropriate fees required under section 5471 and submit an application to the department demonstrating either of the following:

(a) Compliance with the requirements of this part and the rules promulgated under this part for the particular discipline for which certification is sought.

(b) A copy of a valid lead-based paint activities certification or its equivalent, as determined by the department, from a training program that has been authorized by the EPA pursuant to 40 C.F.R. part 745 along with proof of the applicant's third party examination results.

(2) Following the submission of an application demonstrating that the requirements of this part and the rules promulgated under this part have been met, the department shall certify an applicant in 1 or more of the following disciplines:

(a) Inspector.

(b) Risk assessor.

(c) Supervisor.

(d) Project designer.

(e) Abatement worker.

(f) Clearance technician.

(3) Upon receiving the department certification in 1 or more of the disciplines described in subsection (2), an individual conducting lead-based paint activities shall comply with the work practice standards for performing that discipline as established under this part and the rules promulgated under this part.

(4) An individual shall not conduct a lead-based paint activity unless that individual is certified by the department under this section in the appropriate discipline.

(5) An individual shall do all of the following in order to become certified by the department as an inspector, risk assessor, abatement worker, or supervisor:

(a) Successfully complete a course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Pass the third party exam in the appropriate discipline.

(c) Meet the experience or education requirements, or both, as described in rules promulgated by the department.

(6) After an individual passes the appropriate certification exam and submits an application demonstrating that he or she meets the appropriate training, education, and experience requirements and passes the appropriate certification exam, the department shall issue a certificate to the individual in the specific discipline for which certification is sought. To maintain certification, an individual must be recertified pursuant to this part.

(7) An individual shall pass the third party exam within 6 months after receiving a course completion certificate in order to be eligible for certification. An individual is not eligible to take the third party exam more than 3 times within the 6 months after receiving a course completion certificate. An individual who does not pass the third party exam after 3 attempts shall repeat the appropriate course from an accredited training program in order to be eligible to retake the exam.

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(8) An individual shall do both of the following in order to become certified by the department as a project designer:

(a) Successfully complete a course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Meet the experience or education requirements, or both, as described in rules promulgated by the department.

(9) After an individual has successfully completed the appropriate training courses, applied to the department, and met the requirements of this part and the rules promulgated under this part, the department shall issue a certificate to the individual in the discipline of project designer. To maintain certification, the individual must be periodically recertified pursuant to this part.

(10) An individual who received training in a lead-based paint activity between October 1, 1990 and March 1, 1999 and an individual who has received lead-based paint activities training at an EPA-authorized accredited training program are eligible for certification by the department under rules promulgated by the department.

(11) In order to maintain certification in a particular discipline, a certified individual shall apply to and be recertified in that discipline by the department every 3 years.

(12) An individual shall do both of the following in order to become a certified clearance technician:

(a) Successfully complete an approved course for the discipline of clearance technician and receive a course completion certificate.

(b) Pass the third party exam for the discipline of clearance technician.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5469 Certification to engage in lead-based paint activities; employment of certified employees; requirements.

Sec. 5469. (1) Beginning August 30, 1999, a person shall not perform or offer to perform lead-based paint activities without obtaining certification by the department under this part.

(2) A person seeking certification under subsection (1) shall submit to the department a letter attesting that the person shall only employ appropriately certified employees to conduct lead-based paint activities and that the person and its employees shall follow the work practice standards for conducting lead-based paint activities as established in rules promulgated by the department.

(3) A person seeking certification under subsection (1) shall do all of the following:

(a) Complete the application and pay the appropriate fee accompanied by a corporate identification number, certificate of sole proprietorship, or other business entity documentation acceptable to the department.

(b) Indicate whether the applicant has liability insurance.

(c) Submit proof of Michigan workers' disability compensation insurance.

(d) Submit proof that each employee or agent involved in lead-based paint activities has received training and certification as required by this part.

(e) If applicable, submit the name of each principal partner, shareholder, member, or owner.

(4) Not more than 90 days from the date of receipt of the person's completed application, the department shall approve or disapprove the person's request for certification. Within that time period, the department shall respond with either a certificate of approval or a letter describing the reasons for a disapproval.

(5) A person certified by the department under this section shall maintain all records pursuant to the requirements imposed in rules promulgated by the department.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5470 Certification in appropriate discipline required.

Sec. 5470. Beginning on March 1, 1999, all lead-based paint activities shall be performed by an individual certified in the appropriate discipline under this part and pursuant to the work practice standards prescribed in rules promulgated by the department.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

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333.5471 Training program or refresher courses; fees.

Sec. 5471. (1) Subject to subsection (7), fees for a person accredited or seeking accreditation for a training program offering courses or refresher courses in lead-based paint abatement are as follows:

(a)	Initial application processing fee	$ 100.00.
(b)	Initial accreditation fee	$475.00 per discipline.
(c)	Reaccreditation fee, annual	$265.00 per discipline.

(2) Fees for an individual certified or seeking certification to engage in lead-based paint abatement are as follows:

(a)	Initial application processing fee	$ 25.00.
(b)	Certification fee, per year:	
(*i*)	Inspector	$ 150.00.
(*ii*)	Risk assessor	$ 150.00.
(*iii*)	Supervisor	$ 50.00.
(*iv*)	Project designer	$ 150.00.
(*v*)	Abatement worker/laborer	$ 25.00.
(*vi*)	Clearance technician	$ 50.00.

(3) Fees for a person certified or seeking certification to engage in lead-based paint abatement are as follows:

(a)	Initial application processing fee	$ 100.00.
(b)	Certification fee, per year	$ 220.00.

(4) If the department increases fees under subsection (5), the increase shall be effective for that fiscal year. The increased fees shall be used by the department as the basis for calculating fee increases in subsequent fiscal years.

(5) By August 1 of each year, the department shall provide to the director of the department of management and budget and to the chairpersons of the appropriations committees of the senate and house of representatives a complete schedule of fees to be collected under this section.

(6) The fees imposed under this part shall not exceed the actual cost of administering this part.

(7) The department may waive the fees for an accredited training program for a person who has demonstrated that no part of its net earnings benefit any private shareholder or individual.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5472 Notice of lead-based paint abatement.

Sec. 5472. Before beginning a lead-based paint abatement, a person conducting lead-based paint abatement shall notify the department, on forms provided by the department or through electronic methods approved by the department, regarding information the department considers necessary in order to conduct an unannounced site inspection. The person shall send notification not less than 3 business days before commencing the lead-based paint abatement.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5473 Administration and enforcement of part.

Sec. 5473. The legislature shall annually appropriate to the department an amount sufficient to administer and enforce this part. These funds shall be offset by funds received from federal agencies in the form of grants or other funding provisions. All funds generated by this part shall be deposited into the general fund to be used exclusively by the department to carry out the duties and responsibilities of this part. With fees collected pursuant to this part and funds appropriated by the legislature, the department shall conduct compliance activities that assure the quality of training and protection of worker's and public health and safety. Such activities include, but are not limited to, unannounced inspections of lead abatement project sites.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

Popular name: Act 368

333.5473a Administration and enforcement of part by department; rules; establishment of programs; recommendations; disclosure; exemption.

Sec. 5473a. (1) The department shall administer this part and promulgate rules as may be necessary for the

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administration and enforcement of this part pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The department shall authorize, coordinate, and conduct programs to educate persons including, but not limited to, homeowners and remodelers of lead hazards associated with remodeling target housing and methods of lead-hazard reduction activities.

(3) The department shall establish a program that provides an opportunity for property owners, managers, and maintenance staff to learn about lead-safe practices and the avoidance of creating lead-based paint hazards during minor painting, repair, or renovation.

(4) Not later than January 1, 2000, the department shall recommend appropriate maintenance practices for owners of residential property, day care facilities, and secured lenders that are designed to prevent lead poisoning among children 6 years of age or less and pregnant women. In making its recommendations, the department shall consult with affected stakeholders and shall consider the effects of those maintenance practices on the availability and affordability of housing and credit.

(5) The following information required to be submitted to the department by certified individuals and persons under this part and rules promulgated under this part is exempt from disclosure as a public record under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246:

(a) The name, street address, and telephone number of the owner, agent, or tenant of a residential dwelling where lead-based paint investigations have been conducted.

(b) Information that could be used to identify 1 or more children with elevated blood lead levels that have been reported to the department.

(c) Information contained in an EBL investigation report that could be used to identify 1 or more children with elevated blood lead levels.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5474 Establishment of lead poisoning prevention program; components; reports.

Sec. 5474. (1) The department shall establish a lead poisoning prevention program that has the following components:

(a) A coordinated and comprehensive plan to prevent childhood lead poisoning and to minimize exposure of the general public to lead-based paint hazards.

(b) A comprehensive educational and community outreach program regarding lead poisoning prevention that shall, at a minimum, include the development of appropriate educational materials targeted to health care providers, child care providers, public schools, owners and tenants of residential dwellings, and parents of young children. These educational materials shall be made available, upon request, to local and state community groups, legal services organizations, and tenants' groups.

(c) A technical assistance system for health care providers to assist those providers in managing cases of childhood lead poisoning. As part of this system, the department shall require that results of all blood lead level tests conducted in Michigan be reported to the department as provided for in rule and that when the department receives notice of blood lead levels above 10 micrograms per deciliter, it shall initiate contact with the local public health department or the physician, or both, of the child whose blood lead level exceeds 10 micrograms per deciliter.

(2) The department shall report to the legislature by January 1, 1999, and annually thereafter, the number of children through age 6 who were screened for lead poisoning during the preceding fiscal year and who were confirmed to have had blood lead levels above 10 micrograms per deciliter. The report shall compare these rates with those of previous fiscal years and the department shall recommend methods for improving compliance with guidelines issued by the federal centers for disease control and prevention, including any necessary legislation or appropriations.

(3) Not more than 1 year after the effective date of this part, and annually thereafter, the department shall prepare a written report regarding the expenditures under the lead poisoning prevention program including the amounts and sources of money from the previous year and a complete accounting of its use. The report shall be given to the appropriate committees of the legislature and be made available to the general public upon request.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

Popular name: Act 368

333.5474a Repealed. 2004, Act 431, Eff. July 1, 2007.

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Compiler's note: The repealed section pertained to the childhood lead poisoning prevention and control commission.

Popular name: Act 368

333.5474b Lead safe housing registry.

Sec. 5474b. (1) The department in cooperation with the family independence agency and the Michigan state housing development authority shall establish and maintain a registry, to be known as the "lead safe housing registry", to provide the public with a listing of residential and multifamily dwellings and child occupied facilities that have been abated of or have had interim controls performed to control lead-based paint hazards as determined through a lead-based paint investigation performed by a certified risk assessor certified under this part.

(2) The owner of target housing that is offered for rent or lease as a residence or the owner of a child occupied facility shall register that property with the department if that property has been abated of or has had interim controls performed to control lead-based paint hazards as determined through a lead-based paint investigation performed by a certified risk assessor certified under this part in a form as prescribed by the department free of charge. The form shall include, at a minimum, the following:

(a) Name of the owner of the building.

(b) Address of the building.

(c) Date of construction.

(d) Date and description of any lead-based paint activity including the name of the certified abatement worker or the certified risk assessor certified under this part who performed the abatement or conducted the inspection, lead-hazard screen, assessment, or clearance testing of the building and the results of the lead-based paint activity.

(3) An owner required to register his or her property under subsection (2) shall provide the department with a copy of each report, document, or other information that is required to be filed with the federal government under federal law and regulations related to lead-based paint.

(4) The owner of any other residential or multifamily dwelling that is offered for rent or lease as a residence or the owner of a child occupied facility may register that property with the department and the department shall include that property on the lead safe housing registry. A person who wishes to register under this subsection shall execute and return the registration form to the department with payment of the registration fee in an amount as prescribed by the department.

(5) The department shall publish the lead safe housing registry on its website and provide a copy of the registry to a person upon request. The department may charge a reasonable, cost-based fee for providing copies of the lead safe housing registry under this subsection.

History: Add. 2004, Act 432, Imd. Eff. Dec. 21, 2004.

Popular name: Act 368

333.5474b[1] Lead safe housing registry.

Sec. 5474b. (1) The department in cooperation with the family independence agency and the Michigan state housing development authority shall establish and maintain a registry, to be known as the "lead safe housing registry", to provide the public with a listing of residential and multifamily dwellings and child occupied facilities that have been abated of or have had interim controls performed to control lead-based paint hazards as determined through a lead-based paint investigation performed by a certified risk assessor certified under this part.

(2) The owner of target housing that is offered for rent or lease as a residence or the owner of a child occupied facility shall register that property with the department if that property has been abated of or has had interim controls performed to control lead-based paint hazards as determined through a lead-based paint investigation performed by a certified risk assessor certified under this part in a form as prescribed by the department free of charge. The form shall include, at a minimum, the following:

(a) Name of the owner of the building.

(b) Address of the building.

(c) Date of construction.

(d) Date and description of any lead-based paint activity including the name of the certified abatement worker or the certified risk assessor certified under this part who performed the abatement or conducted the inspection, lead-hazard screen, assessment, or clearance testing of the building and the results of the lead-based paint activity.

(3) An owner required to register his or her property under subsection (2) shall provide the department with a copy of each report, document, or other information that is required to be filed with the federal government under federal law and regulations related to lead-based paint.

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(4) The owner of any other residential or multifamily dwelling that is offered for rent or lease as a residence or the owner of a child occupied facility may register that property with the department and the department shall include that property on the lead safe housing registry. A person who wishes to register under this subsection shall execute and return the registration form to the department with payment of the registration fee in an amount as prescribed by the department.

(5) The department shall publish the lead safe housing registry on its website and provide a copy of the registry to a person upon request. The department may charge a reasonable, cost-based fee for providing copies of the lead safe housing registry under this subsection.

History: Add. 2004, Act 433, Imd. Eff. Dec. 21, 2004.

Compiler's note: This added section is compiled as MCL 333.5474b[1] to distinguish it from another Sec. 5474b deriving from Act 432 of 2004.

Popular name: Act 368

333.5474c Repealed. 2004, Act 400, Eff. July 1, 2007.

Compiler's note: The repealed section pertained to report findings of environmental threats of lead poisoning to children.

Popular name: Act 368

333.5474c[1] Lead Poisoning Prevention Week.

Sec. 5474c. (1) The legislature recognizes the imminent threats posed to children's health and cognitive development from ingestion of lead paint dust in residential neighborhoods, the broad dispersal of lead-laden soils from historical airborne deposition of leaded fuel emissions, and identified specific facilities that present known or potential lead hazards. The legislature further recognizes the need to educate the citizens of this state regarding those threats.

(2) The legislature declares that October 23 through October 29, 2005 shall be known as the "Lead Poisoning Prevention Week" and for each year thereafter the period beginning on the fourth Sunday of October through the following Saturday shall be known as the "Lead Poisoning Prevention Week".

History: Add. 2004, Act 433, Imd. Eff. Dec. 21, 2004.

Compiler's note: This added section is compiled as MCL 333.5474c[1] to distinguish it from another Sec. 5474c deriving from Act 400 of 2004.

Popular name: Act 368

333.5474d Testing of minors for lead poisoning; rules; exception.

Sec. 5474d. (1) Beginning January 1, 2024, a physician treating a patient who is a minor shall do both of the following:

(a) Test the minor for lead poisoning, or order the test for the minor, at the intervals and using the methods specified by the department by rule.

(b) If the physician performs the test described in subdivision (a), make an entry of the testing on the minor's certificate of immunization.

(2) The department shall promulgate rules to implement this section. The rules must include, but are not limited to, all of the following:

(a) Subject to subsection (3), a requirement that a minor residing in this state is tested at the following ages:

(*i*) 12 months of age and 24 months of age.

(*ii*) If the minor has no previous record of the test required under this section, between 24 months of age and 72 months of age.

(b) The identification of geographic areas in this state that pose a high risk for childhood lead poisoning and a requirement that a minor who is 4 years of age be tested if the minor resides in an area described in this subdivision.

(c) Factors to identify a minor who is at high risk for lead poisoning. The factors must include, but are not limited to, residing in a home where other minors have been diagnosed with lead poisoning and residing in a home that was built before 1978.

(d) A requirement that a minor is tested at intervals determined by the department if a physician determines that the minor is at high risk for lead poisoning by applying the factors described in subdivision (c), through a parent's attestation, or through the physician's own independent medical judgment.

(e) Procedures for entering the information described in subsection (1)(b) on the minor's certificate of immunization, including, but not limited to, procedures for entering the information if the testing is performed by a person other than a physician.

(3) The department may, by rule, adjust the age requirements described in subsection (2)(a) or eliminate

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the testing requirement in subsection (2)(a) if, after collecting and reviewing data on lead poisoning in this state for 5 years, the department determines that testing minors at the ages described in subsection (2)(a) is no longer necessary or appropriate to maintain the health and safety of minors who reside in this state. If the department adjusts the ages or eliminates the requirement described in subsection (2)(a) under this subsection, the department shall submit a report to the legislature detailing the department's rationale.

(4) This section does not apply to a minor whose parent, guardian, or person in loco parentis objects to testing.

(5) As used in this section, "certificate of immunization" means the certificate described in section 9206.

History: Add. 2023, Act 146, Imd. Eff. Oct. 3, 2023.

Popular name: Act 368

333.5475 Alleged violations or complaints; actions by department.

Sec. 5475. (1) The department shall receive or initiate complaints of alleged violations of this part or rules promulgated under this part and take action with respect to alleged violations or complaints as prescribed by this part.

(2) The department, in its own discretion, or upon the written complaint of an aggrieved party or of a state agency or political subdivision of this state, may investigate the acts of an accredited training program, an individual or other person certified under this part, or a person allegedly engaged in lead-based paint activity. The department may deny, suspend, or revoke certification or accreditation issued under this part if a certified person, accredited training program, certified individual, or a person allegedly engaged in lead-based paint activity is found to be not in compliance with this part or the rules promulgated under this part. In addition, the department may deny, suspend, or revoke a certification or accreditation issued under this part for 1 or more of the following:

(a) Willful or negligent acts that cause a person to be exposed to a lead-containing substance in violation of this part, the rules promulgated under this part, or other state or federal law pertaining to the public health and safety aspects of lead abatement.

(b) Falsification of records required under this part.

(c) Continued failure to obtain or renew certification or accreditation under this part.

(d) Deliberate misrepresentation of facts or information in applying for certification or accreditation under this part.

(e) Permitting a person who has not received the proper training and certification under this part or other applicable state or federal law to come in contact with lead or be responsible for a lead abatement project.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5475a Rental unit containing lead-based hazard; presumption of actual knowledge; violation; penalties; defense; burden of proof; definitions.

Sec. 5475a. (1) A property manager, housing commission, or owner of a rental unit who rents or continues to rent a residential housing unit to a family with a minor child who is found to have 10 micrograms or more of lead per deciliter of venous blood is subject to the penalties provided under subsection (3) if all of the following apply:

(a) The property manager, housing commission, or owner of the rental unit has prior actual knowledge that the rental unit contains a lead-based paint hazard.

(b) At least ninety days have passed since the property manager, housing commission, or owner of the rental unit had actual knowledge of the lead paint hazard.

(c) The property manager, housing commission, or owner of the rental unit has not acted in good faith to reduce the lead paint hazards through interim controls or abatement or a combination of interim controls and abatement.

(2) A property manager, housing commission, or owner of the rental unit is presumed to have prior actual knowledge that a unit contains a lead-based paint hazard only if 1 of the following applies:

(a) The property manager, housing commission, or owner of the rental unit signed an acknowledgment of the hazard as a result of a risk assessment under this chapter at the time the risk assessment was made.

(b) The property manager, housing commission, or owner of the rental unit was served as a result of a risk assessment under this chapter with notice of the hazard by first-class mail and a return receipt of that service was obtained.

(3) A property manager, housing commission, or owner of the rental unit convicted of violating this section is guilty of a crime as follows:

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(a) Except as provided in subdivision (b), the property manager, housing commission, or owner of the rental unit is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $5,000.00, or both.

(b) If the property manager, housing commission, or owner of the rental unit was previously convicted of violating this section or a local ordinance substantially corresponding to this section, the property manager, housing commission, or owner of the rental unit is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $10,000.00, or both.

(4) The property manager, housing commission, or owner of the rental unit may assert 1 or more of the following as an affirmative defense in a prosecution of violating this section, and has the burden of proof on that defense by a preponderance of the evidence:

(a) That the property manager, housing commission, or owner of the rental unit requested or contracted with a person having responsibility for maintaining the rental unit to reduce the hazard through interim controls or abatement and reasonably expected that the hazard would be reduced.

(b) That the tenant would not allow entry into or upon premises where the hazard is located or otherwise interfered with correcting the hazard.

(5) As used in this section:

(a) "Property manager" means a person who engages in property management as defined in section 2501 of the occupational code, 1980 PA 299, MCL 339.2501.

(b) "Lead-based paint hazard" means that term as defined in section 5458 of the public health code, 1978 PA 368, MCL 333.5458.

History: Add. 2004, Act 434, Eff. Jan. 2, 2005.

Popular name: Act 368

333.5476 Violation of part; fine; citation; administrative hearing.

Sec. 5476. (1) A person who violates this part or a rule promulgated under this part is subject to an administrative fine up to the following amounts for each violation or each day that a violation continues:

(a)	For a first violation	$	2,000.00.
(b)	For a second violation	$	5,000.00.
(c)	For a third or subsequent violation	$	10,000.00.

(2) If the department has reasonable cause to believe that a person has violated this part or a rule promulgated under this part, the department may issue a citation at that time or not later than 180 days after discovery of the alleged violation. The citation shall be written and shall state with particularity the nature of the violation as provided for by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. An alleged violator may request an administrative hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5477 Violation; failure to correct violation after notice as misdemeanor; sanctions, penalties, or other provisions.

Sec. 5477. (1) A person who engages in a lead-based paint activity as provided for by this part and who willfully or repeatedly violates this part or a rule promulgated under this part or a person who fails to correct the violation after notice from the department under this part is guilty of a misdemeanor, punishable by a fine of not more than $5,000.00, and upon conviction for a second or subsequent offense, not more than $10,000.00, or imprisonment for not more than 6 months, or both. A violation of this subsection may be prosecuted by either the attorney general or the prosecuting attorney of the judicial district in which the violation was committed.

(2) The application of sanctions under this part is cumulative and does not preclude the application of other sanctions or penalties contained in the provisions of any other federal, state, or political subdivision statute, rule, regulation, or ordinance.

(3) This part does not diminish the responsibilities of an owner or occupant, or the authority of enforcing agents under state, county, city, municipal, or other local building, housing, or health and safety codes.

(4) The requirements of this part are in addition to other pertinent provisions of a code listed in subsection (3).

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

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Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5478, 333.5479 Repealed. 2007, Act 162, Eff. July 1, 2010.

Compiler's note: The repealed sections pertained to reinstatement and powers and duties of the childhood lead poisoning prevention and control commission.

Popular name: Act 368

PART 54B.
LEAD-BEARING SUBSTANCES

333.5481 Definitions.

Sec. 5481. As used in this part:

(a) "Children" means individuals who are 7 years old or younger.

(b) "Consumer" means that term as used in the consumer product safety act, 15 USC 2051 to 2085.

(c) "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to children, including, but not limited to, the following:

(*i*) Jewelry represented in its packaging, display, or advertising as appropriate for use by children.

(*ii*) Jewelry sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children.

(*iii*) Jewelry sized for children and not intended for use by adults.

(*iv*) Jewelry sold in a vending machine.

(*v*) Jewelry sold in a retail store, catalog, or online website in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(*vi*) Jewelry sold in a discrete portion of a retail store, catalog, or online website in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(d) "Lead-bearing substance" means an item or substance that contains lead, or a coating on an item that contains lead, so that the lead content is more than 0.06% of the total weight. Lead-bearing substance does not include glass or crystal decorative components.

(e) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

History: Add. 2007, Act 161, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5482 Children's jewelry; use or application of lead-bearing substance prohibited.

Sec. 5482. A person shall not use or apply a lead-bearing substance in or on any children's jewelry in this state.

History: Add. 2007, Act 161, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5483 Children's jewelry containing lead-bearing substance; sale, offer for sale, or transfer prohibited.

Sec. 5483. A person shall not sell, offer for sale, or transfer to any person any children's jewelry in this state that contains a lead-bearing substance.

History: Add. 2007, Act 161, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5484 Hazards of lead-bearing substances; posting information on website.

Sec. 5484. The department shall post on its website information about the hazards of lead-bearing substances and any programs it offers designed to educate individuals about those hazards.

History: Add. 2007, Act 161, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5485 Lunch box containing lead-bearing substance; exception; "lunch box" defined.

Sec. 5485. (1) A person shall not sell or offer for sale in this state or for use in this state a lunch box that contains a lead-bearing substance.

(2) This section does not apply to the sale of a collectible lunch box or any other lunch box no longer intended to be used to carry food or drink for human consumption.

(3) As used in this section, "lunch box" means a fabricated container marketed or intended to be used to carry packaged or unpackaged food or drink for human consumption.

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History: Add. 2007, Act 160, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5486 Violations; penalties; waiver.

Sec. 5486. (1) Except as otherwise provided in subsection (2), a person who violates this part is subject to the following:

(a) If the person is not an individual consumer and the violation is the person's first offense under this part, a civil fine of not more than $100.00 per item, not to exceed $5,000.00 total.

(b) If the person is not an individual consumer and the violation is the person's second offense under this part, a civil fine of not more than $500.00 per item, not to exceed $25,000.00 total.

(c) If the person is not an individual consumer and the violation is the person's third or subsequent offense under this part, a civil fine of not more than $1,000.00 per item, not to exceed $50,000.00 total.

(d) If a person knowingly violates this part and the person is not an individual consumer, a civil fine equal to 3 times the amounts in subdivision (c).

(2) A civil fine imposed under this section shall be waived if it is determined that a person acted in good faith to be in compliance with this part, pursued compliance with due diligence, and promptly corrected any noncompliance after discovery of the violation.

History: Add. 2007, Act 161, Eff. Mar. 20, 2008.

Popular name: Act 368

PART 54C.
TOXIC SUBSTANCES IN CHILDREN'S PRODUCTS

333.5491 Definitions.

Sec. 5491. As used in this part:

(a) "Child care article" means a product designed or intended by the manufacturer to facilitate the sleep, relaxation, or feeding of children or to help children with sucking or teething.

(b) "Children" means individuals who are 7 years old or younger.

(c) "Consumer" means that term as used in the consumer product safety act, 15 USC 2051 to 2085.

(d) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(e) "Toxic substance" means a substance that contains lead, or a coating on an item that contains lead, so that the lead content is more than 0.06% of the total weight. Toxic substance does not include glass or crystal decorative components.

(f) "Toy" means an article designed and made for the amusement of a minor or for the minor's use in play.

History: Add. 2007, Act 159, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5492 Toxic substance in toy or child care article; prohibited conduct; exception.

Sec. 5492. (1) A person shall not use or apply a toxic substance in or on any toy or child care article in this state.

(2) A person shall not sell, offer for sale, or transfer a toy or child care article in this state that contains a toxic substance.

(3) This section does not apply to the sale of a collectible toy that is not marketed to or intended to be used by a minor.

History: Add. 2007, Act 159, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5493 Violation; penalties; waiver.

Sec. 5493. (1) Except as otherwise provided in subsection (2), a person who violates this part is subject to the following:

(a) If the person is not an individual consumer and the violation is the person's first offense under this part, a civil fine of not more than $100.00 per item not to exceed $5,000.00 total.

(b) If a person is not an individual consumer and the violation is the person's second offense under this part, a civil fine of not more than $500.00 per item not to exceed $25,000.00 total.

(c) If the person is not an individual consumer and the violation is the person's third or subsequent offense under this part, a civil fine of not more than $1,000.00 per item not to exceed $50,000.00 total.

(d) If a person knowingly violates this part and the person is not an individual consumer, a civil fine equal

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to 3 times the amounts in subdivision (c).

(2) A civil fine imposed under this section shall be waived if it is determined that a person acted in good faith to be in compliance with this part, pursued compliance with due diligence, and promptly corrected any noncompliance after discovery of the violation.

History: Add. 2007, Act 159, Eff. Mar. 20, 2008.

Popular name: Act 368

PART 55

333.5501 Repealed. 1988, Act 442, Eff. Dec. 27, 1991.

Compiler's note: The repealed section pertained to reports and records on Alzheimer's disease and related disorders.

Popular name: Act 368

333.5511 Alzheimer's disease or related disorder; state plan for network of regional, multidisciplinary diagnostic and assessment centers; submission to governor and legislature.

Sec. 5511. (1) The department shall develop, in consultation with the department of social services, the department of mental health, the office of services to the aging, and the office of health and medical affairs, a state plan for a network of regional, multidisciplinary diagnostic and assessment centers for individuals diagnosed or identified as having Alzheimer's disease or a related disorder. In developing the state plan, consideration shall be given to all of the following:

(a) A center shall be located so as to minimize transportation problems for patients and their families.

(b) A center shall be operated in conjunction with existing related services and programs.

(c) A center shall have the capacity to be reimbursed for the diagnostic and assessment process by third-party payers, including, but not limited to, medicare and the state medical assistance program.

(d) Payment for services provided to individuals without sufficient health insurance coverage who have a limited income, but who are not eligible for the state medical assistance program.

(2) The state plan shall be completed and submitted to the governor and the legislature within 1 year after the effective date of this section.

History: Add. 1988, Act 443, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5521 Meanings of words and phrases used in MCL 333.5521 to 333.5539.

Sec. 5521. As used in sections 5521 to 5539:

(a) "Affected individual" means an individual diagnosed or identified as having Alzheimer's disease or a related disorder.

(b) "Autopsy" means a brain autopsy.

(c) "Family representative" means an affected individual's legal guardian, spouse, adult child, parent, or other family member.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5523 Identification of Alzheimer's disease and related disorders autopsy network; tasks.

Sec. 5523. The director shall identify an Alzheimer's disease and related disorders autopsy network. The network shall include individuals qualified to perform all of the following tasks:

(a) Provide information to, and obtain consent from, an affected individual or his or her family as provided in section 5529.

(b) Extract the necessary tissue.

(c) Preserve the tissue, prepare it for transport, and arrange for it to be transported.

(d) Examine the tissue and prepare a report on the results of the tissue examination.

(e) Provide the department and the family representative of the deceased with the results of the tissue examination.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5525 Identification of tissue repositories.

Sec. 5525. The department shall identify 1 or more tissue repositories for the receipt and storage of tissue of affected individuals who are deceased. The department may identify an existing public or private facility or

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institution that is equipped to provide for storage of the tissue.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5527 Tissue repository; access; collection and use of fees; report.

Sec. 5527. (1) A tissue repository identified under section 5525 shall allow equitable access to tissue to persons performing medical research and education, and may collect a reasonable fee for use of the tissue. Fees collected shall be used to fund the repository.

(2) A repository shall annually provide a report to the department on the collection and distribution of the tissue, and on the amount and use of the fees collected.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5529 Request for autopsy; information; written consent.

Sec. 5529. If an affected individual or his or her family representative requests an autopsy, a network representative shall provide to that person information concerning the cost, purposes, and benefits of an autopsy, and the benefits of using the tissue for medical research and education. The network representative shall also request that the affected individual or his or her family representative sign a written consent to the autopsy, and a separate written consent to use of the tissue for medical research and education.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5533 Duty of chronic disease advisory committee.

Sec. 5533. The chronic disease advisory committee shall oversee the implementation of sections 5523 to 5539.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5535 Subsidy program.

Sec. 5535. Within 1 year after the effective date of this section, the department shall develop and recommend to the legislature a subsidy program to help defray a portion of the cost to an affected individual or the affected individual's family of performing an autopsy.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5537 Information on critical role of autopsies.

Sec. 5537. The department shall provide to physicians, hospitals, nursing homes, medical examiners, funeral directors, affected individuals and their family members, and other appropriate persons written information describing the critical role that autopsies play in the diagnosis of, and in the conduct of research into the causes, treatment, and cure of, Alzheimer's disease and related disorders.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5539 Authority of family representative.

Sec. 5539. The authority of a family representative to act as provided in this part is given first to the affected individual's legal guardian, and if none, then to his or her spouse, and if none, then to his or her adult child or children, and if none, then to his or her parent, and if none, then to other family members.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

PART 55A
EYE CARE CONSUMER PROTECTION

333.5551 Eye care consumer protection law; meanings of words and phrases.

Sec. 5551. (1) This part may be referred to as the "eye care consumer protection law".

(2) As used in this part, the words and phrases defined in sections 5553 to 5557 have the meanings ascribed to them in those sections.

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

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History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5553 Definitions; C to E.

Sec. 5553. (1) "Contact lens" means a lens placed directly on the surface of the eye, regardless of whether it is intended to correct a visual defect. Contact lens includes, but is not limited to, a cosmetic, therapeutic, or corrective lens.

(2) "Department" means the department of licensing and regulatory affairs.

(3) "Diagnostic contact lens" means a contact lens used to determine a proper contact lens fit.

(4) "Examination and evaluation", for the purpose of writing a valid prescription, means an assessment of the ocular health and visual status of a patient that does not consist solely of objective refractive data or information generated by an automated refracting device or other automated testing device.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5555 Definitions; L to S.

Sec. 5555. (1) "Licensee" means any of the following:

(a) A physician who is licensed or otherwise authorized to engage in the practice of medicine under part 170 and who specializes in eye care.

(b) A physician who is licensed or otherwise authorized to engage in the practice of osteopathic medicine and surgery under part 175 and who specializes in eye care.

(c) An optometrist who is licensed or otherwise authorized to engage in the practice of optometry under part 174.

(2) "Spectacles" means an optical instrument or device worn or used by an individual that has 1 or more lenses designed to correct or enhance vision to address the visual needs of the individual wearer and commonly known as glasses, including spectacles that may be adjusted by the wearer to achieve different types or levels of visual correction or enhancement.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5557 Definitions; V.

Sec. 5557. "Valid prescription" means 1 of the following, as applicable:

(a) For a contact lens, a written or electronic order by a licensee who has conducted an examination and evaluation of a patient and has determined a satisfactory fit for the contact lens based on an analysis of the physiological compatibility of the lens on the cornea and the physical fit and refractive functionality of the lens on the patient's eye. To be a valid prescription under this subdivision, it must include at least all of the following information:

(*i*) A statement that the prescription is for a contact lens.

(*ii*) The contact lens type or brand name, or for a private label contact lens, the name of the manufacturer, trade name of the private label brand, and, if applicable, trade name of the equivalent or similar brand.

(*iii*) All specifications necessary to order and fabricate the contact lens, including power, material, base curve or appropriate designation, and diameter, if applicable.

(*iv*) The quantity of contact lenses to be dispensed.

(*v*) The number of refills.

(*vi*) Specific wearing instructions and contact lens disposal parameters, if any.

(*vii*) The patient's name.

(*viii*) The date of the examination and evaluation.

(*ix*) The date the prescription is originated.

(*x*) The prescribing licensee's name, address, and telephone number.

(*xi*) The prescribing licensee's written or electronic signature, or other form of authentication.

(*xii*) An expiration date of not less than 1 year from the date of the examination and evaluation or a statement of the reasons why a shorter time is appropriate based on the medical needs of the patient.

(b) For spectacles, a written or electronic order by a licensee who has examined and evaluated a patient. To be a valid prescription under this subdivision, it must include at least all of the following information:

(*i*) A statement that the prescription is for spectacles.

(*ii*) As applicable and as specified for each eye, the lens power including the spherical power, cylindrical power including axis, prism, and power of the multifocal addition.

(*iii*) Any special requirements, the omission of which would, in the opinion of the prescribing licensee, adversely affect the vision or ocular health of the patient. As used in this subparagraph, "special requirements" includes, but is not limited to, type of lens design, lens material, tint, or lens treatments.

(*iv*) The patient's name.

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(*v*) The date of the examination and evaluation.

(*vi*) The date the prescription is originated.

(*vii*) The prescribing licensee's name, address, and telephone number.

(*viii*) The prescribing licensee's written or electronic signature, or other form of authentication.

(*ix*) An expiration date of not less than 1 year from the date of the examination and evaluation or a statement of the reasons why a shorter time is appropriate based on the medical needs of the patient.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5559 Spectacles and contact lenses as medical devices; exceptions.

Sec. 5559. (1) Except as otherwise provided in subsection (2), spectacles and contact lenses are medical devices and are subject to the requirements of this part for the protection of consumers.

(2) This part does not apply to any of the following:

(a) A diagnostic contact lens that is used by a licensee during an examination and evaluation.

(b) An optical instrument or device that is not intended to correct or enhance vision.

(c) An optical instrument or device that is not made, designed, or sold specifically for a particular individual.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5561 Prohibited acts; "supervision" defined.

Sec. 5561. (1) A person shall not do any of the following:

(a) Employ objective or subjective physical means to determine the accommodative or refractive condition or range of power of vision or muscular equilibrium of the human eye unless that activity is performed by a licensee or under the supervision of a licensee.

(b) Prescribe spectacles or contact lenses based on a determination described in subdivision (a) unless that activity is performed by a licensee.

(c) Dispense, give, or sell spectacles or contact lenses unless dispensed, given, or sold pursuant to a valid prescription.

(d) Use an automated refractor or other automated testing device to generate objective refractive data unless that use is by a licensee or under the supervision of a licensee.

(2) As used in this section, "supervision" means that term as defined in section 16109.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

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333.5563 Administration and enforcement of part; rules.

Sec. 5563. (1) Except as otherwise provided in this part, the administration and enforcement of this part is the responsibility of the department.

(2) The department may promulgate rules under the administrative procedures act of 1969 that it determines necessary to implement, administer, and enforce this part.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5565 Allegation of violation; writing; review by department; hearing, oaths, and testimony; authority of department to proceed under MCL 333.5567; initiation of investigation.

Sec. 5565. (1) A person or governmental entity that believes that a violation of this part or a rule promulgated under this part has occurred or has been attempted may make an allegation of that fact to the department in writing.

(2) If, upon reviewing an allegation under subsection (1), the department determines there is a reasonable basis to believe the existence of a violation or attempted violation of this part or a rule promulgated under this part, the department shall investigate.

(3) The department may hold hearings, administer oaths, and order testimony to be taken at a hearing or by deposition conducted pursuant to the administrative procedures act of 1969.

(4) The department may proceed under section 5567 if it determines that a violation of this part or a rule promulgated under this part has occurred.

(5) This section does not require the department to wait until harm to human health has occurred to initiate an investigation under this section.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5567 Order to cease and desist; hearing; costs; referral of case for further enforcement; action under MCL 333.5569 or 333.5571.

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Sec. 5567. (1) After a determination as described in section 5565(4), the department may order a person to cease and desist from a violation of this part or a rule promulgated under this part.

(2) A person ordered to cease and desist under this section is entitled to a hearing before the department if a written request for a hearing is filed within 30 days after the effective date of the order.

(3) The department may assess costs related to the investigation of a violation of this part or rules promulgated under this part. The department may issue an order for costs assessed under this subsection after a hearing held in compliance with the administrative procedures act of 1969.

(4) The department may refer a case for further enforcement action under section 5569 or 5571 against a person that fails to comply with a cease and desist order that is not contested or that is upheld following a hearing.

(5) The department is not required to issue a cease and desist order before taking action under section 5569 or 5571.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5569 Civil action; filing; injunction or other relief; civil fine; costs; attorney fees.

Sec. 5569. (1) The department may file a civil action in a court of competent jurisdiction seeking an injunction or other appropriate relief to enforce this part or a rule promulgated under this part.

(2) In an action under subsection (1), the court may impose on a person that violates or attempts to violate this part or a rule promulgated under this part a civil fine of not less than $5,000.00 for each violation or attempted violation. The court may also award costs of an investigation and attorney fees from a person that violates or attempts to violate this part or a rule promulgated under this part.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5571 Violation of part, rule, or order as misdemeanor; fine; costs; attorney fees.

Sec. 5571. A person that violates this part or a rule promulgated under this part or violates a cease and desist order issued under this part is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than $5,000.00 or more than $25,000.00, or both. If successful in obtaining a conviction, the agency prosecuting the case is entitled to actual costs and attorney fees from the defendant.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

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PART 56
OCCUPATIONAL DISEASES

333.5601 "Occupational disease" defined; general definitions and principles of construction.

Sec. 5601. (1) As used in this part, "occupational disease" means an illness of the human body arising out of and in the course of an individual's employment and having 1 or more of the following characteristics:

(a) It is caused by a frequently repeated or continuous exposure to a hazardous substance or agent or to a specific industrial practice which is hazardous and which has continued over an extended period of time.

(b) It is caused by an acute exposure to a hazardous substance or agent.

(c) It presents symptoms characteristic of an occupational disease known to have resulted in other cases from the same type of specific exposure.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

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.

Popular name: Act 368

333.5611 Report of occupational disease or health condition aggravated by workplace exposures; time; contents; forms and instructions.

Sec. 5611. (1) A physician, hospital, clinic, or employer knowing of an individual having a case of occupational disease or a health condition aggravated by workplace exposures shall report the case to the department within 10 days after the discovery of the occupational disease or condition.

(2) A physician, hospital, clinic, or employer knowing of a suspected case of occupational disease or a health condition aggravated by workplace exposures shall report the case to the department within 10 days after the discovery of the occupational disease or condition.

(3) The report shall state the name and address of the individual, the name and business address of the employer, the business of the employer, the place of the individual's employment, the length of time of

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employment in the place where the individual became ill, the nature of the disease, and other information required by the department.

(4) The department shall prepare and furnish the report forms and instructions for their use to physicians, hospitals, clinics, and employers.

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

Popular name: Act 368

333.5613 Investigation; advising physician of nature of hazardous substance or agent and conditions of exposure; confidentiality.

Sec. 5613. (1) The department, upon receiving a report under section 5611 or believing that a case or suspected case of occupational disease exists in this state, may investigate to determine the accuracy of the report and the cause of the disease.

(2) To aid in the diagnosis or treatment of an occupational disease, the department shall advise the physician in charge of a patient of the nature of the hazardous substance or agent and the conditions of exposure of the patient as established by the investigation. In so doing the department shall protect the confidentiality of trade secrets or privileged information disclosed by the investigations in accordance with section 13 of Act No. 442 of the Public Acts of 1976, being section 15.243 of the Michigan Compiled Laws.

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

Popular name: Act 368

333.5621 Reports not public records; exemption from disclosure; access to record.

Sec. 5621. (1) Reports submitted to the department under section 5611 are not public records and are exempt from disclosure pursuant to section 13(1)(d) of Act No. 442 of the Public Acts of 1976.

(2) The bureau of worker's disability compensation and the compensation appeal board in the department of labor shall have access to the record of an actual case of occupational disease in a compensation case before it.

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

Popular name: Act 368

333.5623 Statistical summaries; dissemination of instructions and information.

Sec. 5623. (1) Not less than once each year, the department shall compile statistical summaries of all occupational diseases reported and accepted as covering true occupational diseases, and the kinds of employment leading to the occurrence of the diseases.

(2) The department shall disseminate to appropriate employers in this state appropriate instructions and information to prevent the occurrence of occupational diseases.

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

Popular name: Act 368

333.5639 Failure to make report or wilful false statement as misdemeanor; penalty.

Sec. 5639. A physician, hospital or clinic administrator, or employer who fails to make a report or who wilfully makes a false statement in a report required by section 5611(1) is guilty of a misdemeanor punishable by a fine of not more than $50.00.

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

Popular name: Act 368

PART 56A
TERMINAL ILLNESS

333.5651 Short title of part.

Sec. 5651. This part shall be known and may be cited as the "Michigan dignified death act".

History: Add. 1996, Act 594, Eff. Mar. 31, 1997.

Popular name: Act 368

333.5652 Legislative findings; Michigan dignified death act.

Sec. 5652. (1) The legislature finds all of the following:

(a) That patients face a unique set of circumstances and decisions once they have been diagnosed as having a reduced life expectancy due to advanced illness.

(b) That published studies indicate that patients with reduced life expectancy due to advanced illnesses fear

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that in end-of-life situations they could receive unwanted aggressive medical treatment.

(c) That patients with reduced life expectancy due to advanced illnesses are often unaware of their legal rights, particularly with regard to controlling end-of-life decisions.

(d) That the free flow of information among health care providers, patients, and patients' families can give patients and their families a sense of control over their lives, ease the stress involved in coping with a reduced life expectancy due to advanced illness, and provide needed guidance to all involved in determining the appropriate variety and degree of medical intervention to be used.

(e) That health care providers should be encouraged to initiate discussions with their patients regarding advance medical directives during initial consultations, annual examinations, and hospitalizations, at diagnosis of a chronic illness, and when a patient transfers from 1 health care setting to another.

(2) In affirmation of the tradition in this state recognizing the integrity of patients and their desire for a humane and dignified death, the Michigan legislature enacts the "Michigan dignified death act". In doing so, the legislature recognizes that a well-considered body of common law exists detailing the relationship between health care providers and their patients. This act is not intended to abrogate any part of that common law. This act is intended to increase awareness of the right of a patient who has a reduced life expectancy due to advanced illness to make decisions to receive, continue, discontinue, or refuse medical treatment. It is hoped that by doing so, the legislature will encourage better communication between patients with reduced life expectancy due to advanced illnesses and health care providers to ensure that the patient's final days are meaningful and dignified.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 239, Imd. Eff. Jan. 8, 2002.

Popular name: Act 368

333.5653 Definitions.

Sec. 5653. (1) As used in this part:

(a) "Advanced illness", except as otherwise provided in this subdivision, means a medical or surgical condition with significant functional impairment that is not reversible by curative therapies and that is anticipated to progress toward death despite attempts at curative therapies or modulation, the time course of which may or may not be determinable through reasonable medical prognostication. For purposes of section 5655(b) only, "advanced illness" has the same general meaning as "terminal illness" has in the medical community.

(b) "Health facility" means a health facility or agency licensed under article 17.

(c) "Hospice" means that term as defined in section 20106.

(d) "Medical treatment" means a treatment including, but not limited to, palliative care treatment, or a procedure, medication, surgery, a diagnostic test, or a hospice plan of care that may be ordered, provided, or withheld or withdrawn by a health professional or a health facility under generally accepted standards of medical practice and that is not prohibited by law.

(e) "Patient" means an individual who is under the care of a physician.

(f) "Patient advocate" means that term as described and used in sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(g) "Patient surrogate" means the parent or legal guardian of a patient who is a minor or a member of the immediate family, the next of kin, or the legal guardian of a patient who has a condition other than minority that prevents the patient from giving consent to medical treatment.

(h) "Physician" means that term as defined in section 17001 or 17501.

(2) Article 1 contains general definitions and principles of construction applicable to all articles in this code.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2000, Act 58, Eff. Apr. 1, 2000;—Am. 2001, Act 239, Imd. Eff. Jan. 8, 2002 ;—Am. 2004, Act 551, Imd. Eff. Jan. 3, 2005.

Popular name: Act 368

333.5654 Recommended medical treatment for advanced illness; duty of physician to inform orally; limitation or modification of disclosed information.

Sec. 5654. (1) A physician who has diagnosed a patient as having a reduced life expectancy due to an advanced illness and is recommending medical treatment for the patient shall do all of the following:

(a) Orally inform the patient, the patient's patient surrogate, or, if the patient has designated a patient advocate and is unable to participate in medical treatment decisions, the patient advocate acting on behalf of the patient in accordance with sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515, about the recommended medical treatment and about alternatives to the recommended medical treatment.

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(b) Orally inform the patient, patient surrogate, or patient advocate about the advantages, disadvantages, and risks of the recommended medical treatment and of each alternative medical treatment described in subdivision (a) and about the procedures involved.

(2) A physician's duty to inform a patient, patient surrogate, or patient advocate under subsection (1) does not require the disclosure of information beyond that required by the applicable standard of practice.

(3) Subsection (1) does not limit or modify the information required to be disclosed under sections 5133(2) and 17013(1).

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2000, Act 58, Eff. Apr. 1, 2000;—Am. 2001, Act 239, Eff. Oct. 1, 2002;—Am. 2004, Act 551, Imd. Eff. Jan. 3, 2005.

Popular name: Act 368

333.5655 Recommended medical treatment for advanced illness; duty of physician to inform orally and in writing; requirements.

Sec. 5655. In addition to the requirements of section 5654, a physician who has diagnosed a patient as having a reduced life expectancy due to an advanced illness and is recommending medical treatment for the patient shall, both orally and in writing, inform the patient, the patient's patient surrogate, or, if the patient has designated a patient advocate and is unable to participate in medical treatment decisions, the patient advocate, of all of the following:

(a) If the patient has not designated a patient advocate, that the patient has the option of designating a patient advocate to make medical treatment decisions for the patient in the event the patient is not able to participate in his or her medical treatment decisions because of his or her medical condition.

(b) That the patient, or the patient's patient surrogate or patient advocate, acting on behalf of the patient, has the right to make an informed decision regarding receiving, continuing, discontinuing, and refusing medical treatment for the patient's reduced life expectancy due to advanced illness.

(c) That the patient, or the patient's patient surrogate or patient advocate, acting on behalf of the patient, may choose palliative care treatment including, but not limited to, hospice care and pain management.

(d) That the patient or the patient's surrogate or patient advocate acting on behalf of the patient may choose adequate and appropriate pain and symptom management as a basic and essential element of medical treatment.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 239, Eff. Oct. 1, 2002.

Compiler's note: Enacting section 3 of Act 239 of 2001 provides:

"Enacting section 3. The 2001 amendatory act that amended section 5655 of the public health code, 1978 PA 368, MCL 333.5655, shall not be construed as creating a new mandated benefit for any coverages issued under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704, or any other health care payment or benefits plan."

Popular name: Act 368

333.5656 Updated standardized written summary; development; publication; contents; availability to physicians.

Sec. 5656. (1) By July 1, 2002, the department of community health shall develop and publish an updated standardized, written summary that contains all of the information required under section 5655.

(2) The department shall develop the updated standardized, written summary in consultation with appropriate professional and other organizations. The department shall draft the summary in nontechnical terms that a patient, patient surrogate, or patient advocate can easily understand.

(3) The department shall make the updated standardized, written summary described in subsection (1) available to physicians through the Michigan board of medicine and the Michigan board of osteopathic medicine and surgery created in article 15. The Michigan board of medicine and the Michigan board of osteopathic medicine and surgery shall notify in writing each physician subject to this part of the requirements of this part and the availability of the updated standardized, written summary within 10 days after the updated standardized, written summary is published.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 237, Eff. Jan. 8, 2002.

Compiler's note: Enacting section 3 of Act 237 of 2001 provides:

"Enacting section 3. The 2001 amendatory act that amended section 5656 of the public health code, 1978 PA 368, MCL 333.5656, shall not be construed as creating a new mandated benefit for any coverages issued under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704, or any other health care payment or benefits plan."

Popular name: Act 368

333.5657 Availability of form to patient, patient surrogate, or patient advocate; compliance

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with MCL 333.5656; placement of signed form in patient's medical record; signed form as bar to civil or administrative action.

Sec. 5657. (1) If a physician gives a copy of the standardized, written summary developed and published before July 1, 2002 or a copy of the updated standardized, written summary made available under section 5656 to a patient with reduced life expectancy due to advanced illness, to the patient's patient surrogate, or to the patient advocate, the physician is in full compliance with the requirements of section 5655.

(2) A physician may make available to a patient with reduced life expectancy due to advanced illness, to the patient's patient surrogate, or to the patient advocate a form indicating that the patient, patient surrogate, or patient advocate has been given a copy of the standardized, written summary developed and published under section 5656 before July 1, 2002 or a copy of the updated standardized, written summary developed and published under section 5656 on or after July 1, 2002 and received the oral information required under section 5654. If a physician makes such a form available to a patient, to the patient's patient surrogate, or to the patient advocate, the physician shall request that the patient, patient's patient surrogate, or patient advocate sign the form and shall place a copy of the signed form in the patient's medical record.

(3) A patient, a patient's patient surrogate, or a patient advocate who signs a form under subsection (2) is barred from subsequently bringing a civil or administrative action against the physician for providing the information orally and in writing under section 5655 based on failure to obtain informed consent.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 237, Eff. Oct. 1, 2002.

Popular name: Act 368

333.5658 Prescription of controlled substance; immunity from administrative and civil liability.

Sec. 5658. A physician who, as part of a medical treatment plan for a patient with reduced life expectancy due to advanced illness, prescribes for that patient a controlled substance that is included in schedules 2 to 5 under part 72 and that is a narcotic drug is immune from administrative and civil liability based on prescribing the controlled substance if the prescription is given in good faith and with the intention to treat a patient with reduced life expectancy due to advanced illness or alleviate the patient's pain, or both, and all of the following are met:

(a) The prescription is for a legitimate legal and professionally recognized therapeutic purpose.

(b) Prescribing the controlled substance is within the scope of practice of the physician.

(c) The physician holds a valid license under article 7 to prescribe controlled substances.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 237, Eff. Jan. 8, 2002.

Popular name: Act 368

333.5659 Life insurer, health insurer, or health care payment or benefits plan; prohibited acts.

Sec. 5659. A life insurer, a health insurer, or a health care payment or benefits plan shall not do 1 or more of the following because a patient with reduced life expectancy due to advanced illness, the patient's patient surrogate, or the patient advocate has made a decision to refuse or discontinue a medical treatment as a result of information received as required under this part:

(a) Refuse to provide or continue coverage or benefits to the patient within the scope and level of coverage or benefits of an existing policy, certificate, or contract.

(b) Limit the amount of coverage or benefits available to the patient within the scope and level of coverage or benefits of an existing policy, certificate, or contract.

(c) Charge the patient a different rate for coverage or benefits under an existing policy, certificate, or contract.

(d) Consider the terms of an existing policy, certificate, or contract to have been breached or modified.

(e) Invoke a suicide or intentional death exemption or exclusion in a policy, certificate, or contract covering the patient.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 237, Eff. Jan. 8, 2002.

Popular name: Act 368

333.5660 Scope of part; limitation.

Sec. 5660. This part does not do the following:

(a) Impair or supersede a legal right a parent, patient, patient advocate, legal guardian, or other individual may have to consent to or refuse medical treatment on behalf of another.

(b) Create a presumption about the desire of a patient who has reduced life expectancy due to advanced

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illness to receive or refuse medical treatment, regardless of the ability of the patient to participate in medical treatment decisions.

(c) Limit the ability of a court making a determination about a decision of a patient who has reduced life expectancy due to advanced illness to take into consideration all of the following state interests:

(*i*) The preservation of life.

(*ii*) The prevention of suicide.

(*iii*) The protection of innocent third parties.

(*iv*) The preservation of the integrity of the medical profession.

(d) Condone, authorize, or approve suicide, assisted suicide, mercy killing, or euthanasia.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 237, Eff. Jan. 8, 2002.

Popular name: Act 368

333.5661 Fraud resulting in death of patient; violation as felony; penalty.

Sec. 5661. (1) An individual shall not, by fraud, cause or attempt to cause a patient, patient surrogate, or patient advocate to make a medical treatment decision that results in the death of the patient with the intent to benefit financially from the outcome of the medical treatment decision. As used in this subsection, "fraud" means a false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, that deceives and is intended to deceive another so that he or she acts upon it to his or her legal injury.

(2) An individual who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997.

Popular name: Act 368

PART 56B

PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

333.5671 Words and phrases; applicability of definitions and principles of construction.

Sec. 5671. (1) As used in this part, the words and phrases defined in sections 5672 to 5674 have the meanings ascribed to them in those sections.

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

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5672 Definitions: A to C.

Sec. 5672. (1) "Actual notice" includes the physical presentation of a POST form or a revoked POST form, or the electronic transmission of a POST form or a revoked POST form if the recipient of the form sends an electronic confirmation to the patient, patient representative, or attending health professional, who sent the electronic transmission, indicating that the POST form or revoked POST form has been received. Actual notice also includes knowledge of a patient's intent to revoke the POST form by a health professional who is treating the patient, by an attending health professional, or by emergency medical services personnel.

(2) "Adult foster care facility" means that term as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(3) "Advanced illness" means a medical or surgical condition with significant functional impairment that is not reversible by curative therapies and that is anticipated to progress toward death despite attempts at curative therapies or modulation.

(4) "Attending health professional" means a physician, physician's assistant, or certified nurse practitioner, who has primary responsibility for the treatment of a patient and is authorized to issue the medical orders on a POST form.

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

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5673 Definitions; E to I.

Sec. 5673. (1) "Emergency medical protocol" means a protocol as that term is defined in section 20908.

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(2) "Emergency medical services personnel" means that term as defined in section 20904, but does not include an emergency medical services instructor-coordinator.

(3) "Guardian" means a person with the powers and duties to make medical treatment decisions on behalf of a patient to the extent granted by court order under section 5314 of the estates and protected individuals code, 1998 PA 386, MCL 700.5314.

(4) "Health facility" means a health facility or agency licensed under article 17. Health facility does not include a hospital unless specifically provided.

(5) "Health professional" means an individual licensed, registered, or otherwise authorized to engage in the practice of a health profession under article 15.

(6) "Hospital" means that term as defined in section 20106.

(7) "Information form" means the information form described in section 5676.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5674 Definitions; M to W.

Sec. 5674. (1) "Medical control authority" means that term as defined in section 20906.

(2) "Patient" means an adult with an advanced illness or means an adult with another medical condition that, despite available curative therapies or modulation, compromises his or her health so as to make death within 1 year foreseeable though not a specific or predicted prognosis.

(3) "Patient advocate" means an individual presently authorized to make medical treatment decisions on behalf of a patient under sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(4) "Patient representative" means a patient advocate or a guardian.

(5) "Person" means that term as defined in section 1106 or a governmental entity.

(6) "Physician" means that term as defined in section 17001 or 17501.

(7) "Physician orders for scope of treatment form" or "POST form" means the standardized POST form described in section 5676. A POST form is not an advance health care directive.

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

(9) "Residential setting" means a setting outside of a hospital, including, but not limited to, an adult foster care facility.

(10) "Ward" means that term as defined in section 1108 of the estates and protected individuals code, 1998 PA 386, MCL 700.1108.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5675 Advisory committee; appointment; membership; recommendations; abolishment; "committee" defined.

Sec. 5675. (1) Not later than 90 days after the effective date of the amendatory act that added this part, the director shall appoint members of and convene an ad hoc advisory committee. The committee must consist of 11 members appointed as follows:

(a) Four members of the committee must include 1 individual representing each of the following:

(*i*) A health facility or an adult foster care facility, or an organization or professional association representing health facilities or adult foster care facilities.

(*ii*) A palliative care provider.

(*iii*) Emergency medical services personnel.

(*iv*) A medical control authority.

(b) Seven members of the committee may include, but are not limited to, individuals representing the following:

(*i*) A health professional.

(*ii*) A patient advocacy organization.

(2) Within 180 days after the committee is convened, the committee shall make recommendations to the department on all of the following:

(a) Subject to section 5676, the creation of a standardized POST form.

(b) Medical orders to be included on the POST form that relate to emergency and nonemergency situations.

(c) Subject to section 5676, the creation of an information form.

(d) The procedures for the use of a POST form within a residential setting.

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(e) The circumstances under which a photocopy, facsimile, or digital image of a completed POST form is considered valid for purposes of a health professional, a health facility, an adult care facility, or emergency medical services personnel complying with the orders for medical treatment on the POST form.

(3) After the department receives the recommendations from the committee under subsection (2), the committee is abolished.

(4) As used in this section, "committee" means the ad hoc advisory committee appointed under subsection (1).

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5676 Duties of department; publication of information or materials regarding POST form.

Sec. 5676. (1) The department, after considering the recommendations of the advisory committee under section 5675, shall do all of the following:

(a) Develop a standardized POST form that has a distinct format and is printed on a specific stock and color of paper to make the form easily identifiable. The department shall include on the POST form at least all of the following:

(*i*) A space for the printed name of the patient, the patient's age, and the patient's diagnosis or medical condition that warrants the medical orders on the POST form.

(*ii*) A space for the signature of the patient or the patient representative who consents to the medical orders indicated on the POST form and a space to indicate the date the patient or the patient representative signed the form.

(*iii*) A space for the printed name and signature of the attending health professional who issues the medical orders on the POST form.

(*iv*) Sections containing medical orders that direct specific types or levels of treatment to be provided in a setting outside of a hospital to which a patient or a patient representative may provide consent.

(*v*) A space for the date and the initials of either the attending health professional and the patient or the attending health professional and the patient representative. The POST form must also include a statement that, by dating and initialing the POST form, the individuals described in this subparagraph confirm that the medical orders on the form remain in effect.

(*vi*) A statement that, within a time frame established by the department by rule, the POST form must be reviewed, dated, and initialed by either the attending health professional and the patient or the attending health professional and the patient representative, if any of the following have occurred:

(A) One year has expired since the patient and the attending health professional or the patient representative and the attending health professional have signed or initialed the POST form.

(B) There has been an unexpected change in the patient's medical condition.

(C) The patient is transferred from 1 care setting or care level to another care setting or care level.

(D) The patient's treatment preferences change.

(E) The patient's attending health professional changes.

(*vii*) A statement that a patient or a patient representative has the option of executing a POST form and that consenting to the medical orders on the POST form is voluntary.

(*viii*) A statement that the POST form is void if any information described in subparagraph (*i*), (*ii*), or (*iii*) is not provided on the form or if a requirement described in subparagraph (*vi*) is not met.

(*ix*) A statement that if a section on the POST form regarding a specific type or level of treatment is left blank, the blank section will be interpreted as authorizing full treatment for the patient for that treatment, but a blank section on the POST form regarding a specific type or level of treatment does not invalidate the entire form or other medical orders on the form.

(*x*) A space for the printed name and contact information of the patient representative, if applicable.

(b) Develop an information form. The department shall include on the information form at least all of the following:

(*i*) An introductory statement in substantially the following form:

"The POST form is intended to be used as part of an advance care planning process. The POST form is not intended to be used as a stand-alone advance health care directive that unilaterally expresses the patient's medical treatment wishes. The POST form contains medical orders that are jointly agreed to by the patient and the attending health professional or the patient representative and the attending health professional. The medical orders on the POST form reflect both the patient's expressed wishes or best interests and the attending health professional's medical advice or recommendation. An advance care planning process that uses the POST form must recommend that the patient consider designating an individual to serve as the patient's patient advocate to make future medical decisions on behalf of the patient if the patient becomes

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unable to do so.".

(*ii*) An explanation of who is considered a patient with an advanced illness for purposes of executing a POST form.

(*iii*) An explanation of how a patient advocate is designated under sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(*iv*) A statement indicating that, by signing the information form, the patient or the patient representative acknowledges that he or she had the opportunity to review the information form before executing a POST form.

(*v*) A space for the signature of the patient or the patient representative and a space to indicate the date the patient or the patient representative reviewed the information form.

(c) Promulgate rules to implement this part. The rules must include, but are not limited to, the procedures for the use of a POST form within a residential setting and the circumstances under which a photocopy, facsimile, or digital image of a completed POST form will be considered valid for purposes of a health professional, a health facility, an adult foster care facility, or emergency medical services personnel complying with the medical orders on the form.

(2) The department may publish information or materials regarding the POST form on the department's website.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5677 POST form; individuals consenting to medical orders; consent by patient representative; information to be provided by attending health professional; signature; copy of form as part of medical record; possession of original form.

Sec. 5677. (1) The following individuals may consent to the medical orders contained on a POST form:

(a) If a patient is capable of participating in the medical treatment decisions included on the POST form, the patient.

(b) Subject to subsection (2), if a patient is not capable of participating in the medical treatment decisions included on the POST form, either of the following:

(*i*) A patient representative who is a patient advocate.

(*ii*) A patient representative who is a guardian after complying with section 5314 of the estates and protected individuals code, 1998 PA 386, MCL 700.5314.

(2) If a patient representative is consenting to the medical orders contained on the POST form, the patient representative shall comply with the patient's expressed wishes. If the patient's wishes are unknown, the patient representative shall consent to the medical orders in the following manner:

(a) If the patient representative is a guardian, in a manner that is consistent with the patient's best interest.

(b) If the patient representative is a patient advocate, subject to section 5509(1)(e) of the estates and protected individuals code, 1998 PA 386, MCL 700.5509.

(3) Before a patient and an attending health professional or a patient representative and an attending health professional sign a POST form, the attending health professional shall provide the patient or the patient representative with the information form and, if the patient does not have a patient representative, the attending health professional shall recommend to the patient that the patient consider designating an individual to serve as the patient's patient advocate to make future medical decisions on behalf of the patient if the patient becomes unable to do so. The attending health professional shall also consult with the patient or patient representative and explain to the patient or patient representative the nature and content of the POST form and the medical implications of the medical orders contained on the POST form. The patient or patient representative shall sign the information form at the time he or she signs the POST form under this subsection. The attending health professional who signs the POST form shall place the information form that is signed by the patient or the patient representative in the patient's permanent medical record. The attending health professional who signs the POST form shall also obtain a copy or duplicate of the POST form and make that copy or duplicate part of the patient's permanent medical record. The patient or the patient representative shall maintain possession of the original POST form.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5678 Revocation of POST form.

Sec. 5678. (1) The following individuals may revoke a POST form under the following circumstances:

(a) A patient may revoke the POST form at any time and in any manner that the patient is able to communicate his or her intent to revoke the POST form. If the patient's revocation is not in writing, an

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individual who witnesses the patient's expressed intent to revoke the POST form shall describe in writing the circumstances of the revocation, sign the writing, and provide the writing to the individuals described in subsection (2), as applicable.

(b) The patient representative may revoke the POST form at any time the patient representative considers revoking the POST form to be consistent with the patient's wishes or, if the patient's wishes are unknown, in the patient's best interest.

(c) If a change in the patient's medical condition makes the medical orders on the POST form contrary to generally accepted health care standards, the attending health professional may revoke the POST form. If an attending health professional revokes a POST form under this subdivision, he or she shall take reasonable actions to notify the patient or the patient representative of the revocation and the change in the patient's medical condition that warranted the revocation of the POST form.

(2) Upon revocation of the POST form, the patient, patient representative, or attending health professional shall write "revoked" over the signature of the patient or patient representative, as applicable, and over the signature of the attending health professional, on the POST form that is contained in the patient's permanent medical record and on the original POST form if the original POST form is available. If a patient or patient representative revokes the POST form, the patient or patient representative shall take reasonable actions to notify 1 or more of the following of the revocation:

(a) The attending health professional.

(b) A health professional who is treating the patient.

(c) The health facility that is directly responsible for the medical treatment or care and custody of the patient.

(d) The patient.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5679 POST form; use as communication tool; treatment by emergency medical services personnel; exceptions; noncompliance by health professional or health facility.

Sec. 5679. (1) In an acute care setting, a health professional who is treating the patient may use a completed POST form as a communication tool.

(2) Emergency medical services personnel shall provide or withhold treatment to a patient according to the orders on a POST form unless any of the following apply:

(a) The emergency medical services being provided by the emergency medical services personnel are necessitated by an injury or medical condition that is unrelated to the diagnosis or medical condition that is indicated on the patient's POST form.

(b) The orders on the POST form request medical treatment that is contrary to generally accepted health care standards or emergency medical protocols.

(c) The POST form contains a medical order regarding the initiation of resuscitation if the patient suffers cessation of both spontaneous respiration and circulation, and the emergency medical services personnel has actual notice of a do-not-resuscitate order that was executed under the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067, after the POST form was validly executed. As used in this subdivision, "actual notice" means that term as defined in section 2 of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1052.

(d) The POST form has been revoked in the manner provided in this part and the emergency medical services personnel has actual notice of the revocation.

(3) If a health professional or health facility is unwilling to comply with the medical orders on a validly executed POST form because of a policy, religious belief, or moral conviction, the health professional or health facility shall take all reasonable steps to refer or transfer the patient to another health professional or health facility. If an adult foster care facility is unwilling to comply with the medical orders on a validly executed POST form for the reasons described in this subsection, the adult foster care facility shall take all reasonable steps to refer or transfer the patient to another adult foster care facility as provided in section 26c of the adult foster care facility licensing act, 1979 PA 218, MCL 400.726c.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5680 Treatment or services not subject to criminal prosecution, civil liability, or professional disciplinary action.

Sec. 5680. A person is not subject to criminal prosecution, civil liability, or professional disciplinary action for any of the following:

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(a) Providing medical treatment that is contrary to the medical orders indicated on a POST form if the person did not have actual notice of the POST form.

(b) Providing medical treatment that is consistent with the medical orders indicated on a POST form if the person did not have actual notice that the POST form was revoked.

(c) Providing emergency medical services consistent with generally accepted health care standards or emergency medical protocols as provided in section 5679, regardless of the medical orders indicated on the POST form.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5681 Valid execution of POST form; presumption.

Sec. 5681. (1) If a POST form is validly executed after a patient advocate designation that contains written directives regarding medical treatment, or another advance health care directive that contains written directives regarding medical treatment, the medical orders indicated on the POST form are presumed to express the patient's current wishes.

(2) If a POST form is validly executed after a do-not-resuscitate order is executed under the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067, the medical orders indicated on the POST form are presumed to express the patient's current wishes.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5682 Belief that execution of POST form contrary to wishes or best interests; petition; review; injunction.

Sec. 5682. If an individual has reason to believe that a POST form has been executed contrary to the wishes of the patient or, if the patient is a ward, contrary to the wishes or best interests of the ward, the individual may petition the probate court to have the POST form and the conditions of its execution reviewed. If the probate court finds that the POST form has been executed contrary to the wishes of the patient or, if the patient is a ward, contrary to the wishes or best interests of the ward, the probate court shall issue an injunction voiding the effectiveness of the POST form and prohibiting compliance with the POST form.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5683 Life or health insurer; prohibited conduct.

Sec. 5683. (1) A life insurer shall not do any of the following because of the execution or implementation of a POST form:

(a) Refuse to provide or continue coverage to the patient.

(b) Charge the patient a higher premium.

(c) Offer a patient different policy terms because the patient has executed a POST form.

(d) Consider the terms of an existing policy of life insurance to have been breached or modified.

(e) Invoke a suicide or intentional death exemption or exclusion in a policy covering the patient.

(2) A health insurer shall not do any of the following:

(a) Require the execution of a POST form to maintain or be eligible for coverage.

(b) Charge a different premium based on whether a patient or patient representative has executed a POST form.

(c) Consider the terms of an existing policy to have been breached or modified if the patient or patient representative has executed a POST form.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5684 Provisions as cumulative; legal right not impaired or superseded; presumption.

Sec. 5684. (1) The provisions of this part are cumulative and do not impair or supersede a legal right that a patient or patient representative may have to consent to or refuse medical treatment for himself or herself or on behalf of another.

(2) This part does not create a presumption that a patient who has executed a POST form intends to consent to or refuse medical treatment that is not addressed in the medical orders on the POST form.

(3) This part does not create a presumption that a patient or patient representative who has not executed a POST form intends to consent to or refuse any type of medical treatment.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

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Popular name: Act 368

333.5685 Advisory committee to be appointed 3 years after effective date of amendatory act; meeting; recommendations; report; abolishment; "committee" defined.

Sec. 5685. (1) By 3 years after the effective date of the amendatory act that added this part, the director shall appoint an ad hoc advisory committee consisting of 11 members in the same manner as the ad hoc advisory committee is required to be appointed under section 5675.

(2) The director shall call the first meeting of the committee.

(3) Within 90 days after the first meeting of the committee is convened, the committee shall submit a report to the department that contains recommendations on all of the following:

(a) Any changes to the rules promulgated under section 5676 that the committee considers necessary or appropriate.

(b) Any changes to the POST form or the information form that the committee considers necessary or appropriate.

(c) Any legislative changes to this part that the committee considers necessary or appropriate.

(4) After the department receives the recommendations from the committee under subsection (3), the committee is abolished.

(5) As used in this section, "committee" means the ad hoc advisory committee appointed under subsection (1).

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

PART 57
EXPOSURE TO CHEMICAL HERBICIDES

333.5701 Definitions.

Sec. 5701. (1) As used in this part:

(a) "Agent orange" means the chemical herbicide made from chemicals known as 2,4-Dichlorophenoxyacetic acid and its esters, or 2,4-D, and Trichlorophenoxyacetic acid and its esters, or 2,4,5-T.

(b) "Chemical agent" means a chemical herbicide or defoliant other than agent orange, or a chemical weapon, which chemical herbicide, defoliant, or weapon is of the type used by the armed forces of the United States.

(c) "Commission" means the agent orange commission created in section 5731.

(d) "Department" means the department of health and human services in cooperation with the veterans' service offices.

(e) "Dioxin" means the chemicals known as 2,3,7,8-Tetrachlorodibenzo-p-dioxin, or 2,3,7,8-TCDD.

(f) "Hospital" means a hospital licensed pursuant to article 17.

(g) "Information resource center" means the agent orange information resource center created in section 5745.

(h) "Physician" means a physician licensed pursuant to article 15.

(i) "Veteran" means that term as defined in section 1 of 1965 PA 190, MCL 35.61.

(j) "Vietnam-era veteran" means a veteran who served in the armed forces of the United States between 12:01 a.m., January 1, 1961, and 12:01 a.m., September 1, 1973, and who meets either of the following criteria:

(*i*) Has been a resident of this state continuously since June 11, 1987.

(*ii*) Is a resident of this state at the time he or she begins participating in testing or other activities under this part, and was a resident of this state at the time of induction into the armed forces of the United States.

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

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987;—Am. 2016, Act 206, Eff. Sept. 20, 2016.

Popular name: Act 368

333.5703 Toxicological studies; consent; report; information on physical health.

Sec. 5703. (1) The department, in consultation and cooperation with the commission, shall conduct toxicological studies on a selected sample of Vietnam-era veterans to establish their exposure to agent orange or a chemical agent. In conducting the studies, the department shall analyze appropriate specimens for dioxin in combination with a review of Vietnam-era veterans' military service locations. The department shall obtain

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prior written consent from each Vietnam-era veteran to be studied under this section. The department shall compile and evaluate information obtained from these studies into a report, and shall submit the report to the commission for review and publication.

(2) The department shall gather information on the physical health of study participants and their families to the extent the department considers necessary.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5709 Studying causes of death.

Sec. 5709. The department, in consultation and cooperation with the commission, shall study the causes of death among Vietnam-era veterans, utilizing the department's vital statistics records and the agent orange registry data base maintained by the information resource center under section 5745. The information obtained under this section shall serve as a foundation for additional epidemiological studies on the relative incidence of disease among Vietnam-era veterans.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5711 Epidemiological studies; consent.

Sec. 5711. The department, in consultation and cooperation with the commission, shall conduct epidemiological studies on a selected sample of Vietnam-era veterans who have a history of cancer or other medical problems associated with exposure to agent orange or a chemical agent, or who have children born with birth defects after the Vietnam-era veteran's suspected exposure to agent orange or a chemical agent. Levels of dioxin in the blood serum of Vietnam-era veterans shall be established by analysis of appropriate specimens for dioxin. The department shall obtain prior written consent from each Vietnam-era veteran to be studied under this section.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5713 Annual report; recommendations.

Sec. 5713. The department shall compile and analyze the information obtained under sections 5709 and 5711, and shall produce an annual report which shall be distributed through the information resource center to veterans' organizations, the federal centers for disease control, the chairpersons of the committees of the senate and house of representatives responsible for legislation concerning veterans, and other appropriate governmental offices. The department shall make any recommendations for additional actions to the commission.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5715 Report or other information as public information; availability; confidentiality of medical information.

Sec. 5715. (1) A departmental report under section 5703 or 5713, or other compilation of information collected under this part, unless it discloses the identity of an individual who does not consent to the disclosure, is public information, and shall be made available in accordance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) Medical information about an individual that is gathered under this part is confidential and shall be subject to the same requirements of confidentiality as provided in section 2631 for data or records concerning medical research projects.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5717 Birth defects registry; establishment; purposes.

Sec. 5717. The department shall establish a birth defects registry for all of the following purposes:

(a) To provide information on the incidence and trends of birth defects among Vietnam-era veterans and their families, and among the general population.

(b) To provide information to determine whether environmental hazards such as exposure to agent orange or chemical agents are associated with birth defects and to provide information as to other possible causes of birth defects among Vietnam-era veterans and among the general population.

(c) To develop prevention strategies for reducing the incidence of birth defects among Vietnam-era

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veterans and their families, and among the general population.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5721 Birth defects; reports; records; confidentiality; rules; submission to medical examination or supervision not required; contract for collection and analysis of data; evaluation of information reported to birth defects registry; public reports.

Sec. 5721. (1) Each diagnosed incidence of a birth defect, including a congenital or structural malformation, or a biochemical or genetic disease, and any information relevant to incidents of birth defects, shall be reported to the department. The reporting shall begin not later than the next calendar year after June 11, 1987.

(2) The department shall maintain comprehensive statewide records of all information reported to the birth defects registry. The information reported shall be subject to the same requirements of confidentiality as provided in section 2631 for data or records concerning medical research projects.

(3) The director shall promulgate rules which provide for all of the following:

(a) A list of birth defects, including, but not limited to, congenital and structural malformations, and biochemical or genetic diseases, and other relevant information to be reported.

(b) The quality and manner in which the incidents of birth defects and other information is to be reported.

(c) The terms and conditions under which records maintained under this section, including any records containing the name and medical condition of a specific individual, may be released by the department.

(4) This section does not compel an individual to submit to medical examination or supervision by the department or otherwise.

(5) The department may contract for the collection and analysis of, and research related to, the data required under this section.

(6) Within 2 years after June 11, 1987, the department shall begin evaluating the information reported to the birth defects registry. The department shall publish and make available to the public reports summarizing the information collected. The first summary report shall be published not later than 180 days after the end of the first 2 full calendar years after June 11, 1987. Subsequent annual summary reports shall be made on a full calendar year basis and published not later than 180 days after the end of each calendar year.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987;—Am. 1988, Act 236, Eff. Oct. 1, 1988.

Popular name: Act 368

333.5723 Referral services.

Sec. 5723. The department, in collaboration with veterans' counseling sources, shall provide referral services for those Vietnam-era veterans and their dependents who desire counseling or referral.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5725 Class action; purpose.

Sec. 5725. The attorney general, on behalf of Vietnam-era veterans residing in this state who may have been injured because of contact with agent orange or a chemical agent while serving in the armed forces of the United States, may bring a class action against the federal government or any other party for the release of information relating to exposure to agent orange or a chemical agent and for release of individual Vietnam-era veterans' medical records.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5731 Agent orange commission; creation; appointment, qualifications, and terms of members; vacancy.

Sec. 5731. (1) The agent orange commission is created in the department.

(2) The commission is composed of 14 members, including all of the following:

(a) One member is the director, or his or her designee.

(b) One member is the attorney general, or his or her designee.

(c) The remaining members shall be appointed by the governor, with the advice and consent of the senate, as follows:

(*i*) One member shall be a representative of the Michigan veterans trust fund.

(*ii*) Four members shall be researchers who are experts in the fields of cytogenetic evaluations, birth defects, immunological studies, neurological studies, toxicology, oncology, or other fields relevant to the

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purposes of this part whose knowledge may contribute to the implementation of this part.

(*iii*) Five members shall be Vietnam-era veterans, at least 1 of whom shall be a female Vietnam-era veteran.

(*iv*) Two members shall represent the general public, 1 of whom shall be appointed from a list of nominees provided by the speaker of the house of representatives, and 1 of whom shall be appointed from a list of nominees provided by the majority leader of the senate.

(3) Members shall each serve for terms of 2 years, and those members who are appointed may be reappointed once. A vacancy shall be filled in the same manner as the original appointment for the duration of the unexpired term.

History: Add. 1987, Act 49, Imd. Eff. June 11, 1987.

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

Popular name: Act 368

333.5735 Agent orange commission; duties.

Sec. 5735. The commission shall do all of the following:

(a) Review the toxicological and epidemiological literature on herbicide compounds, and their by-product contaminants, of the type utilized by the armed forces during the period prescribed in section 5701(1)(j).

(b) Review and publicize the department's public information program directed at Vietnam-era veterans who have been exposed to agent orange, a chemical agent, or other herbicide mixtures containing dioxin.

(c) Review the department's programmatic and research activities and provide recommendations to the department, the chairpersons of the committees of the Senate and House of Representatives responsible for legislation concerning veterans, and other appropriate governmental offices, as to the department's ongoing investigations of the adverse effects on human health of agent orange, chemical agents, and other herbicide mixtures containing dioxin.

(d) Advise and assist the department in the implementation of this part.

History: Add. 1987, Act 49, Imd. Eff. June 11, 1987.

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

Popular name: Act 368

333.5737 Agent orange commission; election of chairperson; meetings; travel expenses; conducting business at public meeting; notice; writings available to public.

Sec. 5737. (1) The members annually shall elect a chairperson. The commission shall meet at least 4 times each year at the call of the chairperson. The first meeting of the commission shall be held not later than 3 months after the effective date of this part.

(2) Commission members shall serve without compensation, but shall be reimbursed for their necessary travel expenses for attendance at commission meetings.

(3) The business that the commission performs shall be conducted at a public meeting of the commission held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(4) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1987, Act 49, Imd. Eff. June 11, 1987.

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

Popular name: Act 368

333.5745 Agent orange information resource center; creation; membership; duties.

Sec. 5745. (1) There is created an agent orange information resource center within the department.

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(2) The information resource center shall have members with expertise in human medicine, toxicology, epidemiology and data management and analysis.

(3) The information resource center, with appropriate extramural consultation, shall develop the survey questionnaires, data base management system, and the medical analysis system for the registry required under subsection (5).

(4) The information resource center annually shall request local veterans' organizations and health agencies to evaluate the operation of the information resource center program from their perspective.

(5) The information resource center shall perform searches of technical documents and published scientific literature. A registry of all known ongoing agent orange related research shall be maintained. These information resources shall be utilized in the annual analysis of data on Vietnam-era veterans and in providing the annual reports required under section 5713.

(6) The information resource center shall solicit state and local media organizations to inform Vietnam-era veterans of their rights under this part, and to encourage Vietnam-era veterans to submit health information, and other relevant information, to the department, commission, and information resource center as required under this part.

(7) The information resource center shall provide local health and veteran's facilities with a comprehensive and annually updated list of tertiary medical care facilities as defined in section 22108, specializing in areas appropriate for the clinical laboratory evaluation of veterans to determine if a Vietnam-era veteran has suffered physical damage as a result of substantial exposure to agent orange or a chemical agent.

(8) The department, through the information resource center or otherwise, shall refer Vietnam-era veterans to appropriate state and federal agencies for the purpose of filing claims to seek remedies for medical and financial problems caused by the Vietnam-era veterans' exposure to agent orange or chemical agents.

History: Add. 1987, Act 49, Imd. Eff. June 11, 1987.

Compiler's note: For transfer of certain powers and duties of the agent orange commission 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

333.5747 Rules.

Sec. 5747. The department shall promulgate rules to implement this part.

History: Add. 1987, Act 49, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5749 Phasing in studies and birth defects registry.

Sec. 5749. The studies and the birth defects registry called for under this part shall be phased in according to an orderly schedule established by the department, with the advice of the commission.

History: Add. 1987, Act 49, Imd. Eff. June 11, 1987.

Popular name: Act 368

PART 58
CHILDREN AND YOUTH WITH SPECIAL HEALTH CARE NEEDS

333.5801 "Child or youth with special health care needs" or "child" defined; general definitions and principles of construction.

Sec. 5801. (1) As used in this part, "child or youth with special health care needs" or "child" means a single or married individual under 26 years of age whose activity is or may become so restricted by disease or specified medical condition as to reduce the individual's normal capacity for education and self-support.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015;—Am. 2023, Act 138, Imd. Eff. Sept. 29, 2023.

Compiler's note: For transfer of certain powers and duties of the bureau of child and family services, with the exception of the women, infants, and children division, 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

333.5805 Service to be developed, extended, and improved; purposes; referral of child to appropriate services; purposes of program.

Sec. 5805. (1) The department shall develop, extend, and improve services for the following purposes:

(a) To locate a child or youth with special health care needs reported to the department pursuant to section

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5721.

(b) To provide medical, surgical, corrective, nutritional, and other services and care, including aftercare if necessary, and to provide facilities for diagnosing and hospitalizing a child or youth with special health care needs.

(c) To the extent possible, to prevent diseases and specified medical conditions that reduce an individual's normal capacity for education and self-support.

(2) The department shall refer a child reported to the department under section 5721 who is in need of services to the appropriate services inside or outside of the department.

(3) The department shall carry out the program established under section 5815 for the purposes of providing medical care and treatment to improve or maintain health and enhance the quality of life for children and youth with special health care needs.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 236, Eff. Oct. 1, 1988;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5811 Repealed. 2015, Act 91, Imd. Eff. June 25, 2015.

Compiler's note: The repealed section pertained to crippled children's advisory committee.

Popular name: Act 368

333.5815 Program of services; establishment and administration; rules.

Sec. 5815. The department shall establish and administer a program of services for children and youth with special health care needs and children who are suffering from conditions which lead to special health care needs because of disease or specified medical condition. In implementing this part, the department shall promulgate rules that do all of the following:

(a) Provide for the monitoring of the availability and quality of facilities, treatment centers, medical and surgical specialists, and other providers for children or youth with special health care needs.

(b) Implement section 5841.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

Administrative rules: R 722.601 et seq. of the Michigan Administrative Code.

333.5817 Duties of department.

Sec. 5817. The department shall do all of the following:

(a) Formulate and administer detailed policies to implement the program services stated in section 5805. The department shall include all of the following in the policies under this subdivision:

(*i*) Financial participation by this state.

(*ii*) Administration necessary for efficient operation of the policies.

(*iii*) Maintenance of records and preparation of reports of services rendered.

(*iv*) Cooperation with health and human services organizations and with any agency of this state charged with the administration of laws providing for vocational rehabilitation and special education of children and youth with special health care needs.

(b) Expend in accordance with the policies and money made available to this state by the federal government for those purposes.

(c) Develop systems of care that are community based, comprehensive, culturally competent, coordinated, and family centered.

(d) Cooperate with the federal government, under title V of the social security act, 42 USC 701 to 713, through its appropriate agency or instrumentality, in developing, extending, and improving services, provided by this part and in the administration of the policies.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1998, Act 88, Imd. Eff. May 13, 1998;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5821 Diagnostic clinics and services; availability of examination results.

Sec. 5821. (1) The department shall provide for diagnostic clinics for children and youth with special health care needs in places, at times, and under circumstances it determines. The department may purchase diagnostic services from outpatient departments of approved hospitals and other facilities.

(2) The department shall make results of examinations at clinics available to parents and individuals and agencies providing services to children and youth with special health care needs, unless otherwise prohibited by law.

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5823 Eligibility for services; application; investigation; medical evidence.

Sec. 5823. If a child or youth with special health care needs is identified, a person authorized by rule may apply to the department for eligibility for services under this part. The department shall investigate and secure medical evidence as to the condition of the child.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5825 Eligibility for services; determination; financial assessment; transportation; referrals.

Sec. 5825. Upon completion of the medical investigation under section 5823, the department shall promptly make a determination of medical eligibility. If the department determines that the child or youth with special health care needs is medically eligible for services under this part, the department shall perform a financial assessment to determine cost sharing responsibilities. The department shall authorize the transportation of an eligible child or youth with special health care needs to a provider of services approved and designated by the department. In consultation with the family, the department may facilitate transfer of a child or youth with special health care needs to a provider for treatment better adapted to the child's needs. In making referrals under this part the department shall not discriminate against health professionals qualified to render care.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5826 Approval of hospital, facilities, and specialists.

Sec. 5826. The department may approve for the rendering of services under this part a hospital maintaining clinical services and convalescent and educational facilities, including qualified instructional service, and attending medical and surgical specialists approved by the department.

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

Popular name: Act 368

333.5828 Hospital bed to be provided; operation or treatment by physician or surgeon.

Sec. 5828. The administrator of a hospital shall provide a bed in the hospital to which a child or youth with special health care needs is assigned for operation or treatment, or both, of the child's disease or specified medical condition. The physician or surgeon approved by the department shall proceed as promptly as necessary to perform or give a necessary operation or treatment.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5831 Report from approved hospital; form; contents; time.

Sec. 5831. (1) An approved hospital receiving a child or youth with special health care needs shall send to the department a written report on a form furnished by the department that contains the date of admission and discharge, the names of approved physicians and surgeons, and other information the department requires.

(2) The time for making the report under subsection (1) must conform to applicable state and federal requirements.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5835 Educational services for hospitalized child; compliance; records.

Sec. 5835. (1) Upon receiving the parent's consent, an approved hospital shall arrange with the local school district in which a child resides to provide or contract for educational services for the hospitalized child.

(2) Courses of study, attendance record systems, adequacy of methods of instruction, qualifications of teachers and conditions under which they are employed, and purchases of necessary equipment for the instruction of a hospitalized child or youth with special health care needs must comply with requirements prescribed by the department of education.

(3) A hospital shall keep daily records on the regular child accounting forms used in the public schools, listing all children actually receiving instruction.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

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Popular name: Act 368

333.5841 Charges for medical care and treatment; agreement for payment; information; account; disposition of parent participation payments; modification or cancellation of agreement.

Sec. 5841. (1) All or part of the charges for the medical care and treatment of a child or youth with special health care needs must be paid to the department of treasury by the child, parent, or spouse, if that individual has the ability to pay. The payment must be in the amount and at a rate determined by agreement between the individual and the department. Upon treatment of the child or youth with special health care needs, the department shall furnish the department of treasury information required to keep a correct account of the money due this state from the child, parent, or spouse. The department of treasury shall credit the parent participation payments to the parent participation fund.

(2) The department may modify or cancel an agreement made under this section based on economic or other factors and shall report that action to the department of treasury.

(3) The department of treasury may accept and issue a receipt for an amount due under an agreement or modification to an agreement under this section.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5843 Cost of care and surgical and medical treatment; subrogation.

Sec. 5843. This state is subrogated to the rights of recovery that a child, parent, spouse, or guardian may have against a liable third party for the cost of care and surgical and medical treatment provided to a child or youth with special health care needs under this part to the extent that the state has spent money for that care and treatment.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5847 Payments not considered social services aid; individual not considered indigent.

Sec. 5847. Payments made by this state under this part are not considered social services aid, and an individual is not considered an indigent because of his or her inability to pay for the care and treatment of a child or youth with special health care needs.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5861 Receiving and holding title to property; property as trust fund; disposition of property; children with special needs fund; minimum balance.

Sec. 5861. (1) The department may receive and hold title to real and personal property by gift, devise, bequest, and conveyance to be used for the purpose of carrying out this part. The property accepted must be held and used as a trust fund for the purposes for which received. The department promptly shall send the money, securities, or like personal property received to the department of treasury to be credited to the fund of this state designated by the donor or the department. The income from securities must be sent promptly to the department of treasury to be credited to the fund designated and must be likewise disbursed.

(2) The children with special needs fund that operates under this section shall maintain a minimum balance of $18,000,000.00. If the balance of the children with special needs fund is less than $18,000,000.00, no money shall be expended from that fund until the balance of the fund exceeds $18,000,000.00.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2016, Act 427, Eff. Apr. 4, 2017.

Popular name: Act 368

333.5863 Duties of department of treasury.

Sec. 5863. (1) The department of treasury shall do all of the following:

(a) Receive money granted to this state by the federal government under this part.

(b) Receive payments as provided in section 5841 and keep that money in the parent participation fund.

(c) Disburse money from the funds on certification by the department.

(2) The state treasurer shall direct the investment of the children with special needs fund. The state treasurer has the same authority to invest assets of the children with special needs fund as is granted to an investment fiduciary that is investing assets under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1141. The state treasurer shall comply with the divestment from terror act, 2008 PA 234, MCL 129.291 to 129.301, in making investments under this subsection.

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015;—Am. 2016, Act 427, Eff. Apr. 4, 2017.

Popular name: Act 368

333.5871 Entering home or taking charge of child or youth with special health care needs; power to accept or refuse services.

Sec. 5871. (1) A department official, agent, or representative shall not enter a home or take charge of a child or youth with special health care needs over the objection of a parent, a guardian, a person in loco parentis, or the person that has custody of the child.

(2) This part does not limit the power of a parent, guardian, or person in loco parentis of the child to accept or refuse the services offered under this part for a child or youth with special health care needs or by an agency employed for that purpose.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5874 Confidentiality of records; disclosure.

Sec. 5874. Records regarding a child or youth with special health care needs are confidential to the extent required by state and federal statutes and rules. Part 26 applies to the disclosure of information regarding a child or youth with special health care needs under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5879 Unlawful conduct; misdemeanor.

Sec. 5879. (1) A person who wilfully makes a false statement or wilfully gives false information for the purpose of securing aid under this part is guilty of a misdemeanor.

(2) An official of a hospital or a physician or dentist who bills this state for the care of a child or youth with special health care needs in accordance with the fee schedules established under this part and who also attempts to force a parent, relative, or guardian of the child to pay an additional sum for the care is guilty of a misdemeanor.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

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PART 58A

INFANT DEATH DUE TO UNSAFE SLEEP EDUCATION AND PREVENTION

333.5881 "Infant safe sleep act"; meanings of words and phrases; general definitions and principles of construction.

Sec. 5881. (1) This part may be referred to as the "infant safe sleep act".

(2) For purposes of this part, the words and phrases defined in sections 5883 to 5884 have the meanings ascribed to them in those sections unless the context requires otherwise.

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

History: Add. 2014, Act 122, Eff. Aug. 12, 2014.

Popular name: Act 368

333.5883 Definitions; H, I.

Sec. 5883. (1) "Health professional" means an individual licensed, registered, certified, or otherwise authorized to engage in a health profession under article 15.

(2) "Hospital" means a hospital licensed under article 17 that provides clinically related health services for obstetrical and infant care and includes a hospital operated by this state, a local governmental unit, or an agency. Hospital does not include an office used primarily for private or group practice by health professionals in which no reviewable, clinically related health services are offered.

(3) "Infant" means a child who is 12 months old or younger.

(4) "Infant death due to unsafe sleep" means infant death by suffocation, asphyxiation, or strangulation in a sleep environment.

History: Add. 2014, Act 122, Eff. Aug. 12, 2014.

Popular name: Act 368

333.5884 Definitions; P.

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Sec. 5884. (1) "Parent" means a natural parent, stepparent, adoptive parent, legal guardian, or legal custodian of an infant.

(2) "Parent acknowledgment statement" means the statement of a parent on a form described in section 5885(2).

History: Add. 2014, Act 122, Eff. Aug. 12, 2014.

Compiler's note: Act 368

333.5885 Infant safe sleep practices; information and materials to be provided by hospital; parent acknowledgment statement; form; birth occurring in setting other than hospital; use of materials consistent with or provided by department.

Sec. 5885. (1) A hospital shall provide to parents readily understandable information and educational and instructional materials regarding infant safe sleep practices. The materials described in this subsection must explain the risk factors associated with infant death due to unsafe sleep practices and emphasize infant safe sleep practices.

(2) A hospital shall prescribe the form of a parent acknowledgment statement. The form must include a place for a parent to sign, acknowledging that the parent has received the educational and instructional materials provided on the risk factors associated with infant death due to unsafe sleep practices and infant safe sleep practices.

(3) For a birth that occurs in a setting other than a hospital, the health professional in charge at the birth of an infant, or if none the health professional in charge of the care of an infant, shall provide the materials described in subsection (1) to a parent after the birth of an infant.

(4) To comply with this section, a hospital or health professional subject to this section may use educational and instructional materials provided by the department under subsection (5) or may use educational and instructional materials of its choice that are consistent with the materials provided by the department under subsection (5).

(5) Upon the request of a hospital or health professional subject to this section, the department shall provide, at no cost, to the hospital or health professional, educational and instructional materials described in section 5887(c).

History: Add. 2014, Act 122, Eff. Aug. 12, 2014.

Popular name: Act 368

333.5886 Parent acknowledgment statement; liability of hospital or health professional.

Sec. 5886. (1) After receipt of the materials under section 5885, a parent may sign the parent acknowledgment statement. The hospital or health professional, as applicable, shall place the signed parent acknowledgment statement in the infant's permanent medical record. The hospital or health professional, as applicable, shall provide a copy of the signed parent acknowledgment statement to the parent who signed the statement.

(2) A hospital or health professional that complies with this part is not criminally or civilly liable for the action or inaction of a parent with regard to infant safe sleep practices pursuant to materials given to the parent under section 5885.

History: Add. 2014, Act 122, Eff. Aug. 12, 2014.

Popular name: Act 368

333.5887 Duties of department and department of human services.

Sec. 5887. The department and the department of human services shall collaborate to do all of the following:

(a) Work to improve community-based services available to inform parents regarding the risk factors associated with infant death due to unsafe sleep practices and infant safe sleep practices.

(b) Work with other state and local governmental agencies, community organizations, health care and human service providers, and national organizations to coordinate efforts and maximize state and private resources in education regarding the risk factors associated with infant death due to unsafe sleep practices and infant safe sleep practices.

(c) Provide educational and instructional materials that explain the risk factors associated with infant death due to unsafe sleep practices, that include methods to reduce the risk of infant death due to unsafe sleep, and that emphasize infant safe sleep practices.

History: Add. 2014, Act 122, Eff. Aug. 12, 2014.

Popular name: Act 368

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PART 59
MICHIGAN HEALTH INITIATIVE PROGRAM

333.5901 Definitions.

Sec. 5901. As used in this part:

(a) "AIDS" means acquired immunodeficiency syndrome.

(b) "Advisory task force" means the task force created in section 5906.

(c) "Fund" means the Michigan health initiative fund created in section 5911.

(d) "HCV" means hepatitis C virus.

(e) "HIV" means human immunodeficiency virus.

(f) "Institute of higher education" means a public or private college or university. Institute of higher education includes a community college.

(g) "Risk reduction" means the process of identifying and reducing or eliminating behaviors or conditions, or both, that are harmful to physical or mental health, or both.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 238, Imd. Eff. June 26, 2006.

Compiler's note: For transfer of certain powers and duties of the center for health promotion and chronic disease prevention from the department of public health to the director of the department community health, 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 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

333.5903 Repealed. 2006, Act 238, Imd. Eff. June 26, 2006.

Compiler's note: The repealed section pertained to creation of risk reduction and AIDS policy commission.

Popular name: Act 368

333.5905 Repealed. 2006, Act 238, Imd. Eff. June 26, 2006.

Compiler's note: The repealed section pertained to membership of risk reduction and AIDS policy commission.

Popular name: Act 368

333.5906 Hepatitis C advisory task force; creation; membership; terms; chairperson and officers; compensation and expenses; business conducted at public meeting; writings; duties; abolishment of task force on June 30, 2010.

Sec. 5906. (1) The hepatitis C advisory task force is created in the department. The task force shall be appointed by the governor. The task force shall consist of 11 members including the director and his or her designee as an ex officio member, 1 member from an association representing local public health, and 9 members appointed from the following categories:

(a) Business and industry.

(b) Labor.

(c) Health care providers.

(d) The legal community.

(e) Religious organizations.

(f) State and local government.

(g) The education community.

(2) A health care provider member appointed pursuant to subsection (1) shall not be an employee of a state executive department or local health department, nor represent a facility or agency which is owned or operated by a state executive department or a local health department. To the extent practicable, the members appointed pursuant to subsection (1), except the director, shall be representative of the demographic composition and geographic regions of this state.

(3) The term of each member, other than the director, shall be 3 years, except that of the members first appointed, 4 shall serve for 3 years, 3 shall serve for 2 years, and 3 shall serve for 1 year. A member shall not serve more than 2 consecutive terms, whether partial or full. A vacancy on the task force shall be filled for the balance of the unexpired term in the same manner as the original appointment. The task force biannually shall elect a chairperson and other officers and committees as considered appropriate by the task force. The actual and necessary per diem compensation and the schedule for reimbursement of expenses for the public members of the task force shall be the same as is established annually by the legislature for similar commissions or task forces that are reimbursed from the general fund.

(4) The business which the task force performs shall be conducted at a public meeting of the task force

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held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A writing prepared, owned, used, in the possession of, or retained by the task force in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) The task force shall do all of the following:

(a) Meet not less than quarterly at the call of the chairperson.

(b) Advise the governor and the legislature on policies regarding hepatitis C and risk reduction.

(c) Annually report to the governor and the legislature on major risk factors and preventable diseases or conditions including, but not limited to, hepatitis C.

(d) Make recommendations to the department regarding the allocation of money, if available, from the Michigan health initiative fund or any other source, including, but not limited to, the level of funding for grants under section 5925.

(e) Review and comment to the department on topics determined by the task force to be appropriate for the media campaign conducted under this part.

(f) Review and identify potential additional funding mechanisms and sources to cover the costs of outreach, awareness, available treatment options, and testing, for HCV.

(g) Make recommendations to the department regarding information to be utilized and incorporated into the HCV information package, including, but not limited to, information regarding the status of HCV in this state, state-supported testing and counseling programs, and research findings.

(6) The hepatitis C advisory task force created under this section is abolished effective June 30, 2010.

History: Add. 2006, Act 238, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5907 Repealed. 2006, Act 238, Imd. Eff. June 26, 2006.

Compiler's note: The repealed section pertained to business conducted at meeting of risk reduction and AIDS policy commission.

Popular name: Act 368

333.5909 Repealed. 2006, Act 238, Imd. Eff. June 26, 2006.

Compiler's note: The repealed section pertained to duties of risk reduction and AIDS policy commission.

Popular name: Act 368

333.5911 Michigan health initiative fund; creation; administration; expenditures; fund cumulative; amounts credited to fund; investment of fund; crediting earnings; disposition and use of unencumbered balance.

Sec. 5911. (1) The Michigan health initiative fund is created in the state treasury and shall be administered by the department. The fund shall be expended only as provided in this part. The fund is in addition to, and is not intended as a replacement for, any other money appropriated to the department.

(2) The state treasurer shall credit to the fund all amounts appropriated for that purpose under this section, section 25 of the general sales tax act, 1933 PA 167, MCL 205.75, and section 21 of the use tax act, 1937 PA 94, MCL 205.11. The state treasurer may receive money or other assets from any source for deposit into the fund.

(3) The state treasurer shall direct the investment of the fund. Earnings shall be credited to the fund.

(4) The unencumbered balance remaining in the fund at the close of the fiscal year shall remain in the fund, and shall not revert to the general fund.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 238, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5913 Michigan health initiative information clearinghouse; establishment; accessibility; duties.

Sec. 5913. (1) The department shall utilize the fund to establish the Michigan health initiative information clearinghouse, which shall be accessible to the public statewide.

(2) The Michigan health initiative information clearinghouse shall, at a minimum, maintain and provide up-to-date information on both of the following:

(a) Major risk factors and preventable diseases and conditions including, but not limited to, HCV and AIDS.

(b) Risk reduction service providers, HCV treatment programs, and AIDS treatment programs throughout the state.

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History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 238, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5915 Media campaign; public service announcements.

Sec. 5915. (1) The department shall utilize the fund to produce or arrange for the production of a media campaign to disseminate information on risk reduction and major risk factors and preventable diseases and conditions including, but not limited to, HCV and AIDS, pursuant to the advice of the task force as provided under section 5906.

(2) In addition to the requirements of subsection (1), the department shall utilize the fund to produce or arrange for the production of public service announcements regarding risk reduction, HCV, and AIDS which shall be distributed to publicly supported radio and television stations and to cable television studios, and which may be distributed to commercial radio and television stations.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 238, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5917 Risk reduction and AIDS education module; approval process.

Sec. 5917. (1) The department shall utilize the fund, in cooperation with the state board of education, to develop and distribute a risk reduction and AIDS education module appropriate for pupils in elementary and secondary.

(2) The department shall make the risk reduction and AIDS education module available to each school district in the state.

(3) In addition to developing a module as described in subsection (1), the department, in cooperation with the state board of education, may develop a process for approving a risk reduction and AIDS education module developed by a school district.

History: Add. 1987, Act 258, Eff. July 1, 1988.

Popular name: Act 368

333.5919 Risk reduction, HCV information package, and AIDS information package.

Sec. 5919. The department shall utilize the fund to develop, in cooperation with institutions of higher education, a risk reduction, HCV information package, and AIDS information package that shall include, but not be limited to, information regarding testing, counseling, transmission, prevention, and treatment.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 238, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5921 Model AIDS information package; local AIDS information package.

Sec. 5921. (1) The department shall utilize the fund to develop annually a model AIDS information package which shall include, but not be limited to, information regarding the status of AIDS in this state, state supported testing and counseling programs, research findings, and access to the Michigan health initiative information clearinghouse established under section 5913.

(2) A local health department or a consortium of local health departments may apply to the department for funding to develop a local AIDS information package which may be used as an alternative to the state model developed under subsection (1). If the department provides funding under this subsection, the department shall approve the alternative AIDS information package before it is used by the local health department.

(3) The model AIDS information package developed under subsection (1) may be distributed to each residence in the state, except that the model AIDS information package need not be distributed to a residence to which an alternative AIDS information package developed and approved under subsection (2) has been distributed.

History: Add. 1987, Act 258, Eff. July 1, 1988.

Popular name: Act 368

333.5923 HIV and HCV testing; counseling; costs.

Sec. 5923. (1) The department shall utilize the fund to provide HIV testing free of charge to all residents of this state and all nonresident students enrolled in and attending a public or private college, university, or other postsecondary educational institution in this state. If additional funds are available, the department shall utilize the fund to provide HCV testing free of charge to residents of this state who are identified as high-risk and do not have health insurance, coverage, or benefits. All HIV and HCV testing under this section shall be performed by the department or a licensed clinical laboratory designated by the department.

(2) As a condition of receiving an HIV or HCV test under this section, the department shall require an

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individual who requests an HIV or HCV test to undergo counseling both before and after the test. The counseling may be provided by local health department personnel or an individual designated by the local health department who has undergone training approved by the department. The counseling shall be conducted pursuant to protocols approved by the department. If the counseling required under this subsection is provided by a local health department or an individual designated by the local health department, the cost of the counseling shall be paid by the local health department out of the distribution of funds made under section 5(c) of the health and safety fund act, 1987 PA 264, MCL 141.475. If a distribution of funds is not made under section 5(c) of the health and safety fund act, 1987 PA 264, MCL 141.475, the cost of counseling provided under this subsection by a local health department or an individual designated by the local health department shall be paid by the department.

(3) A person who provides HIV or HCV testing or counseling under this section shall be reimbursed for the cost of the testing or counseling only by the department or a local health department, and shall not bill the individual receiving the services or any other person including, but not limited to, a third party payer.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 238, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5925 Employee wellness programs; grants; applications; rules.

Sec. 5925. (1) The department shall utilize the fund to provide grants for employee wellness programs which reduce the prevalence of high risk factors for employees. Programs funded under this section may provide services to employees, dependents of employees, and to retired employees.

(2) The department shall accept applications for funding from any employer or employee organization in the state. The department shall give special consideration to programs which address more than 1 high risk factor and which are to be conducted by more than 1 employer or employee organization.

(3) The department shall promulgate rules to implement this section. The rules promulgated under this subsection shall be submitted for public hearing under the administrative procedures act of 1969 within 60 days after the effective date of this part.

History: Add. 1987, Act 258, Eff. July 1, 1988.

Popular name: Act 368

333.5927 Educational programs for health care workers; availability of educational materials to individuals at high risk for hepatitis C virus.

Sec. 5927. (1) The department shall utilize the fund to develop educational programs for health care workers, whether licensed or not, regarding the delivery of quality care and protection against exposure to disease in the workplace.

(2) The department shall utilize the fund to make available to health care workers, veterans, public safety officers, parolees, and other individuals at high risk for the hepatitis C virus educational materials, in written and electronic forms, on the diagnosis, treatment, and prevention of the hepatitis C virus. The educational materials shall include the recommendations of the federal centers for disease control and prevention regarding prevention and control of the hepatitis C virus. As used in this subsection, "public safety officer" means any individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, firefighter, or emergency medical services personnel.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 239, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5929 Local community demonstration and pilot projects; grants.

Sec. 5929. The department shall utilize the fund to provide grants for local community demonstration and pilot projects that provide a network of care to AIDS patients in a nonacute care setting. The department shall give special consideration to applicants with projects designed to provide care on a regional basis.

History: Add. 1987, Act 258, Eff. July 1, 1988.

Popular name: Act 368

PART 59A
HEALTHY MICHIGAN FUND

333.5951 “Fund” defined.

Sec. 5951. As used in this part, "fund" means the healthy Michigan fund created in section 5953.

History: Add. 1995, Act 121, Imd. Eff. June 30, 1995.

Popular name: Act 368

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333.5953 Healthy Michigan fund; creation; expenditure; fund as additional appropriation; crediting amount and earnings; investment; grants or donations; availability of remaining funds; reversion.

Sec. 5953. (1) The healthy Michigan fund is created in the state treasury. The fund shall be expended only for the purposes described in section 36 of article IX of the state constitution of 1963 and as further provided in this part. The fund is in addition to, and is not intended as a replacement for, any other money appropriated to the department or other state agencies.

(2) The state treasurer shall credit to the fund all amounts dedicated for this purpose under section 36 of article IX of the state constitution of 1963 and any other amounts received by the state treasurer for the purpose of the fund.

(3) The state treasurer shall invest money in the fund in the same manner as surplus funds are invested under section 3 of Act No. 105 of the Public Acts of 1855, being section 21.143 of the Michigan Compiled Laws. Earnings shall be credited to the fund.

(4) Funds granted or funds received as gifts or donations to the fund shall be available for disbursement upon appropriation.

(5) Money remaining in the fund at the end of the fiscal year shall remain in the fund and be available for expenditure in the following year. The unencumbered balance at the close of the fiscal year shall not revert to the general fund.

History: Add. 1995, Act 121, Imd. Eff. June 30, 1995.

Popular name: Act 368

333.5955 Use and purpose of fund.

Sec. 5955. Money in the fund shall be used to improve the health of the citizens of this state. Programs receiving these funds shall address the needs of vulnerable populations. Appropriations from the fund may be made to the department or other state agencies, and shall include, but not be limited to, chronic disease prevention, smoking cessation, anti-tobacco activities, maternal and child health initiatives, immunization activities, poison control, and local public health surveillance and evaluations.

History: Add. 1995, Act 121, Imd. Eff. June 30, 1995.

Popular name: Act 368

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ARTICLE 6
SUBSTANCE ABUSE

PART 61
GENERAL PROVISIONS (Repealed by 2012 PA 500)

333.6101-333.6141 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Popular name: Act 368

PART 62
SUBSTANCE ABUSE SERVICES

333.6201 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to creation of office of substance abuse services.

Popular name: Act 368

333.6203 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to duties of office of substance abuse services.

Popular name: Act 368

333.6205 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to additional duties of office of substance abuse services.

Popular name: Act 368

333.6207 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to additional duties of office of substance abuse services.

Popular name: Act 368

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333.6209 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to review of office of substance abuse services.

Popular name: Act 368

333.6211 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to formula recommendation for distribution of funds.

Popular name: Act 368

333.6213 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to powers of administrator.

Popular name: Act 368

333.6215 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to creation of state interdepartmental substance abuse services coordinating commission.

Popular name: Act 368

333.6217 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to duties of state interdepartmental substance abuse services coordinating commission.

Popular name: Act 368

333.6221 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to creation of advisory commission on substance abuse services.

Popular name: Act 368

333.6222 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to officers, meetings, and report of advisory commission on substance abuse services.

Popular name: Act 368

333.6223 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to duties of advisory commission on substance abuse services.

Popular name: Act 368

333.6226 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to city, county, or regional coordinating agency.

Popular name: Act 368

333.6228 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to duties of city, county, or regional coordinating agency.

Popular name: Act 368

333.6230 Definitions.

Sec. 6230. As used in this part:

(a) "Department" means the department of licensing and regulatory affairs.

(b) "Director" means the director of the department or his or her designee.

(c) "Substance use disorder services" means substance use disorder prevention services or substance use disorder treatment and rehabilitation services, or both, as those terms are defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

History: Add. 2012, Act 501, Eff. Jan. 1, 2013.

Popular name: Act 368

333.6231 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Popular name: Act 368

Compiler's note: The repealed section pertained to promulgation of administrative rules.

333.6232 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Compiler's note: The repealed section pertained to waiting list for services.

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Popular name: Act 368

333.6233 License required; licensing unit; exceptions.

Sec. 6233. (1) A person not otherwise licensed to provide psychological, medical, or social services shall not establish, conduct, or maintain a substance use disorder services program unless it is licensed under this part.

(2) The department shall establish a licensing unit to administer the licensing functions of this part.

(3) This section does not apply to a private, nonprofit organization exempt under section 501(c)(3)of the internal revenue code, 26 USC 501, that has been in existence since before September 30, 1965 and whose major purpose is to provide residential services for the redirection and improvement of drug abusers and other character disordered individuals.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 501, Eff. Jan. 1, 2013.

Compiler's note: For transfer of powers and duties of the Office of Substance Abuse Services as an autonomous entity within the Department of Public Health to the Department of Public Health, see E.R.O. No. 1991-3, as amended, compiled at MCL 333.26321 of the Michigan Compiled Laws.

Popular name: Act 368

333.6234 Rules.

Sec. 6234. The department may promulgate rules under the administrative procedures act of 1969 for the administration of this part and the licensing of substance use disorder services programs under this part. Rules promulgated under former section 6231 relating to the licensing of substance use disorder services programs remain effective and applicable on and after the effective date of this section until rules are promulgated by the department under this section.

History: Add. 2012, Act 501, Eff. Jan. 1, 2013.

Popular name: Act 368

333.6235 Application for license; form; authorization to obtain information; evidence of notice to churches, schools, and incorporated nonprofit civic organizations.

Sec. 6235. (1) An application for a license shall be in a form prescribed by the department and shall authorize the director to obtain from any source information as to the ability of the applicant to comply with this part and rules promulgated under this part.

(2) An applicant for an initial license shall include evidence of notice to churches, schools, and incorporated nonprofit civic organizations in the applicant's service delivery area of its intent to provide substance use disorder services.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 501, Eff. Jan. 1, 2013.

Compiler's note: For transfer of powers and duties of the Office of Substance Abuse Services as an autonomous entity within the Department of Public Health to the Department of Public Health, see E.R.O. No. 1991-3, as amended, compiled MCL 333.26321 of the Michigan Compiled Laws.

Popular name: Act 368

333.6236 License; comments by individuals in applicant's service delivery area; basis of issuing or denying license; explanation of denial.

Sec. 6236. The department shall provide an opportunity for individuals in the applicant's service delivery area to comment before the issuance of a license to the applicant. The department shall make the decision to issue or deny a license based on the applicant's ability to comply with the requirements of this part and rules promulgated under this part. If the administrative decision is the denial of a license, the department shall describe the reasons for the denial in writing to the applicant at the time the decision is rendered.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 501, Eff. Jan. 1, 2013.

Compiler's note: For transfer of powers and duties of the Office of Substance Abuse Services as an autonomous entity within the Department of Public Health to the Department of Public Health, see E.R.O. No. 1991-3, as amended, compiled at MCL 333.26321 of the Michigan Compiled Laws.

Popular name: Act 368

333.6237 License; annual fee; compliance; display.

Sec. 6237. Until October 1, 2027, the department shall assess a $500.00 fee for licenses on an annual basis upon determining that the applicant has complied with this part and rules promulgated under this part. A licensee shall prominently display the license while it is in effect.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 501, Eff. Jan. 1, 2013;—Am. 2015, Act 104, Eff. Oct. 1, 2015;—Am. 2019, Act 75, Imd. Eff. Sept. 30, 2019;—Am. 2023, Act 138, Imd. Eff. Sept. 29, 2023.

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Compiler's note: For transfer of powers and duties of the Office of Substance Abuse Services as an autonomous entity within the Department of Public Health to the Department of Public Health, see E.R.O. No. 1991-3, as amended, compiled at MCL 333.26321 of the Michigan Compiled Laws.

Popular name: Act 368

333.6238 Duration of standard or provisional license; renewal or extension of provisional license; duration and purpose of temporary, nonrenewable permit; visit to licensed substance use disorder program; waiver; confidentiality of accreditation information; complaint.

Sec. 6238. (1) A standard license issued under this part is effective for no longer than 1 year after the date of issuance. The department may issue a provisional license to an applicant temporarily unable to comply with this part or the rules promulgated under this part. The department may renew or extend a provisional license issued under this section for not more than 1 year. The department may issue a temporary, nonrenewable permit for not more than 90 days if additional time is needed for the department to properly investigate or for the applicant to undertake remedial action.

(2) The department shall make at least 1 visit to each licensed substance use disorder program every 3 years for survey and evaluation for the purpose of licensure.

(3) The department may waive the visit required by subsection (2) if the licensed program requests a waiver and submits the following:

(a) Evidence that it is currently fully accredited by an accrediting body with expertise in the health facility type and the accrediting organization is accepted by the department.

(b) A copy of the most recent accreditation executive summary submitted to the department at least 30 days from licensure renewal. Submission of an executive summary does not prevent or prohibit the department from requesting the entire accreditation report if the department considers it necessary.

(4) Accreditation information provided to the department under subsection (3) is confidential, is not a public record, and is not subject to court subpoena. The department shall use the accreditation information only as provided in this section. The department shall properly destroy the documentation after a decision on the waiver request is made.

(5) The department shall grant a waiver under subsection (3) if the accreditation report submitted is less than 3 years old and there is no indication of substantial noncompliance with licensure standards or of deficiencies that represent a threat to public safety or patient care in the accreditation report.

(6) Denial of waiver request by the department is not subject to appeal.

(7) This section does not prohibit the department from conducting an inspection or citing a violation of this part related to a complaint.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 501, Eff. Jan. 1, 2013;—Am. 2015, Act 104, Eff. Oct. 1, 2015.

Compiler's note: For transfer of powers and duties of the Office of Substance Abuse Services as an autonomous entity within the Department of Public Health to the Department of Public Health, see E.R.O. No. 1991-3, as amended, compiled at MCL 333.26321 of the Michigan Compiled Laws.

Popular name: Act 368

333.6241 Premises of applicant; inspection; compliance; facility visit; health and sanitation matters; other matters; conduct.

Sec. 6241. The director or the personnel of another department or agency acting at the request of the director may enter the premises of an applicant for a license or a licensee at any reasonable time to make an inspection to determine whether the applicant or licensee is complying with this part and rules promulgated under this part. A local health department may visit a facility at the request of the director to advise as to matters affecting health and the sanitation of the buildings used or other matters designated by the director. The inspections shall be conducted in accordance with standards established in rules.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 501, Eff. Jan. 1, 2013.

Compiler's note: For transfer of powers and duties of the Office of Substance Abuse Services as an autonomous entity within the Department of Public Health to the Department of Public Health, see E.R.O. No. 1991-3, as amended, compiled at MCL 333.26321 of the Michigan Compiled Laws.

Popular name: Act 368

333.6243 License; denial, suspension, revocation, or refusal to renew; violation; hearing and appeal.

Sec. 6243. The department may deny, suspend, revoke, or refuse to renew a license of an applicant or licensee who is in violation of this part or rules promulgated under this part after opportunity for a hearing. A hearing and an appeal in a contested case shall be conducted by the director pursuant to the administrative

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procedures act of 1969.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 501, Eff. Jan. 1, 2013.

Compiler's note: For transfer of powers and duties of the Office of Substance Abuse Services as an autonomous entity within the Department of Public Health to the Department of Public Health, see E.R.O. No. 1991-3, as amended, compiled at MCL 333.26321 of the Michigan Compiled Laws.

Popular name: Act 368

333.6249 Individual, agent, representative, or officer; subject to part; violation; misdemeanor; revocation.

Sec. 6249. (1) An individual or an agent, representative, or officer of a person subject to this part, which individual, agent, representative, or officer violates this part, is guilty of a misdemeanor.

(2) A conviction for a violation of this part is a sufficient ground for revocation of the license of the person subject to this part.

History: Add. 2012, Act 501, Eff. Jan. 1, 2013.

333.6251 Injunction or other process.

Sec. 6251. Notwithstanding the existence of any other remedy, the department may maintain an action in the name of this state for an injunction or other process against a person to restrain or prevent the establishment, conduct, management, or operation of a substance use disorder services program without a license or where operation of the licensee's program is likely to result in serious harm to recipients of the substance use disorder services.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 501, Eff. Jan. 1, 2013.

Compiler's note: For transfer of powers and duties of the Office of Substance Abuse Services as an autonomous entity within the Department of Public Health to the Department of Public Health, see E.R.O. No. 1991-3, as amended, compiled at MCL 333.26321 of the Michigan Compiled Laws.

Popular name: Act 368

PART 65
INCAPACITATED PERSONS (Repealed by 2012 PA 500)

333.6501-333.6523 Repealed. 2012, Act 500, Imd. Eff. Dec. 28, 2012.

Popular name: Act 368

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ARTICLE 7
CONTROLLED SUBSTANCES

PART 71
GENERAL PROVISIONS

333.7101 Meanings of words and phrases; general definitions and principles of construction.

Sec. 7101. (1) Except as otherwise provided in section 7341, for purposes of this article, the words and phrases defined in sections 7103 to 7109 have the meanings ascribed to them in those sections.

(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. 1984, Act 347, Eff. Mar. 29, 1985.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For transfer of powers and duties of the bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 368

333.7103 Definitions; A.

Sec. 7103. (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or other means, to the body of a patient or research subject by a practitioner, or in the practitioner's presence by his or her authorized agent, or the patient or research subject at the direction and in the presence of the practitioner.

(2) "Administrator" means the Michigan board of pharmacy or its designated or established authority.

(3) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, dispenser, or prescriber. It does not include a common or contract carrier, public warehouseman,

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or employee of the carrier or warehouseman.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 60, Eff. Aug. 1, 1989.

Popular name: Act 368

333.7104 Definitions; B to E.

Sec. 7104. (1) "Bona fide prescriber-patient relationship" means a treatment or counseling relationship between a prescriber and a patient in which both of the following are present:

(a) The prescriber has reviewed the patient's relevant medical or clinical records and completed an assessment of the patient's medical history and current medical condition, including a relevant medical evaluation of the patient conducted in person or through telehealth as that term is defined in section 16283.

(b) The prescriber has created and maintained records of the patient's condition in accordance with medically accepted standards.

(2) "Bureau" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

(3) "Controlled substance" means a drug, substance, or immediate precursor included in schedules 1 to 5 of part 72.

(4) "Controlled substance analogue" means a substance the chemical structure of which is substantially similar to that of a controlled substance in schedule 1 or 2 and that has a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule 1 or 2 or, with respect to a particular individual, that the individual represents or intends to have a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule 1 or 2. Controlled substance analogue does not include 1 or more of the following:

(a) A controlled substance.

(b) A substance for which there is an approved new drug application.

(c) A substance with respect to which an exemption is in effect for investigational use by a particular person under 21 USC 355, to the extent conduct with respect to the substance is pursuant to the exemption.

(d) Any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(5) "Counterfeit prescription form" means a printed form that is the same or similar to a prescription form and that was manufactured, printed, duplicated, forged, electronically transmitted, or altered without the knowledge or permission of a prescriber.

(6) "Counterfeit substance" means a controlled substance that, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(7) "Deleterious drug" means a drug, other than a proprietary medicine, likely to be destructive to adult human life in quantities of 3.88 grams or less.

(8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 1994, Act 38, Eff. June 1, 1994;—Am. 2001, Act 233, Eff. Jan. 6, 2003;—Am. 2019, Act 42, Imd. Eff. July 8, 2019.

Compiler's note: Enacting section 1 of Act 233 of 2001 provides:

"Enacting section 1. Sections 7104, 7107, and 7109 of the public health code, 1978 PA 368, MCL 333.7104, 333.7107, and 333.7109, as amended by this amendatory act, take effect upon the promulgation of the rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and receipt by the secretary of state of written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, is operational. The notice to the secretary of state shall include a statement that the department of consumer and industry services is able to receive data from at least 80% of those required to report under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and is able to respond to requests for data from persons authorized to make such requests and to review and utilize the data."

The rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, pertaining to the operation of the electronic monitoring system, were promulgated on December 30, 2002. In addition, a written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code is operational was filed with, and received by, the secretary of state on January 6, 2003.

Popular name: Act 368

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333.7105 Additional definitions.

Sec. 7105. (1) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from 1 person to another of a controlled substance, whether or not there is an agency relationship.

(2) "Disciplinary subcommittee" means the disciplinary subcommittee for the board of pharmacy appointed under section 16216.

(3) "Dispense" means to deliver or issue a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, or compounding necessary to prepare the substance for the delivery or issuance.

(4) "Dispenser" means a practitioner who dispenses.

(5) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(6) "Distributor" means a person who distributes.

(7) "Drug" means a substance recognized as a drug in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals; a substance other than food intended to affect the structure or any function of the body of human beings or animals; or, a substance intended for use as a component of any article specified in this subsection. It does not include a device or its components, parts, or accessories.

(8) "Human consumption" means application, injection, inhalation, or ingestion by a human being.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.7106 Definitions; I to M.

Sec. 7106. (1) "Immediate precursor" means a substance that the administrator has found to be and by rule designates as being the principal compound commonly used or produced primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(2) "Industrial hemp" means that term as defined in section 3 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27953.

(3) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. It includes the packaging or repackaging of the substance or labeling or relabeling of its container, except that it does not include either of the following:

(a) The preparation or compounding of a controlled substance by an individual for his or her own use.

(b) The preparation, compounding packaging, or labeling of a controlled substance by either of the following:

(*i*) A practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of his or her professional practice.

(*ii*) A practitioner, or by the practitioner's authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis, and not for sale.

(4) "Marihuana" means that term as defined in section 3 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27953.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2014, Act 548, Imd. Eff. Jan. 15, 2015;—Am. 2018, Act 642, Eff. Mar. 28, 2019;—Am. 2021, Act 60, Eff. Oct. 11, 2021.

Popular name: Act 368

333.7107 Definitions; N.

Sec. 7107. "Narcotic drug" means 1 or more of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (a), but not including the isoquinoline alkaloids of opium.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2001, Act 233, Eff. Jan. 6, 2003.

Compiler's note: Enacting section 1 of Act 233 of 2001 provides:

"Enacting section 1. Sections 7104, 7107, and 7109 of the public health code, 1978 PA 368, MCL 333.7104, 333.7107, and 333.7109,

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as amended by this amendatory act, take effect upon the promulgation of the rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and receipt by the secretary of state of written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, is operational. The notice to the secretary of state shall include a statement that the department of consumer and industry services is able to receive data from at least 80% of those required to report under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and is able to respond to requests for data from persons authorized to make such requests and to review and utilize the data."

The rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, pertaining to the operation of the electronic monitoring system, were promulgated on December 30, 2002. In addition, a written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code is operational was filed with, and received by, the secretary of state on January 6, 2003.

Popular name: Act 368

333.7108 Definitions; O.

Sec. 7108. (1) "Opiate" means a substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 7212, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(2) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

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

Popular name: Act 368

333.7109 Definitions; P to U.

Sec. 7109. (1) "Person" means a person as defined in section 1106 or a governmental entity.

(2) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(3) "Practitioner" means any of the following:

(a) A prescriber or pharmacist, a scientific investigator as defined by rule of the administrator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state, including an individual in charge of a dog pound or animal shelter licensed or registered by the department of agriculture and rural development under 1969 PA 287, MCL 287.331 to 287.340, or a class B dealer licensed by the United States Department of Agriculture under the animal welfare act, Public Law 89-544, 7 USC 2131 to 2147, 2149, and 2151 to 2159 and the department of agriculture and rural development under 1969 PA 224, MCL 287.381 to 287.395, for the limited purpose of buying, possessing, and administering a commercially prepared, premixed solution of sodium pentobarbital to practice euthanasia on animals.

(b) A pharmacy, hospital, or other institution or place of professional practice licensed, registered, or otherwise permitted to distribute, prescribe, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state.

(4) "Prescriber" means that term as defined in section 17708.

(5) "Prescription form" means a printed form, that is authorized and intended for use by a prescribing practitioner to prescribe controlled substances or other prescription drugs and that meets the requirements of rules promulgated by the administrator, and all of the following requirements:

(a) Bears the preprinted, stamped, typed, or manually printed name, address, and telephone number or pager number of the prescribing practitioner.

(b) Includes the manually printed name of the patient, the address of the patient, the prescribing practitioner's signature, and the prescribing practitioner's drug enforcement administration registration number.

(c) Includes the quantity of the prescription drug prescribed, in both written and numerical terms.

(d) Includes the date the prescription drug was prescribed.

(e) Complies with any rules promulgated by the department under section 7333a(6).

(6) "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(7) "Sign" means to affix one's signature manually to a document or to use an electronic signature.

(8) "Ultimate user" means an individual who lawfully possesses a controlled substance for personal use or for the use of a member of the individual's household, or for administering to an animal owned by the individual or by a member of the individual's household.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 414, Imd. Eff. Jan. 11, 1981;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2001, Act 233, Eff. Jan. 6, 2003;—Am. 2016, Act 383, Eff. Mar. 28, 2017.

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Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Enacting section 1 of Act 233 of 2001 provides:

"Enacting section 1. Sections 7104, 7107, and 7109 of the public health code, 1978 PA 368, MCL 333.7104, 333.7107, and 333.7109, as amended by this amendatory act, take effect upon the promulgation of the rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and receipt by the secretary of state of written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, is operational. The notice to the secretary of state shall include a statement that the department of consumer and industry services is able to receive data from at least 80% of those required to report under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and is able to respond to requests for data from persons authorized to make such requests and to review and utilize the data."

The rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, pertaining to the operation of the electronic monitoring system, were promulgated on December 30, 2002. In addition, a written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code is operational was filed with, and received by, the secretary of state on January 6, 2003.

Popular name: Act 368

Administrative rules: R 338.471 et seq. and R 338.3101 et seq. of the Michigan Administrative Code.

333.7111 Controlled substances advisory commission; appointment and qualifications of members; ex officio members; secretary; appointment and qualifications of drug control administrator.

Sec. 7111. (1) The controlled substances advisory commission in the department of commerce shall consist of the following 13 voting members appointed by the governor with the advice and consent of the senate:

(a) One health care professional from each of the following boards created in article 15:

(*i*) The Michigan board of medicine.

(*ii*) The Michigan board of osteopathic medicine and surgery.

(*iii*) The Michigan board of pharmacy.

(*iv*) The Michigan board of podiatric medicine and surgery.

(*v*) The Michigan board of dentistry.

(*vi*) The Michigan board of veterinary medicine.

(*vii*) The Michigan board of nursing.

(b) One licensed health care professional from the field of psychiatry.

(c) One licensed health care professional from the field of pharmacology.

(d) Three public members, 1 of whom shall serve as chairperson.

(e) One member representing pharmaceutical manufacturers.

(2) The director of the department of state police, director of commerce, director of public health, director of social services, superintendent of public instruction, and the attorney general, or their official designees, and the drug control administrator from within the department of commerce, who shall serve as secretary to the controlled substances advisory commission, are ex officio members without votes, but are not members for determining a quorum. The department of commerce, in consultation with the Michigan board of pharmacy, shall appoint an individual who is a licensed pharmacist to serve as the drug control administrator for purposes of this section.

History: Add. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 1993, Act 138, Imd. Eff. Aug. 2, 1993.

Popular name: Act 368

Compiler's note: For transfer of controlled substances committee to the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For renaming department of energy, labor, and economic growth to department of licensing and regulatory affairs, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

333.7112 Controlled substances advisory commission; compensation and expenses; terms; vacancy; meetings; report; recommendations.

Sec. 7112. (1) Members of the controlled substances advisory commission shall receive per diem compensation as established annually by the legislature and shall be reimbursed for expenses incurred pursuant to section 1216.

(2) The members of the controlled substances advisory commission shall serve for terms of 2 years. An individual shall not serve more than 2 terms and a partial term, consecutive or otherwise. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The controlled substances advisory commission shall meet at least once each 3 months and shall report on its activities and make recommendations as described in section 7113 to the administrator, the governor, and the legislature at least annually.

History: Add. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1993, Act 138, Imd. Eff. Aug. 2, 1993.

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Popular name: Act 368

333.7113 Controlled substances advisory commission; monitoring; investigations; plan of action; annual report; establishment and use of standardized data base format; transmission of information.

Sec. 7113. (1) The controlled substances advisory commission shall monitor indicators of controlled substance abuse and diversion. If that data shows that Michigan exceeds the average national per capita consumption of a controlled substance, the controlled substances advisory commission shall investigate and determine if there is a legitimate reason for the excess consumption. If the controlled substances advisory commission determines there is not a legitimate reason for the excess consumption, the controlled substances advisory commission shall recommend to the administrator a plan of action to overcome the problem. The controlled substances advisory commission may also recommend action to the administrator if other indicators show that a special problem is developing with any controlled substance available by prescription.

(2) The controlled substances advisory commission shall publicly issue an annual report to the administrator, the governor, and the legislature on the current status of the abuse and diversion of controlled substances in this state. The report shall also identify existing efforts to overcome the abuse and diversion of controlled substances in this state and make recommendations for needed legislative, administrative, and interagency activities.

(3) The controlled substances advisory commission may include in the report required by subsection (2) recommendations for action that involve licensing, law enforcement, substance abuse treatment and prevention, education, professional associations, pharmaceutical manufacturers, and other relevant individuals and agencies.

(4) By December 31, 1993, the department of commerce, in consultation with the Michigan pharmacists association, shall establish a standardized data base format consistent with the standards of the national council for prescription drug programs that may be used by dispensing pharmacies or a practitioner described in section 7334(2) to transmit the prescription-related information required under section 7334 to the department of commerce electronically or on storage media including, but not limited to, disks, tapes, and cassettes. The controlled substances advisory commission shall approve or revise the standardized data base format within 3 months after the department of commerce establishes the format. Upon commission approval or revision, the department of commerce shall implement transmission of information under the format and prescription-related information required under section 7334 may be transmitted to the department of commerce electronically or on storage media.

History: Add. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 1993, Act 138, Imd. Eff. Aug. 2, 1993.

Popular name: Act 368

333.7113a Prescription drug and opioid abuse commission; recommendations to department of education.

Sec. 7113a. By July 1, 2018, the prescription drug and opioid abuse commission established by Executive Order No. 2016-15 shall develop or adopt, and make available to the department of education, recommendations for the instruction of pupils on prescription opioid drug abuse. The recommendations required under this section must include, but are not limited to, recommendations for instruction on the prescription drug epidemic and the connection between prescription opioid drug abuse and addiction to other drugs.

History: Add. 2017, Act 254, Eff. Mar. 27, 2018.

Popular name: Act 368

333.7121 Application and construction of article.

Sec. 7121. (1) This article applies to violations of law, seizures and forfeitures, injunctive proceedings, administrative proceedings, and investigations which occur after its effective date.

(2) This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among those states which enact laws similar to it.

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

Popular name: Act 368

333.7123 Effect of article on rights and duties, penalties, proceedings, prosecutions, sentencing, civil seizures or forfeitures, injunctive proceedings, and administrative proceedings.

Sec. 7123. (1) Rights and duties which have matured, penalties which have been incurred, proceedings

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which have been commenced and prosecutions for violations of law occurring before the effective date of this article are not affected or abated by this article. If, before April 1, 1972, an individual committed an offense similar to an offense set forth in part 74 but has not been sentenced as of the effective date of this article, the sentencing judge shall not impose a sentence in excess of the penalty prescribed in part 74 for the similar offense.

(2) Civil seizures or forfeitures and injunctive proceedings commenced before the effective date of this article are not affected by this article.

(3) Administrative proceedings pending under Act No. 196 of the Public Acts of 1971, as amended, being sections 335.301 to 335.367 of the Michigan Compiled Laws, shall be continued and brought to a final determination in accordance with the laws and rules in effect before the effective date of this article.

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

Popular name: Act 368

333.7125 Continuation of order or rule.

Sec. 7125. An order or rule promulgated under a law affected by this article and in effect on the effective date of this article and not in conflict with this article shall continue in effect until modified, superseded, or rescinded.

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

Popular name: Act 368

PART 72
STANDARDS AND SCHEDULES

333.7201 Administration of article; adding, deleting, or rescheduling substances.

Sec. 7201. The administrator shall administer this article and may add substances to, or delete or reschedule all substances enumerated in the schedules in sections 7212, 7214, 7216, 7218, and 7220 in compliance with the administrative procedures act of 1969.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 182, Imd. Eff. June 19, 2012.

Constitutionality: The Legislature's delegation to the Board of Pharmacy of the authority to schedule controlled substances in accordance with detailed criteria is not an unlawful delegation of power. People v Turmon, 417 Mich 638; 340 NW2d 620 (1983).

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

Administrative rules: R 338.3101 et seq. of the Michigan Administrative Code.

333.7202 Considerations in making determination regarding substance; emergency rule.

Sec. 7202. (1) In making a determination regarding a substance, the administrator shall consider all of the following:

(a) The actual or relative potential for abuse.

(b) The scientific evidence of its pharmacological effect, if known.

(c) The state of current scientific knowledge regarding the substance.

(d) The history and current pattern of abuse.

(e) The scope, duration, and significance of abuse.

(f) The risk to the public health.

(g) The potential of the substance to produce psychic or physiological dependence liability.

(h) Whether the substance is an immediate precursor of a substance already controlled under this article.

(2) In making a determination regarding a substance that is the subject of an emergency rule, the administrator shall consider all of the factors set forth in subsection (1) and shall also consider whether the administrator has been notified that the substance constitutes an imminent danger as defined in section 2251.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 182, Imd. Eff. June 19, 2012.

Popular name: Act 368

333.7203 Findings; rule controlling substance; imminent danger; extension of emergency rule; substance as precursor of controlled precursor.

Sec. 7203. (1) After considering the factors enumerated in section 7202(1), the administrator shall make findings with respect to those factors and promulgate a rule controlling the substance if the administrator finds the substance has a potential for abuse.

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(2) If the administrator is notified in writing by the director of the department of community health under section 2251 that a substance constitutes an imminent danger as defined in that section, the administrator shall consider the factors enumerated in section 7202(1) and (2) and make findings with respect to those factors and may do either or both of the following:

(a) Proceed under section 48(2) of the administrative procedures act of 1969, 1969 PA 306, MCL 28.248, to schedule or reschedule the substance as a controlled substance by emergency rule.

(b) Initiate and pursue the process to promulgate a rule controlling the substance.

(3) The administrator may extend an emergency rule processed under subsection (2)(a) by filing a certificate of extension with the office of secretary of state before the expiration of the emergency rule as provided in section 48(2) of the administrative procedures act of 1969.

(4) If the administrator designates a substance as an immediate precursor, a substance that is a precursor of the controlled precursor is not subject to control solely because it is a precursor of the controlled precursor.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2012, Act 182, Imd. Eff. June 19, 2012.

Popular name: Act 368

333.7204 Substance designated, rescheduled, or deleted as controlled substance under federal law; notice; board meeting; similar control of substance by administrator; publication of reasons for determination.

Sec. 7204. If a substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice of that designation, rescheduling, or deletion is given to the administrator, the substance shall be similarly scheduled under section 7201 unless the administrator holds a board meeting within the expiration of 91 days after notice is received to determine whether the substance should be similarly controlled under section 7201. If the administrator decides not to similarly control the substance, the administrator shall, within 91 days after that decision is made, publish the reasons for that determination.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1994, Act 38, Eff. June 1, 1994;—Am. 2012, Act 182, Imd. Eff. June 19, 2012.

Popular name: Act 368

333.7206 Scientific advisory commission; creation; purpose; appointment and terms of members; recommendations.

Sec. 7206. (1) A 7-member scientific advisory commission is created to serve as a consultative and advisory body to the administrator in all matters relating to the classification, reclassification, addition to, or deletion from, all substances presently classified as controlled substances in schedules 1 to 5, or substances not presently controlled or yet to come into being. The scientific advisory commission shall be composed of 2 physicians to be appointed by the director of public health; 2 pharmacists to be appointed by the director of commerce; the chief of the crime detection laboratory of the department of public health; the director of mental health or his or her designee; and the director of the department of state police or his or her designee. The physician and pharmacist appointments shall be for 2-year terms.

(2) The administrator shall receive the recommendations of the scientific advisory commission pursuant to administration over the controlled substances for inclusion in or exclusion from schedules 1 to 5, especially in the implementation of scheduled substances changes as provided in section 7201, except that the administrator is not bound by recommendations of the scientific advisory commission.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.7208 Authority to control; exclusions.

Sec. 7208. (1) Authority to control under this article does not extend to distilled spirits, wine, malt beverages, or tobacco.

(2) Except as provided in section 7220(1)(c), the administrator shall exclude a nonnarcotic substance from a schedule if the substance, under the federal food, drug, and cosmetic act of 1938, 21 U.S.C. 301 to 392, and the laws of this state, may be lawfully sold over the counter without a prescription.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1999, Act 144, Eff. Jan. 21, 2000.

Popular name: Act 368

333.7210 Inclusion of controlled substances by whatever name designated.

Sec. 7210. The controlled substances listed or to be listed in the schedules in sections 7212, 7214, 7216, 7218, and 7220 are included by whatever official, common, usual, chemical, or trade name designated.

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

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Popular name: Act 368

333.7211 Schedule 1; placement of substance.

Sec. 7211. The administrator shall place a substance in schedule 1 if it finds that the substance has high potential for abuse and has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

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

Constitutionality: The Legislature's delegation to the Board of Pharmacy of the authority to schedule controlled substances in accordance with detailed criteria is not an unlawful delegation of power. People v Turmon, 417 Mich. 638; 340 NW2d 620 (1983).

Popular name: Act 368

333.7212 Schedule 1; controlled substances included.

Sec. 7212. (1) The following controlled substances are included in schedule 1:

(a) Any of the following opiates, including their isomers, esters, the ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetylmethadol	Difenoxin	Noracymethadol
Allylprodine	Dimenoxadol	Norlevorphanol
Alpha-acetylmethadol	Dimepheptanol	Normethadone
Alphameprodine	Dimethylthiambutene	Norpipanone
Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
Benzethidine	Dipipanone	Phenampromide
Betacetylmethadol	Ethylmethylthiambutene	Phenomorphan
Betameprodine	Etonitazene	Phenoperidine
Betamethadol	Etoxeridine	Piritramide
Betaprodine	Furethidine	Proheptazine
Clonitazene	Hydroxypethidine	Properidine
Dextromoramide	Ketobemidone	Propiram
Diampromide	Levomoramide	Racemoramide
Diethylthiambutene	Levophenacylmorphan	Trimeperidine
	Morpheridine	

(b) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine	Drotebanol	Morphine-N-Oxide
Acetyldihydrocodeine	Etorphine	Myrophine
Benzylmorphine	Heroin	Nicocodeine
Codeine methylbromide	Hydromorphinol	Nicomorphine
Codeine-N-Oxide	Methyldesorphine	Normorphine
Cyprenorphine	Methyldihydromorphine	Pholcodine
Desomorphine	Morphine methylbromide	Thebacon
Dihydromorphine	Morphine methylsulfonate	

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

2-Methylamino-1-phenylpropan-1-one
Some trade and other names:
Methcathinone
Cat
Ephedrone
3, 4-methylenedioxy amphetamine
5-methoxy-3, 4-methylenedioxy amphetamine
3, 4, 5-trimethoxy amphetamine
Bufotenine
Some trade and other names:
3-(B-dimethylaminoethyl)-5 hydrozyindole
3-(2-dimethylaminoethyl)-5 indolol

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N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
Mappine
2, 5-Dimethoxyamphetamine
Some trade or other names:
2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA
4-Bromo-2, 5-Dimethoxyamphetamine
Some trade or other names:
4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo
2,5-DMA
Diethyltryptamine
Some trade and other names:
N,N-Diethyltryptamine; DET
Dimethyltryptamine
Some trade or other names:
DMT
4-methyl-2, 5-dimethoxyamphetamine
Some trade and other names:
4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine
DOM, STP
4-methoxyamphetamine
Some trade or other names:
4-methoxy-a-methylphenethylamine; paramethoxy amphetamine;
PMA
Ibogaine
Some trade and other names:
7-Ethyl-6,6a,7,8,9,10,12,13
Octahydro-2-methoxy-6,9-methano-5H-
pyrido (1, 2:1, 2 azepino 4, 5-b) indole
tabernanthe iboga
Lysergic acid diethylamide
Except as provided in subsection (2), Marihuana, including
pharmaceutical-grade cannabis
Mecloqualone
Mescaline
Peyote
N-ethyl-3 piperidyl benzilate
N-methyl-3 piperidyl benzilate
Psilocybin
Psilocyn
Thiophene analog of phencyclidine
Some trade or other names:
1-(1-(2-thienyl)cyclohexyl) piperidine
2-thienyl analog of phencyclidine; TPCP

(d) Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of cannabis and synthetic substances, derivatives, and their isomers with similar chemical structure or pharmacological activity, or both, such as the following, are included in schedule 1:

(*i*) /\1 cis or trans tetrahydrocannabinol, and their optical isomers.

(*ii*) /\6 cis or trans tetrahydrocannabinol, and their optical isomers.

(*iii*) /\3,4, cis or trans tetrahydrocannabinol, and their optical isomers.

(e) Synthetic cannabinoids. As used in this subdivision, "synthetic cannabinoids" includes any material, compound, mixture, or preparation that is not otherwise listed as a controlled substance in this schedule or in schedules II through V, is not approved by the federal food and drug administration as a drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues (analogs), and salts of isomers and homologues (analogs), unless specifically excepted, whenever the existence of these salts, isomers, homologues (analogs), and salts of isomers and homologues (analogs) is possible within the specific chemical designation:

(*i*) Any compound containing a 3-(1-naphthoyl)indole structure, also known as napthoylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,

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cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-007, JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, JWH-398, AM-1220, AM-2201, and WIN-55, 212-2.

(*ii*) Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure, also known as napthylmethylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-175, and JWH-184.

(*iii*) Any compound containing a 3-(1-naphthoyl)pyrrole structure, also known as naphthoylpyrroles with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the pyrrole ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-370, JWH-030.

(*iv*) Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indene ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-176.

(*v*) Any compound containing a 3-phenylacetylindole structure, also known as phenacetylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the phenyl ring to any extent. Examples of this structural class include but are not limited to: RCS-8 (SR-18), JWH-250, JWH-203, JWH-251, and JWH-302.

(*vi*) Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure, also known as cyclohexylphenols, with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not substituted on the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to: CP-47,497 (and homologues(analogs)), cannabicyclohexanol, and CP-55,940.

(*vii*) Any compound containing a 3-(benzoyl)indole structure, also known as benzoylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the phenyl ring to any extent. Examples of this structural class include but are not limited to: AM-694, pravadoline (WIN-48,098), RCS-4, AM-630, AM-679, AM-1241, and AM-2233.

(*viii*) Any compound containing a 11-hydroxy-/\8-tetrahydrocannabinol structure, also known as dibenzopyrans, with further substitution on the 3-pentyl group by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkyethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group. Examples of this structural class include but are not limited to: HU-210, JWH-051, JWH-133.

(*ix*) Any compound containing a 3-(L-adamantoyl)indole structure, also known as adamantoylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the adamantyl ring system to any extent. Examples of this structural class include but are not limited to: AM-1248.

(*x*) Any other synthetic chemical compound that is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring cannabinoids that is not listed in schedules II through V and is not approved by the federal food and drug administration as a drug.

(f) Compounds of structures referred to in subdivision (d), regardless of numerical designation of atomic positions, are included.

(g) Gamma-hydroxybutyrate and any isomer, salt, or salt of isomer of gamma-hydroxybutyrate.

Some trade and other names:

Sodium oxybate

4-hydroxybutanoic acid monosodium salt

(h) 3,4-methylenedioxymethamphetamine.

Some trade and other names:

Ecstasy

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MDMA
(i) N-Benzylpiperazine
Some trade and other names:
BZP
Benzylpiperazine
1-(phenylmethyl)-piperazine
(j) 3-Chlorophenylpiperazine
Some trade and other names:
MCPP
(k) 1-(3-Trifluoromethylphenyl)piperazine
Some trade and other names:
TFMPP
(*l*) 4-Bromo-2,5-dimethoxybenzylpiperazine
Some trade and other names:
2C-B-BZP
(m) All of the following:
(*i*) (6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol.
Some trade and other names:
HU-210
(*ii*) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol and its side chain homologues.
Some trade and other names:
CP47,497
(*iii*) 1-pentyl-3-(1-naphthoyl)indole.
Some trade and other names:
JWH-018
(*iv*) 1-butyl-3-(1-naphthoyl)indole.
Some trade and other names:
JWH-073
(*v*) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone.
Some trade and other names:
JWH-015
(*vi*) [1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl]-1-naphthalenyl-methanone.
Some trade and other names:
JWH-200
(*vii*) 1-(1-pentyl-1H-indol-3-yl)-2-(2-methoxyphenyl)-ethanone.
Some trade and other names:
JWH-250
(n) Mephedrone (4-methylmethcathinone).
Some trade and other names:
4-MMC, M-Cat, meow meow, miaow miaow, bounce, bubbles, bubble love, mad cow, plant food, drone, and neo doves
(o) 4-Methyl-alpha-pyrrolidinobutyrophenone.
Some trade and other names:
MPBP
(p) Methylenedioxypyrovalerone
Some trade and other names:
MDPV, Bath salts, charge plus, cloud nine, hurricane Charlie, ivory wave, ocean, red dove, scarface, sonic, white dove, white lightning
(q) 5,6-Methylenedioxy-2-aminoindane
Some trade and other names:
MDAI
Woof-woof
(r) Naphyrone (Naphthylpyrovalerone)
Some trade and other names:
NRG-1
Rave

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(s) Pyrovalerone (1-(4-Methylphenyl)-2-(1-pyrrolidinyl)-1-pentanone)

(t) Catha edulis; except as provided in subdivision (u) and section 7218, all parts of the plant presently classified botanically as catha edulis, whether growing or not; the leaves and seeds of that plant; any extract from any part of that plant; and every compound, salt, derivative, mixture, or preparation of that plant or its leaves, seeds, or extracts.

Some trade and other names:

Khat

Qat

(u) Cathinone.

(v) Salvia divinorum; except as provided in subdivision (w), all parts of the plant presently classified botanically as salvia divinorum, whether growing or not; the leaves and seeds of that plant; any extract from any part of that plant; and every compound, salt, derivative, mixture, or preparation of that plant or its leaves, seeds, or extracts.

(w) Salvinorin A.

(x) Synthetic cathinones. As used in this subdivision, "synthetic cathinones" includes any material, compound, mixture, or preparation that is not otherwise listed as a controlled substance in this schedule or in schedules II through V, is not approved by the federal food and drug administration as a drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues (analogs), and salts of isomers and homologues (analogs), unless specifically excepted, whenever the existence of these salts, isomers, homologues (analogs), and salts of isomers and homologues (analogs) is possible within the specific chemical designation:

(*i*) Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic or fused polycyclic ring system and a substitution at the nitrogen atom by an alkyl group, cycloalkyl group, or incorporation into a heterocyclic structure. Examples of this structural class include, but are not limited to, dimethylcathinone, ethcathinone, and alpha-pyrrolidinopropiophenone.

(*ii*) Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic or fused polycyclic ring system and a substitution at the 3-position carbon with an alkyl, haloalkyl, or alkoxy group. Examples of this structural class include, but are not limited to, naphyrone.

(*iii*) Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic or fused polycyclic ring system and a substitution at any position of the ring system with an alkyl, haloalkyl, halogen, alkylenedioxy, or alkoxy group, whether or not further substituted at any position on the ring system to any extent. Examples of this structural class include, but are not limited to, mephedrone, methylone, and 3-fluoromethylone.

(2) Marihuana, including pharmaceutical-grade cannabis, is a schedule 2 controlled substance if it is manufactured, obtained, stored, dispensed, possessed, grown, or disposed of in compliance with this act and as authorized by federal authority.

(3) For purposes of subsection (1), "isomer" includes the optical, position, and geometric isomers.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1979, Act 125, Imd. Eff. Oct. 22, 1979;—Am. 1982, Act 352, Imd. Eff. Dec. 21, 1982;—Am. 1993, Act 25, Eff. May 1, 1993;—Am. 1998, Act 248, Imd. Eff. July 9, 1998;—Am. 2002, Act 710, Eff. Apr. 1, 2003;—Am. 2010, Act 171, Eff. Oct. 1, 2010;—Am. 2011, Act 88, Eff. Aug. 1, 2011;—Am. 2012, Act 183, Eff. July 1, 2012;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Compiler's note: In subsection (1)(e)(*ix*), "3-(L-adamantoyl)indole structure" evidently should read "3-(1-adamantoyl)indole structure."

Popular name: Act 368

333.7213 Schedule 2; placement of substance.

Sec. 7213. The administrator shall place a substance in schedule 2 if it finds all of the following:

(a) The substance has high potential for abuse.

(b) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions.

(c) The abuse of the substance may lead to severe psychic or physical dependence.

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

Popular name: Act 368

333.7214 Schedule 2; controlled substances included.

Sec. 7214. The following controlled substances are included in schedule 2:

(a) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means

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of chemical synthesis, or by combination of extraction and chemical synthesis:

(*i*) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate excluding nalaxone and its salts, and excluding naltrexone and its salts, but including the following:

Raw opium	Etorphine hydrochloride
Opium extracts	Hydrocodone
Opium Fluid-extracts	Hydromorphone
Powdered opium	Metopon
Granulated opium	Morphine
Tincture of opium	Oxycodone
Codeine	Oxymorphone
Ethylmorphine	Thebaine

(*ii*) A salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with a substance referred to in this subdivision, except that these substances do not include the isoquinoline alkaloids of opium.

(*iii*) Opium poppy, poppy straw, and concentrate of poppy straw, the crude extract of poppy straw in either liquid, solid, or powder form, which contains the phenanthrene alkaloids of the opium poppy.

(*iv*) Coca leaves and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, except that the substances do not include decocainized coca leaves or extraction of coca leaves which extractions do not contain cocaine or ecgonine. The substances include cocaine, its salts, stereoisomers, and salts of stereoisomers when the existence of the salts, stereoisomers, and salts of stereoisomers is possible within the specific chemical designation.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Alphaprodine	Fentanyl
Anileridine	Isomethadone
Bezitramide	Levomethorphan
Dihydrocodeine	Levorphanol
Diphenoxylate	Metazocine

Methadone

Methadone-Intermediate, 4-cyano-2dimethylamino-4, 4-diphenyl butane Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid

Pethidine

Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid

Phenazocine	Racemethorphan
Piminodine	Racemorphan

(c) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having potential for abuse associated with a stimulant effect on the nervous system:

(*i*) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(*ii*) Any substance which contains any quantity of methamphetamine, including its salts, stereoisomers, and salts of stereoisomers.

(*iii*) Phenmetrazine and its salts.

(*iv*) Methylphenidate and its salts.

(d) Any material, compound, mixture, or preparation, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation as listed in schedule 2, which contains any quantity of the following substances having a potential for abuse associated with the depressant effect on the central nervous system: methaqualone, amobarbital, pentobarbital, or secobarbital; or, any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof in combination with itself, with another, or with 1 or more other controlled substances.

(e) Marihuana, but only for the purpose of treating a debilitating medical condition as that term is defined in section 3(b) of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26423, and as authorized under this act.

(f) Tianeptine sodium.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1979, Act 125, Imd. Eff. Oct. 22, 1979;—Am. 1981, Act 231, Imd. Eff. Jan. 13,

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1982;—Am. 1982, Act 352, Imd. Eff. Dec. 21, 1982;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2018, Act 107, Eff. July 4, 2018.

Popular name: Act 368

333.7215 Schedule 3; placement of substance.

Sec. 7215. The administrator shall place a substance in schedule 3 if it finds all of the following:

(a) The substance has a potential for abuse less than the substances listed in schedules 1 and 2.

(b) The substance has currently accepted medical use in treatment in the United States.

(c) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

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

Popular name: Act 368

333.7216 Schedule 3; controlled substances included; rules.

Sec. 7216. (1) The following controlled substances are included in schedule 3:

(a) Unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including their salts, isomers, including optical, position, or geometric isomers, and salts of the isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

Benzphetamine
Chlorphentermine
Clortermine
Edrisal tabs
Genegesic caps
Hovizyme tabs
Mazindol
Mediatric tabs
Mediatric liquid
Phendimetrazine
Special formula 711 tabs
Thora Dex No. 1 tab
Thora Dex No. 2 tab

(b) Unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including their salts, isomers, including optical, position, or geometric isomers, and salts of the isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

Chlorhexadol
Glutethimide
Lysergic acid
Lysergix acid amide
Methyprylon
Phencyclidine
Sulfondiethylmethane
Sulfonethylmethane
Sulfonmethane

(c) Nalorphine.

(d) Any substance that contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances that are specifically listed in other schedules.

(e) A compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or a salt of amobarbital, secobarbital, or pentobarbital, and 1 or more other active medicinal ingredients that are not listed in a schedule.

(f) A suppository dosage form containing amobarbital, secobarbital, pentobarbital, or a salt of amobarbital, secobarbital, or pentobarbital and approved by the food and drug administration for marketing only as a suppository.

(g) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:

(*i*) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(*ii*) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with 1 or more active nonnarcotic ingredients in recognized therapeutic amounts.

(*iii*) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(*iv*) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with 1 or more active nonnarcotic ingredients in recognized therapeutic amounts.

(*v*) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90

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milligrams per dosage unit, with 1 or more active nonnarcotic ingredients in recognized therapeutic amounts.

(*vi*) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with 1 or more ingredients in recognized therapeutic amounts.

(*vii*) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with 1 or more active nonnarcotic ingredients in recognized therapeutic amounts.

(*viii*) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams, with 1 or more active nonnarcotic ingredients in recognized therapeutic amounts.

(h) Any material, compound, mixture, or preparation containing any quantity of ketamine, a salt of ketamine, an isomer of ketamine, or a salt of an isomer of ketamine.

(2) The administrator may promulgate rules to except a compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (1)(a) and (b) from the application of all or any part of this article if the compound, mixture, or preparation contains 1 or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a stimulant or depressant effect on the central nervous system.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1999, Act 42, Eff. Aug. 15, 1999.

Popular name: Act 368

333.7217 Schedule 4; placement of substance.

Sec. 7217. The administrator shall place a substance in schedule 4 if it finds all of the following:

(a) The substance has a low potential for abuse relative to substances in schedule 3.

(b) The substance has currently accepted medical use in treatment in the United States.

(c) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in schedule 3.

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

Popular name: Act 368

333.7218 Schedule 4; controlled substances included.

Sec. 7218. (1) The following controlled substances are included in schedule 4:

(a) Any material, compound, mixture, or preparation containing any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

Barbital
Chloral Betaine
Chloral Hydrate
Chlordiazepoxide
Clonazepam
Clorazepate
Dextropropoxyphene
Diazepam
Ethchlorvynol
Ethinamate
Flunitrazepam
Flurazepam
Lorazepam
Mebutamate
Meprobamate
Methohexital
Methylphenobarbital
Oxazepam
Paraldehyde
Petrichloral
Phenobarbital
Prazepam

(b) Any material, compound, mixture, or preparation containing any quantity of the following substances having a potential for abuse associated with an effect on the central nervous system, including their salts, optical, positional, or geometric isomers, and salts of the isomers if the existence of the salts, isomers, and salts of isomers is possible.

Fenfluramine

(c) Any material, compound, mixture, or preparation containing any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including their salts, optical, positional, or geometric isomers, and salts of the isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation.

Diethylpropion
Phentermine
Pemoline, including organometallic complexes and chelates of pemoline.
Cathine
Some trade and other names:

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d-norpseudoephedrine

(2) The administrator may except by rule any compound, mixture or preparation containing any substance listed in subsection (1) from the application of all or any part of this article if the compound, mixture or preparation contains 1 or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a depressant or stimulant effect on the central nervous system.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1998, Act 319, Eff. Oct. 1, 1998;—Am. 2010, Act 171, Eff. Oct. 1, 2010.

Popular name: Act 368

333.7219 Schedule 5; placement of substance.

Sec. 7219. The administrator shall place a substance in schedule 5 if it finds all of the following:

(a) The substance has low potential for abuse relative to the controlled substances listed in schedule 4.

(b) The substance has currently accepted medical use in treatment in the United States.

(c) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in schedule 4 or the incidence of abuse is such that the substance should be dispensed by a practitioner.

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

Constitutionality: The Legislature's delegation to the Board of Pharmacy of the authority to schedule controlled substances in accordance with detailed criteria is not an unlawful delegation of power. People v Turmon, 417 Mich 638; 340 NW2d 620 (1983).

Popular name: Act 368

333.7220 Schedule 5; controlled substances included.

Sec. 7220. (1) The following controlled substances are included in schedule 5:

(a) The following drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

Loperamide

(b) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts of narcotic drugs, which includes 1 or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(*i*) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams and not more than 10 milligrams per dosage unit.

(*ii*) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams and not more than 5 milligrams per dosage unit.

(*iii*) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams and not more than 5 milligrams per dosage unit.

(*iv*) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(*v*) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams and not more than 5 milligrams per dosage unit.

(c) Except as otherwise provided in this subdivision, ephedrine, a salt of ephedrine, an optical isomer of ephedrine, a salt of an optical isomer of ephedrine, or a compound, mixture, or preparation containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine. However, the following are not included in schedule 5:

(*i*) A product containing ephedrine, a salt of ephedrine, an optical isomer of ephedrine, or a salt of an optical isomer of ephedrine if the drug product may lawfully be sold over the counter without a prescription under federal law, is labeled and marketed in a manner consistent with the pertinent OTC tentative final or final monograph, is manufactured and distributed for legitimate medical use in a manner that reduces or eliminates the likelihood for abuse, and is not marketed, advertised, or labeled for an indication of stimulation, mental alertness, energy, weight loss, appetite control, or muscle enhancement and if the drug product is 1 of the following:

(A) A solid dosage form, including but not limited to a soft gelatin caplet, that combines as active ingredients not less than 400 milligrams of guaifenesin and not more than 25 milligrams of ephedrine per dose, packaged in blister packs with not more than 2 tablets or caplets per blister.

(B) An anorectal preparation containing not more than 5% ephedrine.

(*ii*) A food product or a dietary supplement containing ephedrine, if the food product or dietary supplement meets all of the following criteria:

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(A) It contains, per dosage unit or serving, not more than the lesser of 25 milligrams of ephedrine alkaloids or the maximum amount of ephedrine alkaloids provided in applicable regulations adopted by the United States food and drug administration and contains no other controlled substance.

(B) It contains no hydrochloride or sulfate salts of ephedrine alkaloids.

(C) It is packaged with a prominent label securely affixed to each package that states the amount in milligrams of ephedrine in a serving or dosage unit; the amount of the food product or dietary supplement that constitutes a serving or dosage unit; that the maximum recommended dosage of ephedrine for a healthy adult human is the lesser of 100 milligrams in a 24-hour period or the maximum recommended dosage or period of use provided in applicable regulations adopted by the United States food and drug administration; and that improper use of the product may be hazardous to a person's health.

(2) Inclusion of the substances described in subsection (1)(c) into schedule 5 does not preclude prosecution for a crime involving those schedule 5 substances under section 17766c.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1999, Act 144, Eff. Jan. 21, 2000.

Popular name: Act 368

333.7227 Substances excluded from schedules of controlled substances; excluded substance as deleterious drug; manufacturing, distributing, or dispensing excluded substance.

Sec. 7227. (1) A nonnarcotic substance that under the federal food, drug and cosmetic act may be lawfully dispensed without a prescription is excluded from all schedules pursuant to section 7208(2). A substance that contains 1 or more controlled substances in a proportion or concentration to vitiate the potential for abuse is excluded.

(2) Substances included in schedule 5 under section 7220(1)(c) are not excluded under subsection (1).

(3) An excluded substance is a deleterious drug and may be manufactured, distributed, or dispensed only by a person who is registered to manufacture, distribute, or dispense a controlled substance under section 7208(2).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1999, Act 144, Eff. Jan. 21, 2000.

Popular name: Act 368

333.7229 Excepted compound, mixture, or preparation; compliance.

Sec. 7229. A compound, mixture, or preparation containing a depressant or stimulant substance or of similar quantitative composition shown in federal regulations as an excepted compound or which is the same except that it contains a lesser quantity of a controlled substance or other substances which do not have a stimulant, depressant, or hallucinogenic effect, and which is restricted by law to dispensing on prescription is excepted from sections 7212, 7214, 7216, 7218, and 7220. Compliance with federal law respecting an excepted compound is considered compliance with this section.

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

Popular name: Act 368

333.7231 Notice of change in scheduling or rescheduling.

Sec. 7231. The administrator shall notify all registrants under this article, the secretary of the senate, the clerk of the house of representatives, the attorney general, and the director of the department of state police of any change in scheduling or rescheduling not later than 30 days before the change is effective.

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

Popular name: Act 368

PART 73
MANUFACTURE, DISTRIBUTION, AND DISPENSING

333.7301 Rules.

Sec. 7301. The administrator may promulgate rules relating to the licensure and control of the manufacture, distribution, prescribing of controlled substances included in schedule 2, and dispensing of controlled substances in this state.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Compiler's note: Section 3 of Act 174 of 1986 provides: “This amendatory act shall only apply to contested cases filed on or after July 1, 1986.”

For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and

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Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

Administrative rules: R 338.471 et seq. and R 338.3101 et seq. of the Michigan Administrative Code.

333.7301a Licensing activities subject to certain provisions.

Sec. 7301a. Licensing activities conducted under this part are subject to sections 16201, 16203, 16299, 16303, 16305, 16307, 16309, and 16313 and article 8.

History: Add. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Compiler's note: The following sections referenced in MCL 333.7301a have been repealed or do not exist: Secs. 16203, 16309, and 16313.

Popular name: Act 368

333.7302 Labeling controlled substances; contents of label; altering, defacing, or removing label.

Sec. 7302. (1) Controlled substances manufactured or distributed in this state shall have affixed upon each package and container in which the substances are contained, a label showing in legible English the name and address of the principal manufacturer or the distributor, and the name, quantity, kind, and form of controlled substance contained in the package or container.

(2) A person, except a practitioner for the lawful purpose of dispensing controlled substances under this article, shall not alter, deface, or remove a label affixed as required in subsection (1).

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

Popular name: Act 368

333.7302a Identification of certain prescription drugs and manufacturer or distributor; descriptive material; national registry of prescription drugs; exemptions; rules; "prescription drug" defined; violation as misdemeanor; penalty.

Sec. 7302a. (1) A prescription drug that is in finished solid oral dosage form shall not be manufactured or distributed in this state after June 1, 1985 unless the drug is clearly and prominently marked or imprinted with an individual symbol, number, company name, words, letters, marking, national drug code, or a combination of any of the foregoing that identifies the prescription drug and the manufacturer or distributor of the drug.

(2) A person licensed by the administrator under this article to manufacture or distribute prescription drugs shall supply to the department of commerce descriptive material that will identify each current mark or imprint under subsection (1) used by the person who distributes or manufactures the prescription drug.

(3) It is the intent of the legislature that the descriptive material received by the department of commerce pursuant to subsection (2) shall be used in conjunction with similar information from other states by the United States department of health and human services, food and drug administration, or other national agency or organization, to compile a national registry of prescription drugs manufactured or distributed in the United States.

(4) The department of commerce, upon the application of a person who distributes or manufactures a prescription drug, shall exempt a particular prescription drug from the requirements of this section if the department of commerce determines that marking or imprinting the prescription drug is not feasible because of the drug's size, texture, or other unique characteristic.

(5) This section does not apply to a prescription drug that is compounded by a pharmacist licensed under article 15.

(6) The department of commerce may promulgate rules pursuant to the administrative procedures act of 1969, for purposes of implementing and enforcing this section.

(7) As used in this section, "prescription drug" means a prescription drug as defined in section 17708(4).

(8) A person who knowingly or intentionally violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than $25,000.00, or both.

History: Add. 1984, Act 254, Eff. Mar. 29, 1985;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.7303 License required; renewal; scope of authority; compliance; additional requirements; persons exempted; waiving or imposing requirement for licensure; separate license for each principal place of business or professional practice; inspection; quarterly report.

Sec. 7303. (1) A person who manufactures, distributes, prescribes, or dispenses a controlled substance in

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this state or who proposes to engage in the manufacture, distribution, prescribing, or dispensing of a controlled substance in this state shall obtain a license issued by the administrator in accordance with the rules. A person who has been issued a controlled substances license by the administrator under this article and a license under article 15 shall renew the controlled substances license concurrently with the renewal of the license issued under article 15, and for an equal number of years.

(2) A person licensed by the administrator under this article to manufacture, distribute, prescribe, dispense, or conduct research with controlled substances may possess, manufacture, distribute, prescribe, dispense, or conduct research with those substances to the extent authorized by its license and in conformity with the other provisions of this article.

(3) A license issued under this article to manufacture, distribute, prescribe, or dispense pharmaceutical-grade cannabis and the conduct of the licensee is subject to the additional requirements of article 8.

(4) The following persons need not be licensed and may lawfully possess controlled substances or prescription forms under this article:

(a) An agent or employee of a licensed manufacturer, distributor, prescriber, or dispenser of a controlled substance if acting in the usual course of the agent's or employee's business or employment.

(b) A common or contract carrier or warehouseman, or an employee thereof, whose possession of a controlled substance or prescription form is in the usual course of business or employment.

(c) An ultimate user or agent in possession of a controlled substance or prescription form pursuant to a lawful order of a practitioner or in lawful possession of a schedule 5 substance.

(5) The administrator may waive or include by rule the requirement for licensure of certain manufacturers, distributors, prescribers, or dispensers, if it finds the waiver or inclusion is consistent with the public health and safety.

(6) A separate license is required at each principal place of business or professional practice where the applicant manufactures, distributes, prescribes, or dispenses controlled substances.

(7) As a requisite for licensure, the administrator may inspect the establishment of a licensee or applicant for licensure in accordance with the administrator's rule.

(8) A person licensed under this article to distribute controlled substances shall report to the administrator on a quarterly basis all schedule 2 controlled substances and those controlled substances designated by the administrator pursuant to this subsection that are sold to licensed practitioners and retail pharmacies. The report shall be in writing and shall include the name of each licensed practitioner and retail pharmacy to whom the controlled substance was distributed. A report under this subsection may be transmitted electronically, if the transmission is ultimately reduced to writing. The administrator shall designate by rule the controlled substances in schedules 3 to 5 to be reported under this subsection.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 9, Eff. Aug. 9, 1988;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

Administrative rules: R 338.471 et seq. and R 338.3101 et seq. of the Michigan Administrative Code.

333.7303a Licensed prescriber; administering or dispensing controlled substance without separate license; prescriber in bona fide prescriber-patient relationship with patient; follow-up care; use of other controlled substances; recording response; obtaining and reviewing report from electronic system; exceptions; registering with electronic system; records required to be maintained; waiver of requirement under MCL 333.7303.

Sec. 7303a. (1) A prescriber who holds a controlled substances license may administer or dispense a controlled substance listed in schedules 2 to 5 without a separate controlled substances license for those activities.

(2) Except as otherwise provided in rules promulgated under section 16204e and for a patient who is under the care of a hospice, beginning March 31, 2019 or, if rules are promulgated under section 16204e before March 31, 2019, on the date on which rules are promulgated under section 16204e, a licensed prescriber shall not prescribe a controlled substance listed in schedules 2 to 5 unless the prescriber is in a bona fide prescriber-patient relationship with the patient for whom the controlled substance is being prescribed. Except as otherwise provided in this subsection, if a licensed prescriber prescribes a controlled substance under this subsection, the prescriber shall provide follow-up care to the patient to monitor the efficacy of the use of the controlled substance as a treatment of the patient's medical condition. If the licensed prescriber is unable to

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provide follow-up care, he or she shall refer the patient to the patient's primary care provider for follow-up care or, if the patient does not have a primary care provider, he or she shall refer the patient to another licensed prescriber who is geographically accessible to the patient for follow-up care.

(3) Before prescribing or dispensing a controlled substance to a patient, a licensed prescriber shall ask the patient about other controlled substances the patient may be using. The prescriber shall record the patient's response in the patient's medical or clinical record.

(4) Beginning June 1, 2018, before prescribing or dispensing to a patient a controlled substance in a quantity that exceeds a 3-day supply, a licensed prescriber shall obtain and review a report concerning that patient from the electronic system for monitoring schedule 2, 3, 4, and 5 controlled substances established under section 7333a. This subsection does not apply under any of the following circumstances:

(a) If the dispensing occurs in a hospital or freestanding surgical outpatient facility licensed under article 17 and the controlled substance is administered to the patient in that hospital or facility.

(b) If the patient is an animal as that term is defined in section 18802, the dispensing occurs in a veterinary hospital or clinic and the controlled substance is administered to the patient in that hospital or clinic.

(c) If the controlled substance is prescribed by a licensed prescriber who is a veterinarian and the controlled substance will be dispensed by a pharmacist.

(d) If the patient is under the care of a hospice and the report described in this subsection was obtained and reviewed at the time the patient was admitted to the hospice.

(5) Beginning June 1, 2018, before prescribing or dispensing a controlled substance to a patient, a licensed prescriber shall register with the electronic system for monitoring schedule 2, 3, 4, and 5 controlled substances established under section 7333a.

(6) A licensed prescriber who dispenses controlled substances shall maintain all of the following records separately from other prescription records:

(a) All invoices and other acquisition records for each controlled substance acquired by the prescriber for not less than 5 years after the date the prescriber acquires the controlled substance.

(b) A log of all controlled substances dispensed by the prescriber for not less than 5 years after the date the controlled substance is dispensed.

(c) Records of all other dispositions of controlled substances under the licensee's control for not less than 5 years after the date of the disposition.

(7) The requirement under section 7303 for a license is waived in the following circumstances:

(a) When a controlled substance listed in schedules 2 to 5 is administered on the order of a licensed prescriber by an individual who is licensed under article 15 as a practical nurse or a registered professional nurse.

(b) When methadone or a methadone congener is dispensed on the order of a licensed prescriber in a methadone treatment program licensed under article 6 or when a controlled substance listed in schedules 2 to 5 is dispensed on the order of a licensed prescriber in a hospice rendering emergency care services in a patient's home as described in section 17746 by a registered professional nurse licensed under article 15.

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History: Add. 1993, Act 305, Imd. Eff. Dec. 28, 1993;—Am. 2016, Act 379, Eff. Mar. 22, 2017;—Am. 2017, Act 247, Imd. Eff. Dec. 27, 2017;—Am. 2017, Act 248, Imd. Eff. Dec. 27, 2017;—Am. 2017, Act 249, Imd. Eff. Dec. 27, 2017;—Am. 2018, Act 101, Imd. Eff. Apr. 2, 2018;—Am. 2019, Act 43, Imd. Eff. July 8, 2019.

Popular name: Act 368

333.7303b First prescription in single course of treatment for controlled substance containing opioid; issuance to minor by prescriber; requirements; exceptions; talking consent form authorizing adult to consent to minor's medical treatment; form; definitions.

Sec. 7303b. (1) Except as otherwise provided in this section, beginning June 1, 2018, a prescriber shall comply with all of the following before issuing for a minor the first prescription in a single course of treatment for a controlled substance containing an opioid, regardless of whether the prescriber modifies the dosage during the course of treatment:

(a) Discuss all of the following with the minor, and with the minor's parent or guardian or with another adult authorized to consent to the minor's medical treatment:

(*i*) The risks of addiction and overdose associated with the controlled substance.

(*ii*) The increased risk of addiction to a controlled substance to an individual who is suffering from both mental and substance abuse disorders.

(*iii*) The danger of taking a controlled substance containing an opioid with a benzodiazepine, alcohol, or another central nervous system depressant.

(*iv*) Any other information in the patient counseling information section of the label for the controlled substance that is required under 21 CFR 201.57(c)(18).

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(b) Obtain the signature of the minor's parent or guardian, or, subject to subsection (3), the signature of another adult authorized to consent to the minor's medical treatment, on a start talking consent form. The prescriber shall include the signed start talking consent form in the minor's medical record.

(2) Subsection (1) does not apply in any of the following circumstances:

(a) If the minor's treatment is associated with or incident to a medical emergency.

(b) If the minor's treatment is associated with or incident to a surgery, regardless of whether the surgery is performed on an inpatient or outpatient basis.

(c) If, in the prescriber's professional judgment, fulfilling the requirements of subsection (1) would be detrimental to the minor's health or safety.

(d) If the minor's treatment is rendered in a hospice as that term is defined in section 20106 or an oncology department of a hospital that is licensed under article 17.

(e) If the prescriber is issuing the prescription for the minor at the time of discharge from a facility described in subdivision (d).

(f) If the consent of the minor's parent or guardian is not legally required for the minor to obtain treatment.

(3) If the individual signing a start talking consent form is another adult authorized to consent to the minor's medical treatment, the prescriber shall not prescribe more than a single, 72-hour supply of the controlled substance described in subsection (1) to the minor.

(4) A start talking consent form must be on a form that is separate from any other document that a prescriber uses to obtain the informed consent for the treatment of a minor and must contain all of the following:

(a) The name and quantity of the controlled substance being prescribed for the minor and the amount of the initial dose.

(b) A statement indicating that a controlled substance is a drug or other substance that the United States Drug Enforcement Administration has identified as having a potential for abuse.

(c) A statement certifying that the prescriber discussed with the minor, and with the minor's parent or guardian or with another adult authorized to consent to the minor's medical treatment, the topics described in subsection (1).

(d) The number of refills, if any, that are authorized by the prescription.

(e) A space for the signature of the minor's parent or guardian, or the signature of another adult authorized to consent to the minor's medical treatment, and a space to indicate the date that the minor's parent or guardian, or another adult authorized to consent to the minor's medical treatment, signed the form.

(5) As used in this section:

(a) "Another adult authorized to consent to the minor's medical treatment" means an adult to whom a minor's parent or guardian has given written authorization to consent to the minor's medical treatment.

(b) "Medical emergency" means a situation that, in the prescriber's good-faith medical judgment, creates an immediate threat of serious risk to the life or physical health of the minor.

(c) "Minor" means an individual under 18 years of age who is not emancipated under section 4 of 1968 PA 293, MCL 722.4.

(d) "Start talking consent form" means the form described in subsection (4).

History: Add. 2017, Act 246, Imd. Eff. Dec. 27, 2017.

Popular name: Act 368

333.7303c Information to be provided before controlled substance containing opioid is prescribed; signature; inclusion of signed form in patient's medical or clinical record; controlled substance prescribed for inpatient use; definitions.

Sec. 7303c. (1) Except as otherwise provided in this section, beginning June 1, 2018, before a controlled substance that is an opioid is prescribed to a patient, a licensed prescriber or another health professional shall provide information on all of the following to the patient or the patient's representative:

(a) The danger of opioid addiction.

(b) How to properly dispose of an expired, unused, or unwanted controlled substance.

(c) That the delivery of a controlled substance is a felony under Michigan law.

(d) If the patient is pregnant or is a female of reproductive age, the short- and long-term effects of exposing a fetus to a controlled substance, including, but not limited to, neonatal abstinence syndrome.

(2) After providing the information described in subsection (1), the licensed prescriber or other health professional shall obtain the signature of the patient or the patient's representative on a form prescribed by the department of health and human services, indicating that the patient or the patient's representative has received the information described in subsection (1). The licensed prescriber or other health professional shall include the signed form in the patient's medical or clinical record.

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(3) This section does not apply if the controlled substance described in subsection (1) is prescribed for inpatient use.

(4) As used in this section:

(a) "Health professional" means an individual who is licensed, registered, or otherwise authorized to engage in a health profession under article 15.

(b) "Patient" means an individual who receives health care from the licensed prescriber.

(c) "Patient's representative" means a guardian of a patient, if appointed, or a parent, guardian, or person acting in loco parentis, if the patient is a minor, unless the minor lawfully obtained health care without the consent or notification of a parent, guardian, or other person acting in loco parentis.

History: Add. 2017, Act 246, Imd. Eff. Dec. 27, 2017.

Popular name: Act 368

333.7304 Exemptions from licensure.

Sec. 7304. (1) The requirement of licensure is waived for the following persons in the circumstances described in this section:

(a) An officer or employee of the drug enforcement administration while engaged in the course of official duties.

(b) An officer of the United States customs service while engaged in the course of official duties.

(c) An officer or employee of the United States food and drug administration while engaged in the course of official duties.

(d) A federal officer who is lawfully engaged in the enforcement of a federal law relating to controlled substances, drugs, or customs and who is authorized to possess controlled substances in the course of that person's official duties.

(e) An officer or employee of this state, or a political subdivision or agency of this state who is engaged in the enforcement of a state or local law relating to controlled substances and who is authorized to possess controlled substances in the course of that person's official duties.

(2) An official exempted from licensure by this section, when acting in the course of that person's official duties, may possess a controlled substance and may transfer a controlled substance to any other official who is exempted and who is acting in the course of that person's official duties.

(3) An official exempted by this section may procure a controlled substance in the course of an administrative inspection or investigation or in the course of a criminal investigation involving the person from whom the substance was procured.

(4) A law enforcement officer exempted by this section may distribute a controlled substance to another person in the course of that officer's official duties as a means to detect criminal activity or to conduct a criminal investigation.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1994, Act 221, Eff. Mar. 30, 1995.

Popular name: Act 368

333.7305 Permitting certain persons to apply for license; application upon expiration of existing license.

Sec. 7305. The administrator shall initially permit a person who owns, or operates an establishment engaged in the manufacture, distribution, prescription, or dispensing of a controlled substance before September 30, 1978 and who is licensed by this state to apply for a license pursuant to this article. However, a person who is licensed under existing state law with the administrator or department of commerce is not required to apply for a license pursuant to this article until the expiration of the person's existing license.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.7306 License to be granted unless inconsistent with public interest; factors in determining public interest; scope of licensure; license to dispense, prescribe, or conduct research with controlled substances in schedules 2 to 5; registration under federal law to conduct research with schedule 1 substances; effect of compliance with federal law as to registration; limitation on licensure.

Sec. 7306. (1) The administrator shall grant a license to an applicant to manufacture or distribute controlled substances included in sections 7212 to 7220, unless the administrator determines that the issuance of that license would be inconsistent with the public interest. In determining the public interest, the administrator shall consider all of the following factors:

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(a) Maintenance of effective controls against diversion of controlled substances to other than legitimate and professionally recognized therapeutic, scientific, or industrial channels.

(b) Compliance with applicable state and local law.

(c) A conviction of the applicant under a federal or state law relating to a controlled substance.

(d) Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion.

(e) Furnishing by the applicant of false or fraudulent material in an application filed under this article.

(f) Suspension or revocation of the applicant's federal registration to manufacture or distribute controlled substances as authorized by federal law.

(g) Any other factor relevant to and consistent with the public health and safety.

(2) Licensure under subsection (1) does not entitle a licensee to manufacture and distribute controlled substances in schedules 1 or 2 other than those specified in the license.

(3) A practitioner shall be licensed to dispense or prescribe any controlled substances or to conduct research with controlled substances in schedules 2 to 5 if the practitioner is authorized to dispense, prescribe, or conduct research under the laws of this state. The administrator need not require separate licensure under this article for a practitioner engaging in research with nonnarcotic controlled substances in schedules 2 to 5 if the licensee is licensed under this article in another capacity. A practitioner registered under federal law to conduct research with schedule 1 substances may conduct research with schedule 1 substances in this state upon furnishing the administrator evidence of that federal registration.

(4) Compliance by a manufacturer or distributor with the provisions of the federal law as to registration, excluding fees, entitles the manufacturer or distributor to be licensed under this article.

(5) Licensure under subsection (1) does not authorize a licensee to dispense, manufacture, distribute, or prescribe a controlled substance if the dispensing, manufacture, distribution, or prescribing is not for legitimate and professionally recognized therapeutic, scientific, or industrial purposes or is not in the scope of practice of a practitioner-licensee.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.7311 Actions by disciplinary subcommittee; grounds; limitation; conviction of felony; placing under seal or seizing controlled substances; disposition of controlled substances; judicial order for sale; deposit of proceeds; forfeiture of controlled substances; notice of orders and forfeitures; voiding license under MCL 333.7306; effect of conviction; applicability of subsection (7).

Sec. 7311. (1) A license under section 7306 to manufacture, distribute, prescribe, or dispense a controlled substance may be denied, suspended, or revoked or a licensee may be fined, reprimanded, ordered to perform community service or make restitution, or placed on probation by the disciplinary subcommittee upon a finding that an applicant for licensure or a licensee is subject to any of the following:

(a) The applicant or licensee has furnished false or fraudulent material information in an application filed under this article.

(b) The applicant's or licensee's federal registration to manufacture, distribute, or dispense controlled substances has been surrendered, suspended, or revoked.

(c) The applicant or licensee has promoted a controlled substance to the general public.

(d) The applicant or licensee is not a practitioner, manufacturer, or distributor.

(e) The applicant or licensee has not maintained effective controls against diversion of controlled substances to other than legitimate and professionally recognized therapeutic, scientific, or industrial uses.

(f) The applicant or licensee is not in compliance with applicable federal, state, and local laws.

(g) The applicant or licensee has manufactured, distributed, or dispensed a controlled substance for other than legitimate or professionally recognized therapeutic, scientific, or industrial purposes or outside the scope of practice of the practitioner-licensee or applicant.

(h) The applicant or licensee has violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate this article or rules of the administrator promulgated under this article.

(2) The disciplinary subcommittee may limit a license under subsection (1) to a particular controlled substance.

(3) A license under section 7306 to manufacture, distribute, prescribe, or dispense a controlled substance

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shall be denied or revoked by the disciplinary subcommittee if the applicant or licensee has been convicted of a felony under a state or federal law relating to a controlled substance.

(4) If the disciplinary subcommittee suspends or revokes a license or if a license is void under subsection (6), all controlled substances owned or possessed by the licensee at the time of suspension or the effective date of the revocation order may be placed under seal or seized at the discretion of the disciplinary subcommittee. The department shall not dispose of controlled substances under seal or seizure until the time for taking an appeal has elapsed or until all appeals have been concluded, unless a court, upon application therefor, orders the sale of perishable controlled substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final or after a license becomes void under subsection (6) because the licensee's license to practice is revoked under article 15 and that revocation order becomes final, the disciplinary subcommittee may order all controlled substances under seal or seizure to be forfeited to this state.

(5) The disciplinary subcommittee shall promptly notify the bureau of all orders suspending or revoking a license and all forfeitures of controlled substances.

(6) A license under section 7306 to manufacture, distribute, prescribe, or dispense a controlled substance is automatically void if the licensee's license to practice is suspended or revoked under article 15.

(7) Subject to subsection (8), if the administrator or the disciplinary subcommittee finds that an applicant or licensee has been convicted of a misdemeanor or a felony under a state or federal law relating to a controlled substance, the applicant or licensee shall not have a direct financial interest in or be employed by a person who is licensed under this article to manufacture, distribute, prescribe, or dispense a controlled substance in a capacity in which the individual has direct access to controlled substances for a period of not less than 3 years after the date of conviction. An individual who violates this subsection is subject to a civil fine of not more than $25,000.00 in a proceeding in the circuit court.

(8) Subsection (7) applies only to a conviction for a misdemeanor that is directly related to the manufacture, delivery, possession, possession with intent to manufacture or deliver, use, distribution, prescription, or dispensing of a controlled substance. Subsection (7) does not apply to a conviction for a misdemeanor based upon an unintentional error or omission involving a clerical or record-keeping function.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 29, Eff. Aug. 26, 1988;—Am. 1988, Act 30, Eff. Aug. 26, 1988;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

Administrative rules: R 338.493a et seq. and R 338.3101 et seq. of the Michigan Administrative Code.

333.7314 Denial, suspension, revocation, or limitation of license; order to show cause; service of order; conduct of proceedings; effect of proceeding on existing license; suspension of license on finding of imminent danger; duration of suspension; applicability of subsection (1).

Sec. 7314. (1) Before the disciplinary subcommittee suspends or revokes or limits a license or denies an application or a renewal of a license, the disciplinary subcommittee shall serve on the applicant or licensee an order to show cause why the application or license should not be denied, limited, revoked, or suspended, or why the renewal should not be denied. The order to show cause shall contain a statement of the basis for the order and shall call upon the applicant or licensee to appear before the disciplinary subcommittee or a hearings examiner at a time and place not less than 30 days after the date of service of the order. A show cause order for a denial of renewal of a license shall be served not later than 30 days before expiration of the license. The proceedings described in this subsection shall be conducted without regard to any criminal prosecution or other proceeding. A proceeding to deny renewal of a license does not abate the existing license, which remains in effect pending the outcome of the administrative hearing.

(2) Pursuant to procedural guidelines adopted by the department, the department may suspend a license, without an order to show cause, simultaneously with the institution of proceedings under section 7311 or if renewal of licensure is refused, if the department finds that there is an imminent danger to the public health or safety that warrants this action. The suspension shall continue in effect until conclusion of the proceedings, including judicial review, unless sooner withdrawn by a hearings examiner or dissolved by a court of competent jurisdiction.

(3) Subsection (1) does not apply to the suspension or revocation of a license by the administrator pursuant to section 7311(6).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1987;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

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Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.7315 Reinstatement of license; application; hearing.

Sec. 7315. (1) An individual whose license is limited, suspended, or revoked under this part may apply to the board for a reinstatement of a revoked or suspended license or for removal of a limitation as to a particular controlled substance.

(2) In the case of a revoked license, an applicant shall not apply for reinstatement before the expiration of 5 years after the effective date of the revocation. The department shall return an application for reinstatement received before the expiration of the 5-year period.

(3) The department shall provide an opportunity for a hearing before final rejection of an application for reinstatement.

History: Add. 1988, Act 30, Eff. Aug. 26, 1988;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.7316 Reinstatement of license; good moral character; public interest; disciplinary or corrective measure.

Sec. 7316. The administrator may reinstate a revoked or suspended license to an individual whose license has been suspended or revoked under this article or remove a limitation as to a particular controlled substance if, after a hearing, the administrator is satisfied that the applicant is of good moral character, has met the criteria in the rules promulgated under section 16245(6), and should be permitted in the public interest to have his or her license reinstated or the limitation removed. As a condition of reinstatement, the disciplinary subcommittee, upon the recommendation of the administrator, may impose a disciplinary or corrective measure authorized under this article. In determining the public interest, the administrator shall consider the factors set forth in section 7306(1)(a) to (g).

History: Add. 1988, Act 30, Eff. Aug. 26, 1988;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.7321 Records; inventories; annual inventory; retention.

Sec. 7321. (1) Subject to subsection (2), a person licensed to manufacture, distribute, prescribe, or dispense controlled substances under this article shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with any additional rules the administrator promulgates, unless exempted by those rules.

(2) Beginning May 1, 1989, and annually thereafter, each person licensed under this article to manufacture, distribute, prescribe, or dispense controlled substances shall inventory all schedule 2 to 5 controlled substances possessed by the person at the time of the inventory. A person described in this subsection may conduct the annual inventory required under this subsection not more than 30 days before May 1, but shall conduct the inventory not later than 60 days after May 1. A person described in this subsection shall retain the inventory required under this subsection for not less than 2 years after the date of the inventory's creation and shall make the inventory available for inspection by the department at the request of the department.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 245, Eff. Sept. 1, 1988;—Am. 2016, Act 383, Eff. Mar. 28, 2017.

Popular name: Act 368

Administrative rules: R 338.471 et seq. and R 338.3101 et seq. of the Michigan Administrative Code.

333.7331 Authority to purchase schedule 1 or 2 controlled substance; order form.

Sec. 7331. (1) Only a practitioner who holds a license under this article to prescribe or dispense controlled substances may purchase from a licensed manufacturer or distributor a schedule 1 or 2 controlled substance. The authority granted under this subsection to purchase a schedule 1 or 2 controlled substance is not assignable or transferable.

(2) A purchase of a schedule 1 or 2 controlled substance under subsection (1) shall be made only pursuant to an order form which is in compliance with federal law.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 10, Eff. Aug. 9, 1988.

Popular name: Act 368

333.7333 "Good faith" defined; dispensing controlled substance included in schedule 2; prescription form; electronic transmission under MCL 333.17754a; emergency; filling and refilling prescription; dispensing controlled substance included in schedule 3, 4, or 5;

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requirements and use of written prescription; class B dealer; animal control shelter or animal protection shelter; limited permit; administration of commercially prepared, premixed solution of sodium pentobarbital or animal tranquilizer; liability of veterinarian; "animal tranquilizer" and "class B dealer" defined.

Sec. 7333. (1) As used in this section, "good faith" means the prescribing or dispensing of a controlled substance by a practitioner licensed under section 7303 in the regular course of professional treatment to or for an individual who is under treatment by the practitioner for a pathology or condition other than that individual's physical or psychological dependence on or addiction to a controlled substance, except as provided in this article. Application of good faith to a pharmacist means the dispensing of a controlled substance pursuant to a prescriber's order which, in the professional judgment of the pharmacist, is lawful. The pharmacist shall be guided by nationally accepted professional standards including, but not limited to, all of the following, in making the judgment:

(a) Lack of consistency in the doctor-patient relationship.

(b) Frequency of prescriptions for the same drug by 1 prescriber for larger numbers of patients.

(c) Quantities beyond those normally prescribed for the same drug.

(d) Unusual dosages.

(e) Unusual geographic distances between patient, pharmacist, and prescriber.

(2) Except as otherwise provided in this section, a practitioner, in good faith, may dispense a controlled substance included in schedule 2 that is a prescription drug as determined under section 503(b) of the federal food, drug, and cosmetic act, 21 USC 353, or section 17708, on receipt of either of the following:

(a) A prescription of a practitioner licensed under section 7303 on a prescription form. More than 1 prescription for a controlled substance included in schedule 2 may be included on a single prescription form.

(b) A prescription that is electronically transmitted under section 17754a.

(3) In an emergency situation, as described in R 338.3165 of the Michigan Administrative Code, a controlled substance included in schedule 2 may be dispensed on the oral prescription of a practitioner if the prescribing practitioner promptly fills out a prescription form and forwards the prescription form to the dispensing pharmacy within 7 days after the oral prescription is issued. A prescription for a controlled substance included in schedule 2 must not be filled more than 90 days after the date on which the prescription was issued. A pharmacist, consistent with federal law and regulations on the partial filling of a controlled substance included in schedule 2, may partially fill in increments a prescription for a controlled substance included in schedule 2.

(4) A practitioner, in good faith, may dispense a controlled substance included in schedule 3, 4, or 5 that is a prescription drug as determined under section 503(b) of the federal food, drug, and cosmetic act, 21 USC 353, or section 17708, on receipt of any of the following:

(a) A prescription on a prescription form.

(b) An oral prescription of a practitioner.

(c) A prescription that is electronically transmitted under section 17754a.

(5) A prescription for a controlled substance included in schedule 3 or 4 must not be filled or refilled without specific refill instructions noted by the prescriber. A prescription for a controlled substance included in schedule 3 or 4 must not be filled or refilled later than 6 months after the date of the prescription or be refilled more than 5 times, unless renewed by the prescriber in accordance with rules promulgated by the administrator.

(6) A controlled substance included in schedule 5 must not be distributed or dispensed other than for a medical purpose, or in any manner except in accordance with rules promulgated by the administrator.

(7) If a prescription is required under this section, the prescription must contain the quantity of the controlled substance prescribed in both written and numerical terms. A prescription is in compliance with this subsection if, in addition to containing the quantity of the controlled substance prescribed in written terms, it contains preprinted numbers representative of the quantity of the controlled substance prescribed next to which is a box or line the prescriber may check.

(8) A prescribing practitioner shall not use a prescription form for a purpose other than prescribing. A prescribing practitioner shall not postdate a prescription form that contains a prescription for a controlled substance. Until the date on which section 17754a applies, a prescriber may transmit a prescription by facsimile of a printed prescription form and by electronic transmission of a printed prescription form, if not prohibited by federal law. If, with the patient's consent, a prescription is electronically transmitted under this subsection, it must be transmitted directly to a pharmacy of the patient's choice by the prescriber or the prescriber's authorized agent, and the data must not be altered, modified, or extracted in the transmission process.

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(9) Notwithstanding subsections (1) to (6), a class B dealer may acquire a limited permit only for the purpose of buying, possessing, and administering a commercially prepared, premixed solution of sodium pentobarbital to perform euthanasia on injured, sick, homeless, or unwanted domestic pets and other animals, if the class B dealer does all of the following:

(a) Applies to the administrator for a permit in accordance with rules promulgated under this part. The application must contain the name of the individual in charge of the day-to-day operations of the class B dealer's facilities and the name of the individual responsible for designating employees who will be performing euthanasia on animals pursuant to this act.

(b) Complies with the rules promulgated by the administrator for the storage, handling, and use of a commercially prepared, premixed solution of sodium pentobarbital to perform euthanasia on animals. The class B dealer shall maintain a record of use and shall make the record available for inspection by the department of licensing and regulatory affairs, the department of agriculture and rural development, and the United States Department of Agriculture.

(c) Subject to subdivision (d), certifies that the class B dealer or an employee of the class B dealer has received, and can document completion of, a minimum of 16 hours of training, including at least 12 hours of content training and at least 4 hours of practical training, in the use of a commercially prepared, premixed solution of sodium pentobarbital and an animal tranquilizer to perform euthanasia on animals from a training program approved by the state veterinarian, in consultation with the Michigan board of veterinary medicine, and given by a licensed veterinarian pursuant to rules promulgated by the administrator. The training described in this subdivision must comply with the American Veterinary Medical Association's guidelines for the euthanasia of animals.

(d) Until December 31, 2021, ensures that the class B dealer or an employee of the class B dealer who received, and can document the completion of, the 8 hours of training required immediately before May 22, 2018 only administers a commercially prepared, premixed solution of sodium pentobarbital to perform euthanasia on the animals described in this subsection. Beginning January 1, 2022, the individuals described in this subdivision must have received, and be able to document the completion of, the training described in subdivision (c) to administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer to perform euthanasia on the animals described in this subsection.

(e) Certifies that only an individual described in subdivision (c) or (d) or an individual otherwise permitted to use a controlled substance pursuant to this article will administer the commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer according to written procedures established by the class B dealer.

(f) Beginning January 1, 2022, certifies that the individual in charge of the day-to-day operations of the class B dealer's facilities has received, and can document the completion of, the training described in subdivision (c).

(g) Complies with all state and federal laws, rules, and regulations regarding the acquisition, use, and security of controlled substances.

(10) Notwithstanding subsections (1) to (6), an animal control shelter or animal protection shelter registered with the department of agriculture and rural development pursuant to 1969 PA 287, MCL 287.331 to 287.340, may acquire a limited permit only for the purpose of buying, possessing, and administering a commercially prepared, premixed solution of sodium pentobarbital, or an animal tranquilizer, to use exclusively as an adjunct in the process of performing euthanasia on injured, sick, homeless, or unwanted domestic pets and other animals, if the animal control shelter or animal protection shelter does all of the following:

(a) Applies to the administrator for a permit in accordance with rules promulgated under this part. The application must contain the name of the individual in charge of the day-to-day operations of the animal control shelter or animal protection shelter and the name of the individual responsible for designating employees who will be performing euthanasia on animals pursuant to this act.

(b) Complies with the rules promulgated by the administrator for the storage, handling, and use of a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer to perform euthanasia on animals. The animal control shelter or animal protection shelter shall maintain a record of use and make the record available for inspection by the department of licensing and regulatory affairs and the department of agriculture and rural development.

(c) Subject to subdivision (d), certifies that an employee of the animal control shelter or animal protection shelter has received, and can document completion of, a minimum of 16 hours of training, including at least 12 hours of content training and at least 4 hours of practical training, in the use of a commercially prepared, premixed solution of sodium pentobarbital and an animal tranquilizer to perform euthanasia on animals from a training program approved by the state veterinarian, in consultation with the Michigan board of veterinary

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medicine, and given by a licensed veterinarian pursuant to rules promulgated by the administrator. The training described in this subdivision must comply with the American Veterinary Medical Association's guidelines for the euthanasia of animals.

(d) Until December 31, 2021, ensures that an employee of the animal control shelter or animal protection shelter who received, and can document the completion of, the training required immediately before May 22, 2018 only administers a commercially prepared solution of xylazine hydrochloride or a commercially prepared, premixed solution of sodium pentobarbital to perform euthanasia on the animals described in this subsection in accordance with his or her training. Beginning January 1, 2022, the employee described in this subdivision must have received, and be able to document the completion of, the training described in subdivision (c) to administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer to perform euthanasia on the animals described in this subsection.

(e) Certifies that only an individual described in subdivision (c) or (d) or an individual otherwise permitted to use a controlled substance pursuant to this article will administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer according to written procedures established by the animal control shelter or animal protection shelter.

(f) Beginning January 1, 2022, certifies that the individual in charge of the day-to-day operations of the animal control shelter or animal protection shelter has received, and can document the completion of, the training described in subdivision (c).

(g) Complies with all state and federal laws and regulations regarding the acquisition, use, and security of controlled substances.

(11) The application described in subsection (9) or (10) must include the names and addresses of all individuals employed by the animal control shelter or animal protection shelter or class B dealer who have been trained as described in subsection (9)(c), (d), and (f) or (10)(c), (d), and (f) and the name of the veterinarian who trained them. The list of names and addresses must be updated every 6 months.

(12) If an animal control shelter or animal protection shelter or class B dealer issued a permit pursuant to subsection (9) or (10) does not have in its employ an individual trained as described in subsection (9)(c) or (d) and (9)(f), or (10)(c) or (d) and (10)(f), the animal control shelter or animal protection shelter or class B dealer shall immediately notify the administrator and shall cease to administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer for the purposes described in subsection (9) or (10) until the administrator is notified that 1 of the following has occurred:

(a) An individual trained as described in subsection (9)(c), (d), or (f) or (10)(c), (d), or (f) has been hired by the animal control shelter or animal protection shelter or class B dealer.

(b) An individual employed by the animal control shelter or animal protection shelter or class B dealer has been trained as described in subsection (9)(c) or (f) or (10)(c) or (f).

(13) A veterinarian, including a veterinarian who trains individuals as described in subsection (9)(c), (d), or (f), or (10)(c), (d), or (f), is not civilly or criminally liable for the use of a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer by an animal control shelter or animal protection shelter or a class B dealer, unless the veterinarian is employed by or under contract with the animal control shelter or animal protection shelter or class B dealer and the terms of the veterinarian's employment or the contract require the veterinarian to be responsible for the use or administration of the commercially prepared, premixed solution of sodium pentobarbital or animal tranquilizer.

(14) A person shall not knowingly use or permit the use of a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer in violation of this section.

(15) This section does not require that a veterinarian be employed by or under contract with an animal control shelter or animal protection shelter or class B dealer to obtain, possess, or administer a commercially prepared, premixed solution of sodium pentobarbital or an animal tranquilizer pursuant to this section.

(16) Notwithstanding subsections (1) to (6), an animal control shelter registered with the department of agriculture and rural development pursuant to 1969 PA 287, MCL 287.331 to 287.340, may acquire a limited permit only for the purpose of buying, possessing, and administering an animal tranquilizer to sedate or immobilize an animal running at large that is dangerous or difficult to capture, if the animal control shelter does all of the following:

(a) Applies to the administrator for a permit in accordance with the rules promulgated under this part. The application must contain the name of the individual in charge of the day-to-day operations of the animal control shelter and the name of the individual responsible for designating employees who will be administering an animal tranquilizer pursuant to this act.

(b) Complies with the rules promulgated by the administrator for the storage, handling, and use of an animal tranquilizer. The animal control shelter shall maintain a record of use and shall make the record available for inspection by the department of licensing and regulatory affairs and the department of

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agriculture and rural development.

(c) Subject to subdivision (d), certifies that an employee of the animal control shelter has received, and can document completion of, both of the following in the following order:

(*i*) The training described in subsection (10)(c).

(*ii*) A minimum of 16 hours of training, including at least 12 hours of content training and at least 4 hours of practical training, in the use of animal tranquilizers to sedate or immobilize the animals described in this subsection from a training program approved by the state veterinarian, in consultation with the Michigan board of veterinary medicine, and given by a licensed veterinarian pursuant to rules promulgated by the administrator.

(d) Until December 31, 2021, ensures that an employee of the animal control shelter who received, and can document the completion of, the training required immediately before May 22, 2018 only administers a commercially prepared solution of xylazine hydrochloride to sedate or immobilize the animals described in this subsection. Beginning January 1, 2022, the employee described in this subdivision must have received, and be able to document the completion of, the training described in subdivision (c) to administer an animal tranquilizer to perform euthanasia on the animals described in this subsection.

(e) Certifies that only an individual described in subdivision (c) or (d) or an individual otherwise permitted to use a controlled substance pursuant to this article will administer an animal tranquilizer according to written procedures established by the animal control shelter.

(f) Beginning January 1, 2022, certifies that the individual in charge of the day-to-day operations of the animal control shelter has received, and can document the completion of, the training described in subdivision (c).

(g) Complies with all state and federal laws, rules, and regulations regarding the acquisition, use, and security of controlled substances.

(17) The application described in subsection (16) must include the names and business addresses of all individuals employed by the animal control shelter who have been trained as described in subsection (16)(c), (d), and (f) and must include documented proof of the training. The list of names and business addresses must be updated every 6 months.

(18) If an animal control shelter issued a permit pursuant to subsection (16) does not have in its employ an individual trained as described in subsection (16)(c) or (d) and (16)(f), the animal control shelter shall immediately notify the administrator and shall cease to administer an animal tranquilizer for the purposes described in subsection (16) until the administrator is notified that 1 of the following has occurred:

(a) An individual trained as described in subsection (16)(c), (d), or (f) has been hired by the animal control shelter.

(b) An individual employed by the animal control shelter has been trained as described in subsection (16)(c) or (f).

(19) A veterinarian, including a veterinarian who trains individuals as described in subsection (16)(c), (d), or (f), is not civilly or criminally liable for the use of an animal tranquilizer by an animal control shelter unless the veterinarian is employed by or under contract with the animal control shelter and the terms of the veterinarian's employment or the contract require the veterinarian to be responsible for the use or administration of an animal tranquilizer.

(20) As used in this section:

(a) "Animal tranquilizer" means a commercially prepared solution of xylazine hydrochloride, a commercially prepared solution of ketamine, or a commercially prepared compound containing tiletamine and zolazepam.

(b) "Class B dealer" means a class B dealer licensed by the United States Department of Agriculture pursuant to the animal welfare act, 7 USC 2131 to 2160 and the department of agriculture and rural development pursuant to 1969 PA 224, MCL 287.381 to 287.395.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 414, Imd. Eff. Jan. 11, 1981;—Am. 1988, Act 28, Eff. Aug. 26, 1988;—Am. 1988, Act 60, Eff. Aug. 1, 1988;—Am. 1988, Act 240, Imd. Eff. July 11, 1988;—Am. 1989, Act 143, Imd. Eff. June 29, 1989;—Am. 1990, Act 30, Eff. Mar. 28, 1991;—Am. 1991, Act 186, Imd. Eff. Dec. 27, 1991;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 1993, Act 138, Imd. Eff. Aug. 2, 1993;—Am. 2001, Act 231, Eff. Jan. 6, 2003;—Am. 2006, Act 451, Imd. Eff. Dec. 14, 2006;—Am. 2010, Act 3, Imd. Eff. Feb. 4, 2010;—Am. 2017, Act 251, Eff. Mar. 27, 2018;—Am. 2018, Act 34, Eff. May 22, 2018;—Am. 2020, Act 136, Imd. Eff. July 8, 2020.

Compiler's note: Enacting section 2 of Act 231 of 2001 provides:

"Enacting section 2. Section 7333 of the public health code, 1978 PA 368, MCL 333.7333, as amended by this amendatory act, takes effect upon promulgation of the rules required under section 7333a(1) of the public health code, 1978 PA 368, MCL 333.7333a, as added by this amendatory act, and receipt by the secretary of state of written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, as added by this amendatory act, is operational. The notice to the secretary of state shall include a statement that the

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department of consumer and industry services is able to receive data from at least 80% of those required to report under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, as added by this amendatory act, and is able to respond to requests for data from persons authorized to make such requests and to review and utilize the data."

The rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, pertaining to the operation of the electronic monitoring system, were promulgated on December 30, 2002. In addition, a written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code is operational was filed with, and received by, the secretary of state on January 6, 2003.

Popular name: Act 368

Administrative rules: R 338.471 et seq. and R 338.3101 et seq. of the Michigan Administrative Code.

333.7333a Electronic monitoring system; definitions.

Sec. 7333a. (1) The department shall establish, by rule, an electronic system for monitoring schedule 2, 3, 4, and 5 controlled substances dispensed in this state by veterinarians, and by pharmacists and dispensing prescribers licensed under part 177 or dispensed to an address in this state by a pharmacy licensed in this state. The rules must provide an appropriate electronic format for the reporting of data including, but not limited to, patient identifiers, and the name of the controlled substance dispensed, the date of dispensing, the quantity dispensed, the prescriber, and the dispenser. The department shall require a veterinarian, pharmacist, or dispensing prescriber to utilize the electronic data transmittal process developed by the department or the department's contractor. The department shall not require a veterinarian, pharmacist, or dispensing prescriber to pay a new fee dedicated to the operation of the electronic monitoring system or to incur any additional costs solely related to the transmission of data to the department. The dispensing of a controlled substance in any of the following is exempt from the reporting requirements:

(a) A hospital that is licensed under article 17 that administers the controlled substance to an individual who is an inpatient.

(b) A health facility or agency licensed under article 17 if the controlled substance is dispensed by a dispensing prescriber in a quantity adequate to treat the patient for not more than 48 hours.

(c) A veterinary hospital or clinic that administers the controlled substance to an animal that is an inpatient.

(2) Notwithstanding any practitioner-patient privilege, the director of the department may provide data obtained under this section to all of the following:

(a) A designated representative of a board responsible for the licensure, regulation, or discipline of a practitioner, pharmacist, or other person that is authorized to prescribe, administer, or dispense controlled substances.

(b) An employee or agent of the department.

(c) A state, federal, or municipal employee or agent whose duty is to enforce the laws of this state or the United States relating to drugs.

(d) A state-operated Medicaid program.

(e) A state, federal, or municipal employee who is the holder of a search warrant or subpoena properly issued for the records.

(f) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient.

(g) An individual with whom the department has contracted under subsection (7).

(h) A practitioner or other person that is authorized to prescribe controlled substances for the purpose of determining if prescriptions written by that practitioner or other person have been dispensed.

(i) The health care payment or benefit provider for the purposes of ensuring patient safety and investigating fraud and abuse.

(3) Except as otherwise provided in this part, a person shall use information submitted under this section only for bona fide drug-related criminal investigatory or evidentiary purposes or for the investigatory or evidentiary purposes in connection with the functions of a disciplinary subcommittee or 1 or more of the licensing or registration boards created in article 15.

(4) A person that receives data or any report under subsection (2) containing any patient identifiers of the system from the department shall not provide it to any other person except by order of a court of competent jurisdiction.

(5) Except as otherwise provided in this subsection, reporting under subsection (1) is mandatory for a veterinarian, pharmacist, and dispensing prescriber. However, the department may issue a written waiver of the electronic reporting requirement to a veterinarian, pharmacist, or dispensing prescriber who establishes grounds that he or she is unable to use the electronic monitoring system. The department shall require the applicant for the waiver to report the required information in a manner approved by the department.

(6) The department, in consultation with the Michigan board of pharmacy, the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, the department of state police, and

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appropriate medical professional associations, shall examine the need for and may promulgate rules for the production of a prescription form on paper that minimizes the potential for forgery. The rules must not include any requirement that sequential numbers, bar codes, or symbols be affixed, printed, or written on a prescription form or that the prescription form be a state produced prescription form. In examining the need for rules for the production of a prescription form on paper that minimizes the potential for forgery, the department shall consider and identify the following:

(a) Cost, benefits, and barriers.

(b) Overall cost-benefit analysis.

(c) Compatibility with the electronic monitoring system required under this section.

(7) The department may enter into 1 or more contractual agreements for the administration of this section.

(8) The department, all law enforcement officers, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(9) The data and any report containing any patient identifiers obtained from the data are not public records and are not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) The department may issue a written request to a health care payment or benefit provider to determine if the provider has accessed the electronic monitoring system as provided in subsection (2)(i) in the previous calendar year and, if so, to determine the number of inquiries the provider made in the previous calendar year and any other information the department requests in relation to the provider's access to the electronic monitoring system. A health care payment or benefit provider shall respond to the written request on or before the March 31 following the request. The department shall collaborate with health care payment or benefit providers to develop a reasonable request and reporting form for use under this subsection.

(11) Before dispensing or prescribing buprenorphine, or a drug containing buprenorphine or methadone, to a patient in a substance use disorder program, a prescriber shall obtain and review data concerning that patient from the department under subsection (2). A prescriber dispensing buprenorphine, or a drug containing buprenorphine or methadone, to a patient in a substance use disorder program shall also report the data required in subsection (1), if federal law does not prohibit the reporting of data concerning the patient, to the department. As used in this subsection:

(a) "Approved service program" means that term as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a.

(b) "Substance use disorder program" means a program as that term is defined in section 260 of the mental health code, 1974 PA 258, MCL 330.1260, an approved service program, a nonregulated substance use disorder services program, a federal certified substance use disorder services program, or a federally regulated substance use disorder services program.

(12) R 338.3162e of the Michigan Administrative Code is rescinded.

(13) As used in this section:

(a) "Department" means the department of licensing and regulatory affairs.

(b) "Health care payment or benefit provider" means a person that provides health benefits, coverage, or insurance in this state, including a health insurance company, a nonprofit health care corporation, a health maintenance organization, a multiple employer welfare arrangement, a Medicaid contracted health plan, or any other person providing a plan of health benefits, coverage, or insurance subject to state insurance regulation.

History: Add. 2001, Act 231, Imd. Eff. Jan. 3, 2002;—Am. 2011, Act 108, Imd. Eff. July 20, 2011;—Am. 2012, Act 44, Imd. Eff. Mar. 7, 2012;—Am. 2016, Act 383, Eff. Mar. 28, 2017;—Am. 2017, Act 252, Eff. Mar. 27, 2018.

Popular name: Act 368

Administrative rules: R 338.3101 et seq. of the Michigan Administrative Code.

333.7333b Treatment of patient for acute pain; prescription for opioid; limitation; "acute pain" defined.

Sec. 7333b. (1) Beginning July 1, 2018, if a prescriber is treating a patient for acute pain, the prescriber shall not prescribe the patient more than a 7-day supply of an opioid within a 7-day period.

(2) As used in this section, "acute pain" means pain that is the normal, predicted physiological response to a noxious chemical or a thermal or mechanical stimulus and is typically associated with invasive procedures, trauma, and disease and usually lasts for a limited amount of time.

History: Add. 2017, Act 251, Eff. Mar. 27, 2018.

Popular name: Act 368

333.7334 Repealed. 2001, Act 231, Eff. Jan. 6, 2003.

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Compiler's note: The repealed section pertained to official prescription form.

Popular name: Act 368

333.7335 Repealed. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Compiler's note: Former MCL 333.7335, pertaining to marihuana controlled substances therapeutic research program, expired November 1, 1982, pursuant to Act 125 of 1979.
The repealed section pertained to marihuana controlled substances therapeutic research program.

Popular name: Act 368

333.7336 Repealed. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Compiler's note: Former MCL 333.7336, pertaining to patient qualification review board and certification of designated pharmacies for participation in marihuana distribution, expired November 1, 1982, pursuant to Act 125 of 1979.
The repealed section pertained to patient qualification review board.

Popular name: Act 368

333.7339 Dispensing, selling, or giving product to individual less than 18 years of age; violation as misdemeanor; penalty.

Sec. 7339. (1) A person shall not dispense, sell, or otherwise give a product described in section 7220(1)(c)(*ii*) to an individual less than 18 years of age. This section does not apply to a physician or pharmacist who prescribes, dispenses, administers, or delivers a product described in section 7220(1)(c)(*ii*) to an individual less than 18 years of age, to a parent or guardian of an individual less than 18 years of age who delivers the product to the individual, or to a person authorized by the individual's parent or legal guardian who dispenses or delivers the product to the individual.

(2) In the course of selling, offering for sale, or otherwise distributing a product described in section 7220(1)(c)(*ii*), a person shall not advertise or represent in any manner that the product causes euphoria, ecstasy, a "buzz" or "high", or an altered mental state, heightens sexual performance, or, because it contains ephedrine alkaloids, increases muscle mass.

(3) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

History: Add. 1999, Act 144, Eff. Jan. 21, 2000.

Popular name: Act 368

333.7340 Selling, distributing, delivering, or furnishing product containing ephedrine or pseudoephedrine; prohibition; exceptions; violation as felony; penalty.

Sec. 7340. (1) A person shall not sell, distribute, deliver, or otherwise furnish a product that contains any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine to an individual if the sale is transacted through use of the mail, internet, telephone, or other electronic means.

(2) This section does not apply to any of the following:

(a) A pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

(b) A product containing pseudoephedrine that is in a liquid form if pseudoephedrine is not the only active ingredient.

(c) A product that the state board of pharmacy, upon application of the manufacturer or certification by the United States drug enforcement administration as inconvertible, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(d) A person who dispenses a product described in subsection (1) pursuant to a prescription.

(e) A person who, in the course of his or her business, sells or distributes products described in subsection (1) to either of the following:

(*i*) A person licensed by this state to manufacture, deliver, dispense, or possess with intent to manufacture or deliver a controlled substance, prescription drug, or other drug.

(*ii*) A person who orders those products described in subsection (1) for retail sale pursuant to a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78.

(f) A manufacturer or distributor who donates product samples to a nonprofit charitable organization that has tax-exempt status pursuant to section 501(c)(3) of the internal revenue code of 1986, a licensed practitioner, or a governmental entity.

(3) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4

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years or a fine of not more than $5,000.00, or both.

History: Add. 2006, Act 261, Eff. Oct. 1, 2006.

Popular name: Act 368

333.7340a Submission of information to NPLEx.

Sec. 7340a. (1) Before completing a sale under section 17766f, a retailer shall electronically submit the required information to the national precursor log exchange (NPLEx) administered by the national association of drug diversion investigators (NADDI). A retailer shall not be required to pay a fee for using the NPLEx system.

(2) If a retailer selling a nonprescription product containing ephedrine or pseudoephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, the retailer shall maintain a written log or an alternative electronic record-keeping mechanism until such time as the retailer is able to comply with the electronic sales tracking requirement.

(3) NADDI shall provide real-time access to NPLEx information through the NPLEx online portal to law enforcement in this state as authorized by state and federal law.

(4) The system described in subsection (1) shall be capable of generating a stop sale alert notifying the retailer that the person is prohibited from purchasing a nonprescription product containing ephedrine or pseudoephedrine due to a conviction reported under the methamphetamine abuse reporting act or that completing the sale will result in the seller's or purchaser's violating the quantity limits set forth in section 17766f. Except as otherwise provided by law, the seller shall not complete the sale if the system generates a stop sale alert. The system shall contain an override function that may be used by a dispenser of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm if the dispenser does not complete a sale. Each instance in which the override function is utilized shall be logged by the system.

(5) A person's failure to comply with the record-keeping or sales verification requirements of this section does not create a civil cause of action for damages to any other person arising out of that failure absent a direct and proximate cause, and the person is immune from civil liability for any damages arising out of that failure.

(6) A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than $500.00.

History: Add. 2011, Act 84, Imd. Eff. July 15, 2011;—Am. 2014, Act 275, Eff. Jan. 1, 2015.

Popular name: Act 368

333.7340c Soliciting or attempting to solicit another person to obtain ephedrine or pseudoephedrine; violation; penalty; other violation; report to state police; definitions.

Sec. 7340c. (1) A person shall not solicit another person to purchase or otherwise obtain any amount of ephedrine or pseudoephedrine knowing that it is to be used for the purpose of illegally manufacturing methamphetamine.

(2) Except as provided in subsection (3), a person who violates this section is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both.

(3) A person who attempts to violate subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(4) This section does not prohibit the person from being charged with, convicted of, or sentenced for any other violation of law committed by the person while violating this section.

(5) If a person is convicted of violating this section, the court shall report the violation to the department of state police.

(6) For purposes of this section:

(a) "Ephedrine" includes the salts and isomers and salts of isomers of ephedrine.

(b) "Pseudoephedrine" includes the salts and isomers and salts of isomers of pseudoephedrine.

History: Add. 2014, Act 217, Eff. Jan. 1, 2015;—Am. 2016, Act 125, Eff. Aug. 23, 2016.

Popular name: Act 368

333.7341 Definitions; factors in determining imitation controlled substance; prohibited conduct; violation; civil fine; misdemeanor; penalty; default in payment of civil fine or costs; collection; prohibited advertisement or solicitation; violation as misdemeanor; penalty; section inapplicable to certain persons; violation as felony; penalty.

Sec. 7341. (1) As used in this section:

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(a) "Distribute" means the actual, constructive, or attempted transfer, sale, delivery, or dispensing from one person to another of an imitation controlled substance.

(b) "Imitation controlled substance" means a substance that is not a controlled substance or is not a drug for which a prescription is required under federal or state law, which by dosage unit appearance including color, shape, size, or markings, and/or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. However, this subsection does not apply to a drug that is not a controlled substance if it was marketed before the controlled substance that it physically resembles. An imitation controlled substance does not include a placebo or registered investigational drug that was manufactured, distributed, possessed, or delivered in the ordinary course of professional practice or research. All of the following factors shall be considered in determining whether a substance is an imitation controlled substance:

(*i*) Whether the substance was approved by the federal food and drug administration for over-the-counter sales and was sold in the federal food and drug administration approved packaging along with the federal food and drug administration approved labeling information.

(*ii*) Any statements made by an owner or another person in control of the substance concerning the nature, use, or effect of the substance.

(*iii*) Whether the substance is packaged in a manner normally used for illicit controlled substances.

(*iv*) Whether the owner or another person in control of the substance has any prior convictions under state or federal law related to controlled substances or fraud.

(*v*) The proximity of the substance to controlled substances.

(*vi*) Whether the consideration tendered in exchange for the substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, if applicable, the price at which the over-the-counter substances of like chemical composition sell.

(c) "Manufacture" means the production, preparation, compounding, conversion, encapsulating, packaging, repackaging, labeling, relabeling, or processing of an imitation controlled substance, directly or indirectly.

(2) In addition to all logically relevant factors, the following factors as related to "representations made" shall be considered in determining whether a substance is an imitation controlled substance:

(a) Any express or implied representation made that the nature of the substance or its use or effect is similar to that of a controlled substance.

(b) Any express or implied representation made that the substance may be resold for an amount considerably in excess of the reasonable value of the composite ingredients and the cost of processing.

(c) Any express or implied representation made that the substance is a controlled substance.

(d) Any express or implied representation that the substance is of a nature or appearance that the recipient of the substance will be able to distribute the substance as a controlled substance.

(e) That the substance's package, label, or name is substantially similar to that of a controlled substance.

(f) The proximity of the substance to a controlled substance.

(g) That the physical appearance of the substance is substantially identical to a specific controlled substance, including any numbers or codes thereon, and the shape, size, markings, or color.

(3) Except as provided in subsection (7), a person shall not manufacture, distribute, or possess with intent to distribute, an imitation controlled substance.

(4) A person shall not use, or possess with intent to use, an imitation controlled substance, except under the direction of a person authorized pursuant to subsection (7). A person who violates this subsection is subject to a civil fine of not more than $100.00 and costs. Upon a second or subsequent violation of this subsection, a person 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.

(5) A default in the payment of a civil fine or costs ordered under subsection (4) or an installment thereof may be collected by any means authorized for the enforcement of a judgment under chapter 40 or chapter 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065 and 600.6001 to 600.6098.

(6) A person shall not place an advertisement or solicitation in this state to be distributed by any electronic media in this state, or place an advertisement or solicitation in this state in any newspaper, magazine, handbill, or other publication; or post or distribute an advertisement or solicitation in any public place in this state, knowing or having reason to know that the purpose of the advertisement or solicitation is to promote the distribution of an imitation controlled substance. A person who violates this subsection 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.

(7) This section does not apply to any person who is authorized by the administrator or the federal food and drug administration to manufacture, distribute, prescribe, or possess an imitation controlled substance for use as a placebo for legitimate medical, therapeutic, or research purposes.

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(8) Except as provided in subsections (4) and (6), a person who violates this section is guilty of a felony, punishable by imprisonment for not more than 2 years, or by a fine of not more than $10,000.00, or both.

History: Add. 1984, Act 347, Eff. Mar. 29, 1985;—Am. 2012, Act 180, Imd. Eff. June 19, 2012.

Popular name: Act 368

PART 74
OFFENSES AND PENALTIES

333.7401 Manufacturing, creating, delivering, or possessing with intent to manufacture, create, or deliver controlled substance, prescription form, or counterfeit prescription form; dispensing, prescribing, or administering controlled substance; violations; penalties; consecutive terms; discharge from lifetime probation; "plant" defined.

Sec. 7401. (1) Except as authorized by this article, a person shall not manufacture, create, deliver, or possess with intent to manufacture, create, or deliver a controlled substance, a prescription form, or a counterfeit prescription form. A practitioner licensed by the administrator under this article shall not dispense, prescribe, or administer a controlled substance for other than legitimate and professionally recognized therapeutic or scientific purposes or outside the scope of practice of the practitioner, licensee, or applicant.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*) and:

(*i*) Which is in an amount of 1,000 grams or more of any mixture containing that substance is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $1,000,000.00, or both.

(*ii*) Which is in an amount of 450 grams or more, but less than 1,000 grams, of any mixture containing that substance is guilty of a felony and punishable by imprisonment for not more than 30 years or a fine of not more than $500,000.00, or both.

(*iii*) Which is in an amount of 50 grams or more, but less than 450 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $250,000.00, or both.

(*iv*) Which is in an amount less than 50 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $25,000.00, or both.

(b) Either of the following:

(*i*) A substance described in section 7212(1)(h) or 7214(c)(*ii*) is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $25,000.00, or both.

(*ii*) Any other controlled substance classified in schedule 1, 2, or 3, except marihuana or a substance listed in section 7212(1)(d), is guilty of a felony punishable by imprisonment for not more than 7 years or a fine of not more than $10,000.00, or both.

(c) A substance classified in schedule 4 is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(d) Marihuana, a mixture containing marihuana, or a substance listed in section 7212(1)(d) is guilty of a felony punishable as follows:

(*i*) If the amount is 45 kilograms or more, or 200 plants or more, by imprisonment for not more than 15 years or a fine of not more than $10,000,000.00, or both.

(*ii*) If the amount is 5 kilograms or more but less than 45 kilograms, or 20 plants or more but fewer than 200 plants, by imprisonment for not more than 7 years or a fine of not more than $500,000.00, or both.

(*iii*) If the amount is less than 5 kilograms or fewer than 20 plants, by imprisonment for not more than 4 years or a fine of not more than $20,000.00, or both.

(e) A substance classified in schedule 5 is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(f) A prescription form or a counterfeit prescription form is guilty of a felony punishable by imprisonment for not more than 7 years or a fine of not more than $5,000.00, or both.

(3) A term of imprisonment imposed under subsection (2)(a) may be imposed to run consecutively with any term of imprisonment imposed for the commission of another felony.

(4) If an individual was sentenced to lifetime probation under subsection (2)(a)(*iv*) as it existed before March 1, 2003 and the individual has served 5 or more years of that probationary period, the probation officer for that individual may recommend to the court that the court discharge the individual from probation. If an individual's probation officer does not recommend discharge as provided in this subsection, with notice to the prosecutor, the individual may petition the court seeking resentencing under the court rules. The court may

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discharge an individual from probation as provided in this subsection. An individual may file more than 1 motion seeking resentencing under this subsection.

(5) As used in this section, "plant" means a marihuana plant that has produced cotyledons or a cutting of a marihuana plant that has produced cotyledons.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1987, Act 275, Eff. Mar. 30, 1988;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1989, Act 143, Eff. Sept. 28, 1989;—Am. 1994, Act 38, Eff. June 1, 1994;—Am. 1994, Act 221, Eff. Mar. 30, 1995;—Am. 1996, Act 249, Eff. Jan. 1, 1997;—Am. 1998, Act 319, Eff. Oct. 1, 1998;—Am. 2000, Act 314, Eff. Jan. 1, 2001;—Am. 2001, Act 236, Eff. Jan. 6, 2003;—Am. 2002, Act 665, Eff. Mar. 1, 2003;—Am. 2002, Act 710, Eff. Apr. 1, 2003;—Am. 2010, Act 352, Imd. Eff. Dec. 22, 2010;—Am. 2012, Act 183, Eff. July 1, 2012;—Am. 2016, Act 548, Eff. Apr. 10, 2017.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Enacting section 2 of Act 236 of 2001 provides:

"Enacting section 2. Sections 7401, 7403, 7407, and 7521 of the public health code, 1978 PA 368, MCL 333.7401, 333.7403, 333.7407, and 333.7521, as amended by this amendatory act, take effect upon promulgation of the rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and receipt by the secretary of state of written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, is operational. The notice to the secretary of state shall include a statement that the department of consumer and industry services is able to receive data from at least 80% of those required to report under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and is able to respond to requests for data from persons authorized to make such requests and to review and utilize the data."

The rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, pertaining to the operation of the electronic monitoring system, were promulgated on December 30, 2002. In addition, a written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code is operational was filed with, and received by, the secretary of state on January 6, 2003.

Popular name: Act 368

333.7401a Delivery of controlled substance; violation of MCL 750.520b to 750.520e or MCL 750.520g.

Sec. 7401a. (1) A person who, without an individual's consent, delivers a controlled substance or a substance described in section 7401b or causes a controlled substance or a substance described in section 7401b to be delivered to that individual to commit or attempt to commit a violation of 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, against that individual is guilty of a felony punishable by imprisonment for not more than 20 years.

(2) A conviction or sentence under this section does not prohibit a conviction or sentence for any other crime arising out of the same transaction.

(3) This section applies regardless of whether the person is convicted of a violation or attempted violation of 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.

History: Add. 1998, Act 319, Eff. Oct. 1, 1998;—Am. 2000, Act 302, Eff. Jan. 1, 2001.

Popular name: Act 368

Popular name: Date Rape

Popular name: Date Rape Drug

333.7401b Manufacture, delivery, or possession of gamma-butyrolactone prohibited; exception; violation; definitions.

Sec. 7401b. (1) A person shall not do any of the following:

(a) Manufacture, deliver, or possess with intent to manufacture or deliver gamma-butyrolactone or any material, compound, mixture, or preparation containing gamma-butyrolactone.

(b) Knowingly or intentionally possess gamma-butyrolactone or any material, compound, mixture, or preparation containing gamma-butyrolactone.

(2) Subsection (1) does not prohibit manufacturing, delivering, possessing with intent to manufacture or deliver, or possessing gamma-butyrolactone or any material, compound, mixture, or preparation containing gamma-butyrolactone for use in a commercial application and not for human consumption. It is an affirmative defense to a prosecution under this section that the person manufactured, delivered, possessed with intent to manufacture or deliver, or possessed gamma-butyrolactone or the material, compound, mixture, or preparation containing gamma-butyrolactone in compliance with this subsection.

(3) A person who violates this section is guilty of a crime as follows:

(a) For a violation of subsection (1)(a), the person is guilty of a felony punishable by imprisonment for not

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more than 7 years or a fine of not more than $5,000.00, or both.

(b) For a violation of subsection (1)(b), the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(4) As used in this section:

(a) "Commercial application" means as an ingredient in a lawful product, for use in the process of manufacturing a lawful product, or for lawful use as a solvent.

(b) "Deliver" means the actual, constructive, or attempted transfer from 1 person to another of gamma-butyrolactone or any material, compound, mixture, or preparation containing gamma-butyrolactone, whether or not there is an agency relationship.

(c) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of gamma-butyrolactone or any material, compound, mixture, or preparation containing gamma-butyrolactone, directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. It includes the packaging or repackaging of the substance or labeling or relabeling of its container.

(d) "Person" means that term as defined in section 1106 or a governmental entity.

History: Add. 2000, Act 302, Eff. Jan. 1, 2001.

Popular name: Act 368

Popular name: Date Rape

Popular name: Date Rape Drug

333.7401c Manufacture of controlled substance; prohibited acts; violation as felony; exceptions; imposition of consecutive terms; court order to pay response activity costs; definitions.

Sec. 7401c. (1) A person shall not do any of the following:

(a) Own, possess, or use a vehicle, building, structure, place, or area that he or she knows or has reason to know is to be used as a location to manufacture a controlled substance in violation of section 7401 or a counterfeit substance or a controlled substance analogue in violation of section 7402.

(b) Own or possess any chemical or any laboratory equipment that he or she knows or has reason to know is to be used for the purpose of manufacturing a controlled substance in violation of section 7401 or a counterfeit substance or a controlled substance analogue in violation of section 7402.

(c) Provide any chemical or laboratory equipment to another person knowing or having reason to know that the other person intends to use that chemical or laboratory equipment for the purpose of manufacturing a controlled substance in violation of section 7401 or a counterfeit substance or a controlled substance analogue in violation of section 7402.

(2) A person who violates this section is guilty of a felony punishable as follows:

(a) Except as provided in subdivisions (b) to (f), by imprisonment for not more than 10 years or a fine of not more than $100,000.00, or both.

(b) If the violation is committed in the presence of a minor, by imprisonment for not more than 20 years or a fine of not more than $100,000.00, or both.

(c) If the violation involves the unlawful generation, treatment, storage, or disposal of a hazardous waste, by imprisonment for not more than 20 years or a fine of not more than $100,000.00, or both.

(d) If the violation occurs within 500 feet of a residence, business establishment, school property, or church or other house of worship, by imprisonment for not more than 20 years or a fine of not more than $100,000.00, or both.

(e) If the violation involves the possession, placement, or use of a firearm or any other device designed or intended to be used to injure another person, by imprisonment for not more than 25 years or a fine of not more than $100,000.00, or both.

(f) If the violation involves or is intended to involve the manufacture of a substance described in section 7214(c)(*ii*), by imprisonment for not more than 20 years or a fine of not more than $25,000.00, or both.

(3) This section does not apply to a violation involving only a substance described in section 7214(a)(*iv*) or marihuana, or both.

(4) This section does not prohibit the person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate this section.

(5) A term of imprisonment imposed under this section may be served consecutively to any other term of imprisonment imposed for a violation of law arising out of the same transaction.

(6) The court may, as a condition of sentence, order a person convicted of a violation punishable under subsection (2)(c) to pay response activity costs arising out of the violation.

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(7) As used in this section:

(a) "Hazardous waste" means that term as defined in section 11103 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11103.

(b) "Laboratory equipment" means any equipment, device, or container used or intended to be used in the process of manufacturing a controlled substance, counterfeit substance, or controlled substance analogue.

(c) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacture does not include any of the following:

(*i*) The packaging or repackaging of the substance or labeling or relabeling of its container.

(*ii*) The preparation or compounding of a controlled substance by any of the following:

(A) A practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of his or her professional practice.

(B) A practitioner, or by the practitioner's authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(d) "Minor" means an individual less than 18 years of age.

(e) "Response activity costs" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(f) "School property" means that term as defined in section 7410.

(g) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

History: Add. 2000, Act 314, Eff. Jan. 1, 2001;—Am. 2003, Act 310, Eff. Apr. 1, 2004.

Popular name: Act 368

333.7402 Creating, manufacturing, delivering, or possessing with intent to deliver counterfeit substance or controlled substance analogue intended for human consumption; applicability of section and certain federal provisions; violations; penalties.

Sec. 7402. (1) Except as authorized by this article, a person shall not create, manufacture, deliver, or possess with intent to deliver a counterfeit substance or a controlled substance analogue intended for human consumption. This section does not apply to a person who manufactures or distributes a substance in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. 355. For purposes of this section, section 505 of the federal food, drug, and cosmetic act shall be applicable to the introduction or delivery for introduction of any new drug into intrastate, interstate, or foreign commerce.

(2) A person who violates this section as to:

(a) A counterfeit substance classified in schedule 1 or 2 which is either a narcotic drug or a drug described in section 7212(1)(h) or 7214(a)(*iv*) or (c)(*ii*), is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both.

(b) Any other counterfeit substance classified in schedule 1, 2, or 3, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both.

(c) A counterfeit substance classified in schedule 4, is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(d) A counterfeit substance classified in schedule 5, is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(e) A controlled substance analogue, is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $250,000.00, or both.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1994, Act 38, Eff. June 1, 1994;—Am. 2000, Act 314, Eff. Jan. 1, 2001;—Am. 2002, Act 710, Eff. Apr. 1, 2003;—Am. 2012, Act 183, Eff. July 1, 2012.

Popular name: Act 368

333.7403 Knowingly or intentionally possessing controlled substance, controlled substance analogue, or prescription form; violations; penalties; individuals exempt from violation; notification of parent, guardian, or custodian of minor; other criminal charges; discharge from probation; definitions.

Sec. 7403. (1) A person shall not knowingly or intentionally possess a controlled substance, a controlled substance analogue, or a prescription form unless the controlled substance, controlled substance analogue, or prescription form was obtained directly from, or pursuant to, a valid prescription or order of a practitioner

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while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this article.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*), and:

(*i*) That is in an amount of 1,000 grams or more of any mixture containing that substance is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $1,000,000.00, or both.

(*ii*) That is in an amount of 450 grams or more, but less than 1,000 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 30 years or a fine of not more than $500,000.00, or both.

(*iii*) That is in an amount of 50 grams or more, but less than 450 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $250,000.00, or both.

(*iv*) That is in an amount of 25 grams or more, but less than 50 grams of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $25,000.00, or both.

(*v*) That is in an amount less than 25 grams of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $25,000.00, or both.

(b) Either of the following:

(*i*) A substance described in section 7212(1)(h) or 7214(c)(*ii*) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00, or both.

(*ii*) A controlled substance classified in schedule 1, 2, 3, or 4, except a controlled substance for which a penalty is prescribed in subparagraph (*i*) or subdivision (a), (c), or (d), or a controlled substance analogue is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(c) Lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a controlled substance classified in schedule 5 is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(d) Marihuana or a substance listed in section 7212(1)(d) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(e) A prescription form is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(3) The following individuals are not in violation of this section:

(a) An individual who seeks medical assistance for himself or herself or who requires medical assistance and is presented for assistance by another individual if he or she is incapacitated because of a drug overdose or other perceived medical emergency arising from the use of a controlled substance or a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use and the evidence of his or her violation of this section is obtained as a result of the individual's seeking or being presented for medical assistance.

(b) An individual who in good faith attempts to procure medical assistance for another individual or who accompanies another individual who requires medical assistance for a drug overdose or other perceived medical emergency arising from the use of a controlled substance or a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use and the evidence of his or her violation of this section is obtained as a result of the individual's attempting to procure medical assistance for another individual or as a result of the individual's accompanying another individual who requires medical assistance to a health facility or agency.

(4) A health facility or agency shall develop a process for notification of the parent or parents, guardian, or custodian of a minor under the age of 18 who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, and who voluntarily presents himself or herself, or is presented by another individual if he or she is incapacitated, to a health facility or agency for emergency medical treatment as provided in subsection (3). A health facility or agency shall not provide notification to a parent or parents, guardian, or custodian under this subsection for nonemergency treatment without obtaining the minor's consent.

(5) The exemption from prosecution under this section provided in subsection (3) does not prevent the investigation, arrest, charging, or prosecution of an individual for any other violation of the laws of this state or be grounds for suppression of evidence in the prosecution of any other criminal charges.

(6) If an individual was sentenced to lifetime probation under subsection (2)(a)(*iv*) as it existed before March 1, 2003 and the individual has served 5 or more years of that probationary period, the probation officer

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for that individual may recommend to the court that the court discharge the individual from probation. If an individual's probation officer does not recommend discharge as provided in this subsection, with notice to the prosecutor, the individual may petition the court seeking resentencing under the court rules. The court may discharge an individual from probation as provided in this subsection. An individual may file more than 1 motion seeking resentencing under this subsection.

(7) As used in this section:

(a) "Drug overdose" means a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, that is the result of consumption or use of a controlled substance or a controlled substance analogue or a substance with which the controlled substance or controlled substance analogue was combined, or that a layperson would reasonably believe to be a drug overdose that requires medical assistance.

(b) "Seeks medical assistance" means reporting a drug overdose or other medical emergency to law enforcement, the 9-1-1 system, a poison control center, or a medical provider, or assisting someone in reporting a drug overdose or other medical emergency.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 47, Eff. Mar. 30, 1988;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1989, Act 143, Eff. Sept. 28, 1989;—Am. 1994, Act 38, Eff. June 1, 1994;—Am. 1994, Act 221, Eff. Mar. 30, 1995;—Am. 1996, Act 249, Eff. Jan. 1, 1997;—Am. 2000, Act 314, Eff. Jan. 1, 2001;—Am. 2001, Act 236, Eff. Jan. 6, 2003;—Am. 2002, Act 665, Eff. Mar. 1, 2003;—Am. 2002, Act 710, Eff. Apr. 1, 2003;—Am. 2010, Act 169, Eff. Oct. 1, 2010;—Am. 2010, Act 352, Imd. Eff. Dec. 22, 2010;—Am. 2012, Act 183, Eff. July 1, 2012;—Am. 2015, Act 220, Eff. Mar. 15, 2016;—Am. 2016, Act 307, Eff. Jan. 4, 2017.

Constitutionality: A mandatory sentence of life without parole does not violate the prohibition against cruel and unusual punishments of the Eighth Amendment to the United States Constitution, because the Eighth Amendment contains no proportionality guarantee. Neither does the Eighth Amendment prohibit the imposition of mandatory sentences -- "severe, mandatory penalties may be cruel, but they are not unusual in the constitutional sense ... " -- nor does it require consideration of individualized, mitigating circumstances beyond those cases in which a capital sentence is imposed. Harmelin v Michigan, 501 US 957; 111 S Ct 2680; 115 L Ed2d 836 (1991).

In People v Bullock, 440 Mich 15; 485 NW2d 866 (1992), the Michigan Supreme Court held that the Michigan Constitution prohibits cruel or unusual punishment while the Eighth Amendment to the US Constitution bars only punishment that is both cruel and unusual. Basing its decision on the textual difference, the Michigan Supreme Court held that the statutory penalty of mandatory life in prison without parole for possession of 650 grams or more of any mixture containing cocaine is so grossly disproportionate as to be cruel or unusual, the result being that those portions of the statutes denying parole consideration are struck down.

Compiler's note: Enacting section 2 of Act 236 of 2001 provides:

"Enacting section 2. Sections 7401, 7403, 7407, and 7521 of the public health code, 1978 PA 368, MCL 333.7401, 333.7403, 333.7407, and 333.7521, as amended by this amendatory act, take effect upon promulgation of the rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and receipt by the secretary of state of written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, is operational. The notice to the secretary of state shall include a statement that the department of consumer and industry services is able to receive data from at least 80% of those required to report under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and is able to respond to requests for data from persons authorized to make such requests and to review and utilize the data."

The rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, pertaining to the operation of the electronic monitoring system, were promulgated on December 30, 2002. In addition, a written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code is operational was filed with, and received by, the secretary of state on January 6, 2003.

Popular name: Act 368

333.7403a Fraudulently obtaining controlled substance or prescription from health care provider; certain privileges inapplicable to released or available medical records or information; immunity from civil or administrative liability; violation; penalty; probation; screening and assessment by bureau of substance abuse and addiction services; other violations; "health care provider" defined.

Sec. 7403a. (1) A person shall not fraudulently obtain or attempt to obtain a controlled substance or a prescription for a controlled substance from a health care provider.

(2) The following privileges do not apply to medical records or information released or made available under subsection (1):

(a) The physician-patient privilege created in section 2157 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157.

(b) The dentist-patient privilege created in section 16648.

(c) Any other health professional-patient privilege created or recognized by law.

(3) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1419, an individual who in good faith provides access to medical records or information under this section is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

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(4) A person who violates this section is guilty of a crime as follows:

(a) Except as provided in subsection (5), the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(5) The court may place a person who has not previously been convicted of violating this section on probation subject to the terms and conditions set forth in section 7411.

(6) The court may order any person convicted of violating this section to undergo screening and assessment by a person or agency designated by the bureau of substance abuse and addiction services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence imposed under this section, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services. Failure to complete a program shall be considered a violation of the terms of the probation.

(7) This section does not prohibit the person from being charged with, convicted of, or sentenced for any other violation of law arising out of the violation of this section.

(8) As used in this section, "health care provider" means that term as defined in section 9206.

History: Add. 2010, Act 354, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

333.7404 Use of controlled substance or controlled substance analogue; violations; penalties; individuals exempt from violation; notification of parent, guardian, or custodian of minor; other criminal charges; definitions.

Sec. 7404. (1) A person shall not use a controlled substance or controlled substance analogue unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this article.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 as a narcotic drug or a drug described in section 7212(1)(h) or 7214(a)(*iv*) or (c)(*ii*) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(b) A controlled substance classified in schedule 1, 2, 3, or 4, except a controlled substance for which a penalty is prescribed in subdivision (a), (c), or (d), or a controlled substance analogue, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(c) Lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a controlled substance classified in schedule 5 is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $500.00, or both.

(d) Marihuana, catha edulis, salvia divinorum, or a substance described in section 7212(1)(d) or (i) 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.

(3) The following individuals are not in violation of this section:

(a) An individual who seeks medical assistance for himself or herself or who requires medical assistance and is presented for assistance by another individual if he or she is incapacitated because of a drug overdose or other perceived medical emergency arising from the use of a controlled substance or a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use and the evidence of his or her violation of this section is obtained as a result of the individual's seeking or being presented for medical assistance.

(b) An individual who in good faith attempts to procure medical assistance for another individual or who accompanies another individual who requires medical assistance for a drug overdose or other perceived medical emergency arising from the use of a controlled substance or a controlled substance analogue that he or she possesses or possessed in an amount sufficient only for personal use and the evidence of his or her violation of this section is obtained as a result of the individual's attempting to procure medical assistance for another individual or as a result of the individual's accompanying another individual who requires medical assistance to a health facility or agency.

(4) A health facility or agency shall develop a process for notification of the parent or parents, guardian, or custodian of a minor under the age of 18 who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, and who voluntarily presents himself or herself, or is presented by another individual if he or she is incapacitated, to a health facility or agency for emergency medical treatment as provided in subsection (3). A health facility or agency shall not provide notification to a parent or parents, guardian, or custodian under this subsection for nonemergency treatment without obtaining the minor's consent.

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(5) The exemption from prosecution under this section provided in subsection (3) does not prevent the investigation, arrest, charging, or prosecution of an individual for any other violation of the laws of this state, or be grounds for suppression of evidence in the prosecution of any other criminal charges.

(6) As used in this section:

(a) "Drug overdose" means a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania, or death, that is the result of consumption or use of a controlled substance or a controlled substance analogue or a substance with which the controlled substance or controlled substance analogue was combined, or that a layperson would reasonably believe to be a drug overdose that requires medical assistance.

(b) "Seeks medical assistance" means reporting a drug overdose or other medical emergency to law enforcement, the 9-1-1 system, a poison control center, or a medical provider, or assisting someone in reporting a drug overdose or other medical emergency.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1994, Act 38, Eff. June 1, 1994;—Am. 2000, Act 314, Eff. Jan. 1, 2001;—Am. 2002, Act 710, Eff. Apr. 1, 2003;—Am. 2010, Act 169, Eff. Oct. 1, 2010;—Am. 2012, Act 183, Eff. July 1, 2012;—Am. 2015, Act 220, Eff. Mar. 15, 2016;—Am. 2016, Act 308, Eff. Jan. 4, 2017.

Popular name: Act 368

333.7405 Prohibited conduct; violation; penalties.

Sec. 7405. (1) A person shall not do any of the following:

(a) If the person is licensed by the administrator under this article, distribute, prescribe, or dispense a controlled substance in violation of section 7333.

(b) If the person is a licensee, manufacture a controlled substance not authorized by his or her license or distribute, prescribe, or dispense a controlled substance not authorized by his or her license to another licensee or other authorized person, except as authorized by rules promulgated by the administrator.

(c) Refuse an entry into any premises for an inspection authorized by this article.

(d) Knowingly keep or maintain a store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place that is frequented by persons using controlled substances in violation of this article for the purpose of using controlled substances or that is used for keeping or selling controlled substances in violation of this article.

(e) If the person is a practitioner, dispense a controlled substance under a prescription written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a physician prescriber, dentist prescriber, or veterinarian prescriber licensed to practice in another state, unless the prescription is issued by a physician prescriber, dentist prescriber, or veterinarian prescriber who is authorized under the laws of that state to practice dentistry, medicine, osteopathic medicine and surgery, or veterinary medicine and to prescribe controlled substances.

(2) A person who violates subsection (1) is subject to the penalties prescribed in section 7406.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 30, Eff. Aug. 26, 1988;—Am. 1997, Act 153, Eff. Mar. 31, 1998;—Am. 2004, Act 536, Imd. Eff. Jan. 3, 2005;—Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007;—Am. 2009, Act 150, Imd. Eff. Nov. 19, 2009;—Am. 2011, Act 155, Imd. Eff. Sept. 27, 2011;—Am. 2012, Act 209, Imd. Eff. June 27, 2012;—Am. 2016, Act 49, Eff. June 13, 2016.

Compiler's note: Enacting section 1 of Act 49 of 2016 provides:

"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."

Popular name: Act 368

Administrative rules: R 338.493a et seq. and R 338.3101 et seq. of the Michigan Administrative Code.

333.7406 Violation of MCL 333.7405; penalty.

Sec. 7406. A person who violates section 7405 may be punished by a civil fine of not more than $25,000.00 in a proceeding in the circuit court. However, if the violation is prosecuted by a criminal indictment alleging that the violation was committed knowingly or intentionally, and the trier of the fact specifically finds that the violation was committed knowingly or intentionally, the person is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than $25,000.00, or both.

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

Popular name: Act 368

333.7407 Prohibited conduct; violation as felony; penalty.

Sec. 7407. (1) A person shall not knowingly or intentionally:

(a) Distribute as a licensee a controlled substance classified in schedule 1 or 2, except pursuant to an order

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form as required by section 7331.

(b) Use in the course of the manufacture or distribution of a controlled substance a license number that is fictitious, revoked, suspended, or issued to another person.

(c) Acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

(d) Furnish false or fraudulent material information in, or omit any material information from, an application, report, or other document required to be kept or filed under this article, or any record required to be kept by this article.

(e) Make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon a drug or container or labeling thereof so as to render the drug a counterfeit substance.

(f) Possess counterfeit prescription forms, except as an agent of government while engaged in the enforcement of this part.

(2) A person shall not refuse or knowingly fail to make, keep, or furnish any record, notification, order form, statement, invoice, or other information required under this article.

(3) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than $30,000.00, or both.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 30, Eff. Aug. 26, 1988;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2001, Act 236, Eff. Jan. 6, 2003.

Compiler's note: Enacting section 2 of Act 236 of 2001 provides:

"Enacting section 2. Sections 7401, 7403, 7407, and 7521 of the public health code, 1978 PA 368, MCL 333.7401, 333.7403, 333.7407, and 333.7521, as amended by this amendatory act, take effect upon promulgation of the rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and receipt by the secretary of state of written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, is operational. The notice to the secretary of state shall include a statement that the department of consumer and industry services is able to receive data from at least 80% of those required to report under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and is able to respond to requests for data from persons authorized to make such requests and to review and utilize the data."

The rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, pertaining to the operation of the electronic monitoring system, were promulgated on December 30, 2002. In addition, a written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code is operational was filed with, and received by, the secretary of state on January 6, 2003.

Popular name: Act 368

333.7407a Attempt to violate or knowingly or intentionally solicit, induce, or intimidate another person to violate part; penalty.

Sec. 7407a. (1) A person shall not attempt to violate this part.

(2) A person shall not knowingly or intentionally solicit, induce, or intimidate another person to violate this part.

(3) Except as otherwise provided in section 7416, a person who violates this section is guilty of a crime punishable by the penalty for the crime he or she attempted to commit, or by the penalty for the crime he or she solicited, induced, or intimidated another person to commit.

History: Add. 1994, Act 220, Eff. Mar. 30, 1995.

Popular name: Act 368

333.7408 Penalty cumulative.

Sec. 7408. A penalty imposed for violation of this article is in addition to, and not in lieu of, a civil or administrative penalty or sanction otherwise authorized by law.

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

Popular name: Act 368

333.7408a Licensing sanctions.

Sec. 7408a. (1) Except as otherwise provided in subsection (3), before imposing sentence or entering a juvenile disposition for an attempt to violate, a conspiracy to violate, or a violation of this part or of a local ordinance that prohibits conduct prohibited under this part, the court may order the individual to undergo screening and assessment by a person or agency as designated by a department-designated community mental health entity or a community mental health services program under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. The individual shall

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pay for the costs of the screening and assessment services.

(2) Except as otherwise provided in subsection (3), as part of the sentence or juvenile disposition for an attempt to violate, a conspiracy to violate, or a violation of this part or of a local ordinance that prohibits conduct prohibited under this part, the court may order the individual to do 1 or both of the following:

(a) Perform service to the community for not more than 90 days. An individual ordered to perform service to the community under this subdivision shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the individual's activities in that service.

(b) Participate in and successfully complete 1 or more appropriate rehabilitative programs. The individual shall pay for the costs of the rehabilitative services.

(3) Subsections (1) and (2) do not apply to an individual who is not eligible for probation under chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1 to 771.14a.

(4) As used in this section:

(a) "Juvenile disposition" means either of the following:

(*i*) A finding of juvenile delinquency under 18 USC 5031 to 5043.

(*ii*) The entry of a judgment or order of disposition by a court of another state that states or is based on a finding that a juvenile violated a law of another state that would have been a criminal offense if committed by an adult in that state.

(b) "Law of another state" means a law or ordinance enacted by another state or by a local unit of government in another state.

History: Add. 1993, Act 361, Eff. Sept. 1, 1994;—Am. 1999, Act 74, Eff. Oct. 1, 1999;—Am. 1999, Act 144, Eff. Jan. 21, 2000;—Am. 2012, Act 501, Eff. Jan. 1, 2013;—Am. 2020, Act 380, Eff. Oct. 1, 2021.

Compiler's note: Enacting section 2 of Act 380 of 2020 provides:

"Enacting section 2. This amendatory act does not take effect unless both of the following occur:

(a) House Concurrent Resolution No. 29 of the 100th Legislature is adopted by a majority of the members elected and serving in each house of the legislature.

(b) The governor submits a certification to the United States Secretary of Transportation stating both of the following:

(*i*) The governor is opposed to the enactment or enforcement of a law requiring driver license suspension for drug offenses as set forth in 23 USC 159(a)(3)(A).

(*ii*) Both houses of the legislature have adopted a concurrent resolution expressing their opposition to the enactment or enforcement of this federal mandate in accordance with 23 USC 159."

On September 24, 2020, the House adopted House Concurrent Resolution No. 29 and on December 10, 2020, the Senate adopted House Concurrent Resolution No. 29. And, on January 11, 2021, the United States Department of Transportation Division Office received the certification from the Governor regarding the requirements of 23 U.S.C. 159 and attached copy of the House Concurrent Resolution.

Popular name: Act 368

333.7409 Conviction or acquittal under federal law or law of other state as bar to prosecution.

Sec. 7409. If a violation of this article is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

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

Popular name: Act 368

333.7410 Violations by individual 18 years of age or over who violates MCL 333.7401; distribution of marihuana; penalties; definitions.

Sec. 7410. (1) Except as otherwise provided in subsections (2) and (3), an individual 18 years of age or over who violates section 7401(2)(a)(*iv*) by delivering or distributing a controlled substance listed in schedule 1 or 2 that is either a narcotic drug or described in section 7214(a)(*iv*) to an individual under 18 years of age who is at least 3 years the deliverer's or distributor's junior may be punished by the fine authorized by section 7401(2)(a)(*iv*) or by a term of imprisonment of not less than 1 year nor more than twice that authorized by section 7401(2)(a)(*iv*), or both. An individual 18 years of age or over who violates section 7401 or 7401b by delivering or distributing any other controlled substance listed in schedules 1 to 5 or gamma-butyrolactone to an individual under 18 years of age who is at least 3 years the distributor's junior may be punished by the fine authorized by section 7401(2)(b), (c), or (d) or 7401b, or by a term of imprisonment not more than twice that authorized by section 7401(2)(b), (c), or (d) or 7401b, or both.

(2) An individual 18 years of age or over who violates section 7401(2)(a)(*iv*) by delivering a controlled substance described in schedule 1 or 2 that is either a narcotic drug or described in section 7214(a)(*iv*) to another person on or within 1,000 feet of school property or a library shall be punished, subject to subsection

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(5), by a term of imprisonment of not less than 2 years or more than 3 times that authorized by section 7401(2)(a)(*iv*) and, in addition, may be punished by a fine of not more than 3 times that authorized by section 7401(2)(a)(*iv*).

(3) An individual 18 years of age or over who violates section 7401(2)(a)(*iv*) by possessing with intent to deliver to another person on or within 1,000 feet of school property or a library a controlled substance described in schedule 1 or 2 that is either a narcotic drug or described in section 7214(a)(*iv*) shall be punished, subject to subsection (5), by a term of imprisonment of not less than 2 years or more than twice that authorized by section 7401(2)(a)(*iv*) and, in addition, may be punished by a fine of not more than 3 times that authorized by section 7401(2)(a)(*iv*).

(4) An individual 18 years of age or over who violates section 7401b or 7403(2)(a)(*v*), (b), (c), or (d) by possessing gamma-butyrolactone or a controlled substance on or within 1,000 feet of school property or a library shall be punished by a term of imprisonment or a fine, or both, of not more than twice that authorized by section 7401b or 7403(2)(a)(*v*), (b), (c), or (d).

(5) The court may depart from the minimum term of imprisonment authorized under subsection (2) or (3) if the court finds on the record that there are substantial and compelling reasons to do so.

(6) An individual 18 years of age or over who violates section 7401 by manufacturing methamphetamine as that term is described in section 7214(c)(*ii*) on or within 1,000 feet of school property or a library shall be punished by a term of imprisonment or a fine, or both, of not more than twice that authorized by section 7401(2)(b)(*i*).

(7) A person who distributes marihuana without remuneration and not to further commercial distribution and who does not violate subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both, unless the distribution is in accordance with the federal law or the law of this state.

(8) As used in this section:

(a) "Library" means a library that is established by the state; a county, city, township, village, school district, or other local unit of government or authority or combination of local units of government and authorities; a community college district; a college or university; or any private library open to the public.

(b) "School property" means a building, playing field, or property used for school purposes to impart instruction to children in grades kindergarten through 12, when provided by a public, private, denominational, or parochial school, except those buildings used primarily for adult education or college extension courses.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 12, Eff. June 1, 1988;—Am. 1994, Act 174, Eff. Sept. 1, 1994;—Am. 1999, Act 188, Imd. Eff. Nov. 24, 1999;—Am. 2000, Act 302, Eff. Jan. 1, 2001;—Am. 2006, Act 216, Imd. Eff. June 26, 2006;—Am. 2006, Act 552, Eff. Mar. 30, 2007;—Am. 2016, Act 128, Eff. Aug. 23, 2016.

Popular name: Act 368

333.7410a Delivery or intent to deliver controlled substance in or within public or private park; term of imprisonment; definitions.

Sec. 7410a. (1) An individual 18 years of age or over who does any of the following may be punished by a term of imprisonment of not more than 2 years:

(a) Violates section 7401(2)(a)(*iv*) or (2)(b)(*i*) or section 7401b by delivering a controlled substance or gamma-butyrolactone to a minor who is in a public park or private park or within 1,000 feet of a public park or private park.

(b) Violates section 7401(2)(a)(*iv*) or (2)(b)(*i*) or section 7401b by possessing with intent to deliver a controlled substance or gamma-butyrolactone to a minor who is in a public park or private park or within 1,000 feet of a public park or private park.

(c) Violates section 7403(2)(a)(*v*), (b), (c), or (d) or section 7401b by possessing a controlled substance or gamma-butyrolactone in or within 1,000 feet of a public park or private park.

(d) Violates section 7401c within 1,000 feet of a public park or private park.

(2) The term of imprisonment authorized under subsection (1) is in addition to the term of imprisonment authorized for the violation of section 7401(2)(a)(*iv*) or (2)(b)(*i*), section 7401b, section 7401c, or section 7403(2)(a)(*v*), (b), (c), or (d).

(3) As used in this section:

(a) "Private park" means real property owned or maintained by a private individual or entity and that is open to the general public or local residents for recreation or amusement.

(b) "Public park" means real property owned or maintained by this state or a political subdivision of this state that is designated by this state or by that political subdivision as a public park.

History: Add. 1998, Act 261, Eff. Oct. 1, 1998;—Am. 2000, Act 302, Eff. Jan. 1, 2001;—Am. 2000, Act 314, Eff. Jan. 1, 2001;—Am. 2006, Act 217, Imd. Eff. June 26, 2006.

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333.7411 Possession or use of controlled substance or imitation controlled substance; probation; terms and conditions; violation; discharge and dismissal; deferral of proceedings; nonpublic record of arrest, court proceedings, and disposition; nonpublic record open to certain individuals and entities; purposes; course of instruction or rehabilitation program; conviction of second violation; screening and assessment; costs.

Sec. 7411. (1) When an individual who has not previously been convicted of an offense under this article or under any statute of the United States or of any state relating to narcotic drugs, coca leaves, marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under section 7403(2)(a)(*v*), 7403(2)(b), (c), or (d), or of use of a controlled substance under section 7404, or possession or use of an imitation controlled substance under section 7341 for a second time, the court, without entering a judgment of guilt with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that shall include, but are not limited to, payment of a probation supervision fee as prescribed in section 3c of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3c. The terms and conditions of probation may include participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1084. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt and, except as otherwise provided by law, is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions under section 7413. There may be only 1 discharge and dismissal under this section as to an individual.

(2) All court proceedings under this section shall be open to the public. Except as provided in subsection (3), if the record of proceedings as to the defendant is deferred under this section, the record of proceedings during the period of deferral shall be closed to public inspection.

(3) Unless the court enters a judgment of guilt under this section, the department of state police shall retain a nonpublic record of the arrest, court proceedings, and disposition of the criminal charge under this section. However, the nonpublic record shall be open to the following individuals and entities for the purposes noted:

(a) The courts of this state, law enforcement personnel, the department of corrections, and prosecuting attorneys for use only in the performance of their duties or to determine whether an employee of the court, law enforcement agency, department of corrections, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, law enforcement agency, department of corrections, or prosecutor's office.

(b) The courts of this state, law enforcement personnel, and prosecuting attorneys for the purpose of showing either of the following:

(*i*) That a defendant has already once availed himself or herself of this section.

(*ii*) Determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under section 1076 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(c) The department of human services for enforcing child protection laws and vulnerable adult protection laws or ascertaining the preemployment criminal history of any individual who will be engaged in the enforcement of child protection laws or vulnerable adult protection laws.

(d) The Michigan commission on law enforcement standards created in section 3 of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.603, as follows:

(*i*) The court placed the individual on probation after March 25, 2002.

(*ii*) If, at the time of the request, the individual is seeking licensure as a law enforcement officer under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, the Michigan commission on law enforcement standards may use the record to determine whether the individual meets the requirements for licensure as provided in that act.

(*iii*) If the individual is licensed or certified as a law enforcement officer under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, the Michigan commission on law enforcement standards may use the record to determine whether the license or certificate may be revoked as provided in that act.

(*iv*) If the individual is seeking admission to a law enforcement training academy, the Michigan commission on law enforcement standards may use the record to determine whether the individual meets the requirements for admission to the academy as provided in the Michigan commission on law enforcement

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standards act, 1965 PA 203, MCL 28.601 to 28.615.

(*v*) If the individual is seeking a waiver from the law enforcement officer minimum standards regarding training requirements, the Michigan commission on law enforcement standards may use the record to determine whether the individual meets the requirements for the waiver as provided in the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

(4) For purposes of this section, a person subjected to a civil fine for a first violation of section 7341(4) shall not be considered to have previously been convicted of an offense under this article.

(5) Except as provided in subsection (6), if an individual is convicted of a violation of this article, other than a violation of section 7401(2)(a)(*i*) to (*iv*) or section 7403(2)(a)(*i*) to (*iv*), the court as part of the sentence, during the period of confinement or the period of probation, or both, may require the individual to attend a course of instruction or rehabilitation program approved by the department on the medical, psychological, and social effects of the misuse of drugs. The court may order the individual to pay a fee, as approved by the director, for the instruction or program. Failure to complete the instruction or program is a violation of the terms of probation.

(6) If an individual is convicted of a second violation of section 7341(4), before imposing sentence under subsection (1), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence imposed under subsection (1), the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services. Failure to complete a program is a violation of the terms of the probation.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1984, Act 347, Eff. Mar. 29, 1985;—Am. 1988, Act 144, Imd. Eff. June 6, 1988;—Am. 1993, Act 169, Eff. Sept. 30, 1993;—Am. 2002, Act 79, Imd. Eff. Mar. 25, 2002;—Am. 2004, Act 225, Eff. Jan. 1, 2005;—Am. 2012, Act 549, Eff. Apr. 1, 2013;—Am. 2013, Act 223, Eff. Jan. 1, 2014;—Am. 2016, Act 291, Eff. Jan. 2, 2017.

Popular name: Act 368

333.7413 Conviction of second or subsequent violation; penalty.

Sec. 7413. (1) Except as otherwise provided in subsection (2) an individual convicted of a second or subsequent offense under this article may be imprisoned for a term not more than twice the term otherwise authorized or fined an amount not more than twice that otherwise authorized, or both.

(2) An individual convicted of a second or subsequent offense under section 7410(2) or (3) must be punished, subject to subsection (3), by a term of imprisonment of not less than 5 years nor more than twice that authorized under section 7410(2) or (3) and, in addition, may be punished by a fine of not more than 3 times that authorized by section 7410(2) or (3); and is not eligible for probation or suspension of sentence during the term of imprisonment.

(3) The court may depart from the minimum term of imprisonment authorized under subsection (2) if the court finds on the record that there are substantial and compelling reasons to do so.

(4) For purposes of subsection (1), an offense is considered a second or subsequent offense, if, before conviction of the offense, the offender has at any time been convicted under this article or under any statute of the United States or of any state relating to a narcotic drug, marihuana, depressant, stimulant, or hallucinogenic drug.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 12, Eff. June 1, 1988;—Am. 1988, Act 144, Imd. Eff. June 6, 1988;—Am. 2017, Act 266, Eff. Mar. 28, 2018.

Popular name: Act 368

333.7415 Dismissal of case; reduction of charge; plea of guilty, guilty but mentally ill, or nolo contendere.

Sec. 7415. (1) After the arraignment of a defendant on a warrant charging the defendant with the commission of any of the offenses specified in section 7401(2)(a)(*i*) or (*ii*) or 7403(2)(a)(*i*) or (*ii*), or with conspiracy to commit an offense specified in section 7401(2)(a)(*i*) or (*ii*) or 7403(2)(a)(*i*) or (*ii*), the examining magistrate shall not dismiss the case upon motion of the prosecuting attorney unless the dismissal is with prejudice, nor shall the examining magistrate permit the prosecuting attorney to reduce the charge if it appears to the examining magistrate at the conclusion of the preliminary examination that 1 or more of the offenses set forth in this subsection was committed and that there is probable cause for charging the defendant with a violation of 1 or more of the offenses.

(2) At or after the arraignment of a defendant on an indictment or information charging the defendant with the commission of any of the offenses specified in section 7401(2)(a)(*i*) or (*ii*) or 7403(2)(a)(*i*) or (*ii*), or with

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conspiracy to commit an offense specified in section 7401(2)(a)(*i*) or (*ii*) or 7403(2)(a)(*i*) or (*ii*), the court in which the indictment or information is filed shall not dismiss the case upon motion of the prosecuting attorney unless the dismissal is with prejudice, and the court shall not accept a plea of guilty, guilty but mentally ill, or nolo contendere unless, with the consent of the prosecuting attorney on the record, the defendant enters a plea of guilty, guilty but mentally ill, or nolo contendere to not less than 1 of the following felonies:

(a) An offense described in section 7401(2)(a)(*i*), (*ii*), (*iii*), or (*iv*).

(b) An offense described in section 7403(2)(a)(*i*), (*ii*), (*iii*), or (*iv*).

(c) Conspiracy to commit an offense described in subdivision (a) or (b).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 144, Imd. Eff. June 6, 1988.

Popular name: Act 368

333.7416 Recruiting, inducing, soliciting, or coercing minor to commit felony; penalties; exception.

Sec. 7416. (1) A person 17 years of age or over who recruits, induces, solicits, or coerces a minor less than 17 years of age to commit or attempt to commit any act that would be a felony under this part if committed by an adult is guilty of a felony and may be punished by a fine of not more than the fine authorized by this part for an adult who commits such an act, and shall be punished, subject to subsection (3), as follows:

(a) Except as provided in subdivision (b), by imprisonment for not less than 1/2 of the maximum term of imprisonment authorized by this part for an adult who commits such an act and not more than the maximum term of imprisonment authorized by this part for an adult who commits such an act.

(b) If the act to be committed or attempted by the minor is a violation of section 7401(2)(a)(*i*), by imprisonment for life.

(2) A person subject to a sentence under subsection (1) shall not be subject to a delayed sentence or a suspended sentence and shall not be eligible for probation.

(3) The court may depart from a minimum term of imprisonment authorized under subsection (1)(a) or (b) if the court finds on the record that there are substantial and compelling reasons to do so.

(4) Subsection (1)(a) does not apply to an act that is a violation of section 7401(2)(d) and that involves the manufacture, delivery, or possession with intent to deliver of marihuana. This section applies whether or not the person 17 years of age or older knew or had reason to know the age of the minor less than 17 years of age.

History: Add. 1988, Act 17, Eff. June 1, 1988;—Am. 1995, Act 95, Eff. Aug. 1, 1995.

Popular name: Act 368

333.7417 Product producing same or similar effect as scheduled ingredient; sale or offer to sell prohibited; violation; penalty; "named product" defined.

Sec. 7417. (1) A person who knows that a named product contains or previously contained an ingredient that was designated to be a schedule 1 controlled substance shall not sell or offer to sell any other product while representing that it contains an ingredient that produces the same or a substantially similar physiological or psychological effect as that scheduled ingredient. This subsection does not apply to a product approved by the federal food and drug administration.

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $20,000.00, or both.

(3) As used in this section, "named product" means either of the following:

(a) A product having a designated brand name.

(b) A product having a street or common name with application sufficient to identify the product as a specific product within this state or within a local unit of government.

History: Add. 2012, Act 183, Eff. July 1, 2012.

Popular name: Act 368

333.7421 Opioid-related overdose fatalities; report.

Sec. 7421. By February 1 each year, the department of community health shall ascertain, document, and publish a report on the number, trends, patterns, and risk factors related to opioid-related overdose fatalities that occurred in this state in the preceding calendar year. The department shall include in the report information on interventions that would be effective in reducing the rate of fatal or nonfatal opioid-related overdoses in this state.

History: Add. 2014, Act 311, Imd. Eff. Oct. 14, 2014.

Popular name: Act 368

333.7422 Compliance with MCL 333.17744b or MCL 333.17744e; prescribing, dispensing,

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possessing, or administering opioid antagonist; person not in violation of article.

Sec. 7422. A person that complies with section 17744b or 17744e is not in violation of this article with regard to the prescribing, dispensing, possessing, or administering an opioid antagonist as authorized in either of those sections.

History: Add. 2014, Act 313, Imd. Eff. Oct. 14, 2014;—Am. 2016, Act 383, Eff. Mar. 28, 2017.

Popular name: Act 368

333.7423 Compliance with MCL 333.21418 not a violation of article.

Sec. 7423. The delivery of a controlled substance under section 21418 for the purpose of disposing of the controlled substance is not a violation of this article.

History: Add. 2018, Act 396, Eff. Mar. 19, 2019.

Popular name: Act 368

333.7451 "Drug paraphernalia" defined.

Sec. 7451. As used in sections 7453 to 7461 and section 7521, "drug paraphernalia" means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting; propagating; cultivating; growing; harvesting; manufacturing; compounding; converting; producing; processing; preparing; testing; analyzing; packaging; repackaging; storing; containing; concealing; injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance; including, but not limited to, all of the following:

(a) An isomerization device specifically designed for use in increasing the potency of any species of plant which plant is a controlled substance.

(b) Testing equipment specifically designed for use in identifying or in analyzing the strength, effectiveness, or purity of a controlled substance.

(c) A weight scale or balance specifically designed for use in weighing or measuring a controlled substance.

(d) A diluent or adulterant, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose, and lactose, specifically designed for use with a controlled substance.

(e) A separation gin or sifter specifically designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana.

(f) An object specifically designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body.

(g) A kit specifically designed for use in planting, propagating, cultivating, growing, or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.

(h) A kit specifically designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(i) A device, commonly known as a cocaine kit, that is specifically designed for use in ingesting, inhaling, or otherwise introducing controlled substances into the human body, and which consists of at least a razor blade and a mirror.

(j) A device, commonly known as a bullet, that is specifically designed to deliver a measured amount of controlled substances to the user.

(k) A device, commonly known as a snorter, that is specifically designed to carry a small amount of controlled substances to the user's nose.

(*l*) A device, commonly known as an automotive safe, that is specifically designed to carry and conceal a controlled substance in an automobile, including, but not limited to, a can used for brake fluid, oil, or carburetor cleaner which contains a compartment for carrying and concealing controlled substances.

(m) A spoon, with or without a chain attached, that has a small diameter bowl and that is specifically designed for use in ingesting, inhaling, or otherwise introducing controlled substances into the human body.

History: Add. 1988, Act 139, Imd. Eff. June 3, 1988.

Popular name: Act 368

333.7453 Sale of object designed for inhaling nitrous oxide or drug paraphernalia prohibited; notice; compliance.

Sec. 7453. (1) Subject to subsection (2), a person shall not sell or offer for sale an object specifically designed for inhaling nitrous oxide for recreational purposes or drug paraphernalia, knowing that the object specifically designed for inhaling nitrous oxide for recreational purposes will be used to inhale nitrous oxide for recreational purposes or that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store,

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contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

(2) Before a person is arrested for a violation of subsection (1), the attorney general or a prosecuting attorney shall notify the person in writing, not less than 2 business days before the person is to be arrested, that the person is in possession of specific, defined material that has been determined by the attorney general or prosecuting attorney to be an object specifically designed for inhaling nitrous oxide for recreational purposes or drug paraphernalia. The notice also must request that the person refrain from selling or offering for sale the material and must state that if the person complies with the notice, no arrest will be made for a violation of subsection (1).

(3) If a person complies with a notice sent under subsection (2), the compliance is a complete defense in a prosecution under this section, as long as the compliance continues.

History: Add. 1988, Act 139, Imd. Eff. June 3, 1988;—Am. 2024, Act 18, Eff. June 10, 2024.

Popular name: Act 368

333.7455 Violation of MCL 333.7453 as misdemeanor; penalty.

Sec. 7455. (1) Except as provided in subsection (2), a person who violates section 7453 is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than $5,000.00, or both.

(2) A person 18 years of age or older who violates section 7453 by selling or offering to sell an object specifically designed for inhaling nitrous oxide for recreational purposes or drug paraphernalia to a person less than 18 years of age is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than $7,500.00, or both.

History: Add. 1988, Act 139, Imd. Eff. June 3, 1988;—Am. 2024, Act 19, Eff. June 10, 2024.

Popular name: Act 368

333.7457 Applicability of MCL 333.7451 to 333.7455.

Sec. 7457. Sections 7451 to 7455 do not apply to any of the following:

(a) An object sold or offered for sale to a person licensed under article 15 or under the occupational code, 1980 PA 299, MCL 339.101 to 339.2721, or any intern, trainee, apprentice, or assistant in a profession licensed under article 15 or under the occupational code, 1980 PA 299, MCL 339.101 to 339.2721, for use in that profession.

(b) An object sold or offered for sale to any hospital, sanitarium, clinical laboratory, or other health care institution including a penal, correctional, or juvenile detention facility for use in that institution.

(c) An object sold or offered for sale to a dealer in medical, dental, surgical, or pharmaceutical supplies.

(d) A blender, bowl, container, spoon, or mixing device not specifically designed for a use described in section 7451.

(e) A hypodermic syringe or needle sold or offered for sale for the purpose of injecting or otherwise treating livestock or other animals.

(f) An object sold, offered for sale, or given away by a state or local governmental agency or by a person specifically authorized by a state or local governmental agency to prevent the transmission of infectious agents.

History: Add. 1988, Act 139, Imd. Eff. June 3, 1988;—Am. 2006, Act 458, Eff. Mar. 20, 2007.

Popular name: Act 368

333.7459 Action for declaratory judgment; defendant.

Sec. 7459. (1) A person who has received a notice under section 7453(2) may commence an action for a declaratory judgment to obtain an adjudication of the legality of the intended sale or offer to sell.

(2) The attorney general or the prosecuting attorney who sent the notice under section 7453(2) shall be made the defendant to an action commenced under subsection (1).

History: Add. 1988, Act 139, Imd. Eff. June 3, 1988.

Popular name: Act 368

333.7461 Declaratory judgment as complete defense.

Sec. 7461. If a declaratory judgment has been issued pursuant to section 7459 stating that sale or offer to sell specified material does not violate section 7453, the declaratory judgment is a complete defense for the person obtaining such a judgment against a prosecution under section 7453.

History: Add. 1988, Act 139, Imd. Eff. June 3, 1988.

Popular name: Act 368

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PART 75
ENFORCEMENT AND ADMINISTRATION

333.7501 Arrest without warrant.

Sec. 7501. A sheriff, deputy sheriff, or local or state police officer who has reasonable cause to believe that a violation of this article punishable by imprisonment for 1 year or more has taken place or is taking place and reasonable cause to believe that an individual has committed or is committing the violation, may arrest that individual without a warrant for that violation whether or not the violation was committed in the law enforcement officer's presence.

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

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.7502 Powers of agents.

Sec. 7502. (1) An inspection agent or investigatory agent of the department of commerce may do any of the following:

(a) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state.

(b) Seize property pursuant to this article.

(c) Perform other law enforcement duties the administrator or the department of commerce designates.

(2) An agent of the department of treasury designated by the commissioner of revenue may exercise the powers specified in subsection (1) with regard to the seizure of property under section 7521(e) and (f) after notification of the department of state police or any other local law enforcement agency having jurisdiction.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 251, Imd. Eff. Sept. 29, 1982;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.7504 Administrative inspection warrants; issuance; execution; oath or affirmation showing probable cause; seizure of property; existence of probable cause; affidavit; contents of warrant.

Sec. 7504. (1) Administrative inspection warrants shall be issued and executed as prescribed in this part.

(2) A magistrate within the magistrate's jurisdiction, upon proper oath or affirmation showing probable cause, may issue a warrant for the purpose of conducting an administrative inspection authorized by this article or the rules promulgated under this article and seizures of property appropriate to the inspection. Probable cause exists upon showing a valid public interest in the effective enforcement of this article or the rules promulgated under this article sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant.

(3) A warrant shall issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the magistrate and establishing the grounds for issuing the warrant. The magistrate, if satisfied that the grounds for the application exist or that there is probable cause to believe they exist, shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected.

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

Popular name: Act 368

333.7505 Contents, execution, and return of warrant; copy of warrant and receipt for property seized; inventory of property taken; delivering copy of inventory; filing warrant with copy of return and papers returnable.

Sec. 7505. (1) The warrant shall:

(a) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof.

(b) Be directed to a person described in section 7502.

(c) Command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified.

(d) Identify the item or types of property to be seized, if any.

(e) Designate the magistrate to whom it shall be returned.

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(2) A warrant issued pursuant to this section shall be executed and returned within 10 days after its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least 1 credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(3) The magistrate who issues a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the magistrate's court in which the inspection was made.

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

Popular name: Act 368

333.7507 Administrative inspections of controlled premises.

Sec. 7507. (1) The department of commerce may make administrative inspections of controlled premises in accordance with this section.

(2) When authorized by an administrative inspection warrant, an officer or employee designated by the department of commerce, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the department of commerce may:

(a) Inspect and copy records required to be kept by this article.

(b) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found therein and, except as provided in subsection (5) all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this article.

(c) Inventory any stock of a controlled substance therein and obtain samples thereof.

(4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with law, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(a) If the owner, operator, or agent in charge of the controlled premises consents.

(b) In situations presenting imminent danger to health or safety.

(c) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant.

(d) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking.

(e) In any other situation in which a warrant is not constitutionally required.

(5) An inspection authorized by this section shall not extend to financial data or sales data, other than shipment data or pricing data, unless the owner, operator, or agent in charge of the controlled premises consents in writing.

(6) For purposes of this section only,"controlled premises" means:

(a) A place where a person licensed or exempted from licensure requirements under this article is required to keep records.

(b) A place including a factory, warehouse, establishment, and conveyance in which a person licensed or exempted from licensure requirements under this article is permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of a controlled substance.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Imd. Eff. Apr. 1, 1994.

Popular name: Act 368

333.7511 Restraining or enjoining violation; trial by jury.

Sec. 7511. (1) The circuit court of a county having jurisdiction over an alleged violator of this article has jurisdiction to restrain or enjoin a violation of this article.

(2) The defendant may demand a trial by jury for an alleged violation of an injunction or restraining order issued under this section.

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

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Popular name: Act 368

333.7515 Cooperation with federal and other state agencies; relying and acting upon results, information, and evidence.

Sec. 7515. (1) The administrator may cooperate with federal and other state agencies in discharging its responsibilities as to traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, the administrator may:

(a) Arrange for the exchange of information among governmental officials as to the use and abuse of controlled substances.

(b) Coordinate and cooperate in training programs as to controlled substance law enforcement at local and state levels.

(c) Cooperate with the bureau by establishing a centralized unit to accept, catalogue, file, and collect statistics, including records of drug dependent individuals and other controlled substance law offenders in this state, and make the information available for federal, state, and local law enforcement purposes. The administrator shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under section 7516.

(d) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(2) Results, information, and evidence received from the bureau relating to the regulatory functions of this article, including results of inspections conducted by it, may be relied and acted upon by the disciplinary subcommittee in the exercise of its regulatory functions under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.7516 Name or identity of patient, research, or individual.

Sec. 7516. A practitioner engaged in professional practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the practitioner's licensing agency, and may not be compelled in any state or local civil, criminal, administrative, legislative, or other proceeding to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

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

Popular name: Act 368

333.7521 Property subject to forfeiture; burden of proof; "imitation controlled substance" defined.

Sec. 7521. (1) The following property is subject to forfeiture:

(a) A prescription form, controlled substance, an imitation controlled substance, a controlled substance analogue, or other drug that has been manufactured, distributed, dispensed, used, possessed, or acquired in violation of this article.

(b) A raw material, product, or equipment of any kind that is used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting a controlled substance, a controlled substance analogue, or other drug in violation of this article; or a raw material, product, or equipment of any kind that is intended for use in manufacturing, compounding, processing, delivering, importing, or exporting an imitation controlled substance in violation of section 7341.

(c) Property that is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) Except as provided in subparagraphs (*i*) to (*iv*), a conveyance, including an aircraft, vehicle, or vessel used or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in subdivision (a) or (b):

(*i*) A conveyance used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this article.

(*ii*) A conveyance is not subject to forfeiture by reason of any act or omission established by the owner of that conveyance to have been committed or omitted without the owner's knowledge or consent.

(*iii*) A conveyance is not subject to forfeiture for a violation of section 7403(2)(c) or (d), section 7404, or section 7341(4).

(*iv*) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party who neither had knowledge of nor consented to the act or omission.

(e) Books, records, and research products and materials, including formulas, microfilm, tapes, and data used, or intended for use, in violation of this article.

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(f) Any thing of value that is furnished or intended to be furnished in exchange for a controlled substance, an imitation controlled substance, or other drug in violation of this article that is traceable to an exchange for a controlled substance, an imitation controlled substance, or other drug in violation of this article or that is used or intended to be used to facilitate any violation of this article including, but not limited to, money, negotiable instruments, or securities. To the extent of the interest of an owner, a thing of value is not subject to forfeiture under this subdivision by reason of any act or omission that is established by the owner of the item to have been committed or omitted without the owner's knowledge or consent. Any money that is found in close proximity to any property that is subject to forfeiture under subdivision (a), (b), (c), (d), or (e) is presumed to be subject to forfeiture under this subdivision. This presumption may be rebutted by clear and convincing evidence.

(g) Any other drug paraphernalia not described in subdivision (b) or (c).

(2) The plaintiff in a forfeiture action under this article has the burden of proving a violation of this article by clear and convincing evidence. This subsection applies to forfeiture proceedings commenced under this article on or after the effective date of the amendatory act that added this subsection.

(3) As used in this section, "imitation controlled substance" means that term as defined in section 7341.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 251, Imd. Eff. Sept. 29, 1982;—Am. 1984, Act 347, Eff. Mar. 29, 1985;—Am. 1988, Act 60, Eff. Aug. 1, 1989;—Am. 1988, Act 139, Imd. Eff. June 3, 1988;—Am. 1990, Act 30, Eff. Mar. 28, 1991;—Am. 2000, Act 302, Eff. Jan. 1, 2001;—Am. 2001, Act 236, Eff. Jan. 6, 2003;—Am. 2015, Act 154, Eff. Jan. 18, 2016.

Compiler's note: Enacting section 2 of Act 236 of 2001 provides:

"Enacting section 2. Sections 7401, 7403, 7407, and 7521 of the public health code, 1978 PA 368, MCL 333.7401, 333.7403, 333.7407, and 333.7521, as amended by this amendatory act, take effect upon promulgation of the rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and receipt by the secretary of state of written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, is operational. The notice to the secretary of state shall include a statement that the department of consumer and industry services is able to receive data from at least 80% of those required to report under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, and is able to respond to requests for data from persons authorized to make such requests and to review and utilize the data."

The rules required under section 7333a of the public health code, 1978 PA 368, MCL 333.7333a, pertaining to the operation of the electronic monitoring system, were promulgated on December 30, 2002. In addition, a written notice from the director of the department of consumer and industry services that the electronic monitoring system required by section 7333a of the public health code is operational was filed with, and received by, the secretary of state on January 6, 2003.

Popular name: Act 368

333.7521a Civil asset forfeiture; conditions, requirements, and limitations; applicability.

Sec. 7521a. (1) Except as otherwise provided in this section, property may be seized as provided in section 7522 for a violation of this article, but is not subject to forfeiture under section 7521 or disposition under section 7524 unless a criminal proceeding involving or relating to the property has been completed and the defendant pleads guilty to or is convicted of a violation of this article.

(2) A criminal conviction or guilty plea under subsection (1) is not required if 1 or more of the following apply:

(a) No person claims any interest in the property as provided under section 7523 or the owner of the property withdraws his or her claim in the property.

(b) The owner of the property waives the criminal conviction or plea requirement under subsection (1) and elects to proceed with the civil forfeiture proceeding.

(c) A criminal charge has been filed and 1 or both of the following apply:

(*i*) The defendant is outside this state and cannot reasonably be extradited or brought back to the state for prosecution.

(*ii*) Reasonable efforts have been made by law enforcement authorities to locate and arrest the defendant, but the defendant has not been located.

(3) If a person withdraws his or her claim under subsection (2)(a), the prosecuting attorney for the county in which the property was seized or, if the attorney general is actively handling a case involving or related to the property, the attorney general, must review the seizure of the property and approve the forfeiture of the property before the property may be forfeited.

(4) Subsection (1) does not prohibit the immediate destruction of property that may not be lawfully possessed by any person or that is dangerous to the health or safety of the public regardless of whether the person is convicted of a violation of this article.

(5) This section applies to forfeiture proceedings that are initiated on or after August 7, 2019.

(6) Except as provided in subsection (7), this section does not apply to forfeiture proceedings in which the aggregate fair market value of the property and currency seized exceeds $50,000.00, excluding the value of contraband.

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(7) This section does not apply to forfeiture proceedings in which the aggregate fair market value of the property and currency seized exceeds $20,000.00, excluding the value of contraband, if the forfeiture proceedings were initiated in connection with the seizure of property by law enforcement officers appointed by a public airport authority created under section 110 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.110, or by a regional airport authority created under section 139 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.139.

History: Add. 2019, Act 7, Eff. Aug. 7, 2019;—Am. 2022, Act 86, Imd. Eff. May 26, 2022.

Popular name: Act 368

333.7522 Property subject to forfeiture; seizure; process; seizure without process.

Sec. 7522. Property that is subject to forfeiture under this article or pursuant to section 7521 may be seized upon process issued by the circuit court having jurisdiction over the property. Seizure without process may be made under any of the following circumstances:

(a) Incident to a lawful arrest, pursuant to a search warrant, or pursuant to an inspection under an administrative inspection warrant.

(b) The property is the subject of a prior judgment in favor of this state in an injunction or forfeiture proceeding under this article or pursuant to section 17766a.

(c) There is probable cause to believe that the property is directly or indirectly dangerous to health or safety.

(d) There is probable cause to believe that the property was used or is intended to be used in violation of this article or section 17766a.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 251, Imd. Eff. Sept. 29, 1982;—Am. 1990, Act 30, Eff. Mar. 28, 1991.

Popular name: Act 368

333.7523 Seizure under MCL 333.7522; forfeiture proceedings; procedure; property subject to section or to order and judgment of court; powers of seizing agency; determining title to forfeited real property; forfeiture of real property encumbered by bona fide security interest; examination of money.

Sec. 7523. (1) Subject to section 7521a, if property is seized under section 7522, forfeiture proceedings must be instituted promptly. If the property is seized without process under section 7522, and the total value of the property seized does not exceed $50,000.00, the following procedure must be used:

(a) The local unit of government that seized the property or, if the property was seized by this state, the state shall notify the owner of the property that the property has been seized and, if charges have been filed against a person for a crime, the person charged, and that the local unit of government or, if applicable, the state intends to forfeit and dispose of the property by delivering a written notice to the owner of the property or by sending the notice to the owner by certified mail. If the name and address of the owner are not reasonably ascertainable, or delivery of the notice cannot be reasonably accomplished, the notice must be published on the local unit of government's or the department of the attorney general's public website and in a newspaper of general circulation in the county in which the property was seized, for 10 successive publishing days.

(b) Unless all criminal proceedings involving or relating to the property have been completed, the seizing agency shall immediately notify the prosecuting attorney for the county in which the property was seized or, if the attorney general is actively handling a case involving or relating to the property, the attorney general of the seizure of the property and the intention to forfeit and dispose of the property.

(c) Any person claiming an interest in property that is the subject of a notice under subdivision (a) may, within 20 days after receipt of the notice or of the date of the first publication of the notice, file a written claim signed by the claimant with the local unit of government or the state expressing his or her interest in the property and any objection to forfeiture. A claim or an objection under this subsection must be written, verified, and signed by the claimant, and include a detailed description of the property and the property interest asserted. The verification must include a certification under the penalty of perjury stating that the undersigned has examined the claim and believes it to be, to the best of the claimant's knowledge, true and complete. A written claim under this subsection must be made on the form developed by the state court administrative office as required under subsection (2). Upon the filing of the claim, the local unit of government or, if applicable, this state shall transmit the claim with a list and description of the property seized to the attorney general, the prosecuting attorney for the county, or the city or township attorney for the local unit of government in which the seizure was made. The attorney general, the prosecuting attorney, or the city or township attorney shall promptly institute forfeiture proceedings after the expiration of the 20-day

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period. However, unless all criminal proceedings involving or relating to the property have been completed, a city or township attorney shall not institute forfeiture proceedings without the consent of the prosecuting attorney or, if the attorney general is actively handling a case involving or relating to the property, the attorney general.

(d) If no claim is filed within the 20-day period as described in subdivision (c), the local unit of government or this state shall declare the property forfeited and shall dispose of the property as provided under section 7524. However, unless all criminal proceedings involving or relating to the property have been completed, the local unit of government or the state shall not dispose of the property under this subdivision without the written consent of the prosecuting attorney or, if the attorney general is actively handling a case involving or relating to the property, the attorney general.

(2) The state court administrative office shall develop and make available to law enforcement agencies, courts, and the public a form for asserting an ownership interest in seized property under subsection (1)(c). The form must require a claimant to provide a detailed description of the property, the claimant's ownership interest in the property, and a signed attestation that the claimant has a bona fide ownership interest in the property.

(3) Property taken or detained under this article is not subject to an action to recover personal property, but is deemed to be in the custody of the seizing agency subject only to this section or an order and judgment of the court having jurisdiction over the forfeiture proceedings. When property is seized under this article, the seizing agency may do any of the following:

(a) Place the property under seal.

(b) Remove the property to a place designated by the court.

(c) Require the administrator to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(d) Deposit money seized under this article into an interest-bearing account in a financial institution. As used in this subdivision, "financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.

(4) Title to real property forfeited under this article must be determined by a court of competent jurisdiction. A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party who neither had knowledge of nor consented to the act or omission.

(5) An attorney for a person who is charged with a crime involving or related to the money seized under this article must be afforded a period of 60 days within which to examine that money. This 60-day period begins to run after notice is given under subsection (1)(a) but before the money is deposited into a financial institution under subsection (3)(d). If the attorney general, prosecuting attorney, or city or township attorney fails to sustain his or her burden of proof in forfeiture proceedings under this article, the court shall order the return of the money, including any interest earned on money deposited into a financial institution under subsection (3)(d).

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 251, Imd. Eff. Sept. 29, 1982;—Am. 1985, Act 135, Imd. Eff. Sept. 30, 1985;—Am. 1988, Act 7, Imd. Eff. Feb. 8, 1988;—Am. 1990, Act 30, Eff. Mar. 28, 1991;—Am. 1990, Act 336, Eff. Apr. 1, 1991;—Am. 2006, Act 130, Imd. Eff. May 5, 2006;—Am. 2016, Act 418, Eff. Apr. 4, 2017;—Am. 2019, Act 9, Eff. Aug. 7, 2019.

Popular name: Act 368

333.7523a Stay of civil forfeiture during pending criminal proceedings; forfeiture hearing; burden of proof; return of property; applicability.

Sec. 7523a. (1) If section 7521a applies to a forfeiture case under this article, the seized property is subject to forfeiture under section 7521, and a person has filed a claim as provided under section 7523, a civil forfeiture action under this act must be stayed during the pendency of the applicable criminal proceedings. The civil forfeiture action must proceed after the defendant is convicted of, or enters a guilty plea to, the offense involved, or 1 or more of the events described in section 7521a(2) applies.

(2) At the forfeiture hearing, the plaintiff must prove 1 or both of the following, as applicable:

(a) The property is subject to forfeiture as provided in section 7521(1).

(b) If a person, other than the person who has been convicted of a violation of this article or entered into a plea agreement in connection with a violation of this article as provided under section 7521a(1), claims an ownership or security interest in the property, that the person claiming the interest in the property had prior knowledge of or consented to the commission of the crime.

(3) If the plaintiff fails to meet the burden of proof under subsection (2), property seized under section 7522 must be returned to the owner not more than 14 days from the date the court issues a dispositive order.

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(4) Except as otherwise provided in section 7521a, property must be returned to the owner not more than 14 days after the occurrence of any of the following:

(a) A warrant is not issued against a person for the commission of a crime within 90 days after the property was seized.

(b) All charges against the person relating to the commission of a crime are dismissed.

(c) The person charged with committing a crime is acquitted of the crime.

(d) In the case of multiple defendants, all persons charged with committing a crime are acquitted of the crime.

(e) Entry of a court order under this article for the return of the property.

(5) A party to a forfeiture proceeding may seek an extension of the time periods described in this section for good cause. The court may grant a motion for an extension under this subsection for good cause shown.

(6) This section does not apply to forfeiture proceedings in which the aggregate fair market value of the property and currency seized exceeds $20,000.00, excluding the value of contraband, if the forfeiture proceedings were initiated in connection with the seizure of property by law enforcement officers appointed by a public airport authority created under section 110 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.110, or by a regional airport authority created under section 139 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.139.

History: Add. 2019, Act 8, Eff. Aug. 7, 2019;—Am. 2022, Act 87, Imd. Eff. May 26, 2022.

Popular name: Act 368

333.7524 Disposition of forfeited property; donation of lights and scales for educational purposes; appointment, compensation, and authority of receiver to dispose of forfeited real property; expenses of forfeiture proceedings; court order.

Sec. 7524. (1) When property is forfeited under this article, the local unit of government that seized the property may do any of the following, or if the property is seized by or in the custody of this state, the state may do any of the following, subject to section 7523(1)(d):

(a) Retain the property for official use.

(b) Sell the property that is not required to be destroyed by law and that is not harmful to the public. The proceeds and any money, negotiable instruments, securities, or any other thing of value as described in section 7521(1)(f) that are forfeited under this article shall be deposited with the treasurer of the entity having budgetary authority over the seizing agency and applied as follows:

(*i*) For the payment of proper expenses of the proceedings for forfeiture and sale, including expenses incurred during the seizure process, maintenance of custody, advertising, and court costs, except as otherwise provided in subsection (4).

(*ii*) The balance remaining after the payment of expenses shall be distributed by the court having jurisdiction over the forfeiture proceedings to the treasurer of the entity having budgetary authority over the seizing agency. If more than 1 agency was substantially involved in effecting the forfeiture, the court having jurisdiction over the forfeiture proceeding shall equitably distribute the money among the treasurers of the entities having budgetary authority over the seizing agencies. A seizing agency may direct that the funds or a portion of the funds it would otherwise have received under this subsection be paid to nonprofit organizations whose primary activity is to assist law enforcement agencies with drug-related criminal investigations and obtaining information for solving crimes. The money received by a seizing agency under this subparagraph and all interest and other earnings on money received by the seizing agency under this subparagraph shall be used only for law enforcement purposes, as appropriated by the entity having budgetary authority over the seizing agency. A distribution made under this subparagraph shall serve as a supplement to, and not a replacement for, funds otherwise budgeted for law enforcement purposes.

(c) Require the administrator to take custody of the property and remove it for disposition in accordance with law.

(d) Forward it to the bureau for disposition.

(2) Notwithstanding subsection (1), this state or local units of government may donate lights for plant growth or scales forfeited under this article to elementary or secondary schools or institutions of higher education that request in writing to receive those lights or scales under this subsection, for educational purposes. This state or local units of government shall donate lights and scales under this subsection to elementary or secondary schools or institutions of higher education in the order in which the written requests are received. This state or local units of government may limit the number of lights and scales available to each requestor.

(3) In the course of selling real property under subsection (1)(b), the court that has entered an order of

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forfeiture may, on motion of the agency to whom the property has been forfeited, appoint a receiver to dispose of the real property forfeited. The receiver is entitled to reasonable compensation. The receiver has authority to do all of the following:

(a) List the forfeited real property for sale.

(b) Make whatever arrangements are necessary for the maintenance and preservation of the forfeited real property.

(c) Accept offers to purchase the forfeited real property.

(d) Execute instruments transferring title to the forfeited real property.

(4) If a court enters an order of forfeiture, the court may order a person who claimed an interest in the forfeited property under section 7523(1)(c) to pay the expenses of the proceedings of forfeiture to the entity having budgetary authority over the seizing agency.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 251, Imd. Eff. Sept. 29, 1982;—Am. 1985, Act 135, Imd. Eff. Sept. 30, 1985;—Am. 1988, Act 7, Imd. Eff. Feb. 8, 1988;—Am. 1990, Act 30, Eff. Mar. 28, 1991;—Am. 1990, Act 336, Eff. Apr. 1, 1991;—Am. 1994, Act 8, Imd. Eff. Feb. 24, 1994;—Am. 2006, Act 558, Imd. Eff. Dec. 29, 2006;—Am. 2011, Act 161, Imd. Eff. Oct. 4, 2011;—Am. 2016, Act 418, Eff. Apr. 4, 2017.

Popular name: Act 368

333.7524a Repealed. 2015, Act 148, Eff. Feb. 1, 2016.

Compiler's note: The repealed section pertained to annual report by local unit of government concerning forfeiture activities.

Popular name: Act 368

333.7524b Report by agency of seizure and forfeiture activities under uniform forfeiture reporting act.

Sec. 7524b. (1) Beginning February 1, 2016, each reporting agency shall report all seizure and forfeiture activities under this article to the department of state police as required under the uniform forfeiture reporting act.

(2) Beginning February 1, 2016, each reporting agency is subject to audit as required under the uniform forfeiture reporting act.

(3) As used in this section, "reporting agency" means that term as defined in section 7 of the uniform forfeiture reporting act.

History: Add. 2015, Act 151, Eff. Feb. 1, 2016.

Popular name: Act 368

333.7525 Controlled substance as contraband; seizure and summary forfeiture; seizure and forfeiture of species of plants.

Sec. 7525. (1) A controlled substance listed in schedule 1 that is possessed, transferred, sold, or offered for sale in violation of this article is contraband and shall be seized and summarily forfeited to this state. A controlled substance listed in schedule 1 which is seized or comes into the possession of this state, the owner of which is unknown, is contraband and shall be summarily forfeited to this state.

(2) Species of plants from which controlled substances in schedules 1 and 2 may be derived which have been planted or cultivated in violation of this article, or of which the owner or cultivator is unknown, or which are wild growths, may be seized and summarily forfeited to this state.

(3) The failure, upon demand by the administrator or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate license or proof that he or she is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

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

Popular name: Act 368

333.7527 Destruction of controlled substance seized as evidence.

Sec. 7527. (1) Prior to trial the prosecuting attorney may move in writing for an order permitting the destruction of all or part of a controlled substance, controlled substance analogue, counterfeit substance, or imitation controlled substance seized as evidence in connection with a violation of this article. The motion shall specify the reasons supporting the destruction. The prosecuting attorney shall serve a copy of the motion, and any supporting materials, on the defendant or his or her attorney.

(2) If the defendant objects, the defendant or his or her attorney shall file specific objections within 21 days after receiving the motion described in subsection (1). Failing to comply with this time limit waives any objection to the destruction of the evidence.

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(3) Before any hearing on the motion, the defendant or his or her attorney shall have an adequate opportunity to inspect or test, or both, the evidence sought to be destroyed, subject to reasonable supervision by laboratory or law enforcement personnel.

(4) Following a hearing, the court may order destruction of all or part of the controlled substance, controlled substance analogue, counterfeit substance, or imitation controlled substance if the court determines on the record that the destruction is warranted. The court shall specify the evidence to be destroyed and may include further provisions in the order as the interests of justice require.

(5) The law enforcement agency having custody of the evidence shall destroy the controlled substance, controlled substance analogue, counterfeit substance, or imitation controlled substance in accordance with an order entered under subsection (4). Before destroying the evidence, the law enforcement agency shall make an accurate photographic record of the controlled substance, controlled substance analogue, counterfeit substance, or imitation controlled substance. The court may order that further records be made before the evidence is destroyed.

History: Add. 1993, Act 289, Eff. Apr. 1, 1994.

Popular name: Act 368

333.7531 Burden of proof of exemption or exception; presumption as to license or order form; burden of rebutting presumption; liability not imposed for lawful performance of duties.

Sec. 7531. (1) It is not necessary for this state to negate any exemption or exception in this article in a complaint, information, indictment, or other pleading or in a trial, hearing, or other proceeding under this article. The burden of proof of an exemption or exception is upon the person claiming it.

(2) In the absence of proof that a person is the authorized holder of an appropriate license or order form issued under this article, the person is presumed not to be the holder of the license or order form. The burden of proof is upon the person to rebut the presumption.

(3) A liability is not imposed by this article or an authorized state, county, or local officer, engaged in the lawful performance of the officer's duties.

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

Popular name: Act 368

333.7533 Judicial review.

Sec. 7533. Judicial review of a final determination, finding, or conclusion of the administrator shall be governed by the administrative procedures act of 1969.

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

Popular name: Act 368

333.7541 Educational programs; powers of administrator.

Sec. 7541. The administrator, if funds are appropriated therefor, may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs the administrator may:

(a) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances.

(b) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances.

(c) Consult with interested groups and organizations to aid them in solving administrative and organizational problems.

(d) Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances.

(e) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them.

(f) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

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

Popular name: Act 368

333.7543 Research and enforcement; duties of administrator.

Sec. 7543. The administrator shall encourage research on misuse and abuse of controlled substances. In

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connection with the research and furtherance of the enforcement of this article, the administrator may:

(a) Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse.

(b) Make studies and undertake programs of research to:

(*i*) Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this article.

(*ii*) Determine patterns of misuse and abuse of controlled substances and the social effects thereof.

(*iii*) Improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances.

(c) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

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

Popular name: Act 368

333.7544 Authorization to withhold names and other identifying characteristics of individuals who are subjects of research; authorization of persons engaged in research to possess and distribute controlled substances; exemption from prosecution.

Sec. 7544. (1) The administrator may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in a civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(2) The administrator may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

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

Popular name: Act 368

333.7545 Contracts for educational and research activities.

Sec. 7545. The administrator may enter into contracts for educational and research activities without performance bonds.

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

Popular name: Act 368

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ARTICLE 8
PHARMACEUTICAL-GRADE CANNABIS

PART 81
GENERAL PROVISIONS

333.8101 Meanings of words and phrases.

Sec. 8101. (1) For purposes of this article, the words and phrases defined in sections 8103 to 8107 have the meanings ascribed to them in those sections.

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

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8103 Definitions; A to G.

Sec. 8103. (1) "Applicant" means the person submitting an application for a new license or license renewal under part 82 and includes each individual identified in the application as an owner, operator, officer, director, partner, member, or manager of the applicant.

(2) "CBD" and "CBD acid" mean cannabidiol and cannabidiol acid.

(3) "Department" means the department of licensing and regulatory affairs.

(4) "Director" means the director of the department.

(5) "Eligible patient" means an individual who meets the requirements of part 84 and has been issued an enhanced pharmaceutical-grade cannabis registration card.

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(6) "Enhanced pharmaceutical-grade cannabis registration card" or "registration card" means the registration card issued to an eligible patient under part 84.

(7) "Good moral character" means that term as defined in section 1 of 1974 PA 381, MCL 338.41.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8105 Definitions; M to P.

Sec. 8105. (1) "Marihuana" means that term as defined in section 7106 and includes pharmaceutical-grade cannabis.

(2) "Medical use" means the purchase, sale, possession, use, internal possession, delivery, transfer, or transportation of pharmaceutical-grade cannabis or paraphernalia relating to the administration of pharmaceutical-grade cannabis to treat or alleviate an eligible patient's debilitating medical condition.

(3) "Michigan medical marihuana act" means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

(4) "Pharmaceutical-grade cannabis" means a grade of cannabis that is cultivated for the purposes of this article; that is free of chemical residues such as fungicides and insecticides and is tested by validated methods to determine its cannabinoid levels, specifically, THC and THC acid levels and CBD and CBD acid levels and complies with the standards set forth in section 8303(6) for its microbial, mycotoxin, and metal contents, including heavy metals; and that meets any other necessary requirements to be considered in compliance with good manufacturing practices as prescribed in rules promulgated by the department under this article.

(5) "Pharmaceutical-grade cannabis fund" or "fund" means the pharmaceutical-grade cannabis fund created in section 8113.

(6) "Pharmaceutical-grade cannabis licensed facility" or "licensed facility" means any secure entity, operation, or facility at or through which pharmaceutical-grade cannabis is manufactured, cultivated, and tested in this state for lawful medical use as provided for in this article and the Michigan medical marihuana act. Pharmaceutical-grade cannabis licensed facility does not include a qualifying patient or primary caregiver who possesses or cultivates marihuana in the manner prescribed in the Michigan medical marihuana act or an eligible patient who possesses pharmaceutical-grade cannabis in the manner prescribed in this article.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8107 Definitions; Q to T.

Sec. 8107. (1) "Qualifying patient" means an individual who has been issued a registry identification card as a qualifying patient under the Michigan medical marihuana act.

(2) "THC" means delta-9-tetrahydrocannabinol and tetrahydrocannabinol acid.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8109 Manufacturing, distributing, prescribing, or dispensing pharmaceutical-grade cannabis; license required.

Sec. 8109. (1) A person shall not manufacture, distribute, prescribe, or dispense pharmaceutical-grade cannabis without first obtaining a license to manufacture, distribute, prescribe, or dispense a controlled substance under article 7.

(2) A license issued under article 7 to manufacture, distribute, prescribe, or dispense pharmaceutical-grade cannabis and the conduct of a person licensed to manufacture, distribute, prescribe, or dispense pharmaceutical-grade cannabis under that license is subject to the additional requirements of this article.

(3) Article 7 and this article do not apply to conduct permitted under the Michigan medical marihuana act.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8111 Fees.

Sec. 8111. (1) Beginning on the effective date of this article, the director may charge a reasonable fee for licensing, registration, inspection, testing, investigation, or other activity or service provided by the department under this article. The fee authorized under this subsection is in addition to any fee authorized under article 7. All fees permitted under this section shall be delivered to the state treasurer on a monthly basis for deposit in the pharmaceutical-grade cannabis fund.

(2) Before collecting a fee under this article, the department shall develop and publish a comprehensive schedule of fees. The schedule shall include a description of each activity or service and the maximum fee

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charged for that activity or service. The department shall include a statement of the rationale used in determining the fees contained in the schedule. The department shall revise the fee schedule from time to time so that the amount of fees collected under this article does not exceed the amount necessary to fund the duties of the department under this article.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8113 Pharmaceutical-grade cannabis fund.

Sec. 8113. (1) The pharmaceutical-grade cannabis fund is created within the state treasury. In addition to the fees described in section 8111, the state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(2) The department is the administrator of the fund for auditing purposes and the department shall expend money from the fund, upon appropriation, only for the direct and indirect costs associated with implementing, administering, and enforcing this article.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8115 Rules.

Sec. 8115. (1) Subject to subsection (2), the department shall promulgate rules necessary to carry out this article. The rules shall address, but are not required to be limited to addressing, all of the following subjects:

(a) If not specifically provided for in this article, activities necessary for the compliance with or enforcement of or activities that constitute a violation of this article, including, but not limited to, procedures and grounds for denying, suspending, or revoking a license or registration card under this article.

(b) Instructions for access by local health departments and law enforcement officers.

(c) All forms necessary or convenient for the implementation, administration, and enforcement of this article.

(d) Activities that constitute or result in misrepresentation or unfair, deceptive practices.

(e) Procedures and forms for issuing enhanced pharmaceutical-grade cannabis registration cards.

(f) Regulating the manufacturing, inventory, storage, disposal, and sale of pharmaceutical-grade cannabis and specifying legitimate sources for obtaining seed to cultivate pharmaceutical-grade cannabis.

(g) The quarterly reporting by licensed facilities of their inventory, which shall include the number of plants under cultivation, the amount of dried plant material, the amount of destroyed plants, and all sales.

(h) Compliance with federal regulatory requirements.

(i) Health and sanitary requirements for licensed facilities.

(j) Record keeping, record retention, record storage, and record security requirements for pharmaceutical-grade cannabis licensed facilities.

(k) Audit requirements for licensed facilities, which shall include self reporting of inventory on a monthly basis, subject to inspection by designated state and federal authorities.

(*l*) Physical security requirements for pharmaceutical-grade cannabis that at a minimum include lighting and alarms.

(m) The reporting and transmittal of monthly sales and income tax payments for licensed facilities.

(n) Authorization for the department of treasury to have access to licensing information to ensure sales and income tax payments for licensed facilities.

(o) Activities that constitute lawful and unlawful financial arrangements between licensed facilities.

(p) The quantity of pharmaceutical-grade cannabis plants and dried plant material that a licensed facility may possess in its inventory at any time.

(q) Other matters necessary for the fair, impartial, stringent, and comprehensive implementation, administration, and enforcement of this article to protect the health, safety, and welfare of the residents of this state.

(2) The department of licensing and regulatory affairs may begin promulgation of the rules required under this article at the time marihuana, including pharmaceutical-grade cannabis, is rescheduled by federal authority. However, implementation and enforcement of this article shall not occur sooner than 180 days after that federal authority reschedules marihuana.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: At 368

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333.8117 Pharmaceutical-grade cannabis licensed facility registry.

Sec. 8117. The department shall establish a pharmaceutical-grade cannabis licensed facility registry. The registry shall be an online database that contains information regarding the pharmaceutical-grade cannabis licensed facilities licensed under part 82. Information in the database shall be made available to the public.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8119 Annual report.

Sec. 8119. By January 31 of each calendar year, the department shall submit to the legislature an annual report for the previous calendar year that contains all of the following information:

(a) The total amount of fees collected under this article.

(b) All costs related to performing the duties of the department under this article.

(c) Fines, suspensions, or license revocations that were imposed by the department under this article.

(d) Any other information the department considers appropriate under this article.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

PART 81A

PRESCRIBING AND DISPENSING PHARMACEUTICAL-GRADE CANNABIS

333.8151 Recommendation by physician.

Sec. 8151. A physician who determines that his or her patient is likely to receive therapeutic or palliative benefit from the use of pharmaceutical-grade cannabis to treat or alleviate the patient's debilitating medical condition or symptoms of the patient's debilitating medical condition may recommend the issuance of an enhanced pharmaceutical-grade cannabis registration card to that patient as an eligible patient.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8152 Enhanced pharmaceutical-grade cannabis card; issuance by department; conditions; surrender of registry identification card.

Sec. 8152. (1) The department may issue an enhanced pharmaceutical-grade cannabis registration card to an eligible patient who is 18 years of age or older, who is recommended by a physician to obtain a registration card, and who properly applies for that card. The department may issue an enhanced pharmaceutical-grade cannabis card to an eligible patient who is less than 18 years of age, who is recommended by 2 physicians to obtain a registration card, and who properly applies for that card or if his or her parent or guardian properly applies for that card on his or her behalf. Before issuing a card to an eligible patient under this section, the department shall determine whether the individual has previously been convicted of a felony violation for illegally manufacturing, creating, distributing, possessing, or using a controlled substance or conspiring or attempting to manufacture, create, distribute, possess, or use a controlled substance in this state or elsewhere. If the individual has previously been convicted of a felony violation for illegally manufacturing, creating, distributing, possessing, or using a controlled substance or conspiring or attempting to manufacture, create, distribute, possess, or use a controlled substance in this state or elsewhere, the department shall not issue a registration card to that individual.

(2) If an individual has a registry identification card as defined in section 3 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26423, the department shall require the individual to surrender that card before issuing the individual an enhanced pharmaceutical-grade cannabis registration card under this section.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8153 Entry of information into law enforcement information network.

Sec. 8153. (1) The department shall ensure that the following information for each pharmaceutical-grade cannabis registration card is entered into the law enforcement information network:

(a) The card registration number.

(b) The name and address of the individual to whom the card is issued.

(c) The date the card was issued and the expiration date.

(d) The name and address of the physician who authorized issuance of the card.

(2) Subsection (1) does not authorize the department to enter any information into the law enforcement

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information network regarding the diagnosis supporting issuance of the card or any medical information regarding the individual to whom the card has been issued.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8154 Prescription; contents; monitoring; access to information; limitation; confidentiality; retrieval system; use of information; removal of identity; contractual agreement.

Sec. 8154. (1) Each prescription for pharmaceutical-grade cannabis shall contain all of the following information:

(a) The date the prescription is written.

(b) The date the prescription is filled.

(c) The dosage and instructions for use, which shall include the percentage of total THC and the percentage of total CBD. A prescription for pharmaceutical-grade cannabis shall not allow the individual to whom the prescription is issued to obtain more than 2.5 ounces of pharmaceutical-grade cannabis. Pharmaceutical-grade cannabis must be kept only in the original packaging or container provided by the manufacturer or by the dispensing pharmacy.

(d) The name, address, and federal drug enforcement administration number of the dispensing pharmacy and the initials of the pharmacist who fills the prescription.

(e) The name, address, and date of birth of the eligible patient for whom the pharmaceutical-grade cannabis is prescribed.

(f) The product brand name, if a brand name is specified by the prescriber.

(2) The department shall require the use of the electronic system established under section 7333a for monitoring pharmaceutical-grade cannabis dispensed under this section as a schedule 2 controlled substance.

(3) The director shall permit access to information submitted to the department under this article only to the following individuals and as provided in this article:

(a) Employees and agents of the department authorized by the director of the department.

(b) Employees of state, county, and other local law enforcement entities authorized by the administrator as defined in article 7 for the purpose of cooperating and assisting a governmental agency that is responsible for the enforcement of laws relating to controlled substances or a prescribing physician or pharmacy concerning an individual suspected of attempting to obtain a controlled substance by fraud, deceit, or misrepresentation.

(c) A person with whom the department has contracted under subsection (8).

(4) Information submitted to the department under this section is confidential, but may be released to persons authorized by the director to conduct research studies or to other persons authorized by the director. However, subject to subsection (5) and section 8153, information shall be released for statistical purposes only.

(5) The system for retrieval of information submitted to the department under this section shall be designed in all respects so as to preclude improper access to information.

(6) Except as otherwise provided in this part, information submitted to the department under this section shall be used only for bona fide drug-related criminal investigatory or evidentiary purposes or for investigatory or evidentiary purposes in connection with the functions of 1 or more of the licensing boards created in article 15.

(7) The identity of an individual eligible patient that is submitted to the department under this section shall be removed from the system for retrieval of the information described in this section and shall be destroyed and rendered irretrievable not later than the end of the calendar year following the year in which the information was submitted to the department. However, an individual eligible patient identity that is necessary for use in a specific ongoing investigation conducted in accordance with this act may be retained in the system until the end of the year in which the necessity for retention of the identity ends.

(8) The department may enter into contractual agreements for the administration of this section.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

PART 82
FACILITY LICENSING

333.8201 Licensing; purpose.

Sec. 8201. To protect the health, safety, and welfare of residents of this state, the department shall license facilities under this article to cultivate, manufacture, and test pharmaceutical-grade cannabis in this state. The

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department shall implement, administer, and enforce this article to ensure that a safe, pure, dosage-consistent grade of pharmaceutical-grade cannabis is available to eligible patients who are residents of this state.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8205 Issuance of license; requirements; submission of fingerprints; criminal history check.

Sec. 8205. (1) The department shall not issue a license to an applicant to operate a pharmaceutical-grade cannabis licensed facility unless the department is satisfied that all of the following requirements are met:

(a) All fees required under this article have been paid.

(b) The applicant will operate the licensed facility in compliance with this article.

(c) The applicant is an adult of good moral character.

(d) The applicant is not delinquent in filing any tax returns with a taxing agency; paying any taxes, interest, or penalties; paying any judgments due to a government agency; repaying government-insured student loans; or paying child support.

(e) The applicant will not hire or contract with any individual in the course of operating a licensed facility without first conducting a criminal history check in the manner prescribed in rules promulgated under this article.

(f) The premises were inspected and the inspection of the premises and the operations of the applicant did not reveal any reason to deny the license.

(g) The criminal history check conducted under subsection (2) did not reveal any felony convictions or any convictions involving a controlled substance.

(h) Any other criteria established in rules promulgated under this article.

(2) At the time of filing an application for issuance or renewal of a pharmaceutical-grade cannabis licensed facility license, an applicant shall submit a set of his or her fingerprints and file personal history information concerning his or her qualifications for a license under this article. The department shall submit the fingerprints to the department of state police for the purpose of conducting a fingerprint-based criminal history check. Fingerprints shall be submitted in a form and manner prescribed by the department of state police and shall be subject to normal fingerprinting fees. The department of state police shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting a fingerprint-based criminal history check. The department may acquire a name-based criminal history check for an applicant who has twice submitted to a fingerprint-based criminal history check under this part and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints under this part may request that the fingerprints on file be used. The department shall use the information resulting from the fingerprint-based criminal history check to investigate and determine whether an applicant is qualified to hold a license under this article. The department may verify any of the information an applicant is required to submit. The department of state police shall retain a copy of the fingerprint images and shall notify the department in the event that a licensee under this article is arrested or convicted. The federal bureau of investigation may retain a copy of the fingerprint images to provide notification if a licensee under this article is arrested or convicted. When notified of an updated arrest or conviction, the department shall determine whether a licensee is still qualified to hold a license under this article. The department shall notify the department of state police to deactivate notification when an individual ceases to be a licensee under this article.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8209 Inspections; delegation to local health department; consultation with ad hoc committee; reimbursement.

Sec. 8209. The department may delegate the duty of inspections for approval or renewal of pharmaceutical-grade cannabis licensed facility licenses to a local health department that has the technical and other capabilities to protect the public health, safety, and welfare in this field. The delegation shall not take place unless the department has first consulted with an ad hoc committee that shall be appointed by the department for the purpose of advising on that delegation. Membership on the ad hoc committee shall include representatives of the department, local public health agencies, and an association that represents the pharmaceutical-grade cannabis licensed facilities that would be subject to the inspections. If delegated under this section, the state shall reimburse each local health department the full amount of the fees collected, as reimbursement for the cost of inspection, on vouchers certified by the local health officer and approved by the department.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

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Popular name: Act 368

333.8211 License renewal.

Sec. 8211. Not later than the thirtieth day before the expiration of an annual license under this part, a person operating a pharmaceutical-grade cannabis licensed facility seeking relicensure shall apply for license renewal and shall pay a fee as prescribed in this article. Upon compliance by an applicant for license renewal with the requirements of this article and payment of the license renewal fee, the department shall issue a renewal license.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

PART 83
PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY OPERATIONS

333.8301 Physical location.

Sec. 8301. A pharmaceutical-grade cannabis licensed facility shall establish legal control of its physical location. The physical location shall meet all applicable state and local zoning laws.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8303 Records; notification; prohibited acts; destruction of marihuana determined not pharmaceutical-grade cannabis; standards; manner of irradiation.

Sec. 8303. (1) A pharmaceutical-grade cannabis licensed facility shall maintain on the premises a record of the name, address, and date of birth of each officer, director, partner, member, manager, or employee of that licensed facility. The licensed facility shall obtain the individual's identification and have a criminal history check conducted to determine if that individual is qualified to work at or be associated with the licensed facility under this article.

(2) A pharmaceutical-grade cannabis licensed facility shall notify the department in writing within 10 days after an officer, director, partner, member, manager, or employee ceases to work at or otherwise be associated with the licensed facility.

(3) A pharmaceutical-grade cannabis licensed facility shall not acquire, possess, cultivate, deliver, transfer, transport, supply, sell, or dispense pharmaceutical-grade cannabis for any purpose except as provided in this article.

(4) A pharmaceutical-grade cannabis licensed facility shall not possess more than the amount of pharmaceutical-grade cannabis plants or dried pharmaceutical-grade cannabis allowed in its inventory as prescribed in rules promulgated under this article.

(5) A pharmaceutical-grade cannabis licensed facility shall destroy all marihuana that it cultivates or that is otherwise in its possession that is determined not to be pharmaceutical-grade cannabis. A licensed facility shall keep records of its activities under this subsection in order to verify its compliance to the department.

(6) Pharmaceutical-grade cannabis shall meet the following standards:

Microbiological

Microbiological Analysis	FPL Specifications
Total coliforms	<3 MPN/g
Std. plate count aerobic	<100 CFU/g
Std. plate count anaerobic	<100 CFU/g
Escherichia coli	Absent
Salmonella	Absent
Staphylococcus aureus	<100 CFU/g
Yeast and molds	<100 CFU/g

Mycotoxins

Test	Specification
Aflatoxin B1	<20 µg/kg of substance
Aflatoxin B2	<20 µg/kg of substance
Aflatoxin O1	<20 µg/kg of substance
Aflatoxin O2	<20 µg/kg of substance
Ochratoxin A	<20 µg/kg of substance

Heavy Metals

Metal	NHP Acceptable Limits

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	µg/kg bw/day
Arsenic	<0.14
Cadmium	<0.09
Lead	<0.29
Mercury	<0.29

(7) A licensed facility shall irradiate all pharmaceutical-grade cannabis in the manner determined by the department before delivering that pharmaceutical-grade cannabis to another person.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8305 Facility as profit or nonprofit entity.

Sec. 8305. A pharmaceutical-grade cannabis licensed facility may be a profit or nonprofit entity.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8307 Operation.

Sec. 8307. A pharmaceutical-grade cannabis licensed facility may operate on any calendar days of the week, but shall do all of the following:

(a) Prohibit smoking or consumption of marihuana on its premises.

(b) Maintain all records required under this article on its premises.

(c) Make the licensed premises available for inspection and search by the department, by law enforcement officers, and by any other state, federal, or local governmental agency authorized by law or department rule to inspect the premises of the licensed facility under this act, during regular business hours and when the licensed premises are occupied by the licensee or a clerk, servant, agent, or employee of the licensee. Evidence of a violation of this act or rules promulgated under this act discovered under this subsection may be seized and used in an administrative or court proceeding.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

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333.8309 Liability.

Sec. 8309. In addition to the provisions of section 2946 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2946, in a product liability action against a pharmaceutical-grade cannabis licensed facility, pharmaceutical-grade cannabis is not defective or unreasonably dangerous, and the pharmaceutical-grade cannabis licensed facility is not liable, if the product sold was tested and determined to meet the standards for pharmaceutical-grade cannabis under this article.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

PART 84
SALE AND DISTRIBUTION OF PHARMACEUTICAL-GRADE CANNABIS

333.8401 Sale or distribution; requirements; report.

Sec. 8401. (1) A pharmaceutical-grade cannabis licensed facility shall not sell or otherwise distribute pharmaceutical-grade cannabis except as provided in this section.

(2) A pharmaceutical-grade cannabis licensed facility shall not sell or otherwise distribute pharmaceutical-grade cannabis directly to the public.

(3) A pharmaceutical-grade cannabis licensed facility shall sell pharmaceutical-grade cannabis only to pharmacies licensed in this state to be dispensed only to eligible patients and to other pharmaceutical-grade cannabis licensed facilities for purposes provided for under this article. Pharmaceutical-grade cannabis dispensed by a pharmacist or retail pharmacy licensed in this state shall have affixed upon each package and container in which the cannabis is contained a label showing in legible English the name and address of the manufacturer, the date the prescription is filled, the dosage, including the total percentage of THC and total percentage of CBD, the name of the patient, and the name and address of the dispensing pharmacy.

(4) A pharmaceutical-grade cannabis licensed facility may sell or otherwise distribute pharmaceutical-grade cannabis to pharmacies for sale or distribution only to eligible patients as provided in this article.

(5) A pharmaceutical-grade cannabis licensed facility shall report to the department on a quarterly basis all quantities of pharmaceutical-grade cannabis sold to licensed pharmacists, retail pharmacies, and other

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pharmaceutical-grade cannabis licensed facilities. The report shall be in writing and shall include the name and address of each pharmacist, retail pharmacy, and pharmaceutical-grade cannabis licensed facility to which the pharmaceutical-grade cannabis is sold. A report under this sub-section may be transmitted electronically, if the transmission is ultimately reduced to writing.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

PART 85
ENFORCEMENT

333.8501 Enforcement; inspection; finding of emergency; suspension of license; order.

Sec. 8501. (1) The department shall enforce this article and the applicable provisions of article 7 and shall conduct at least 1 inspection of each pharmaceutical-grade cannabis licensed facility during the term of its license to ensure compliance with the requirements of this article and article 7.

(2) Upon a finding that an emergency exists requiring immediate action to protect the public health, safety, and welfare, the department may issue an order to suspend the license of a pharmaceutical-grade cannabis licensed facility without notice or hearing. The order shall recite the existence of the emergency and the facts supporting a determination of the need to protect public health, safety, and welfare. Notwithstanding this act or the administrative procedures act of 1969, the order shall be effective immediately. A person to whom the order is directed shall comply immediately but, on application to the department, shall be afforded a hearing within 15 days. On the basis of the hearing, the order of summary suspension shall be continued, modified, or dissolved not later than 30 days after the hearing.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8503 Suspension or revocation of facility license; oaths and subpoenas; notice; fees; summary suspension.

Sec. 8503. (1) In addition to any other penalties prescribed or remedies provided in this article, article 7, and article 15, the department may, on its own motion or on receipt of a complaint, and after an investigation and a hearing before an administrative law judge at which the pharmaceutical-grade cannabis licensed facility licensee is afforded an opportunity to be heard, suspend or revoke a facility license issued under this article. The department may suspend or revoke a license for any violation by the licensee, a board member, an agent, or an employee of the licensed facility or of any of the terms, conditions, or provisions of the license issued by the department. The department may administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing that the department is authorized to conduct.

(2) The department shall provide notice of suspension or revocation, as well as any required notice of a hearing, by mailing the same in writing to the licensed facility at the address contained in the license. If a license is suspended or revoked, no part of the fees paid for the license under this article or under article 7 shall be returned to the licensee. The department may summarily suspend a license without notice pending any prosecution, investigation, or public hearing.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8505 Licensing hearing; testimony; self-incrimination; use in criminal prosecution; refusal as grounds for suspension or revocation.

Sec. 8505. In any licensing hearing held by the department under this article, a person shall not refuse, upon request of the department, to testify or provide other information on the grounds of self-incrimination. Any testimony or other information produced in the hearing and any information directly or indirectly derived from the testimony or other information shall not be used against the person in any criminal prosecution based on a violation of this article except a prosecution for perjury committed while testifying. Continued refusal to testify or provide other information is grounds for the suspension or revocation of a license or registration card issued under this article.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8507 Violation; penalty; other violations.

Sec. 8507. (1) The owner, operator, or agent of a pharmaceutical-grade cannabis licensed facility who

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knowingly violates this article or who establishes or operates a pharmaceutical-grade cannabis licensed facility in violation of this article is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $10,000.00, or both.

(b) Except as provided in subdivision (c), if the person has 1 prior conviction for violating this article, the person is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than $50,000.00, or both.

(c) If the person has 2 or more prior convictions for violating this article, or intentionally violates this article, the person is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $100,000.00, or both.

(2) Subsection (1) does not prohibit the person from being charged with, convicted of, or sentenced for any other violation of law committed by the person while violating this section.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8509 Facility or individuals not subject to arrest, prosecution, or penalty.

Sec. 8509. Except as otherwise provided in this article, a pharmaceutical-grade cannabis licensed facility that has been issued a license under this article, or any owner, operator, officer, director, partner, member, manager, or employee of the licensed facility, is not subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the cultivation, distribution, and sale of pharmaceutical-grade cannabis under this article for use by eligible patients in the manner prescribed in this article.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.8511 Local ordinances and regulations.

Sec. 8511. Except as otherwise provided in this section, a local governmental unit shall not enact or enforce an ordinance regarding pharmaceutical-grade cannabis licensed facilities. A local governmental unit may limit the number of pharmaceutical-grade cannabis licensed facilities that may operate in the local governmental unit and may enact reasonable zoning regulations applicable to pharmaceutical-grade cannabis licensed facilities based on local government zoning, health, and safety laws for the cultivation, distribution, and sale of pharmaceutical-grade cannabis.

History: Add. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

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ARTICLE 9
SUPPORTIVE PERSONAL HEALTH SERVICES

PART 91
GENERAL PROVISIONS

333.9101 Plan for health services for pupils in elementary and secondary schools; establishment; contents; cooperation in developing plan; consistency with program of school nursing services; employment of certified school nurses; excusing pupils from health instructions and class attendance.

Sec. 9101. (1) The department shall establish a plan for health services for pupils in the elementary and secondary schools of this state. The plan shall include a definition of school health services and standards for the implementation of the plan. The department shall cooperate with the department of education and the state health planning and development agency in developing the plan to ensure coordination among those agencies.

(2) The plan may include the provision of health services by and through intermediate and local school districts.

(3) The plan shall be consistent with the program of school nursing services adopted pursuant to section 1252 of Act No. 451 of the Public Acts of 1976, being section 380.1252 of the Michigan Compiled Laws, and shall encourage employment of individuals certified by the department of education as school nurses pursuant to that section.

(4) The plan shall not require health instructions for a pupil whose parent or guardian objects in writing and specifically requests that the pupil be excused. The plan shall not require a pupil to attend a class for

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which the pupil is excused pursuant to Act No. 451 of the Public Acts of 1976, as amended, being sections 380.1 to 380.1853 of the Michigan Compiled Laws.

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

Compiler's note: For transfer of certain powers and duties of the bureau of child and family services, with the exception of the women, infants, and children division, 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

333.9105 Examinations or health services provided on equal basis to school children.

Sec. 9105. Examinations or health services provided to school children in attendance in the elementary and secondary grades shall be provided on an equal basis to school children in attendance in both public and nonpublic schools.

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

Popular name: Act 368

333.9111 Pharmaceutical, biologic, and diagnostic products and by-products for human, veterinary, or agricultural use; developing, producing, purchasing, and receiving by gift; research; distribution; costs.

Sec. 9111. (1) The department may develop, produce, purchase, and receive by gift pharmaceutical, biologic, and diagnostic products and by-products for human, veterinary, or agricultural use. The department, when necessary, may engage in research to improve these products or develop new products. The department may distribute the products and by-products within this state and recover the actual costs associated with the products and by-products. The department shall provide and distribute these products and by-products at no cost upon request of local health departments, hospitals, or physicians for use within this state if considered necessary by the department to protect the public health.

(2) The department may develop and produce pharmaceutical, biologic, and diagnostic products and by-products for human, veterinary, or agricultural use for distribution or sale outside this state for both public and private use, if the distribution or sale will not impair any program in this state. Compensation for these products and by-products distributed or sold under this subsection shall cover the actual costs associated with the products and by-products. Distribution outside this state may be made without cost if approved by the governor in emergency situations and if the products and by-products are available and are not required for immediate needs in this state.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 204, Imd. Eff. July 25, 1986.

Popular name: Act 368

333.9112 Pharmaceutical products fund.

Sec. 9112. (1) The pharmaceutical products fund is created in the state treasury and shall be administered by the department. The fund shall only be expended as provided in this section.

(2) The state treasurer shall credit to the pharmaceutical products fund all revenues received by the department pursuant to section 9111.

(3) The department shall utilize the pharmaceutical products fund to update and improve the facilities used to develop and produce pharmaceutical, biologic, and diagnostic products pursuant to section 9111, or to otherwise improve the biologics products program, pursuant to appropriations.

History: Add. 1986, Act 204, Imd. Eff. July 25, 1986.

Popular name: Act 368

333.9121 Blood, blood plasma, blood products, blood derivatives, and human and artificial tissues; standards regulating procurement, processing, distribution, and use; rendition of service; warranty; liability.

Sec. 9121. (1) The department shall establish standards pursuant to section 9133 to regulate the procurement, processing, distribution, and use of blood, blood plasma, blood products, blood derivatives, and human and artificial tissues.

(2) The procurement, processing, distribution, and use of whole blood, blood plasma, blood products, blood derivatives, and human and artificial tissues including, but not limited to, corneas, bones, organs, or parts of organs for the purpose of injecting, transfusing, or transplanting into a human body, is for all purposes the rendition of a service by a person participating therein and, whether or not remuneration is paid to the person, is not a sale for any purpose.

(3) An express, implied, or other warranty does not attach to services described in subsection (2). A person

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involved in the rendition of the service is not liable as a result thereof, except for the person's own negligence or willful misconduct.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1984, Act 390, Eff. Mar. 29, 1985;—Am. 1988, Act 63, Imd. Eff. Mar. 24, 1988.

Popular name: Act 368

333.9122 Donation of blood by individual at least 17 years of age; donation of blood by individual at least 16 but less than 17 years of age; parent's or legal guardian's permission or authorization.

Sec. 9122. (1) An individual who is at least 17 years of age may donate blood in a voluntary and noncompensatory blood program without obtaining his or her parent's or legal guardian's permission or authorization.

(2) An individual who is at least 16 but less than 17 years of age may donate blood in a voluntary and noncompensatory blood program with his or her parent's or legal guardian's permission or authorization.

History: Add. 2010, Act 382, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

333.9123 Testing of donor, sample, specimen, or organ for presence of HIV or antibody to HIV; applicability of subsection (1); effect of positive test results; inability to perform test; written consent to use blood, tissue, organ, or other human specimen; donation of blood exclusively for own use; use of self-replicating body fluids; informing donor of positive test result; violation; liability; definitions.

Sec. 9123. (1) Except as otherwise provided in subsection (2), a person, including, but not limited to, a licensee under article 15 or article 17 that procures or collects blood or human tissues, organs, or other specimens for purposes of transplantation, transfusion, introduction, or injection into a human body shall test or provide for the testing of each potential donor or each sample or specimen of blood or tissue, or each organ or other human specimen for the presence in the donor, sample, specimen, or organ of HIV or an antibody to HIV.

(2) Subsection (1) does not apply if a test for HIV or an antibody to HIV cannot be performed in the time during which the blood, tissue, organ, or other human specimen is viable for purposes of transplantation, transfusion, introduction, or injection into a human body, due to emergency or other exigent circumstances.

(3) Except as otherwise provided in subsection (4) or (5), if the results of a test performed under subsection (1) are positive, the blood, tissue, organ, or other human specimen must not be used for purposes of transplantation, transfusion, introduction, or injection into a human body. If a test for HIV or an antibody to HIV cannot be performed in the time during which the blood, tissue, organ, or other human specimen is viable for purposes of transplantation, transfusion, introduction, or injection into a human body, due to emergency or other exigent circumstances, then the blood, tissue, organ, or other human specimen may be used for purposes of transplantation, transfusion, introduction, or injection into a human body if the person responsible for the transplantation, transfusion, introduction, or injection and the individual who intends to receive the blood, tissue, organ, or other human specimen are informed that there was insufficient time to perform a test for HIV or an antibody to HIV, and agree in writing to the use of the blood, tissue, organ, or other human specimen. If the individual who intends to receive the blood, tissue, organ, or other human specimen under this subsection is a minor, then the parent, legal guardian, or person in loco parentis of the minor must be informed that there was insufficient time to perform a test for HIV or an antibody to HIV and must agree in writing to the use of the blood, tissue, organ, or other human specimen. If the individual who intends to receive the blood, tissue, organ, or other human specimen is otherwise unable to give informed consent, then any of the following persons, in order of priority stated, when persons in prior classes are not available at the time the transplantation, transfusion, introduction, or injection is to be performed, must be informed that there was insufficient time to perform a test for HIV or an antibody to HIV and must agree in writing to the use of the blood, tissue, organ, or other human specimen:

(a) The spouse.

(b) An adult son or daughter.

(c) Either parent.

(d) An adult brother or sister.

(e) A guardian of the individual at the time the transplantation, transfusion, introduction, or injection is to be performed.

(4) If an individual donates blood exclusively for the individual's own transfusion needs, and if the results of a test performed under subsection (1) are positive, the individual may use the blood for that purpose if both

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the person responsible for the transfusion and the individual who intends to receive the blood are informed of the positive test result and consent in writing to the use of the blood.

(5) If the results of a test performed on an organ under subsection (1) are positive, the organ may be used for purposes of transplantation into a human body if the individual who intends to receive the organ has tested positive for HIV, the individual is informed that the test results performed on the organ under subsection (1) are positive, and the individual and the person responsible for the transplantation agree in writing to the use of the organ. If the individual who intends to receive the organ under this subsection is a minor, then the parent, legal guardian, or person in loco parentis of the minor must be informed that the test results performed on the organ under subsection (1) are positive and must agree in writing to the use of the organ.

(6) A person, including, but not limited to, a licensee under article 15 or article 17, who procures or collects self-replicating body fluids for purposes of introduction into a human body shall test each potential donor for the presence in the donor of HIV or an antibody to HIV. If the test results are positive, the self-replicating body fluids of the donor must not be used for introduction into a human body.

(7) A person, including, but not limited to, a licensee under article 15 or article 17 that orders or performs, or both, a test for HIV or an antibody to HIV under this section shall, if the test result is positive, inform the donor of the positive test result. For purposes of this subsection, a positive test result is a double positive enzyme-linked immunosorbent assay test, combined with a positive western blot assay test, or a positive result under an HIV test that is considered reliable by the federal Centers for Disease Control and Prevention and is approved by the department.

(8) A person that violates this section is liable in a civil action for damages for the loss or damage resulting from the violation.

(9) As used in this section:

(a) "Blood" includes whole blood, blood plasma, blood products, and blood derivatives.

(b) "HIV" means human immunodeficiency virus.

(c) "Self-replicating body fluids" means bodily fluids that are reproduced by the body, including, but not limited to, breast milk. Self-replicating body fluids does not include blood or sperm.

History: Add. 1988, Act 487, Eff. July 1, 1989;—Am. 2021, Act 128, Eff. Mar. 30, 2022;—Am. 2024, Act 251, Eff. Apr. 2, 2025.

Popular name: Act 368

333.9129 Registration program for perinatal facilities as maternal care facility; appropriation; incentive payments.

Sec. 9129. (1) Subject to appropriation, the department shall establish and implement a program to register a perinatal facility as a level I, II, III, or IV maternal care facility. The department shall register a perinatal facility as a level I, II, III, or IV maternal care facility under the program if the facility demonstrates to the satisfaction of the department that the facility holds a verification as a level I, II, III, or IV maternal care facility from the Joint Commission or an equivalent organization, as determined by the department. The department shall establish procedures for a perinatal facility to report a verification described in this subsection to the department.

(2) A perinatal facility seeking to register as a level I, II, III, or IV maternal care facility under the program shall report the verification described in subsection (1) to the department once every 3 years on a form and in a manner required by the department.

(3) The department shall publish and update on its website a list of each perinatal facility for which the department has registered under the program. The department shall update the list within 30 days after registering a perinatal facility under the program. The list must include the name of the perinatal facility and the facility's maternal level of care, as confirmed by the department under the program. The department shall not list a perinatal facility's name or maternal level of care on the department's website if the perinatal facility is not registered under the program.

(4) In developing procedures for reporting a verification described in subsection (1), the department shall consult with recognized entities that are involved in providing services in a perinatal facility, including the Michigan Perinatal Quality Collaborative, the Michigan Health and Hospital Association, the Michigan Council for Maternal Child and Health, the American College of Obstetricians and Gynecologists, and the American College of Nurse Midwives. The department shall enter into a partnership with the maternal levels of care verification program established by the Joint Commission and the maternal care obstetric care consensus established by the American College of Obstetricians and Gynecologists for purposes of the program.

(5) The department may provide on-site technical assistance to a perinatal facility that is seeking a verification described in subsection (1) or to register under the program.

(6) Subject to appropriation, the department may provide an incentive payment to a perinatal facility that

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registers with the department under the program. The department shall consider all of the following criteria for the award of an incentive payment:

(a) Data collection and reporting at the perinatal facility.

(b) Patient volume at the perinatal facility.

(c) Practice guidelines at the perinatal facility.

(d) The perinatal facility's coordination with and the referral of a patient to and from another facility.

(e) The perinatal facility's implementation of safety bundles.

(7) As used in this section:

(a) "Perinatal facility" means a hospital licensed under article 17 that provides maternal care.

(b) "Program" means the program described in subsection (1).

History: Add. 2024, Act 249, Eff. Apr. 2, 2025.

Popular name: Act 368

333.9130 Perinatal quality collaboratives.

Sec. 9130. (1) The department shall maintain a perinatal quality collaborative to support and improve maternal and infant health outcomes in this state by doing all of the following:

(a) Promoting quality improvement efforts.

(b) Identifying processes and mobilizing resources.

(c) Advancing equity.

(d) Implementing and expanding care for families affected by perinatal substance use disorder.

(e) Expanding and improving access to quality and respectful care and support throughout the pregnancy and postpartum period.

(2) The perinatal quality collaborative shall establish regional perinatal quality collaboratives for prosperity regions in this state. Each regional perinatal quality collaborative shall designate a lead agency within its region to invite qualified persons within the region to participate in the regional perinatal quality collaborative. Subject to appropriation, the department shall provide resources to each regional perinatal quality collaborative and require each regional perinatal quality collaborative to do all of the following:

(a) Convene qualified persons and other interested persons within the region for regular meetings to review qualitative and quantitative data within the region on maternal and infant health outcomes.

(b) Develop plans of action to improve birth outcomes for pregnant individuals, infants, and families using strategies proven to address the prosperity region's primary perinatal challenges.

(c) Engage families and communities in developing the plans of action described in subdivision (b).

(3) As used in this section:

(a) "Prosperity region" means each of the 10 prosperity regions identified by the department on the effective date of the amendatory act that added this section.

(b) "Qualified person" means a person or governmental entity that provides services and supports to individuals during the perinatal period, including, but not limited to, health facilities or agencies, health professionals, local health departments, home visitation programs, insurers, families, community-based organizations, and federally recognized tribes.

History: Add. 2024, Act 243, Eff. Apr. 2, 2025.

Popular name: Act 368

333.9131 Family planning services; publicity; request by medically indigent individual; clinical abortions.

Sec. 9131. (1) The department, and under its supervision a local health department, shall publicize the places where family planning services are available. The publicity shall state that receipt of public health services is not dependent on a request or nonrequest for family planning services.

(2) An effort shall not be made to coerce a medically indigent individual to request or not request family planning services. The department, and under its supervision a local health department, shall provide family planning services to a medically indigent individual upon the individual's request in accordance with standards established under section 9133. Clinical abortions shall not be considered a method of family planning.

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

Popular name: Act 368

333.9132 Consent of minor to provision of health care; notice; permission to contact parents for additional medical information; giving or withholding information without consent of minor; "health care" defined.

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Sec. 9132. (1) If a minor consents to the provision of prenatal and pregnancy related health care or to the provision of health care for a child of the minor by a health facility or agency licensed under article 17 or a health professional licensed under article 15, the consent shall be 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 the putative father of the child or a spouse, parent, guardian, or person in loco parentis, is not necessary to authorize the provision of health care to a minor or to a child of a minor.

(2) Before providing health care to a minor pursuant to this section, a health facility or agency or a health professional shall inform the minor that the putative father of the child or the minor's spouse, parent, guardian, or person in loco parentis may be notified pursuant to subsection (4).

(3) At the initial visit to the health facility or health professional, permission shall be requested of the minor to contact the minor's parents for any additional medical information which may be necessary or helpful to the provision of proper health care.

(4) For medical reasons, the treating physician, and on the advice and direction of the treating physician, a member of the medical staff of a health facility or agency or other health professional may, but is not obligated to, inform the putative father of the child or the spouse, parent, guardian, or person in loco parentis as to the health care 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.

(5) As used in this section, "health care" means only treatment or services intended to maintain the life and improve the health of both the minor and the minor's child or fetus.

History: Add. 1984, Act 153, Imd. Eff. June 25, 1984.

Popular name: Act 368

333.9133 Rules.

Sec. 9133. The department may promulgate rules to implement this part which shall include rules to establish the plan developed under section 9101 and to implement sections 9121 and 9131.

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

Popular name: Act 368

Administrative rules: R 325.2941 et seq. of the Michigan Administrative Code.

333.9137 Mental health screenings.

Sec. 9137. (1) Beginning January 1, 2026, all of the following apply:

(a) A health professional shall offer the mental health screening described in subsection (2) to an individual who has given birth at a follow-up appointment or well child visit during the individual's postpartum period if the health professional is seeing the individual in a pediatric or obstetric and gynecological setting and the health professional determines at the follow-up appointment or well child visit that a mental health screening is appropriate for the individual.

(b) A health professional other than a health professional described in subdivision (a) may offer the mental health screening described in subsection (2) to an individual who has given birth at a follow-up appointment or well child visit during the individual's postpartum period or until the child reaches the age of 12 months.

(2) The department may develop a tool to be used by health professionals offering a mental health screening under subsection (1). A health professional may also conduct the mental health screening by using an evidenced-based screening tool to assess an individual's maternal mental health or other postpartum risk factors.

(3) If a health professional determines that an individual who has given birth may be in need of mental health resources in addition to a mental health screening under subsection (1), the health professional may provide the individual with any of the following mental health resources:

(a) Mental health resources that are developed by the department.

(b) Information on postpartum mental health conditions and their symptoms.

(c) Treatment options for postpartum mental health conditions.

(d) Referrals considered appropriate by the health professional for the individual.

(e) If the health professional determines that the individual may be in need of additional support or services, any other information considered appropriate by the health professional to support the individual.

(4) As used in this section, "health professional" means an individual who is licensed, registered, or otherwise authorized to engage in a health profession under article 15.

History: Add. 2024, Act 246, Eff. Apr. 2, 2025.

Popular name: Act 368

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333.9141 Ultrasound equipment; purchase; grant program; fund; application; conditions; report; rules; definitions.

Sec. 9141. (1) The department shall establish and administer a grant program to provide grants for the purchase of ultrasound equipment. The department shall use the grant program to make grants to qualified entities that apply for a grant and that do not have at least 2 ultrasound machines.

(2) The ultrasound equipment fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund including, but not limited to, state revenues, federal money, gifts, bequests, donations, and money from any other source provided by law. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year remains in the fund and does not lapse to the general fund.

(3) The department shall use the fund to make grants as provided under subsection (1) for the purchase of ultrasound equipment and to cover the administrative costs of the department and the department of treasury in implementing and administering this grant program. An application for a grant under the grant program must be made on a form or format prescribed by the department. The department may require the applicant to provide information reasonably necessary to allow the department to make a determination required under this section. In making its determination, the department shall give priority to those applicants that do not have an ultrasound machine or that have only 1 ultrasound machine that is outdated based on industry standards. The director of the department shall have final approval of grants made under this section and the director shall only approve grants if the money is available in the fund.

(4) A cash match of at least 50% of the grant or other repayment guarantee with a dedicated funding source is required before a grant can be awarded.

(5) The department shall not make a grant to a qualified entity for the purchase of ultrasound equipment unless the following conditions are met:

(a) The entity provides family planning or reproductive health services to low-income women at no cost or at a reduced cost.

(b) The entity agrees to comply with each of the following:

(*i*) Shall have at least 1 ultrasound monitor that is fully accessible to the pregnant individual to view during the performance of the individual's ultrasound.

(*ii*) Inform each pregnant individual upon whom the ultrasound equipment is used that the individual has the right to view the ultrasound image.

(*iii*) If the ultrasound equipment is capable, inform each pregnant individual upon whom the ultrasound equipment is used that the individual has the right to record the ultrasound image for the individual's own records if the individual provides the entity with the videocassette, film, or other medium now known or later developed on which images can be recorded or otherwise stored.

(*iv*) Certify in writing that the individual was offered an opportunity to view the ultrasound image, obtain the individual's acceptance or rejection to view the image in writing, and maintain a copy of each in the individual's medical file.

(*v*) Shall have a trained medical professional or a qualified medical director on staff to perform the ultrasound.

(6) The department shall annually prepare a report summarizing the grants made under this section, contractual commitments made and achieved, and a preliminary evaluation of the effectiveness of this section and shall provide a copy of this report to the chairs of the house of representatives and senate appropriations subcommittees for the department.

(7) The department may promulgate rules under the administrative procedures act of 1969 to implement this grant program.

(8) As used in this section:

(a) "Entity" means a local agency, organization, or corporation or a subdivision, contractee, subcontractee, or grant recipient of a local agency, organization, or corporation.

(b) "Fund" means the ultrasound equipment fund created under subsection (2).

(c) "Qualified entity" means an entity reviewed and determined by the department to satisfy all of the conditions required under subsection (5) and to be technically and logistically capable of providing the quality and quantity of services required within a cost range considered appropriate by the department.

History: Add. 2004, Act 501, Imd. Eff. Dec. 29, 2004;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

Popular name: Act 368

333.9145 Nonopioid directive; form; revocation; exception for emergency; liability;

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definitions.

Sec. 9145. (1) The department shall develop a nonopioid directive form indicating to health professionals and emergency medical services personnel that, except as otherwise provided in subsection (3) or in rules promulgated by the department under subsection (5), an individual who has executed the form or who has had a form executed on the individual's behalf must not be administered an opioid or offered a prescription for an opioid. The department shall include on the nonopioid directive form instructions on how the form may be revoked and any other information that the department considers relevant. The department shall make the form available to the public on the department's internet website.

(2) An individual may execute a nonopioid directive form on his or her own behalf. A guardian or patient advocate of an individual may execute a nonopioid directive form on behalf of the individual. If a nonopioid directive form is executed by or on behalf of an individual and is presented to a health professional, the health professional shall obtain a copy of the form and include the copy in the individual's medical record. An individual may revoke a nonopioid directive form executed by himself or herself at any time and in any manner by which he or she is able to communicate his or her intent to revoke the form. A patient advocate or guardian may revoke a nonopioid directive form on behalf of an individual at any time by issuing the revocation in writing and providing notice of the revocation to the individual's health professional or his or her delegatee.

(3) A prescriber who holds a controlled substances license under article 7 or a health professional who is a practical nurse or registered professional nurse and is acting on the order of the prescriber may administer an opioid to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on his or her behalf if any of the following apply:

(a) The individual is being treated at a hospital or in a setting outside of a hospital in the case of an emergency and, in the prescriber's professional opinion, the administration of the opioid is medically necessary to treat the individual. If an opioid is administered under this subdivision, the prescriber shall ensure that the individual is provided with information on substance use disorder services as that term is defined in section 6230.

(b) The opioid is for intraoperative use.

(4) Except as otherwise provided by law, the following are not subject to civil or criminal liability or professional disciplinary action for failing to administer, prescribe, or dispense an opioid, or for the inadvertent administration of an opioid, to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on his or her behalf, if the failure to act or act was done reasonably and in good faith:

(a) A health professional whose scope of practice includes the prescribing, administering, or dispensing of a controlled substance.

(b) A health facility or agency licensed under article 17.

(c) An employee of a health professional.

(d) An employee of a health facility or agency licensed under article 17.

(e) Emergency medical services personnel.

(5) Subject to subsection (6), the department shall promulgate rules to implement this section. The rules must include, but not be limited to, all of the following:

(a) Procedures to record a nonopioid directive form in a medical record, including an electronic medical record.

(b) Procedures to revoke a nonopioid directive form.

(c) Procedures to ensure that the recording, disclosure, or distribution of data relating to a nonopioid directive form or the transmission of a nonopioid directive form complies with state and federal confidentiality and consent laws, rules, and regulations.

(d) Exemptions for administering or prescribing an opioid to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on his or her behalf if the opioid is administered or prescribed to treat the individual for a substance use disorder.

(e) Exemptions for administering or prescribing an opioid to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on his or her behalf if the individual is a hospice patient.

(6) The rules promulgated under this section must allow a health professional or health facility or agency licensed under article 17 to incorporate a nonopioid directive form into an existing patient form or into other documentation used by the health professional or health facility or agency.

(7) As used in this section:

(a) "Emergency medical services personnel" means that term as defined in section 20904.

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(b) "Guardian" means a person with the powers and duties to make medical treatment decisions on behalf of a patient to the extent granted by court order under section 5314 of the estates and protected individuals code, 1998 PA 386, MCL 700.5314.

(c) "Health professional" means an individual who is licensed under article 15.

(d) "Nonopioid directive form" or "form" means the nonopioid directive form developed by the department under subsection (1).

(e) "Patient advocate" means an individual designated to make medical treatment decisions for a patient under sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(f) "Prescriber" means that term as defined in section 17708.

History: Add. 2018, Act 554, Eff. Mar. 28, 2019;—Am. 2022, Act 41, Imd. Eff. Mar. 23, 2022.

Popular name: Act 368

333.9152 Screening pupils for scoliosis and other spinal disorders; guidelines; participation; written statement; short title of section.

Sec. 9152. (1) The department, in cooperation with the department of education, shall develop guidelines for the screening of pupils in the schools of this state for scoliosis and other spinal disorders, including grades to be screened annually, reporting forms to be used, procedures for rescreening, and procedures for referral of children who fail the rescreening, and shall provide technical, educational, and other assistance to local public health departments for the implementation of scoliosis and other spinal disorder detection programs. In developing the guidelines, the department shall consult with public and private agencies and organizations involved in similar screening programs. The guidelines shall be distributed to all local health departments and school districts within this state.

(2) A pupil shall not be required to participate in a scoliosis or other spinal disorder screening program if a parent, guardian, or person in loco parentis of the pupil presents a written statement to the administrator of the pupil's school stating that participation in a spinal disorder screening program violates the personal religious beliefs of the pupil, parent, guardian, or person in loco parentis.

(3) This section shall be known and may be cited as "the Ogonowski scoliosis screening act".

History: Add. 1981, Act 105, Eff. Mar. 31, 1982.

Popular name: Act 368

333.9155 Concussions; educational materials on nature and risk; concussion awareness training program; availability of materials and program on website; review; definitions.

Sec. 9155. (1) Before June 27, 2013, the department shall develop, adopt, or approve educational materials on the nature and risk of concussions.

(2) Before June 27, 2013, the department shall develop, adopt, or approve a concussion awareness training program in an electronic format that includes all of the following:

(a) The nature and risk of concussions.

(b) The criteria for the removal of an athlete from physical participation in an athletic activity due to a suspected concussion and his or her return to that athletic activity.

(c) The risks to an athlete of not reporting a suspected concussion and continuing to physically participate in the athletic activity.

(3) As soon as they are available, the department shall make the educational materials and training program required under this section available to the public on the department's internet website. The department shall make the training program available to all individuals required to participate in the program under section 9156 and to any interested individual including school personnel, coaches, parents, students, and athletes. The department shall periodically review the training program required under this section and, for purposes of section 9156, make recommendations regarding the frequency of the training program based on changes to the training program that are developed, adopted, or approved by the department.

(4) As used in this section and section 9156:

(a) "Appropriate health professional" means a health professional who is licensed or otherwise authorized to engage in a health profession under article 15 and whose scope of practice within that health profession includes the recognition, treatment, and management of concussions.

(b) "Athletic activity" means a program or event, including practice and competition, during which youth athletes participate or practice to participate in an organized athletic game or competition against another team, club, entity, or individual. Athletic activity includes participation in physical education classes that are part of a school curriculum.

(c) "Concussion" means a type of traumatic brain injury as recognized by the Centers for Disease Control

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and Prevention. A concussion may cause a change in an individual's mental status at the time of the injury, including, but not limited to, feeling dazed, disoriented, or confused, and may or may not involve a loss of consciousness. A concussion may be caused by any type of accident or injury including, but not limited to, the following:

(*i*) A fall.

(*ii*) A blow, bump, or jolt to the head or body.

(*iii*) The shaking or spinning of the head or body.

(*iv*) The acceleration and deceleration of the head.

(d) "Institution of higher education" means a degree or certificate granting public or private college or university, junior college, or community college.

(e) "Organizing entity" means any of the following:

(*i*) A school.

(*ii*) A state or local parks and recreation department or commission or other state or local entity.

(*iii*) A nonprofit or for-profit entity.

(*iv*) A public or private entity.

(f) "School" means a nonpublic school, public school, or public school academy as those terms are defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(g) "Youth athlete" means an individual who participates in an athletic activity and who is under 18 years of age. Youth athlete does not include an individual who is 17 years of age and enrolled solely in an institution of higher education.

History: Add. 2012, Act 342, Eff. Mar. 28, 2013;—Am. 2017, Act 137, Eff. Jan. 24, 2018.

Popular name: Act 368

333.9156 Sponsor or operation of athletic activity; compliance with section by organizing entity; duties of coach or other adult; removal of youth athlete; written clearance; exceptions.

Sec. 9156. (1) An organizing entity that is subject to this section shall ensure that it is in compliance with this section before it sponsors or operates an athletic activity in which youth athletes will participate, if that athletic activity is subject to this section.

(2) Before a youth athlete may participate in an athletic activity sponsored by or operated under the auspices of an organizing entity, the organizing entity shall do all of the following:

(a) Comply with all the requirements of this section with regard to its coaches, employees, volunteers, and other adults who are involved with the participation of youth athletes in athletic activity sponsored by or operated under the auspices of that organizing entity and who are required to participate in the concussion awareness training program developed under section 9155.

(b) Ensure that each coach, employee, volunteer, and other adult who is required to participate in the concussion awareness training program developed under section 9155 completes the training program once every 3 years, unless the department recommends more frequent training.

(c) Provide the educational materials developed under section 9155 to each youth athlete who participates in an athletic activity sponsored by or operated under the auspices of the organizing entity and a parent or guardian of the youth athlete.

(d) Obtain a statement signed by each youth athlete and a parent or guardian of the youth athlete acknowledging receipt of the educational material developed under section 9155. The organizing entity shall maintain the statement obtained under this subdivision in a permanent file for the duration of that youth athlete's participation in athletic activity sponsored by or operated under the auspices of that organizing entity or until the youth athlete is 18 years of age. Upon request, the organizing entity shall make the statements obtained under this subdivision available to the department.

(3) A coach or other adult employed by, volunteering for, or otherwise acting on behalf of an organizing entity during an athletic event sponsored by or operated under the auspices of the organizing entity shall immediately remove from physical participation in an athletic activity a youth athlete who is suspected of sustaining a concussion during the athletic activity. A youth athlete who has been removed from physical participation in an athletic activity under this subsection shall not return to physical activity until he or she has been evaluated by an appropriate health professional and receives written clearance from that health professional authorizing the youth athlete's return to physical participation in the athletic activity. The organizing entity shall maintain a written clearance obtained under this subsection in a permanent file for the duration of that youth athlete's participation in athletic activity sponsored by or operated under the auspices of that organizing entity or until the youth athlete is 18 years of age. Upon request, the organizing entity shall

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make the written clearance obtained under this subsection available to the department.

(4) This section does not apply to an athletic activity sponsored by or operated under the auspices of an organizing entity if all of the following requirements are met:

(a) The entity is a member of a private nonprofit multisport statewide interscholastic athletic association.

(b) The athletic activity is governed by a rule established by the interscholastic athletic association described in subdivision (a), which rule establishes concussion protocols that are substantially similar to or more stringent than the concussion protocols in the training program developed, adopted, or approved under section 9155 and the removal from and return to physical activity requirements of this section, and includes an enforcement mechanism on its members.

(5) This section does not apply to an entity that would otherwise be considered an organizing entity under this section if the primary focus of the program or event sponsored by or operated under the auspices of that entity is not the participation in an organized athletic game or competition but that participation is only incidental to the primary focus of the program or event.

History: Add. 2012, Act 343, Eff. Mar. 28, 2013;—Am. 2017, Act 137, Eff. Jan. 24, 2018.

Popular name: Act 368

333.9159 Development of educational program and dissemination of information on female genital mutilation; duties of department; definitions.

Sec. 9159. (1) The department shall do both of the following:

(a) Develop and administer an educational and outreach program that, at a minimum, informs the public, including members of new immigrant populations to this state that commonly practice female genital mutilation and health care providers, of the health risks and emotional trauma inflicted by the practice of female genital mutilation and the criminal penalties for female genital mutilation. In developing the program described in this subdivision, the department shall seek input from all of the following:

(*i*) The general public, including individuals from communities that, as a matter of custom or ritual, traditionally practice female genital mutilation.

(*ii*) Women's health organizations.

(*iii*) Teachers.

(*iv*) Local health departments.

(*v*) Health care providers.

(*vi*) State agencies that the department considers relevant.

(b) Develop and disseminate information on female genital mutilation and the criminal penalties for female genital mutilation to teachers and law enforcement personnel.

(2) As used in this section:

(a) "Female genital mutilation" means the circumcision, excision, or infibulation, in whole or in part, of the labia majora, labia minora, or clitoris of a female who is under 18 years of age.

(b) "Health care provider" means both of the following:

(*i*) A health professional who is licensed, registered, or otherwise authorized to engage in a health profession under article 15.

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

History: Add. 2017, Act 77, Eff. Oct. 9, 2017.

Popular name: Act 368

333.9161 Pamphlet; contents; printing; distribution.

Sec. 9161. (1) The department, in consultation with appropriate professional organizations and other appropriate state departments and agencies, shall distribute a pamphlet that contains information regarding prenatal care and parenting. The department may use an existing pamphlet or pamphlets containing information regarding prenatal care or parenting, or both, to comply with the requirements of this subsection. Whether the department develops its own pamphlet or uses an existing pamphlet or pamphlets to comply with this subsection, the department shall print copies of the pamphlet in English, Spanish, and in other languages, as determined appropriate by the department, and shall assure that the pamphlet is written in easily understood, nontechnical terms.

(2) The department shall distribute copies of the pamphlet required under subsection (1) to the Michigan board of medicine and the Michigan board of osteopathic medicine and surgery. The department shall distribute copies of the pamphlet required under subsection (1) to other persons upon written request, at cost, and shall also distribute copies of the pamphlet upon request, free of charge, to physicians and to local health departments.

History: Add. 1993, Act 133, Eff. Apr. 1, 1994.

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Popular name: Act 368

PART 92
IMMUNIZATION

333.9201 Definitions; principles of construction.

Sec. 9201. (1) As used in this part:

(a) "Camping" means attendance at a residential, day, troop, or travel camp conducted for more than 4 school-age children, apart from their parents, guardians, or persons in loco parentis for 5 or more days or parts of days in a 14-day period.

(b) "Immunizing agent" means a vaccine, antibody preparation, or other substance used to increase an individual's immunity to a disease or infectious agent.

(c) "Infectious agent" means that term as defined in R 325.9031 of the Michigan administrative code.

(d) "Registry" means the childhood immunization registry or Michigan care improvement registry established under section 9207.

(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. 1996, Act 540, Imd. Eff. Jan. 15, 1997;—Am. 2006, Act 91, Imd. Eff. Apr. 4, 2006.

Compiler's note: For transfer of certain powers and duties of the bureau of child and family services, with the exception of the women, infants, and children division, 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

333.9203 Free immunization treatments; free periodic immunization clinics for children; publicity; mass immunization programs; liability.

Sec. 9203. (1) A local health department shall offer free immunization treatments to the public for protection in case of an epidemic or threatened epidemic of a disease as ordered by the director.

(2) A local health department shall conduct free periodic immunization clinics for children residing in its jurisdiction. The local health department shall publicize the free immunization service and the time and place of the clinics.

(3) When the department approves a mass immunization program to be administered in this state, health personnel employed by a governmental entity who are required to participate in the program, or any other individual authorized by the director or a local health officer to participate in the program without compensation, is not liable to any person for civil damages as a result of an act or omission causing illness, reaction, or adverse effect from the use of a drug or vaccine in the program, except for gross negligence or wilful and wanton misconduct. This subsection does not exempt a drug manufacturer from liability for a drug or vaccine used in the program.

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

Popular name: Act 368

333.9204 Administration of immunizing agent.

Sec. 9204. (1) Except as otherwise provided in subsection (2), a health professional other than a physician may administer an immunizing agent as long as the agent is being administered under the direction of a physician.

(2) In addition to administering an immunizing agent under the direction of a physician under subsection (1), a pharmacist may order and administer a qualified immunizing agent in accordance with section 17724.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 91, Imd. Eff. Apr. 4, 2006;—Am. 2023, Act 97, Imd. Eff. July 19, 2023
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Popular name: Act 368

333.9205 Immunization of child required.

Sec. 9205. A parent, guardian, or person in loco parentis of a child shall provide for the child's immunization by an authorized health professional, physician, local health department, clinic, or other agency offering immunizations for diseases and within an age period prescribed by the department.

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

Popular name: Act 368

333.9205a Risks associated with meningococcal disease; materials; notice; availability;

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“institution of higher education” defined.

Sec. 9205a. (1) The department shall identify materials that contain information regarding the risks associated with meningococcal disease and the availability, effectiveness, and potential risks of immunization for meningococcal disease, and other diseases about which the department may recommend immunization or immunization information.

(2) The department shall notify each institution of higher education and high school in this state of the availability of the materials described in subsection (1) and post the materials on its website.

(3) The department shall encourage each institution of higher education in this state to provide or make available to students enrolled in the institution of higher education, and each high school in this state to provide or make available to parents of students attending the high school, information regarding the risks associated with meningococcal disease and the availability, effectiveness, and potential risks of immunization for meningococcal disease and other diseases about which the department may recommend immunization or immunization information.

(4) As used in this section, "institution of higher education" means a degree or certificate granting public or private college or university, junior college, or community college.

History: Add. 2001, Act 163, Imd. Eff. Nov. 7, 2001.

Popular name: Act 368

333.9205b Risks of human papillomavirus; availability of materials; definitions.

Sec. 9205b. (1) The department shall identify materials that contain information regarding the risks associated with human papillomavirus and the availability, effectiveness, and potential risks of immunization for human papillomavirus. The department shall notify each public school, public school academy, and nonpublic school in this state of the availability of the materials described in this subsection and shall post the materials on its website.

(2) The department shall encourage each public school, public school academy, and nonpublic school in this state to provide or make available to parents of students attending the school information regarding the risks associated with human papillomavirus and the availability, effectiveness, and potential risks of immunization for human papillomavirus.

(3) As used in this section, "public school", "public school academy", and "nonpublic school" mean those terms as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

History: Add. 2008, Act 120, Imd. Eff. May 9, 2008.

Popular name: Act 368

333.9206 Certificate of immunization required; form; contents; right to object to reporting requirement; report to department; failure to comply with subsection (3); "health care provider" and "health professional" defined.

Sec. 9206. (1) A health care provider administering an immunizing agent to a child shall present the person accompanying the child with a written certificate of immunization, or make an entry of the immunization on a certificate in the person's possession. The certificate must be in a form prescribed by the department and indicate the diseases or infections for which the child has been immunized, the number of doses given, the dates when administered, and whether further immunizations are indicated. Beginning January 1, 2024, the certificate must also have a space to indicate whether the minor has been tested for lead poisoning.

(2) Before administering an immunizing agent to a child, a health care provider shall notify the parent, guardian, or person in loco parentis of the child, on a form provided by the department, of the right to object to the reporting requirement described in subsection (3).

(3) Unless the parent, guardian, or person in loco parentis of the child who received the immunizing agent objects by written notice received by the health care provider prior to reporting, a health care provider shall report to the department each immunization administered by the health care provider, pursuant to rules promulgated under section 9227. If the parent, guardian, or person in loco parentis of the child who was immunized objects to the reporting requirement of this subsection by written notice received by the health care provider prior to notification, the health care provider shall not report the immunization.

(4) A health care provider who complies or fails to comply in good faith with subsection (3) is not liable in a civil action for damages as a result of an act or omission during the compliance, except an act or omission constituting gross negligence or willful and wanton misconduct.

(5) As used in this section:

(a) "Health care provider" means a health professional, health facility, or local health department.

(b) "Health professional" means an individual who is licensed, registered, or otherwise authorized to engage in a health profession under article 15.

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1996, Act 540, Imd. Eff. Jan. 15, 1997;—Am. 2023, Act 97, Imd. Eff. July 19, 2023;—Am. 2023, Act 145, Imd. Eff. Oct. 3, 2023.

Popular name: Act 368

333.9207 Childhood immunization registry; Michigan care improvement registry; establishment; purpose; confidentiality and disclosure requirements.

Sec. 9207. (1) The department shall establish a registry, to be known as the "childhood immunization registry", to record information regarding immunizations performed under this part. Beginning after the effective date of the amendatory act that added section 9227(2), the "childhood immunization registry" shall be known as the "Michigan care improvement registry". The department shall enter information received under sections 2821 and 9206 in the registry.

(2) The information contained in the registry is subject to the confidentiality and disclosure requirements of sections 2637 and 2888 and to the rules promulgated under section 9227. The department may access the information contained in the registry when necessary to fulfill its duties under this code.

(3) Upon receipt of a written request from an individual who is 20 years of age or older, the department shall make any immunization information in the registry pertaining to that individual inaccessible. The written request shall be in a form prescribed or otherwise authorized by the department.

History: Add. 1996, Act 540, Imd. Eff. Jan. 15, 1997;—Am. 2006, Act 91, Imd. Eff. Apr. 4, 2006.

Popular name: Act 368

333.9208 Certificate of immunization or statement of exemption; presentation to school officials; minimum doses of immunizing agent; updated certificate; annual report.

Sec. 9208. (1) A parent, guardian, or person in loco parentis applying to have a child registered for the first time in a school in this state and, beginning January 1, 2014, a parent, guardian, or person in loco parentis of a child entering the seventh grade, shall present to school officials, at the time of registration or not later than the first day of school, a certificate of immunization or statement of exemption under section 9215.

(2) A teacher or principal shall not permit a child to enter or attend school unless a certificate indicating that a minimum of 1 dose of an immunizing agent against each of the diseases specified by the department has been received and certified to by a health professional or local health department. A parent, guardian, or person in loco parentis having a child registered with only these minimum doses of immunizing agents shall present an updated certificate of immunization within 4 months after initial attendance showing that the immunizations have been completed as prescribed by the department.

(3) The department annually shall provide a report showing a year-to-year comparison of the percentage of children by age who are immunized appropriately upon entering the seventh grade.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2000, Act 90, Imd. Eff. May 1, 2000;—Am. 2013, Act 120, Imd. Eff. Oct. 1, 2013.

Compiler's note: Enacting section 1 of Act 120 of 2013 provides:
"Enacting section 1: This amendatory act takes effect July 1, 2013."

Popular name: Act 368

333.9209 Immunization status of kindergarten and first grade students; minimum percentage levels of immunization; raising immunization level; report of additional immunizations; form of report; exclusion of child from school attendance.

Sec. 9209. (1) Before November 1 of each year, the principal or administrator of each school shall deliver to the state and local health departments a list of the immunization status at the time of school entry of new entering kindergarten and first grade students.

(2) The department shall prescribe minimum percentage levels of immunization for children in a school.

(3) As a result of the information collected pursuant to subsection (1), the local health officer shall take appropriate action, including immunization clinics, to raise the immunization level of children entering school to the levels established pursuant to subsection (2).

(4) Before the following February 1, the principal or administrator of each school shall update the list to show the additional immunizations received by each child since entering the school. The reports shall be made on forms provided or approved by the department. A child who enters school in September and who has not completed the immunizations required under section 9227 and has not filed an exemption under section 9215 before February 1 shall be excluded from school attendance. A child who enters school at any other time of the school year and who has not completed the immunizations required under section 9227 and has not filed an exemption under section 9215 within 4 months after entrance shall be excluded from school attendance.

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

Popular name: Act 368

333.9211 Preschool aged child registered in program of group residence, care, or camping; certificate of immunization or statement of exemption; minimum dose of immunizing agent; updated certificate; report of immunization status.

Sec. 9211. (1) A parent, guardian, or person in loco parentis applying to have a preschool aged child registered in a program of group residence, care, or camping shall present to the operator of the program at the time of registration or not later than the first day of the program a certificate of immunization or a statement of exemption under section 9215. The operator of the group program shall not permit a child to attend the group activity unless a minimum of 1 dose of an immunizing agent against each of the diseases specified by the department has been received and certified to by a health professional or local health department. A parent, guardian, or person in loco parentis of a child registered with only these minimum doses of an immunizing agent and continuing enrollment in the group program shall present an updated certificate of immunization within 4 months after initial attendance showing that the immunizations have been completed as prescribed by the department, if the child remains in the program.

(2) Upon request by the department or local health department, a program operator shall report to the state and local health departments the immunization status of each child accepted.

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

Popular name: Act 368

333.9212 Immunization requirements of MCL 333.9208 as condition for admission to grade in public or nonpublic school.

Sec. 9212. If the immunization level in any grade in a public or nonpublic school in this state falls below the level necessary to guard against the spread of disease within the grade or school as determined by the director or the local health department, the board of the local school district in which the public school is located or the governing body of the nonpublic school may designate the immunization requirements set forth in section 9208 as a condition for admission to the grade in which the immunization level is low.

History: Add. 1980, Act 285, Imd. Eff. Oct. 13, 1980.

Popular name: Act 368

333.9215 Exemptions.

Sec. 9215. (1) A child is exempt from the requirements of this part as to a specific immunization for any period of time as to which a physician certifies that a specific immunization is or may be detrimental to the child's health or is not appropriate.

(2) A child is exempt from this part if a parent, guardian, or person in loco parentis of the child presents a written statement to the administrator of the child's school or operator of the group program to the effect that the requirements of this part cannot be met because of religious convictions or other objection to immunization.

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

Popular name: Act 368

333.9221 Enforcement; cooperation.

Sec. 9221. The departments of education and social services shall cooperate with the department in the administration and enforcement of this part.

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

Popular name: Act 368

333.9227 Rules.

Sec. 9227. (1) The department shall promulgate rules to implement this part, including, but not limited to, rules governing all of the following:

(a) Age periods for immunizations.

(b) The minimum ages at which immunization may be commenced.

(c) The minimum number of doses required during a specified time period.

(d) Minimum levels of immunization for children in school.

(e) Reporting under section 9206(3).

(f) The acquisition, maintenance, and dissemination of information contained in the registry established under section 9207.

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(2) The department shall promulgate rules to implement the expansion of the registry to include the reporting and recording of additional information such as lead screening performed on children.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1996, Act 540, Imd. Eff. Jan. 15, 1997;—Am. 2006, Act 91, Imd. Eff. Apr. 4, 2006.

Popular name: Act 368

Administrative rules: R 325.171 et seq. and R 325.3501 et seq. of the Michigan Administrative Code.

333.9229 Violation as misdemeanor.

Sec. 9229. A person who violates this part or a rule promulgated under this part is guilty of a misdemeanor.

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

Popular name: Act 368

PART 93
HEARING, VISION, AND DENTAL

333.9301 Free hearing and vision testing and screening programs; publicity.

Sec. 9301. A local health department shall conduct periodic hearing and vision testing and screening programs without charge for children residing in its jurisdiction. The local health department shall publicize the free testing and screening service and the time and place of the clinics.

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

Compiler's note: For transfer of certain powers and duties of the bureau of child and family services, with the exception of the women, infants, and children division, 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

333.9302 Duty of parent, guardian, or person in loco parentis; time and frequency of testing and screening.

Sec. 9302. A parent, guardian, or person in loco parentis of a child shall provide for the child's hearing and vision testing and screening by an agency designated by the local health department. The testing and screening shall be given during an age period and at a frequency specified by the department.

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

Popular name: Act 368

333.9303 Program to assist local health departments; establishment and administration.

Sec. 9303. (1) The department shall establish and administer a program to assist local health departments in developing and maintaining periodic hearing and vision testing and screening programs for children.

(2) The department may establish and administer a program to assist local health departments in developing and maintaining periodic hearing and vision testing and screening programs for adults.

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

Popular name: Act 368

333.9305 Follow-up treatment; statement; information.

Sec. 9305. (1) When the result of a hearing or vision testing or screening indicates that a child requires follow-up care, a professional authorized by law, a local health department, or other agency shall present the person bringing the child a written statement clearly indicating that follow-up treatment is required.

(2) The local health department, upon request, shall provide information concerning the availability and sources of vision and hearing treatment required to eliminate or reduce an identified problem.

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

Popular name: Act 368

333.9307 Registration of child for kindergarten or first grade; certificate of hearing and vision testing or screening or statement of exemption required; summary of hearing or vision reports; forms.

Sec. 9307. (1) A parent, guardian, or person in loco parentis applying to have a child registered for the first time in kindergarten or first grade in a school in this state shall present to school officials, at the time of registration or not later than the first day of school, a certificate of hearing and vision testing or screening or statement of exemption under section 9311.

(2) Before November 1 of each year, the principal or administrator of each school shall give the state and local health departments a summary of the hearing and vision reports at the time of school entry of new

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entering kindergarten and first grade students. The reports must be made on forms provided or approved by the department.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2020, Act 261, Eff. Mar. 29, 2021.

Popular name: Act 368

333.9309 Individual testing and screening to determine hearing efficiency.

Sec. 9309. If it appears as the result of a testing and screening program that the hearing of a child may be impaired, the department shall conduct or cause to be administered individual testing and screening with approved scientific instruments for determining the hearing efficiency of the child.

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

Popular name: Act 368

333.9311 Exemption.

Sec. 9311. A child is exempt from this part if a parent, guardian, or person in loco parentis of the child presents a written statement to the administrator of the child's school stating that the requirement violates the personal religious beliefs of the parent, guardian, or person in loco parentis.

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

Popular name: Act 368

333.9312 Records of hearing or vision testing and screening and dental oral assessments; preservation and availability; confidentiality.

Sec. 9312. Records of hearing or vision testing and screening administered and conducted under this part and of dental oral assessments administered and conducted under this part must be made and preserved as provided by the department. The records must be available to health agencies and other persons to assist in obtaining proper and necessary health, dental, and educational care, attention, and treatment as permitted by the department. Individual records are confidential as required by section 2637.

History: Add. 2020, Act 261, Eff. Mar. 29, 2021.

Popular name: Act 368

333.9315 Advisory committee; appointment of members; duties; cooperation of department.

Sec. 9315. (1) The director may appoint an advisory committee consisting of health professionals in hearing and vision, physicians and optometrists, and individuals representing schools. The advisory committee shall assist the department with hearing and vision programs and shall conform to the requirements of section 2215.

(2) The department shall cooperate with any agency of the state charged with the administration of laws providing for children with disabilities, and with a local health department or other community group in encouraging remedial measures and correctional devices available for children with hearing or vision impairment.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1998, Act 88, Imd. Eff. May 13, 1998.

Compiler's note: For transfer of hearing and vision programs advisory committee by type III transfer, see E.R.O. No. 2009-8, compiled at MCL 333.26362.

Popular name: Act 368

333.9316 Dental oral assessment program; contractual agreements for assessments; information required; registration of child for kindergarten or first grade; statement of exemption required; summary of dental reports; subject to appropriation.

Sec. 9316. (1) The department shall establish and maintain a dental oral assessment program to provide dental oral assessments to children residing in this state whose parents, guardians, or persons in loco parentis have not met the requirements described in subsection (5)(a).

(2) Subject to subsection (3), the department shall accomplish the program by contracting with a government entity or person, which may include a grantee health agency described in section 16625. The following apply to the government entity or person selected by the department under this subsection:

(a) The government entity or person shall conduct the program in each area served by a local health department and shall publicize the dental oral assessment service and the time and place of the clinics.

(b) A dental oral assessment administered under the program must include a limited clinical inspection, performed by a dentist or a dental hygienist, to identify possible signs of oral or systemic disease, malformation, or injury, and the potential need for referral for diagnosis and treatment.

(3) If a school district has entered into a contract with a government entity or person to administer dental

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oral assessments to the school district's students, the school district may continue to use the government entity or person to conduct the dental oral assessments if the school district ensures that the dental oral assessments are conducted by May 31 of each year and the requirements of subsections (4) and (7) are met.

(4) When the result of a dental oral assessment indicates that a child requires follow-up care, the dentist or dental hygienist or government entity or person conducting the assessment shall present to the individual bringing the child a written statement clearly indicating that follow-up treatment is required and, upon request, provide information concerning the availability and sources of dental treatment required to eliminate or reduce an identified problem.

(5) Beginning in the 2024-2025 school year, a parent, guardian, or person in loco parentis applying to have a child registered for the first time in kindergarten or first grade in a school in this state shall comply with the following:

(a) Have a dentist or dental hygienist conduct a dental oral assessment on the child not earlier than 6 months before the date of the child's registration with the school and obtain from the dentist or dental hygienist a written statement certifying that the child has received the dental oral assessment within the time frame required under this subdivision. The written statement must be on a form prescribed by the department.

(b) If the parent, guardian, or person in loco parentis of the child does not meet the requirements described in subdivision (a), the parent, guardian, or person in loco parentis of the child shall have the government entity or person selected by the department under subsection (2) conduct a dental oral assessment on the child.

(6) Beginning in the 2024-2025 school year, a parent, guardian, or person in loco parentis applying to have a child registered for the first time in kindergarten or first grade in a school in this state shall present to school officials, at the time of registration or not later than the first day of school, a statement of exemption under section 9311; the statement described in subsection (5); or a written statement indicating that the parent, guardian, or person in loco parentis of the child will provide for the child's dental oral assessment by a government entity or person selected by the department under subsection (2). A child shall not be excluded from school attendance if the parent, guardian, or person in loco parentis of the child does not present a statement to school officials on or before the first day of school as required under this section.

(7) Before November 1 of each year, the principal or administrator of each school shall give the department a summary of the dental reports at the time of school entry of new kindergarten and first grade students. The reports must be made on forms provided or approved by the department.

(8) This section does not apply in a fiscal year in which the legislature does not appropriate money for the program.

(9) As used in this section, "program" means the dental oral assessment program described in subsection (1).

History: Add. 2020, Act 261, Eff. Mar. 29, 2021;—Am. 2023, Act 316, Imd. Eff. Dec. 14, 2023.

Popular name: Act 368

333.9321 Rules.

Sec. 9321. The department may promulgate rules to implement this part, including, but not limited to, the age and frequency for hearing and vision testing and screening under section 9302 and the maintenance and disclosure of records under section 9312.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2020, Act 261, Eff. Mar. 29, 2021.

Popular name: Act 368

Administrative rules: R 325.3271 et seq. and R 325.13091 et seq. of the Michigan Administrative Code.

333.9329 Violation as misdemeanor.

Sec. 9329. A person who violates this part or a rule promulgated under this part is guilty of a misdemeanor.

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

Popular name: Act 368

PART 95
BREAST CANCER PROGRAM

333.9501 Breast cancer mortality reduction program; creation; scope.

Sec. 9501. The breast cancer mortality reduction program is created in the department. The program shall include, but is not limited to, all of the following:

(a) Professional education programs for health professionals to develop state-of-the-art skills in cancer screening, diagnosis, referral, treatment, and rehabilitation.

(b) Public education programs to assist the public in understanding all of the following:

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(*i*) The benefits of regular breast cancer screening.

(*ii*) How to make the best use of the medical care system for cancer screening, diagnosis, referral, treatment, and rehabilitation.

(*iii*) The available options for treatment of cancer.

(c) An applied research and community demonstration grant program that provides grants to local communities to demonstrate and evaluate 1 or more of the following:

(*i*) Methods to reduce cancer morbidity and mortality.

(*ii*) Economical and effective methods of providing access to breast cancer screening, diagnosis, referral, treatment, and rehabilitation services for populations with higher than expected rates of breast cancer morbidity or mortality.

History: Add. 1989, Act 56, Imd. Eff. June 16, 1989.

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

Popular name: Act 368

333.9503 Report.

Sec. 9503. The department shall biennially submit a report to the senate and house committees with jurisdiction over matters pertaining to public health. The report shall evaluate the effectiveness of the breast cancer mortality reduction program. The report shall include, but is not limited to, data describing the rate of breast cancer morbidity and mortality in this state and the extent of participation in breast cancer screening.

History: Add. 1989, Act 56, Imd. Eff. June 16, 1989.

Popular name: Act 368

PART 96
STATE LABORATORIES

333.9601 Laboratories; establishment, operation, and maintenance; services; continuation of existing laboratories; location; agreements and contracts; fees; development and publication of comprehensive schedule of testing services and fees; report.

Sec. 9601. (1) The department shall maintain and operate laboratories for the protection of the public health by developing or otherwise providing for adequate laboratory services to support public health programs and to fulfill the requirements of law. The director shall determine the services to be offered by the laboratories. Laboratories established by law on the effective date of this part shall be continued until otherwise provided by law. Other laboratories shall be located at places designated by the department.

(2) The state, counties, and cities may enter into agreements and contracts necessary or appropriate to the establishment, operation, and maintenance of the laboratories required under subsection (1).

(3) Beginning October 1, 1991, the director may charge a reasonable fee for a testing service provided by a laboratory maintained and operated by the department under subsection (1). For fiscal year 1991-92 and subsequent fiscal years, the director shall not charge a fee under this subsection that is greater than the fees established under Executive Order No. 1991-17. Before collecting a fee under this subsection, the department shall develop and publish a comprehensive schedule of testing services and fees. The schedule shall include a description of each testing service and the maximum fee charged for each testing service. Along with the schedule submitted to the director of the department of management and budget for approval under this subsection, the department shall submit a statement of the rationale used in determining the fees contained in the schedule. The department shall submit the schedule for approval to the director of the department of management and budget. The fees contained in the schedule shall not exceed the amount necessary to fund the testing service provided. The department also shall submit to the director of the department of management and budget for approval any revision to the original schedule of testing services and fees.

(4) The department shall submit to the director of the department of management and budget and to the legislature an annual report that contains all of the following information:

(a) The number of tests performed in the preceding year for which a fee can be charged under this section.

(b) The total amount of fees collected under this section.

(c) Any costs related to providing testing services for which a fee can be charged under this section.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 79, Imd. Eff. June 2, 1992.

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.

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Popular name: Act 368

333.9611 Agreements relating to laboratory services.

Sec. 9611. Before an existing agreement relating to laboratory services between the state and county or city, or both, expires, the parties thereto may enter into further agreements covering the same general subject matter on terms acceptable to all the parties. Repeal by this code of prior statutory authority relating to such agreements does not affect any agreement made pursuant thereto, nor the authority conferred by this section.

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

Popular name: Act 368

333.9621 Microbiological examination and analysis; container for sample; statement; no charge.

Sec. 9621. A local health department, a state institution, or a physician may require a microbiological examination and analysis of blood, sputum, urine, water, milk, or other substance from a locality where there is an outbreak of a communicable disease or epidemic requiring the examination or analysis to protect the public health or for locating sources of infection. These agencies may also require examination and analysis of public water supplies and water used by the public to assure quality and safety. These agencies shall forward or deliver to the department a sample of the substance to be examined and analyzed in an appropriate container, accompanied by a statement indicating the examination and analyses requested. The examination and analyses for these purposes shall be without charge.

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

Popular name: Act 368

333.9623 Laboratory testing fund; creation; use; unexpended funds.

Sec. 9623. (1) The laboratory testing fund is created in the state treasury. The department shall expend the fund only as provided in this section.

(2) The state treasurer shall credit to the laboratory testing fund all fees received by the department under this part.

(3) The department shall use the laboratory testing fund only to develop and provide laboratory services under this part including, but not limited to, purchasing equipment, developing procedures, and making other improvements to the laboratory testing program determined necessary by the department.

(4) Unexpended funds remaining in the laboratory testing fund at the end of the fiscal year shall remain in the laboratory testing fund and shall not revert to the general fund.

History: Add. 1992, Act 79, Imd. Eff. June 2, 1992.

Popular name: Act 368

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PART 97.
MICHIGAN PHARMACEUTICAL BEST PRACTICES INITIATIVE

333.9701 Definitions.

Sec. 9701. As used in this part:

(a) "Committee" means the Michigan pharmacy and therapeutics committee established by Executive Order No. 2001-8 and by section 9705.

(b) "Controlled substance" means that term as defined in section 7104.

(c) "Drug" means that term as defined in section 17703.

(d) "Initiative" means the pharmaceutical best practices initiative established by this part.

(e) "Medicaid" means the program of medical assistance established under title XIX of the social security act, 42 USC 1396 to 1396w-5.

(f) "Pharmacist" means that term as defined in section 17707.

(g) "Physician" means that term as defined in sections 17001 and 17501.

(h) "Prescriber" means that term as defined in section 17708.

(i) "Prescription" means that term as defined in section 17708.

(j) "Prescription drug" means that term as defined in section 17708.

(k) "Type II transfer" means that term as defined in section 3 of the executive organization act of 1965, 1965 PA 380, MCL 16.103.

History: Add. 2004, Act 250, Imd. Eff. July 23, 2004;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Compiler's note: For creation of department of health and human services and abolishment of department of community health, see E.R.O. No. 2015-1, compiled at MCL 400.227.

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Popular name: Act 368

333.9703 Pharmaceutical best practices initiative; implementation; prior authorization and appeal process; establishment of disease management and health management programs; hiring and retaining contractors, subcontractors, advisors, consultants, and agents; rules.

Sec. 9703. (1) The department may implement a pharmaceutical best practices initiative for the department's various health care programs to control the costs of health care, to reduce the costs of prescription drugs, and to assure continued access to pharmaceutical services at fair and reasonable prices. If implemented, the initiative shall include, but is not limited to, the establishment and maintenance of each of the following:

(a) A preferred drug list.

(b) A prior authorization and appeal process.

(2) The prior authorization and appeal process established under subsection (1) shall include the establishment of a telephone hotline for prescribers that is accessible 24 hours per day and staffed to ensure that a response is initiated to each prior authorization request within 24 hours after its receipt and to each appeal of a prior authorization denial within 48 hours, excluding Saturday, Sunday, and legal holidays, after all necessary documentation for reconsideration is received. Each appeal for reconsideration of a previous denial for prior authorization shall be reviewed and decided by a physician.

(3) The department, in cooperation with a pharmaceutical manufacturer or its agent or another qualified contractor, may establish disease management and health management programs that may be provided, as negotiated, by the pharmaceutical manufacturer or its agent or another qualified contractor instead of a supplemental rebate for the inclusion of certain products manufactured by that pharmaceutical manufacturer on the department's preferred drug list. If the department negotiates a plan for the provision of services by the pharmaceutical manufacturer instead of a supplemental rebate as provided under this subsection, the department shall provide a written report on the effectiveness of the programs being offered and the savings incurred as a result of those programs being provided instead of supplemental rebates to the members of the house and senate appropriations subcommittees on community health.

(4) The department may hire or retain contractors, subcontractors, advisors, consultants, and agents and may enter into contracts necessary or incidental to implement this part and carry out its responsibilities and duties.

(5) The department may promulgate rules or medicaid policies to implement this part and to ensure compliance with the published medicaid bulletin that initiated this initiative.

History: Add. 2004, Act 250, Imd. Eff. July 23, 2004.

Popular name: Act 368

333.9705 Transfer of Michigan pharmacy and therapeutics committee to department; appointment and composition of membership; conflict of interest; terms; vacancy; powers, duties, and responsibilities of committee; reimbursement for expenses; rules; quorum; voting; meetings.

Sec. 9705. (1) The Michigan pharmacy and therapeutics committee, established by Executive Order No. 2001-8, is transferred to the department as a type II transfer. The committee shall consist of 11 members appointed by the governor as follows:

(a) Six physicians whose practice includes patients who are eligible for medicaid. A physician appointed under this subdivision may include, but is not limited to, a physician with expertise in mental health, a physician who specializes in pediatrics, and a physician with experience in long-term care.

(b) Five pharmacists whose business includes prescriptions from individuals who are eligible for medicaid. A pharmacist appointed under this subdivision may include, but is not limited to, a pharmacist with expertise in mental health drugs, a pharmacist who specializes in pediatrics, and a pharmacist with experience in long-term care.

(2) No member of the committee shall be employed by a pharmaceutical manufacturer or have any interest directly or indirectly in the business of a pharmaceutical manufacturer which shall cause a conflict of interest. No more than 2 members appointed to the committee shall be employed by the department.

(3) Members of the committee shall serve a term of 2 years, except as otherwise provided for members currently serving on the committee on the effective date of this section. Members serving on the committee on the effective date of this section shall serve until the date on which their appointment would have expired or until October 1, 2005, whichever occurs first. A member serving on the committee on the effective date of this section whose term would have otherwise expired after October 1, 2005 may serve the remainder of his or her term if he or she meets the qualifications established under this section. The governor shall appoint an

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additional number of members to the committee necessary to reach 11 members as required under this section. The governor shall designate 1 member of the committee to serve as the chairperson of the committee. This member shall serve as chairperson at the pleasure of the governor. An individual appointed to serve as a physician or pharmacist member of the committee may serve only while maintaining his or her professional license in good standing. An individual physician's or pharmacist's failure to maintain his or her professional license in good standing immediately terminates that individual's membership on the committee. One example of not maintaining a professional license in good standing is if the department imposes a sanction under article 15 on a physician or pharmacist committee member. A vacancy on the committee shall be filled in the same manner as the original appointment. An individual appointed to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member whom he or she is to succeed in the same manner as the original appointment. A member may be reappointed for additional terms.

(4) The committee has the powers, duties, and responsibilities prescribed in Executive Order No. 2001-8 and shall operate pursuant to and in accordance with Executive Order No. 2001-8.

(5) Members of the committee shall serve without compensation, but shall be reimbursed for necessary travel and other expenses pursuant to the standard travel regulations of the department of management and budget.

(6) The committee may promulgate rules governing the organization, operation, and procedures of the committee. The committee shall review its policies and procedures and consider means to increase and facilitate public comment. A majority of the members serving constitute a quorum for the transaction of business. The committee shall approve a final action of the committee by a majority vote of the members. A member of the committee must be present at a meeting of the committee in order to vote. A member shall not delegate his or her responsibilities to another individual.

(7) The committee shall meet at the call of the chairperson and as otherwise provided in the rules promulgated by the committee or the department. The committee may meet at any location within this state. A meeting of the committee is subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The committee shall post a notice of the meeting on the department's website 14 days before each meeting date. By January 31 of each year, the committee shall make available the committee's regular meeting schedule and meeting locations for that year on the department's website. The committee may make inquiries, conduct studies and investigations, hold hearings, and receive comments from the public.

History: Add. 2004, Act 250, Imd. Eff. July 23, 2004.

Popular name: Act 368

333.9707 Functions.

Sec. 9707. The committee shall be advisory in nature and shall assist the department with the following functions pursuant to applicable state and federal law:

(a) Advise and make recommendations to the department for the inclusion of prescription drugs on the preferred drug list based on available information regarding the known potential impact on patient care, the known potential fiscal impact on related medicaid covered services, and sound clinical evidence found in labeling, drug compendia, and peer-reviewed literature pertaining to use of the drug in the relevant population.

(b) Advise the department on issues affecting prescription drug coverage for the department's various health care programs.

(c) Recommend to the department guidelines for prescription drug coverage under the department's various health care programs.

(d) Develop a process to collect and review information about new prescription drugs. The department shall post this process and the necessary forms on the department's website.

(e) Recommend to the department strategies to improve the initiative.

History: Add. 2004, Act 250, Imd. Eff. July 23, 2004.

Popular name: Act 368

333.9709 Prior authorization for drugs not on preferred drug list.

Sec. 9709. (1) Except as otherwise provided by law or in this part, a prescriber shall obtain prior authorization for drugs that are being provided to medicaid beneficiaries directly through the department on a fee for service basis or pursuant to a contract for such pharmaceutical services and that are not included on the department's preferred drug list. If the prescriber's prior authorization request is denied, the department or the department's agent shall inform the requesting prescriber of his or her option to speak to the agent's physician on duty regarding his or her request. If immediate contact with the agent's physician on duty cannot be

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arranged, the department or the department's agent shall inform the requesting prescriber of his or her right to request a 72-hour supply of the nonauthorized drug. If contact with the agent's physician on duty cannot be arranged within 72 hours due to a legal holiday, the requesting prescriber may request a longer supply of the nonauthorized drug.

(2) The department or the department's agent shall provide authorization for prescribed drugs that are not on its preferred drug list if any of the following are satisfied:

(a) The prescribing physician telephones the department's agent or certifies in writing on a form as provided by the department that the drugs are being prescribed consistent with its licensed indications, that no other drugs included on the preferred drug list, in the physician's professional opinion, would offer a comparable benefit to the patient, and that the drugs are necessary for the continued stabilization of the patient's medical condition.

(b) The prescribing physician telephones the department's agent or certifies in writing on a form as provided by the department that following documented failures on earlier prescription regimens, in the physician's professional opinion, no other drug or drugs included on the preferred drug list can provide a comparable benefit.

(c) The prescribing physician telephones the department's agent or certifies in writing on a form as provided by the department that no other drugs included on the preferred drug list, in the physician's professional opinion, would offer a comparable benefit to the patient and that the drugs are being prescribed to a patient for the treatment of any symptoms or side effects that are a direct result of treatment received for any of the following:

(*i*) Human immunodeficiency virus infections or the complications of the human immunodeficiency virus or acquired immunodeficiency syndrome.

(*ii*) Cancer.

(*iii*) Organ replacement therapy.

(*iv*) Epilepsy or seizure disorder.

(3) The department or the department's agent shall provide authorization for a prescribed drug that is not on its preferred drug list if each of the following is met:

(a) The prescribing physician has achieved advanced specialization training and is certified as a specialist by a specialty board that is recognized by the American osteopathic association and the council on graduate medical education or their successor organizations and provides documentation of his or her certification.

(b) The prescribing physician described in subdivision (a) telephones the department or certifies in writing each of the following:

(*i*) The prescribed drug is being prescribed consistent with its licensed indications or with generally accepted medical practice as documented in a standard medical reference.

(*ii*) The prescribed drug is being used to treat a condition that is normally treated within the prescribing physician's specialty field.

(*iii*) In the physician's professional opinion, no other drug or drugs included on the preferred drug list can provide a comparable benefit.

(4) Documentation of necessity or failures under subsection (2) or (3) may be provided by telephone, facsimile, or electronic transmission.

(5) A patient who is under a court order for a particular prescription drug before becoming a recipient of medicaid is exempt from the prior authorization process and may continue on that medication for the duration of the order.

(6) Except as otherwise provided under this subsection, a patient who is currently under medical treatment and whose condition has been stabilized under a given prescription regimen before becoming a recipient of medicaid is exempt from the prior authorization process and may continue on that medication for the current course of treatment if without that prescription regimen the patient would suffer serious health consequences. Unless a controlled substance is currently being prescribed under a patient's hospice plan of care, a continuing prescription for a controlled substance under this subsection requires prior authorization. The department or the department's agent shall not deny a request for prior authorization of a controlled substance under this subsection unless the department or the department's agent determines that the controlled substance or the dosage of the controlled substance being prescribed is not consistent with its licensed indications or with generally accepted medical practice as documented in a standard medical reference.

(7) This section does not apply to drugs being provided under a contract between the department and a health maintenance organization.

History: Add. 2004, Act 250, Imd. Eff. July 23, 2004.

Popular name: Act 368

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ARTICLE 10
ANATOMICAL GIFTS AND DISPOSITION OF HUMAN BODY PARTS

PART 101
REVISED UNIFORM ANATOMICAL GIFT LAW

333.10101 Short title of part.

Sec. 10101. This part shall be known and may be cited as the "revised uniform anatomical gift law".

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10102 Definitions.

Sec. 10102. As used in this part:

(a) "Adult" means an individual who is at least 18 years of age.

(b) "Agent" means an individual who meets 1 or more of the following requirements:

(*i*) Is authorized to make health care decisions on the principal's behalf by a power of attorney for health care.

(*ii*) Is expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(c) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(d) "Body part" means an organ, eye, or tissue of a human being. The term does not include the whole body.

(e) "Decedent" means a deceased individual whose body or body part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to this subdivision and restrictions imposed by law other than this part, a fetus. The term does not include a blastocyst, embryo, or fetus that is the subject of an abortion. As used in this subdivision, "abortion" means that term as defined in section 2803.

(f) "Disinterested witness" means a witness who is not a spouse, child, parent, sibling, grandchild, grandparent, or guardian of or other adult who exhibited special care and concern for the individual who makes, amends, revokes, or refuses to make an anatomical gift. The term does not include a person to which an anatomical gift could pass under section 10111.

(g) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver license, identification card, or donor registry.

(h) "Donor" means an individual whose body or body part is the subject of an anatomical gift.

(i) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts as provided for in section 10120.

(j) "Driver license" means an operator's or chauffeur's license or permit issued to an individual by the secretary of state under chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

(k) "Eye" means a human eye or any portion of a human eye.

(*l*) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(m) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(n) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(o) "Identification card" means an official state personal identification card issued by the secretary of state under 1972 PA 222, MCL 28.291 to 28.300.

(p) "Know" means to have actual knowledge.

(q) "Minor" means an individual who is under 18 years of age.

(r) "Organ" means a human kidney, liver, heart, lung, pancreas, or intestine or multivisceral organs when transplanted at the same time as an intestine.

(s) "Organ procurement organization" means a person certified or recertified by the Secretary of the United States Department of Health and Human Services as a qualified organ procurement organization under 42 USC 273(b).

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(t) "Parent" means a parent whose parental rights have not been terminated.

(u) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

(v) "Physician" means an individual authorized to practice medicine or osteopathic medicine and surgery under the law of any state.

(w) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(x) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a body part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(y) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(z) "Recipient" means an individual into whose body a decedent's body part has been or is intended to be transplanted.

(aa) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(bb) "Refusal" means a record created under section 10107 that expressly refuses to make an anatomical gift of an individual's body or body part.

(cc) "Sign" means that, with the present intent to authenticate or adopt a record, an individual does either of the following:

(*i*) Executes or adopts a tangible symbol.

(*ii*) Attaches to or logically associates with the record an electronic symbol, sound, or process.

(dd) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(ee) "Technician" means an individual determined to be qualified to remove or process body parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(ff) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(gg) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(hh) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2003, Act 62, Imd. Eff. July 22, 2003;—Am. 2008, Act 39, Eff. May 1, 2008;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10102a Repealed. 2008, Act 39, Eff. May 1, 2008.

Compiler's note: The repealed section pertained to consenting to gift of all or part of decedent's body.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10103 Applicability of part to anatomical gift.

Sec. 10103. This part applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10104 Anatomical gift of donor's body or body part; purpose; persons making gift.

Sec. 10104. Subject to section 10108, an anatomical gift of a donor's body or body part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in section 10105 by any of the following:

(a) The donor, if the donor is an adult or if the donor is a minor and meets 1 or more of the following requirements:

(*i*) Is emancipated.

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(*ii*) Has been issued a driver license or identification card because the donor is at least 16 years of age.

(b) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift.

(c) A parent of the donor, if the donor is an unemancipated minor.

(d) The donor's guardian.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2003, Act 62, Imd. Eff. July 22, 2003;—Am. 2005, Act 140, Imd. Eff. Sept. 29, 2005;—Am. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10105 Donor making anatomical gift; methods; gift by donor card or other record; effect of revocation, suspension, expiration, or cancellation of driver license or identification card upon which anatomical gift is indicated; anatomical gift made by will; effect of probate or invalidation.

Sec. 10105. (1) A donor may make an anatomical gift by doing any of the following:

(a) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver license or identification card.

(b) In a will.

(c) During a terminal illness or injury of the donor, by any form of communication addressed to at least 2 adults, at least 1 of whom is a disinterested witness. However, the physician who attends the donor during the terminal illness or injury shall not act as a recipient of the communication under this subdivision.

(d) As provided in subsection (2).

(e) By completing and filing a donor registry schedule created under section 474 of the income tax act of 1967, 1967 PA 281, MCL 206.474, with the state income tax annual return required under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(2) A donor or other person authorized to make an anatomical gift under section 10104 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall meet all of the following requirements:

(a) Be witnessed by at least 2 adults, at least 1 of whom is a disinterested witness, who have signed at the request of the donor or the other person.

(b) State that it has been signed and witnessed as provided in subdivision (a).

(3) Revocation, suspension, expiration, or cancellation of a driver license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2008, Act 39, Eff. May 1, 2008;—Am. 2023, Act 101, Imd. Eff. July 19, 2023.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10106 Amendment or revocation of anatomical gift; means.

Sec. 10106. (1) Subject to section 10108, a donor or other person authorized to make an anatomical gift under section 10104 may amend or revoke an anatomical gift by any of the following means:

(a) A record signed by any of the following:

(*i*) The donor.

(*ii*) The other person authorized to make an anatomical gift under section 10104.

(*iii*) Subject to subsection (2), another individual acting at the direction of the donor or the other person authorized to make an anatomical gift under section 10104 if the donor or other person is physically unable to sign.

(b) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(2) A record signed pursuant to subsection (1)(a)(*iii*) shall meet all of the following requirements:

(a) Be witnessed by at least 2 adults, at least 1 of whom is a disinterested witness, who have signed at the request of the donor or the other person.

(b) State that it has been signed and witnessed as provided in subdivision (a).

(3) Subject to section 10108, a donor or other person authorized to make an anatomical gift under section

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10104 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(4) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least 2 adults, at least 1 of whom is a disinterested witness.

(5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (1).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10107 Refusal to make anatomical gift; means.

Sec. 10107. (1) An individual may refuse to make an anatomical gift of his or her body or body part by any of the following means:

(a) A record signed by either of the following:

(*i*) The individual.

(*ii*) Subject to subsection (2), another individual acting at the direction of the individual if the individual is physically unable to sign.

(b) The individual's will, whether or not the will is admitted to probate or invalidated after his or her death.

(c) Any form of communication made by the individual during his or her terminal illness or injury addressed to at least 2 adults, at least 1 of whom is a disinterested witness.

(2) A record signed pursuant to subsection (1)(a)(*ii*) shall meet all of the following requirements:

(a) Be witnessed by at least 2 adults, at least 1 of whom is a disinterested witness, who have signed at the request of the individual.

(b) State that it has been signed and witnessed as provided in subdivision (a).

(3) An individual who has made a refusal may amend or revoke the refusal by any of the following means:

(a) In the manner provided in subsection (1) for making a refusal.

(b) By subsequently making an anatomical gift pursuant to section 10105 that is inconsistent with the refusal.

(c) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(4) Except as otherwise provided in section 10108(8), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of his or her body or body part bars all other persons from making an anatomical gift of the individual's body or body part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10108 Person other than donor barred from making, amending, or revoking anatomical gift; conditions; revocation of anatomical gift not considered as refusal; unrevoked or revocation of anatomical gift by person other than donor; certain conduct not considered as limitation; donor as unemancipated minor.

Sec. 10108. (1) Except as otherwise provided in subsection (7) and subject to subsection (6), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or body part if the donor made an anatomical gift of the donor's body or body part under section 10105 or an amendment to an anatomical gift of the donor's body or body part under section 10106.

(2) A donor's revocation of an anatomical gift of the donor's body or body part under section 10106 is not a refusal and does not bar another person specified in section 10104 or 10109 from making an anatomical gift of the donor's body or body part under section 10105 or 10110.

(3) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or body part under section 10105 or an amendment to an anatomical gift of the donor's body or body part under section 10106, another person may not make, amend, or revoke the gift of the donor's body or body part under section 10110.

(4) A revocation of an anatomical gift of a donor's body or body part under section 10106 by a person other than the donor does not bar another person from making an anatomical gift of the body or body part

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under section 10105 or 10110.

(5) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 10104, an anatomical gift of a body part is neither a refusal to give another body part nor a limitation on the making of an anatomical gift of another body part at a later time by the donor or other person.

(6) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 10104, an anatomical gift of a body part for 1 or more of the purposes set forth in section 10104 is not a limitation on the making of an anatomical gift of the body part for any of the other purposes by the donor or any other person under section 10105 or 10110.

(7) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or body part.

(8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 186, Eff. Oct. 7, 1986;—Am. 2006, Act 301, Imd. Eff. July 20, 2006;—Am. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10109 Classes of persons making anatomical gift; priority; more than 1 member of class making anatomical gift; availability of person in prior class.

Sec. 10109. (1) Subject to subsections (2) and (3) and unless barred by section 10107 or 10108, an anatomical gift of a decedent's body or body part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed as follows:

(a) An agent of the decedent at the time of death who could have made an anatomical gift under section 10104(b) immediately before the decedent's death.

(b) The spouse of the decedent.

(c) Adult children of the decedent.

(d) Parents of the decedent.

(e) Adult siblings of the decedent.

(f) Adult grandchildren of the decedent.

(g) Grandparents of the decedent.

(h) An adult who exhibited special care and concern for the decedent.

(i) The persons who were acting as the guardians of the person of the decedent at the time of death.

(j) The persons assigned by the state of Michigan to authorize medical care for the decedent at the time of death, including public ward custodians, correctional or mental health facility personnel, or foster parents.

(k) Any other person that has the authority to dispose of the decedent's body, including unidentified bodies, under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206.

(2) If there is more than 1 member of a class listed in subsection (1)(a), (c), (d), (e), (f), (g), or (i) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under section 10111 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(3) A person shall not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (1) is reasonably available to make or to object to the making of an anatomical gift.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10110 Document of gift; amendment or revocation of gift made under MCL 333.10109; revocation effective before incision made or invasive procedures begun.

Sec. 10110. (1) A person authorized to make an anatomical gift under section 10109 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(2) Subject to subsection (3), an anatomical gift by a person authorized under section 10109 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more

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than 1 member of the prior class is reasonably available, the gift made by a person authorized under section 10109 may be amended or revoked as follows:

(a) Amended only if a majority of the reasonably available members agree to the amending of the gift.

(b) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(3) A revocation under subsection (2) is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

History: Add. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10111 Persons named in document of gift; inability to transplant gift to named individual; person not named in gift document; rules; more than 1 purpose or body part set forth in document of gift; use of gift if general intent specified by certain words; organ procurement organization as custodian of organ; disposal of body part; ineffective gift; allocation of organs for transplantation or therapy.

Sec. 10111. (1) An anatomical gift may be made to any of the following persons named in the document of gift:

(a) A hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education.

(b) Subject to subsection (2), an individual designated by the person making the anatomical gift if the individual is the recipient of the body part.

(c) An eye bank or tissue bank.

(2) If an anatomical gift to an individual under subsection (1)(b) cannot be transplanted into the individual, the body part passes pursuant to subsection (7) in the absence of an express, contrary indication by the person making the anatomical gift.

(3) If an anatomical gift of 1 or more specific body parts or of all body parts is made in a document of gift that does not name a person described in subsection (1) but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(a) If the body part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(b) If the body part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(c) If the body part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(d) If the body part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(4) For the purpose of subsection (3) and as otherwise specified in this section, if there is more than 1 purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(5) If an anatomical gift of 1 or more specific body parts is made in a document of gift that does not name a person described in subsection (1) and does not identify the purpose of the gift, the gift may be used for transplantation, therapy, research, or education pursuant to subsections (4) and (7).

(6) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor" or by a symbol or statement of similar import, the gift may be used for transplantation, therapy, research, or education pursuant to subsections (4) and (7).

(7) For purposes of subsections (2), (5), and (6), the following rules apply:

(a) If the body part is an eye, the gift passes to the appropriate eye bank.

(b) If the body part is tissue, the gift passes to the appropriate tissue bank.

(c) If the body part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(8) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (1)(b), passes to the organ procurement organization as custodian of the organ.

(9) If an anatomical gift does not pass pursuant to subsections (1) through (8) or the decedent's body or body part is not used for transplantation, therapy, research, or education, custody of the body or body part

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passes to the person under obligation to dispose of the body or body part.

(10) A person shall not accept an anatomical gift if the person knows that the gift was not effectively made under section 10105 or 10110 or if the person knows that the decedent made a refusal under section 10107 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is considered to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(11) Except as otherwise provided in subsection (1)(b), nothing in this part affects the allocation of organs for transplantation or therapy.

History: Add. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10112 Search for document of gift or other information; persons required to make search; document to be sent to hospital for documentation; failure to discharge duties; administrative sanctions.

Sec. 10112. (1) As soon as practical after any necessary medical intervention or treatment, each of the following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(a) A law enforcement officer, firefighter, paramedic, other emergency rescuer finding the individual, or medical examiner or his or her designee.

(b) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(2) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (1)(a) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall immediately send the document of gift or refusal to the hospital for documentation.

(3) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

History: Add. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

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333.10113 Document of gift; delivery; examination and copying.

Sec. 10113. (1) A document of gift need not be delivered during the donor's lifetime to be effective.

(2) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the decedent shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the decedent or by a person to which the gift could pass under section 10111.

History: Add. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10114 Referral of individual to procurement organization; search of records of secretary of state and donor registry; access to records; examination to ensure medical suitability; search for parents of minor donor; rights of person to which body part passes; participation of physician.

Sec. 10114. (1) When a hospital refers an individual at or near death to a procurement organization, the procurement organization shall make a reasonable search of the records of the secretary of state and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization shall be allowed reasonable access to information in the records of the secretary of state to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a body part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor, regardless of a prior decision to withhold or withdraw care as described in section 10121.

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During the examination period, measures necessary to ensure the medical suitability of the body part shall not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this part, at any time after a donor's death, the person to which a body part passes under section 10111 may conduct any reasonable examination necessary to ensure the medical suitability of the body or body part for its intended purpose.

(5) Unless prohibited by law other than this part, an examination under subsection (3) or (4) may include an examination of all medical and dental records or other sources of medical information pertaining to the donor or prospective donor, including those held by a medical examiner's office, correctional facility, physician's office, or other medical entity.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows that the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under subsection (1), a procurement organization shall make a reasonable search for any person listed in section 10109 that has priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to section 10111(9), the rights of the person to which a body part passes under section 10111 are superior to the rights of all others with respect to the body part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this part, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a body part, the person to which the body part passes under section 10111, upon the death of the donor and before embalming, burial, or cremation, shall cause the body part to be removed without unnecessary mutilation.

(9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a body part from the decedent.

(10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

History: Add. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

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333.10115 Hospital agreements or affiliations with procurement organizations.

Sec. 10115. Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

History: Add. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10116 Purchase or sale of body part for transplantation or therapy; violation as felony; penalty; exception.

Sec. 10116. (1) Except as otherwise provided in subsection (2), a person that for valuable consideration knowingly purchases or sells a body part for transplantation or therapy if removal of the body part from an individual is intended to occur after the individual's death is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $50,000.00, or both.

(2) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a body part.

History: Add. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10117 Intentionally falsifying, forging, concealing, defacing, or obliterating document of gift; violation as felony; penalty.

Sec. 10117. A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal is

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guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $50,000.00, or both.

History: Add. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10118 Good faith acts.

Sec. 10118. (1) A person that acts in good faith in accord with the terms of this part or with the anatomical gift laws of another state or a foreign country is not liable for damages in any civil or administrative action or subject to prosecution in any criminal proceeding.

(2) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(3) In determining whether an anatomical gift has been made, amended, or revoked under this part, a person may rely upon representations of an individual listed in section 10109(1)(b), (c), (d), (e), (f), (g), or (h) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

History: Add. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10119 Validity of document of gift; execution; presumption.

Sec. 10119. (1) A document of gift is valid if executed pursuant to any of the following:

(a) This part.

(b) The laws of the state or country where it was executed.

(c) The laws of the state or country where the person making the anatomical gift was domiciled, had a place of residence, or was a national at the time the document of gift was executed.

(2) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(3) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

History: Add. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

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333.10120 Donor registry; establishment by organ procurement organization; duties of secretary of state and department of treasury; requirements to be met by donor registry; disclosure of identifiable information; donor registry not established by or under contract with state.

Sec. 10120. (1) The organ procurement organization may establish or contract for the establishment of a donor registry.

(2) As provided for in section 2 of 1972 PA 222, MCL 28.292, and section 310 of the Michigan vehicle code, 1949 PA 300, MCL 257.310, the secretary of state shall inquire of each applicant, licensee, or identification card holder, in person or by mail, whether the individual agrees to participate in a donor registry as described in this part. The secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the donor registry. The secretary of state shall maintain the donor registry in a manner that provides electronic access, including, but not limited to, the transfer of data, to the organ procurement organization or its successor organization, tissue banks, and eye banks. The secretary of state shall administer the donor registry in a manner that complies with subsections (4) and (5).

(3) As provided for in section 474 of the income tax act of 1967, 1967 PA 281, MCL 206.474, the department of treasury shall transmit to the secretary of state the donor registry schedule filed by each individual who indicates a willingness to have the individual's name placed on the donor registry described under subsection (2). The department of treasury shall transmit the information described under this subsection in the manner and frequency determined by the department of treasury and the secretary of state. The secretary of state shall maintain a record of each donor registry schedule received from the department of treasury and add that individual to the donor registry described under subsection (2).

(4) A donor registry under this section must meet all of the following requirements:

(a) Be accessible to a procurement organization to allow it to obtain the name, address, and date of birth of

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individuals on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made an anatomical gift.

(b) Provide electronic access, including, but not limited to, the transfer of data for purposes of subdivision (a) on a 7-day-a-week, 24-hour-a-day basis at no cost to the procurement organization.

(5) Personally identifiable information on a donor registry about a donor or prospective donor must not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

(6) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with this state. A donor registry that is not established by or under contract with this state shall do all of the following:

(a) Comply with subsections (4) and (5).

(b) Within 30 days of its establishment, notify the organ procurement organization of its establishment.

(c) Within 30 days of its establishment, give the organ procurement organization full access to its records of anatomical gifts and amendments to or revocations of anatomical gifts.

History: Add. 2008, Act 39, Eff. May 1, 2008;—Am. 2023, Act 101, Imd. Eff. July 19, 2023.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10121 Definitions; medical suitability of body part; conflict with declaration or advance health care directive or enrollment in hospice program; resolution.

Sec. 10121. (1) As used in this section:

(a) "Advance health care directive" means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor. Advance health care directive includes a durable power of attorney under the uniform power of attorney act and a designation of patient advocate under part 5 of article V of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5520.

(b) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(c) "Health care decision" means any decision regarding the health care of the prospective donor.

(2) If a prospective donor has a declaration or advance health care directive or is enrolled in a hospice program, and the terms of the declaration, directive, or enrollment and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a body part for transplantation or therapy, the prospective donor's attending physician, the prospective donor, and, if appropriate, the hospice medical director shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration, directive, or hospice enrollment, or, if there is no agent or the agent is not reasonably available, another person authorized by law other than this part to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The authorized parties shall attempt to resolve the conflict as expeditiously as possible. Authorized parties may obtain information relevant to the resolution of the conflict from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 10109. Before resolution of the conflict, measures necessary to ensure the medical suitability of the body part are permissible if they are not contraindicated by appropriate end-of-life care as determined by the stated wishes of the prospective donor, by a written advance health care directive, or, if appropriate, by the hospice medical director.

History: Add. 2008, Act 39, Eff. May 1, 2008;—Am. 2023, Act 189, Eff. Feb. 13, 2024.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10122 Uniformity of law among states.

Sec. 10122. In applying and construing this part, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

History: Add. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

333.10123 Electronic signatures or electronic delivery of notices.

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Sec. 10123. This part modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 USC 7001 to 7031, but does not modify, limit, or supersede 15 USC 7001(a), or authorize electronic delivery of any of the notices described in 15 USC 7003(b).

History: Add. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

Popular name: Uniform Anatomical Gift Act

PART 102
DISPOSITION OF HUMAN BODY PARTS

333.10201 Definitions.

Sec. 10201. As used in this part:

(a) "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or physical parts of human bodies.

(b) "Next of kin" means the spouse of a deceased individual or a person related to a deceased individual within the third degree of consanguinity as determined by the civil law method.

History: Add. 1979, Act 32, Imd. Eff. June 19, 1979.

Popular name: Act 368

333.10202 Removal of cornea; circumstances.

Sec. 10202. (1) In any case in which an autopsy is to be done by a county medical examiner or a county medical examiner causes an autopsy to be done, the cornea of the deceased person may be removed by a person authorized by the county medical examiner.

(2) Removal under subsection (1) may be made only under the following circumstances:

(a) An autopsy has already been authorized by the county medical examiner.

(b) The county medical examiner does not have knowledge of an objection by the next of kin of the decedent to the removal of the cornea.

(c) The removal of the cornea will not interfere with the course of any subsequent investigation or autopsy or alter post-mortem facial appearance.

History: Add. 1979, Act 32, Imd. Eff. June 19, 1979;—Am. 1982, Act 158, Imd. Eff. May 20, 1982.

Popular name: Act 368

333.10203 Removal of cornea; liability.

Sec. 10203. The county medical examiner, the assistant county medical examiner, a bank or storage facility, or any person authorized by the county medical examiner to remove the cornea of a deceased person, shall not be liable in a civil action if it is subsequently alleged that authorization for the removal was required of the next of kin.

History: Add. 1979, Act 32, Imd. Eff. June 19, 1979.

Popular name: Act 368

333.10204 Prohibited conduct; felony; permissible practices; definitions; rules.

Sec. 10204. (1) Except as otherwise provided in subsection (2), a person shall not knowingly acquire, receive, or otherwise transfer a human organ or part of a human organ for valuable consideration for any purpose, including but not limited to transplantation, implantation, infusion, injection, or other medical or scientific purpose. A person who violates this subsection is guilty of a felony.

(2) Subsection (1) does not prohibit 1 or more of the following practices:

(a) The removal and use of a human cornea pursuant to section 10202, or the removal and use of a human pituitary gland pursuant to section 2855.

(b) An anatomical gift pursuant to part 101, or the acquisition or distribution of bodies or parts by the department pursuant to sections 2652 to 2663.

(c) Financial assistance payments provided under a plan of insurance or other health care coverage.

(3) Except as otherwise provided in part 101, only an individual who is 1 of the following may surgically remove a human organ for transplantation, implantation, infusion, injection, or any other medical or scientific purpose:

(a) A physician licensed under article 15.

(b) An individual acting under the delegatory authority and supervision of a physician pursuant to section 16215(2), but not including an individual whose license has been suspended under article 15. This subdivision includes, but is not limited to, an individual described in section 16215(3).

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(c) An individual residing in another state and authorized to practice allopathic medicine or osteopathic medicine and surgery in that state who is called into this state by a physician licensed under article 15 and is authorized by a hospital licensed under article 17 to surgically remove 1 or more of the following organs for transport back to the other state:

(*i*) A heart.

(*ii*) A liver.

(*iii*) A lung.

(*iv*) A pancreas.

(*v*) A kidney.

(*vi*) All or part of an intestine.

(*vii*) Any other human organ specified by rule promulgated by the department under subsection (6).

(4) An individual who violates subsection (3) is guilty of a felony.

(5) As used in this section:

(a) "Human organ" means the human kidney, liver, heart, lung, pancreas, intestine, bone marrow, cornea, eye, bone, skin, cartilage, dura mater, ligaments, tendons, fascia, pituitary gland, and middle ear structures and any other human organ specified by rule promulgated by the department under subsection (6). Human organ does not include whole blood, blood plasma, blood products, blood derivatives, other self-replicating body fluids, or human hair.

(b) "Valuable consideration" does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the medical expenses and expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the human organ.

(6) The department may promulgate rules to specify human organs in addition to the human organs listed in subsection (3)(c) or (5)(a).

History: Add. 1984, Act 390, Eff. Mar. 29, 1985;—Am. 1988, Act 63, Imd. Eff. Mar. 24, 1988;—Am. 1999, Act 60, Eff. Sept. 1, 1999;—Am. 2008, Act 39, Eff. May 1, 2008.

Popular name: Act 368

333.10205 Surgical removal of human organ for transplant, implant, infusion, injection or other purpose; facilities; exceptions; rules; violation as felony.

Sec. 10205. (1) Except as otherwise provided in subsections (2) and (3), an individual who surgically removes a human organ for transplantation, implantation, infusion, injection, or any other medical or scientific purpose shall perform the surgery only in 1 of the following facilities:

(a) A hospital licensed under article 17.

(b) A facility approved by the director of the department of licensing and regulatory affairs under subsection (4).

(c) A facility operated by a federally designated organ procurement organization for the state of Michigan.

(2) An individual who surgically removes a human organ consisting of tissue, a cornea, or a whole eye for transplantation, implantation, infusion, injection, or any other medical or scientific purpose shall perform the removal surgery only in 1 of the following facilities or in a hospital or other facility described in subsection (1):

(a) A mortuary that is part of a funeral establishment owned or operated by the holder of a license for the practice of mortuary science issued under article 18 of the occupational code, 1980 PA 299, MCL 339.1801 to 339.1812.

(b) A morgue or a facility operated by a county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216.

(3) Subsections (1) and (2) do not apply to a licensed allopathic physician or osteopathic physician who performs a biopsy or the routine removal of human tissue from a patient in the physician's private practice office or other health facility licensed under article 17 for the diagnosis or treatment of that patient and not for purposes of transplantation, implantation, infusion, or injection.

(4) The director of the department of licensing and regulatory affairs may promulgate rules to designate 1 or more approved facilities for purposes of subsection (1)(b).

(5) An individual who violates subsection (1) or (2) is guilty of a felony.

History: Add. 1999, Act 62, Eff. Sept. 1, 1999;—Am. 2016, Act 71, Imd. Eff. Apr. 5, 2016.

Compiler's note: Former MCL 333.10205, which pertained to expiration of part, was repealed by Act 158 of 1982, Imd. Eff. May 20, 1982.

Popular name: Act 368

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333.10251 Organ transplant services; discrimination against individuals with disability; prohibition; action for injunctive relief; definitions.

Sec. 10251. (1) In providing health care and other services related to an organ transplant, a health care provider in this state shall not discriminate against an individual who has a disability based solely on the individual's disability. Discriminating against an individual who has a disability based solely on the individual's disability includes, but is not limited to, any of the following:

(a) Refusing to transplant an organ in the individual based solely on the individual's disability.

(b) Subject to subsection (2), refusing to transplant an organ in the individual based on an assessment that the individual will be unable, without support, to comply with postransplantation medical requirements because of the individual's disability.

(c) Refusing to place the individual on an organ transplant waiting list or lowering the individual's priority on that waiting list to receive an organ transplant, based solely on the individual's disability.

(d) Refusing to provide or diminish the quality of counseling or postoperative treatment for the individual based solely on the individual's disability.

(2) A health care provider in this state shall consider the support of an individual described under subsection (1) in determining the individual's ability to comply with postransplantation medical requirements.

(3) An individual with a disability who reasonably believes that a health care provider has violated this section may bring an action for injunctive relief in the appropriate court. The action for injunctive relief must be heard in an expedited manner.

(4) This section does not limit an individual's rights or remedies otherwise provided by law.

(5) As used in this section:

(a) "Disability" means that term as defined in 42 USC 12102.

(b) "Health care provider" means both of the following:

(*i*) An individual licensed, registered, or otherwise authorized to engage in a health profession under article 15.

(*ii*) A health facility or agency licensed under article 17.

(c) "Organ" means that term as defined in section 10102.

History: Add. 2022, Act 253, Imd. Eff. Dec. 22, 2022.

Popular name: Act 368

333.10301 Peace of mind registry; creation, operation, and maintenance; report; rules; immunity from civil liability; legal weight and validity; definitions.

Sec. 10301. (1) The department may create, operate, and maintain the peace of mind registry, which must contain the directives of voluntary registrants who are residents of this state. The peace of mind registry must be created, operated, and maintained as provided in this act.

(2) The department may by contract delegate the creation, operation, and maintenance of a peace of mind registry to a peace of mind registry organization contingent on the peace of mind registry organization incurring all of the cost related to design, maintain, and operate the registry.

(3) Both of the following conditions apply to a directive:

(a) A directive may be submittable through the United States mail, or through uploaded portable document format (PDF) or another secure electronic format as determined by the department.

(b) A directive must contain a signature line for the registrant.

(4) The peace of mind registry must meet all of the following requirements:

(a) Be accessible to registrants, health care providers, and the department by way of a designated user identification and password.

(b) Store all an individual's directive. However, the most recently signed directive supersedes any earlier directive.

(c) Provide electronic access to stored directives on a continuous basis at no cost to the health care providers and allow health care providers to transmit directives into their respective electronic medical records.

(d) Provide electronic storage and access to directives submitted at no cost to the registrant.

(e) Include a unique identifier-searchable database, including, but not limited to, the last 4 digits of an individual's Social Security number and the individual's date of birth and address.

(5) The department and the secretary of state shall each provide on its public website information on directives and the peace of mind registry. The department and the secretary of state shall promote public awareness of the advantages of creating directives and the availability of the registry.

(6) The peace of mind registry must satisfy all of the following conditions to the satisfaction of the

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department:

(a) Maintain a record of each individual who files a directive to be stored in the peace of mind registry and make the record available to the department.

(b) Create and provide forms for the registration of a directive.

(c) Create and provide forms for the revocation of a directive.

(7) The department and the peace of mind registry organization shall ensure the privacy and security of all documents and information submitted to, transmitted from, or stored in the peace of mind registry. The department and any person who accesses the peace of mind registry shall comply with all other provisions of this act and any other law of this state or federal law establishing privacy and security standards applicable to health or other personal identifying information.

(8) Information in the peace of mind registry must not be accessed or used for any purpose unrelated to decision making for health care or disposition of human remains, except that the information may be used solely by the department or its designee for statistical or analytical purposes if the individual's identity is not revealed and all personal identifying information remains confidential.

(9) The department or its designee shall provide both of the following to an individual who files a directive with the peace of mind registry to be stored in the registry:

(a) A wallet-sized card indicating that the holder has a directive in the registry.

(b) An electronic mail message or postcard indicating confirmation of the registration of a directive.

(10) By January 31 of each year, the department or peace of mind organization, as applicable, shall report to the standing committees of the house of representatives and senate on health policy stating the total number of current and new registrants who have submitted directives during the preceding calendar year.

(11) The department may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the implementation and administration of this section.

(12) A peace of mind registry organization, with which the department has contracted under subsection (2), and its employees are immune from civil liability arising from the accuracy or content of the registry, except for willful negligence or gross negligence.

(13) A directive that was filed with and stored in the peace of mind registry is not considered to be of greater legal weight or validity solely by virtue of that filing and storage.

(14) As used in this section:

(a) "Department" means the department of health and human services.

(b) "Directive" means a document that is registered or filed with the peace of mind registry as provided in this act and that is either of the following:

(*i*) A durable power of attorney under the uniform power of attorney act and a designation of patient advocate under part 5 of article V of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5520.

(*ii*) A signed or authorized record concerning an anatomical gift containing a donor's direction concerning a health care decision for the donor under the revised uniform anatomical gift law, sections 10101 to 10123.

(c) "Health care provider" means any of the following:

(*i*) A health professional licensed, registered, or otherwise authorized to engage in a health profession under part 170, 172, or 175, or a law of another state substantially similar to part 170, 172, or 175.

(*ii*) A health facility or agency licensed or certified under article 17 or a law of another state substantially similar to article 17.

(d) "Peace of mind registry" or "registry" means an internet website containing access to directives as provided under this act.

(e) "Peace of mind registry organization" means an organization certified or recertified by the secretary of the United States Department of Health and Human Services as a qualified organ procurement organization under 42 USC 273(b), or its successor organization.

(f) "Sign" means that, with the present intent to authenticate or adopt a record, an individual does either of the following:

(*i*) Executes or adopts a tangible symbol.

(*ii*) Attaches to or logically associates with the record an electronic symbol, sound, or process.

History: Add. 2012, Act 179, Imd. Eff. June 19, 2012;—Am. 2023, Act 189, Eff. Feb. 13, 2024.

Popular name: Act 368

333.11101 Prohibited donation or sale of blood or blood products; notice of violation.

Sec. 11101. An individual shall not donate or sell his or her blood or blood products to a blood bank or storage facility or to an agency or organization that collects blood or blood products for a blood bank or storage facility knowing that he or she has tested positive for the presence of HIV or an antibody to HIV. A

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blood bank or other health facility to which blood or blood products is donated in violation of this section immediately shall notify the local health department of the violation. The local health facility will immediately proceed under part 52.

History: Add. 1988, Act 487, Eff. July 1, 1989.

Popular name: Act 368

ARTICLE 12
ENVIRONMENTAL HEALTH

PART 121
GENERAL PROVISIONS

333.12101 "Environmental health" defined; general definitions and principles of construction.

Sec. 12101. (1) As used in this article, "environmental health" means the area of activity which deals with the protection of human health through the management, control, and prevention of environmental factors which may adversely affect the health of individuals. This activity is concerned with the existence of substances, conditions, or facilities in quantities, of characteristics, and under conditions, circumstances, or duration which are or can be injurious to human health.

(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.

Compiler's note: For transfer of powers and duties of the division of environmental health, with the exception of the food service sanitation program and the shelter environment program, from the director of the department of public health to the director of the department of environmental quality, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.12103 Department as environmental health agency; purpose; duties; contamination of property or dwelling that is site of illegal drug manufacturing; requirements; "dwelling" defined.

Sec. 12103. (1) The department of environmental quality shall serve as the environmental health agency for this state to facilitate a uniform approach to environmental health by the various public and private entities involved in that field and shall:

(a) Advise the governor, boards, commissions, and state agencies on matters of the environment as those matters affect the health of the people of this state.

(b) Cooperate with and provide environmental health resource support to state and local health planning agencies and other state, district, and local agencies mandated by law or otherwise designated to develop, maintain, or administer state and local health programs and plans, and other public and private entities involved in environmental health activities.

(c) Develop and maintain the capability to monitor and evaluate conditions which represent potential and actual environmental health hazards, reporting its findings to appropriate state departments and local jurisdictions, and to the public as necessary.

(d) Provide an environmental health policy for the state and an environmental health services plan to include environmental health activities of local health jurisdictions.

(e) Serve as the central repository and clearinghouse for the collection, evaluation, and dissemination of data and information on environmental health hazards, programs, and practices.

(2) Within 6 months after the effective date of the amendatory act that added this subsection, the department of community health, in consultation with the department of environmental quality, shall develop a cleanup of clandestine drug labs guidance document that includes, but is not limited to, detailed protocols for the preliminary site assessment, remediation, and post-cleanup assessment of indoor environments and structures and cleanup criteria based on human health risk that is similar to the cleanup criteria derived under section 20120a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20120a, and shall promulgate rules and procedures necessary to implement subsection (3). The department of community health shall make the guidance document available to the public on its website and, upon request from a local health department, shall provide that local health department with a physical copy of the guidance document.

(3) Within 48 hours of discovering an illegal drug manufacturing site, a state or local law enforcement agency shall notify the local health department and the department of community health regarding the

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potential contamination of any property or dwelling that is or has been the site of illegal drug manufacturing. The state or local law enforcement agency shall post a written warning on the premises stating that potential contamination exists and may constitute a hazard to the health or safety of those who may occupy the premises. Within 14 days after receipt of the notification under this subsection or as soon thereafter as practically possible, the department of community health, in cooperation with the local health department, shall review the information received from the state or local law enforcement agency, emergency first responders, or hazardous materials team that was called to the site and make a determination regarding whether the premises are likely to be contaminated and whether that contamination may constitute a hazard to the health or safety of those who may occupy the premises. The fact that property or a dwelling has been used as a site for illegal drug manufacturing shall be treated by the department of community health as prima facie evidence of likely contamination that may constitute a hazard to the health or safety of those who may occupy those premises. If the property or dwelling, or both, is determined likely to be contaminated under this subsection, the local health department or the department of community health shall issue an order requiring the property or dwelling to be vacated until the property owner establishes that the property is decontaminated or the risk of likely contamination ceases to exist. The property owner may establish that the property is decontaminated by submitting a written assessment of the property before decontamination and a written assessment of the property after decontamination, enumerating the steps taken to render the property decontaminated, and a certification that the property has been decontaminated and that the risk of likely contamination no longer exists to the enforcing agency. The property or dwelling shall remain vacated until the enforcing agency has reviewed and concurred in the certification. As used in this subsection, "dwelling" means any house, building, structure, tent, shelter, trailer or vehicle, or portion thereof, except railroad cars on tracks or rights-of-way, which is occupied in whole or in part as the home, residence, living, or sleeping place of 1 or more human beings, either permanently or transiently.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1985, Act 17, Imd. Eff. May 16, 1985;—Am. 2006, Act 260, Imd. Eff. July 6, 2006.

Popular name: Act 368

333.12104 Statutes which impact on environmental health; review; recommendations; state programs related to lead-based paint poisoning and rodent control.

Sec. 12104. (1) The department shall continually review all statutes which impact on environmental health and may recommend the updating or incorporation of those statutes into this code. Recommendations for inclusion of environmental health statutes in this code shall take cognizance of the alternative preventive health and engineering approaches to environmental health issues and fully consider the roles of local health departments and local governing and planning entities in the implementation of authorized programs and assure their participation in the consideration of their roles.

(2) Not later than 12 months after the effective date of this section, the director shall make recommendations to the governor and legislature for state programs related to lead-based paint poisoning and rodent control.

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

Popular name: Act 368

333.12105 Organizational structure; creation; purpose.

Sec. 12105. The director shall create an organizational structure within the department to carry on the functions required by this part.

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

Popular name: Act 368

333.12106 Delegation of license inspection function to local health department; denial or granting of license; explanatory statement.

Sec. 12106. If the state department of public health delegates a license inspection function under this article to a local health department and the local health department recommends denial of the license, based on a local inspection, the license shall be denied unless the state department of public health upon prompt inspection determines that the license shall be granted. The state department of public health shall issue an explanatory statement when granting a license not recommended by a local health department.

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

Popular name: Act 368

333.12195 Alternative waste disposal systems.

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Sec. 12195. This article shall not limit the exploration of alternative waste disposal systems in a manner consistent with state and federal law.

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

Popular name: Act 368

PART 122
HOUSING

333.12201-333.12222 Repealed. 1980, Act 431, Eff. Mar. 31, 1981.

Popular name: Act 368

PART 124
AGRICULTURAL LABOR CAMPS

333.12401 Definitions and principles of construction.

Sec. 12401. (1) As used in this part:

(a) "Advisory board" means the board appointed pursuant to section 12421.

(b) "Agricultural labor camp" means a tract of land and all tents, vehicles, buildings, or other structures pertaining thereto, part of which is established, occupied, or used as living quarters for 5 or more migratory laborers engaged in agricultural activities, including related food processing.

(c) "Camp operator" means a person who owns, establishes, operates, conducts, manages, or maintains an agricultural labor camp or who causes or permits the occupancy or use of an agricultural labor camp whether or not rent is charged for housing and facilities.

(d) "Fund" means the migratory labor housing fund.

(e) "Migratory laborer" means a person working, or available for work, who moves seasonally 1 or more times from 1 place to another from within or without the state for the purpose of such employment or availability or who is employed in the growing of mushrooms.

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

(g) "Remodeling" means the remodeling, improving, or reconstruction of existing housing or facilities which are incidental or appurtenant thereto for migratory laborers or the construction of new housing or facilities which are incidental or appurtenant thereto for migratory laborers.

(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.

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.12411 License for operation of agricultural labor camp required; posting license or license placard; notice of construction, enlargement, or conversion; violation; fine.

Sec. 12411. (1) A person shall not operate an agricultural labor camp or cause to be operated or allow an agricultural labor camp to be occupied and used as an agricultural labor camp, without a license. The agricultural labor camp shall be operated only while the license remains in effect. The camp operator shall post the license or the license placard issued by the department in a conspicuous place in the agricultural labor camp to which it applies. The license or placard shall continue to remain posted during the entire time the agricultural labor camp is operated.

(2) A person shall not construct or alter for occupancy or use, an agricultural labor camp or any portion or facility thereof, or convert a property for use or occupancy as an agricultural labor camp, without giving written notice of the intent to do so to the department at least 30 days before the date of beginning the construction, enlargement, or conversion. The notice shall give the name of the city, village, or township in which the property is located, the location of the property within that area, a brief description of the proposed construction, enlargement, or conversion, the name and mailing address of the person giving the notice, and the person's telephone number, if any.

(3) A person is not in violation of subsection (1) if the sole reason the person is operating the agricultural labor camp without a license is due to the failure of the department to respond within a timely manner to an application submitted in accordance with section 12412.

(4) In addition to any other penalty provided under this part, a person who violates subsection (1) by operating an agricultural labor camp without a license is subject to an administrative civil fine of not more

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than $1,000.00. Each day a person operates without a license is a separate violation, however the total administrative civil fine for continued noncompliance shall not exceed $10,000.00. All fines collected under this subsection shall be credited to the migratory labor housing fund created under section 12431.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2005, Act 43, Imd. Eff. June 16, 2005.

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.12412 License for operation of agricultural labor camp; form; fee; contents; time of application.

Sec. 12412. (1) A person desiring to operate an agricultural labor camp in this state shall make application to the department on the forms and in the manner prescribed by the department. At the time of submitting an application under this section, the applicant shall remit to the department a nonrefundable agricultural labor camp license application fee equal to the product of $5.00 and the maximum number of people permitted to occupy the agricultural labor camp.

(2) The application shall include:

(a) The full name and address of the applicant.

(b) The location of the agricultural labor camp.

(c) The maximum number of people who will occupy the camp at any time.

(d) The months during which the camp will be used or occupied.

(e) A brief description of the tents, vehicles, buildings, or other structures in which individuals will be housed.

(f) A brief description of the sanitary, water, cooking, and sewage facilities available.

(g) Other information required by the department.

(3) An application for a license to operate an agricultural labor camp shall be made at least 30 days before the first day that the proposed camp is to be operated.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2010, Act 14, Imd. Eff. Mar. 16, 2010.

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.12413 License for operation of agricultural labor camp; issuance; duration; recital on face of license; transferability or assignability.

Sec. 12413. (1) The department shall issue a license for the operation of the agricultural labor camp, if after investigation and inspection, it finds that the camp and its proposed operation conforms or will conform to the minimum standards of construction, health, sanitation, sewage, water supply, plumbing, garbage and rubbish disposal, and operation set forth in the rules promulgated under section 12421. The license shall be valid for the balance of the calendar year during which it is issued.

(2) The license shall recite on its face that the camp operator shall comply with this part and the rules promulgated under this part.

(3) The license is not transferable or assignable, except with the express written consent of the department.

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

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.12414 Temporary license; renewal application.

Sec. 12414. (1) A temporary license may be issued for not more than 3 months pending the results of an inspection or pending the correction of certain designated items. Not more than 2 temporary licenses pending correction of the same violation shall be issued for a camp.

(2) A renewal application shall be filed after January of each year to operate the agricultural labor camp during the year, but at least 30 days before the agricultural labor camp is to commence operation.

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

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.12415 Denial of application for license; notice; hearing.

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Sec. 12415. When the department denies an application for a license to operate an agricultural labor camp, it shall give written notice of the denial by certified mail to the applicant stating reasons for the denial. An applicant denied a license may request a hearing before the department on the denial not later than 4 days after receipt of the denial. The department shall hold the hearing on the denial not later than 7 days after receipt of the request.

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

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.12416 Suspension or revocation of license; grounds; notice; hearing; appeal.

Sec. 12416. (1) The department may suspend or revoke the license of a camp operator, after due notice and hearing, upon a finding that the camp operator is in violation of this part or the rules promulgated pursuant to this part. If the department believes that a camp operator is violating this part or the rules, the department shall set a hearing, give written notice thereof by certified mail at least 4 days before the date of the hearing, and set forth in writing the charges against the camp operator. The hearing shall be conducted according to the administrative procedures act of 1969.

(2) After a hearing, the department may suspend the license of the camp operator for a fixed period of time or until the camp operator meets the requirements of this part and the rules or may revoke the license.

(3) A camp operator aggrieved by the decision of the department to suspend or revoke the license may appeal as provided by the administrative procedures act of 1969.

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

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.12421 Rules.

Sec. 12421. (1) The department shall promulgate rules for the protection of the health, safety, and welfare of migratory laborers and their families who occupy agricultural labor camps.

(2) The rules shall include provisions for:

(a) The appointment by the director of an advisory board representing, among others, growers, processors, local health departments, and religious or fraternal organizations. The advisory board shall advise the department on the allocation of the fund and any matter which pertains to this part and shall make recommendations to the department as to legislation or other measures necessary or advisable to alleviate a migratory farm labor housing problem.

(b) The collection, treatment, and disposal of human wastes and sewage at agricultural labor camps.

(c) The supply and maintenance of safe water at agricultural labor camps.

(d) The temporary storage and removal of food wastes and rubbish at agricultural labor camps.

(e) The housing of seasonal laborers and their families, including adequate and safe construction and repair, fire protection, facilities for laborers and their families to keep and prepare food, and other necessary matters relating to their good health, safety, and welfare.

(f) For the administration of migratory labor housing remodeling grants.

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

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

Administrative rules: R 325.1501 et seq. and R 325.1531 et seq. of the Michigan Administrative Code.

333.12425 Enforcement; inspection and investigation of premises; assistance; payments to local health departments.

Sec. 12425. (1) The department shall enforce this part and rules promulgated under this part.

(2) An authorized representative of the department may enter upon the premises of an agricultural labor camp at reasonable times to inspect and investigate the premises to ascertain whether the camp operator is in compliance with this part and the rules promulgated under this part.

(3) The department may utilize the services of other state agencies and offices to assist in conducting investigations. The department may use the services of a local health department to inspect the premises before licensing the camp operator and to conduct investigations under rules promulgated under this part. The department may approve payments of $15.00 to local health departments for each licensed agricultural labor

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camp.

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

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.12426 Action for injunction or other process.

Sec. 12426. Notwithstanding the existence and pursuit of any other remedy, the department may maintain an action in the name of this state for an injunction or other process against a person to restrain or prevent the establishment, conduct, management, maintenance, or operation of an agricultural labor camp without a license.

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

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.12431 Migratory labor housing fund; creation; appropriation; deposit; investment; interest and earnings; administration for auditing purposes; use of funds; money in fund.

Sec. 12431. (1) A migratory labor housing fund is created within the state treasury and shall receive funds appropriated by the legislature and as provided under this part. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. The department shall be the administrator of the fund for auditing purposes.

(2) Money in the fund shall be used for implementation of this part.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2005, Act 43, Imd. Eff. June 16, 2005;—Am. 2010, Act 13, Imd. Eff. Mar. 16, 2010.

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.12432 Filing claim for grant; approval; priority list.

Sec. 12432. (1) A person who qualifies for a grant shall file a claim with the department following completion of construction. The department, after approving the claim, shall make payment to the claimant from the fund.

(2) If the fund is insufficient to cover all applications for grants approved by the department, the department shall establish a priority list which may be funded from subsequent allocations.

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

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.12433 Powers of department.

Sec. 12433. The department may:

(a) Contract or execute other instruments necessary to implement this part.

(b) Agree and comply with any condition for receiving federal financial assistance for purposes of remodeling migratory housing.

(c) Survey and investigate migratory labor housing conditions and needs and recommend to the governor and the legislature legislation or other measures necessary or advisable to alleviate an existing housing shortage in the state for migratory laborers.

(d) Encourage community organizations or private employers to assist in initiating remodeling projects as provided in this part.

(e) Enforce compliance with any law or rule regarding health or construction standards for remodeling projects which utilize grants made pursuant to this part.

(f) Provide inspection of remodeling projects to determine if they comply with this part and the rules promulgated under this part.

(g) Accept gifts, grants, or other aid from a person or the federal government for purpose of implementing

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this part.

(h) Enter into agreements with a recipient of a grant to insure that the purposes of this part are effectuated.

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

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.12434 Violation as misdemeanor; each day of violation as separate violation; wilful damage or destruction of camp.

Sec. 12434. (1) A person who violates this part or the rules promulgated under this part is guilty of a misdemeanor. Each day of the violation is considered a separate violation.

(2) A person who wilfully damages or destroys any part of a licensed agricultural labor camp is guilty of a misdemeanor.

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

Compiler's note: For transfer of powers and duties of migrant labor housing program from department of health and human services to department of agriculture and rural development, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

PART 125
CAMPGROUNDS, SWIMMING AREAS, AND SWIMMERS' ITCH

333.12501 Definitions; principles of construction.

Sec. 12501. (1) As used in sections 12501 to 12516:

(a) "Campground" means a parcel or tract of land under the control of a person in which sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for 5 or more recreational units. Campground does not include a seasonal mobile home park licensed under the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(b) "Department" means the department of environmental quality.

(c) "Local health department" means that term as defined under section 1105.

(d) "Mobile home" means a structure, transportable in 1 or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

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

(f) "Recreational unit" means a tent or vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Recreational unit includes the following:

(*i*) A travel trailer, which is a vehicular portable structure, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a vehicle, primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use.

(*ii*) A camping trailer, which is a vehicular portable structure mounted on wheels and constructed with collapsible partial sidewalls of fabric, plastic, or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

(*iii*) A motor home, which is a vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping, or travel use.

(*iv*) A truck camper, which is a portable structure designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping, or travel use. Truck campers are of 2 basic types:

(A) A slide-in camper, which is a portable structure designed to be loaded onto and unloaded from the bed of a pickup truck, constructed to provide temporary living quarters for recreational, camping, or travel use.

(B) A chassis-mount camper, which is a portable structure designed to be affixed to a truck chassis, and constructed to provide temporary living quarters for recreational, camping, or travel use.

(*v*) A single sectional mobile home used only to provide temporary living quarters for recreational, camping, or travel use. Recreational unit does not include a mobile home used as a permanent dwelling, residence, or living quarters.

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

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in this code.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 525, Eff. Mar. 30, 1983;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004
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Compiler's note: For transfer of powers and duties of the division of environmental health, with the exception of the food service sanitation program and the shelter environment program, from the director of the department of public health to the director of the department of environmental quality, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.12505 Construction permit for campground; application; contents.

Sec. 12505. A person shall not begin to construct, alter, or engage in the development of a campground without first obtaining a construction permit from the department. Applications for a construction permit shall be submitted to the department along with the fee as prescribed in section 12506a. The application shall contain the following:

(a) A description of the proposed project.

(b) The name and address of the applicant.

(c) The location of the proposed project.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12506 Campground license required; application; contents; exemption; expiration.

Sec. 12506. (1) A person shall not operate a campground without a campground license issued by the department, its agent or representative, or a representative of a designated local health department. An application for a campground license shall be submitted to the department, its agent or representative, or a representative of a designated local health department along with the license fee as prescribed in section 12506a.

(2) The application shall contain the following:

(a) The name and address of the applicant.

(b) The location of the campground.

(c) Information regarding physical facilities.

(3) The campground license shall expire on December 31 of every third year if the annual renewal fee is paid or as stipulated on the license, whichever is sooner.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12506a Campground fees.

Sec. 12506a. (1) The fees related to campground regulation under this part are as follows:

(a)	Construction permit fee for a new campground	$	600.00.
(b)	Construction permit fee for an addition, alteration, or modification of an existing campground	$	225.00.

(c) Initial or annual renewal license fee for a new or temporary campground as follows:

(*i*)	One to 25 sites	$	75.00.
(*ii*)	Twenty-six to 50 sites	$	100.00.
(*iii*)	Fifty-one to 75 sites	$	125.00.
(*iv*)	Seventy-six to 100 sites	$	150.00.
(*v*)	One hundred one to 500 sites	$	225.00.
(*vi*)	More than 500 sites	$	500.00.
(d)	Late annual renewal license fee, after December 31	$	100.00.
(e)	License transfer fee	$	75.00.

(2) The department may adjust the amounts prescribed in subsection (1) every 3 years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index and rounded to the nearest dollar.

History: Add. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12506b Campground fund; creation; remaining balance; expenditures; use; annual report.

Sec. 12506b. (1) The campground fund is created in the state treasury and shall be administered by the department. The state treasurer shall credit to the campground fund all fees collected by the department under

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section 12506a and all money, gifts, and devises received by the fund as otherwise provided by law.

(2) The unencumbered balance remaining in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(3) The money in the campground fund shall be expended only as provided in this section. The department shall use the fund to implement this part and to carry out its powers and duties under sections 12501 to 12516. The department shall not use the money in the campground fund for inspections of any mobile home parks licensed under the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(4) The department shall annually prepare a report containing an accounting of revenues and expenditures from the campground fund. This report shall include details of the departmental costs and activities of the previous year in administering this campground program. This report shall be provided to the senate and house of representatives appropriations committees, the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment, and the senate and house of representatives fiscal agencies.

History: Add. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12507 Campground facilities to meet requirements prescribed under MCL 333.12511.

Sec. 12507. Before an application for a campground license is approved, the department, its agent or representative, or a representative of a designated local health department shall determine that the campground contains facilities which meet the requirements prescribed in rules promulgated under section 12511.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12508 Campground license; issuance; display; notice of denial; statement of reasons; reconsideration; hearing; appeal.

Sec. 12508. (1) Upon approval of the application for a campground license, the department, its agent or representative, or a representative of a designated local health department shall issue a campground license which shall be displayed in a conspicuous place on the campground.

(2) If the application is not approved, the department, its agent or representative, or a representative of a designated local health department shall give written notice of its denial to the applicant stating reasons for the denial. The applicant may request reconsideration of the application after correction of the reasons for the denial or may request a hearing before the department, or an authorized representative of the department, on the denial within 10 days after receipt of the denial. The hearing shall be held not later than 20 days after receipt of the request.

(3) A person aggrieved by the decision of the department or its authorized representative may appeal to the courts as provided by the administrative procedures act of 1969.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12509 Campground license; transfer.

Sec. 12509. A campground license shall not be transferred to another person except where the transferee complies with all the requirements to be licensed under sections 12501 to 12516 and upon submission of an application and the license transfer fee as prescribed in sections 12506 and 12506a.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12510 Annual inspection by local health department; payments; additional fees.

Sec. 12510. (1) If a representative of the designated local health department performs annual inspections of campgrounds that are applying for a new license, renewal license, or temporary license and have submitted the applicable license fee to the department, the department shall approve payments of $25.00 per campground to that local health department.

(2) The state treasurer shall make the payments upon receipt of approval from the department.

(3) A designated local health department may collect additional fees as provided under section 2444 from the owner of a campground for services provided under sections 12501 to 12516.

History: Add. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

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333.12511 Rules.

Sec. 12511. The department, with the advice, assistance, and approval of the advisory board, shall promulgate rules regarding sanitation and safety standards for campgrounds and public health. The rules shall recognize and provide controls for different types of campgrounds.

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

Popular name: Act 368

Administrative rules: R 323.3101 et seq.; R 325.1551 et seq.; R 325.2101 et seq.; and R 325.2111 et seq. of the Michigan Administrative Code.

333.12512 Notice of noncompliance; specifying particular violations; time for compliance; revocation of license; hearing; decision; appeal.

Sec. 12512. (1) The department, its agent or representative, or a representative of a designated local health department shall give written notice to a licensee who fails to comply with sections 12501 to 12516 or a rule promulgated under those sections. The notice shall specify the particular violations and a date by which the licensee shall comply. The time given for compliance shall depend upon the nature of the violation.

(2) If the licensee does not comply within the time specified, the department, its agent or representative, or a representative of a designated local health department may, in accordance with the administrative procedures act of 1969, revoke the license. If the licensee files a request for a hearing within 60 calendar days after the licensee receives notice of revocation, the department shall hold a hearing.

(3) A license revoked under subsection (2) shall not be reissued by the department, its agent or representative, or a representative of a designated local health department until it has been determined that the violations have been corrected.

(4) A licensee aggrieved by a decision of the department, its agent or representative, or a representative of a designated local health department to revoke the license may appeal to a court of competent jurisdiction as provided by the administrative procedures act of 1969.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12513 Advisory board; purpose; appointment, qualifications, and terms of members.

Sec. 12513. (1) The director shall appoint an advisory board with broad geographical distribution of members to advise on the administration of sections 12501 to 12516 and the preparation and administration of rules promulgated under those sections.

(2) The board shall consist of 15 members as follows: 1 representing the Michigan association of recreation vehicles and campgrounds; 1 representing the association of RV parks and campgrounds of Michigan; 2 representing consumers, including 1 who represents a recognized campground users association; 3 campground owners or operators, including 1 who represents a primitive type of campground; 2 representing counties; 1 representing townships; 1 representing cities and villages; 2 representing local health departments; the director of the department of natural resources or his or her authorized representative; and the director or his or her authorized representative.

(3) Except for the directors of the departments, or their authorized representatives, the members shall serve for a term of 3 years. However, of the members first appointed, 3 members shall serve for a 1-year term, 3 members shall serve for a 2-year term, and 3 members shall serve for a 3-year term.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Compiler's note: For transfer of campground public health advisory board to department of environmental quality by type III transfer, see E.R.O. No. 2010-14, compiled at MCL 333.26365.

Popular name: Act 368

333.12514 Access to campground; purpose.

Sec. 12514. An agent or representative of the department or a representative of a designated local health department shall have access during all reasonable hours to a campground for the purpose of inspection or otherwise carrying out sections 12501 to 12516.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12515 Application and construction of MCL 333.12501 to 333.12516.

Sec. 12515. (1) Sections 12501 to 12516 do not apply to a campground used solely as a children's camp licensed by the department of social services or to properties owned by a person licensed pursuant to part 124,

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and used for housing seasonal agricultural workers employed by that person. A campground licensed under sections 12501 to 12516 shall not be used for the housing of seasonal agricultural workers unless also licensed under part 124.

(2) Sections 12501 to 12516 shall not be construed to interfere in any way with the enforcement of sanitary controls by a health officer having jurisdiction in the area.

(3) Sections 12501 to 12516 do not relieve a person from complying with local ordinances governing building permits or with a code, regulation, or ordinance not in conflict with sections 12501 to 12516.

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

Popular name: Act 368

333.12516 Violation as misdemeanor; action for injunction.

Sec. 12516. (1) A person who violates sections 12501 to 12515 is guilty of a misdemeanor.

(2) Notwithstanding the existence of any other remedy, the department, its agent or representative, or a representative of a designated local health department may maintain an action in the name of the state for an injunction against a person to restrain or prevent the construction, enlargement, or alteration of a campground without a permit, or the operation or conduct of a campground without a license.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12521 Definitions used in MCL 333.12521 to 333.12534.

Sec. 12521. As used in sections 12521 to 12534:

(a) "Department" means the department of environment, Great Lakes, and energy.

(b) "Person" means that term as defined in section 1106 or a governmental entity.

(c) Except as otherwise provided in subdivision (d), "public swimming pool" means an artificial body of water for a qualified premises that is used collectively by a number of individuals primarily for the purpose of swimming, wading, recreation, or instruction and includes related equipment, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool, including, but not limited to, equipment, dressing, locker, shower, and toilet rooms.

(d) Public swimming pool does not include a pool or portable pool located on the same premises with a 1-, 2-, 3-, or 4-family dwelling and for the benefit of the occupants and their guests, a natural bathing area such as a stream, lake, river, or man-made lake or pond that uses water from natural sources and has an inflow and outflow of natural water, an exhibitor's swimming pool built as a model at the site of the seller and in which swimming by the public is not permitted, or a pool serving not more than 4 hotel, motel, apartment, condominium, or similar units.

(e) "Qualified premises" includes, but is not limited to, a park, school, motel, camp, resort, apartment, club, hotel, mobile home park, subdivision, and waterpark.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004;—Am. 2022, Act 99, Imd. Eff. June 14, 2022.

Popular name: Act 368

Administrative rules: R 325.5801 et seq. of the Michigan Administrative Code.

333.12522 Public swimming pool; review of design, construction, and operation; rules; exception.

Sec. 12522. (1) The department shall review the design, construction, and operation of public swimming pools to protect the public health, prevent the spread of disease, and prevent accidents or premature deaths.

(2) Except as otherwise provided in subsection (3), the department shall promulgate rules to carry out sections 12521 to 12534.

(3) Until December 31, 2018, rules pertaining to lifeguarding promulgated by the department under subsection (2) do not apply to a pool that meets all of the following requirements:

(a) It is located in a health and wellness center that is owned or operated by a community hospital authority as authorized under 1945 PA 47, MCL 331.1 to 331.11.

(b) The total pool water surface area within the swimming pool enclosure is not more than 2,400 square feet.

(c) No diving board is provided.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2014, Act 430, Imd. Eff. Dec. 30, 2014.

Popular name: Act 368

Administrative rules: R 325.2111 et seq. of the Michigan Administrative Code.

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333.12523 Construction and operation of public swimming pools; supervisory and visitorial power; control.

Sec. 12523. The department has supervisory and visitorial power and control as limited in sections 12521 to 12534 over persons engaged in the construction and operation of public swimming pools.

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

Popular name: Act 368

333.12524 Public swimming pools; periodic inspections; right of entry.

Sec. 12524. (1) The department, its agents or representatives, or representatives of a designated local health department shall make periodic inspections of public swimming pools.

(2) The department, its agents or representatives, or representatives of a designated local health department may enter upon the swimming pool premises and other property of a person at all reasonable times for the purpose of inspecting the swimming pool and carrying out the authority vested in the department under sections 12521 to 12534.

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

Popular name: Act 368

333.12525 Construction or modification of public swimming pool; review and approval of plans and specifications; fee; permit; responsibility of applicant or owner; nuisance or hazard to health or safety; description of swimming pool system and auxiliary structures.

Sec. 12525. (1) A person intending to construct a public swimming pool or intending to modify an existing public swimming pool shall submit plans and specifications for the proposed installation accompanied by a fee specified in section 12527a to the department for review and approval and shall secure a permit for the construction. A person shall not start or engage in the construction of a public swimming pool or modify an existing public swimming pool until the permit for the construction is issued by the department.

(2) Sections 12521 to 12534 or an action of the department shall not relieve the applicant or owner of a public swimming pool from responsibility for securing a building permit or complying with applicable local codes, regulations, or ordinances not in conflict with sections 12521 to 12534. Compliance with an approved plan does not authorize the owner constructing or operating a public swimming pool to create or maintain a nuisance or a hazard to health or safety.

(3) Plans and specifications submitted for the purpose of obtaining a construction permit shall include a true description of the entire swimming pool system and auxiliary structures or parts thereof as proposed to be constructed and operated.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 522, Imd. Eff. Jan. 26, 1981.

Popular name: Act 368

333.12526 Examination of plans and specifications; determination; issuance of permit; notice of deficiencies; resubmission of documents; duration of permit; written approval of change.

Sec. 12526. (1) The department shall examine the plans and specifications and, subject to section 12526a, determine whether the swimming pool facilities, if constructed in accordance with the plans and specifications, are or would be sufficient and adequate to protect the public health and safety. If the plans and specifications are approved, the department shall issue a permit for construction. If the plans and specifications are not approved, the department shall notify the applicant or the applicant's representative of the deficiencies. The applicant may have the plans and specifications amended to remedy the deficiencies and resubmit the documents, without additional fee, for further consideration.

(2) A construction permit is valid for not more than 2 years after the date of issuance unless a written time extension is granted by the department.

(3) Each public swimming pool must be constructed or modified in accordance with the approved plans and specifications unless written approval of a change is granted by the department.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2022, Act 99, Imd. Eff. June 14, 2022.

Popular name: Act 368

333.12526a Preparation or consumption of food or beverages within swimming pool enclosure; requirements; use of plastic or nonbreakable material; definitions.

Sec. 12526a. (1) Subject to section 548 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1548, and the food law, 2000 PA 92, MCL 289.1101 to 289.8111, a person engaged in the operation of a

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public swimming pool shall not allow the preparation of food or beverages in the swimming pool enclosure, or consumption of food or beverages in the water of a public swimming pool, unless all of the following are met:

(a) The department has determined under section 12526 that the plans and specifications for the public swimming pool meet all of the following requirements:

(*i*) The materials used to construct the area within the swimming pool water that is used for serving, preparing, or consuming food or beverages are made of a material that is nonabsorbent, is easily cleanable, and can be regularly sanitized.

(*ii*) The area within the swimming pool water that is used for serving, preparing, or consuming food or beverages is constructed in a manner that has no sharp edges, has no open cracks, and has sealed joints.

(*iii*) Areas within the swimming pool water where there is ice, food, equipment, and any other item that is stored or used in the preparation of food or beverages are physically separated by a service counter or other structure or material in a manner that protects the ice, food, equipment, or other item from splash or spillage of swimming pool water.

(*iv*) The swimming pool water is equipped with heightened disinfection and filtration standards and maintains increased disinfectant residuals.

(*v*) The swimming pool water is monitored with an electronic chemical control monitoring system.

(b) The water temperature of the public swimming pool is maintained at 104 degrees Fahrenheit or less.

(c) The free disinfectant residual levels in the swimming pool water are tested poolside at least 4 times per day when the public swimming pool is open for use.

(d) Lifeguard service is provided in the swimming pool enclosure when the public swimming pool is open for use.

(e) An individual who holds a certification as a certified pool operator, or an equivalent certification as determined by the department, is readily available when the public swimming pool is open for use to test the swimming pool water and to operate the water treatment equipment of the public swimming pool.

(f) The public swimming pool does not contain a slide, diving board, starting block, spray feature, or similar addition in the area of the public swimming pool permitted for the sale and consumption of alcoholic liquor under section 548 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1548. However, the public swimming pool may have a waterfall, or another decorative feature, that is not intended for interaction or contact with an individual using the public swimming pool in the area of the public swimming pool permitted for the sale and consumption of alcoholic liquor under section 548 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1548.

(2) A person engaged in the operation of a public swimming pool that allows for the consumption of food or beverages in the public swimming pool under this section shall ensure that food and beverages are served in a container made of plastic or another nonbreakable material and that is designed to reduce the chances of spilling the food or beverage in the swimming pool water.

(3) As used in this section:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Beverages" means alcoholic liquor and nonalcoholic beverages.

(c) "Heightened disinfection and filtration standards" means all of the following:

(*i*) A regenerative media filter system or an equivalent filter system. If the swimming pool uses a sand-type filter or a cartridge-type filter, a filter system is considered equivalent under this subparagraph if it requires a reduction in the max flow rate per square foot of filter area.

(*ii*) An accelerated water turnover rate of once every 4 hours or less when the public swimming pool is open for use.

(*iii*) An ultraviolet light secondary disinfection system or an equivalent secondary disinfection system.

(*iv*) Increased inlets to prevent impaired circulation and to increase water circulation due to potential obstructions.

(*v*) Increased number of skimmers or surge weirs to ensure effective surface water skimming.

(d) "Swimming pool enclosure" means the area containing 1 public swimming pool or, if the area contains 2 or more public swimming pools, the area containing all of the public swimming pools, which area is surrounded by an uninterrupted constructed feature or obstacle that meets all of the following requirements:

(*i*) It is used to surround and secure the area.

(*ii*) It is intended to deter or effectively prevent unpermitted, uncontrolled, and unfettered access to the area.

(*iii*) It is designed to resist climbing and to prevent passage through and under it.

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History: Add. 2022, Act 99, Imd. Eff. June 14, 2022.

Popular name: Act 368

333.12527 Public swimming pool; license required; fee; display; expiration; renewal; replacement.

Sec. 12527. (1) A public swimming pool shall not be operated without a license.

(2) A person engaged in the operation of a public swimming pool shall obtain a license to operate the swimming pool from the department, its agent or representative, or a representative of a designated local health department and shall pay an initial or renewal fee as specified in section 12527a.

(3) A license shall be displayed by the owner in a conspicuous place on the premises.

(4) A license shall expire December 31 of every third year if the annual renewal fee is paid or as stipulated on the license, whichever is sooner.

(5) A license shall be renewed upon receipt of a proper application, an annual renewal fee as specified in section 12527a, and evidence that the public swimming pool is being operated and maintained in accordance with sections 12521 to 12534 and the applicable rules and regulations.

(6) A license shall not be transferred to another person but it may be replaced by another license upon receipt of a proper application and the fee specified in section 12527a.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 522, Imd. Eff. Jan. 26, 1981;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12527a Fees.

Sec. 12527a. (1) The fees related to swimming pool regulation under this part are as follows:

(a)	Construction permit fee for a swimming pool with a surface area as follows:		
(*i*)	500 square feet or less	$	550.00
(*ii*)	501 to 1,500 square feet	$	700.00
(*iii*)	1,501 to 2,400 square feet	$	800.00
(*iv*)	2,401 to 4,000 square feet	$	1,300.00
(*v*)	More than 4,000 square feet	$	1,800.00
(b)	Construction permit fee for modification of an existing swimming pool	$	275.00
(c)	Initial license fee for a swimming pool with a surface area as follows:		
(*i*)	500 square feet or less	$	550.00
(*ii*)	501 to 1,000 square feet	$	600.00
(*iii*)	1,001 to 1,500 square feet	$	625.00
(*iv*)	1,501 to 2,000 square feet	$	650.00
(*v*)	2,001 to 2,500 square feet	$	700.00
(*vi*)	2,501 to 3,500 square feet	$	800.00
(*vii*)	3,501 to 4,500 square feet	$	900.00
(*viii*)	More than 4,500 square feet	$	1,000.00
(d)	Initial license fee for a modified swimming pool	$	275.00
(e)	Annual renewal license fee, to December 31	$	55.00
(f)	Late annual renewal license fee, after December 31 through April 30	$	100.00
(g)	Lapsed annual renewal license fee, after April 30	$	150.00
(h)	Replacement license fee for transfer to another person	$	50.00

(2) The department may adjust the amounts prescribed in subsection (1) every 3 years by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index and rounded to the nearest dollar.

(3) A person that has a valid, current permit to operate a public swimming pool on the effective date of the amendatory act that added this subsection is not required to pay an initial license fee as specified in this section.

History: Add. 1980, Act 522, Imd. Eff. Jan. 26, 1981;—Am. 1985, Act 19, Eff. Mar. 31, 1986;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12527b Public swimming pool fund; creation; remaining balance; expenditures; use; annual report.

Sec. 12527b. (1) The public swimming pool fund is created in the state treasury and shall be administered by the department. The state treasurer shall credit to the public swimming pool fund all fees collected by the

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department under section 12527a and all money, gifts, and devises received by the fund as otherwise provided by law.

(2) The unencumbered balance remaining in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(3) The money in the public swimming pool fund shall be expended only as provided in this section. The department shall use the fund to implement this part and to carry out its powers and duties under sections 12521 to 12534. The department shall not use the money in the public swimming pool fund for inspections of any mobile home parks licensed under the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(4) The department shall annually prepare a report containing an accounting of revenues and expenditures from the public swimming pool fund. This report shall include details of the departmental costs and activities of the previous year in administering this public swimming pool program. This report shall be provided to the senate and house of representatives appropriations committees, the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment, and the senate and house of representatives fiscal agencies.

History: Add. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12528 Denial of license; grounds; notice; failure to correct deficiencies or noncomplying items.

Sec. 12528. If upon investigation, the department, its agent or representative, or a representative of a designated local health department finds that a public swimming pool was not constructed or modified in accordance with the approved plans and specifications, the department, its agent or representative, or a representative of a designated local health department shall give written notice to the applicant that the license will not be issued, citing the deficiencies or noncomplying items that constitute the reasons for not issuing the license and a date by which the licensee shall comply. An applicant who fails to correct the deficiencies or noncomplying items within the time specified shall be denied a license.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12529 Revocation of license; grounds; reissuance.

Sec. 12529. The department may, in accordance with the administrative procedures act of 1969, revoke the license upon a finding that the pool is not being operated or maintained in accordance with sections 12521 to 12534 or the rules. A person aggrieved by a decision of the department or its authorized representative to revoke the license may appeal to a court of competent jurisdiction as provided by the administrative procedures act of 1969. A license that has been revoked shall be reissued only when the department determines the deficiencies are corrected.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12530 Periodic reports covering operation of public swimming pools.

Sec. 12530. The department shall provide for a system of periodic reports covering the operation of the public swimming pool so that the department may readily determine compliance with sections 12521 to 12534 and the rules.

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

Popular name: Act 368

333.12531 Ordering owner or operator to prohibit use of swimming pool.

Sec. 12531. If the department, its agent or representative, or a representative of a designated local health department considers that conditions warrant prompt closing of a swimming pool until sections 12521 to 12534 and the rules are complied with for the protection of the public health and safety, the department or designated local health department may order the owner or operator of the swimming pool to prohibit an individual from using it until corrections are made to protect adequately the public health and safety.

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

Popular name: Act 368

333.12531a Use of life jacket in public swimming pool.

Sec. 12531a. A person shall not prohibit the use of a coast guard approved life jacket in a public swimming

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pool by an individual who has in his or her possession a statement signed by a licensed physician stating that the individual has a physical disability or condition that necessitates the use of a life jacket. An individual assumes the risk of any injury to himself or herself caused by the use of a life jacket as provided in this section which is not otherwise caused by the pool operator's negligence.

History: Add. 1989, Act 153, Imd. Eff. July 19, 1989.

Popular name: Act 368

333.12532 Payments to local health departments; additional fees.

Sec. 12532. (1) The department may approve payments for each public swimming pool granted an initial license and each renewal license to a designated local health department when the fees are collected by the state from the designated local health department's respective area, as follows:

(a) Initial license fee for a swimming pool	$	100.00
(b) Annual renewal license fee	$	30.00
(c) Late annual renewal license fee	$	45.00
(d) Lapsed annual renewal license fee	$	70.00

(2) The state treasurer shall make the payments upon receipt of approval from the department.

(3) A designated local health department may collect additional fees as provided under section 2444 from the owner of a swimming pool for services provided under sections 12521 to 12534.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 522, Imd. Eff. Jan. 26, 1981;—Am. 1985, Act 19, Eff. Mar. 31, 1986;—Am. 2004, Act 408, Imd. Eff. Nov. 29, 2004.

Popular name: Act 368

333.12533 Violation as misdemeanor; each day of violation as separate violation; prosecution.

Sec. 12533. A person who violates sections 12521 to 12531a or a rule promulgated under those sections is guilty of a misdemeanor. Each day upon which a violation occurs is a separate violation. The attorney general or local prosecuting attorney shall be responsible for prosecuting a person who violates sections 12521 to 12531a.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1989, Act 153, Imd. Eff. July 19, 1989.

Popular name: Act 368

Administrative rules: R 325.2111 et seq. of the Michigan Administrative Code.

333.12534 Action for injunction or other process.

Sec. 12534. Notwithstanding the existence and pursuit of any other remedy, the department, its agent or representative, or a representative of a designated local health department may maintain an action in the name of the state for injunction or other process against a person to restrain or prevent the construction or modification of a public swimming pool without a construction permit, or the operation of a public swimming pool without an operation permit, or in a manner contrary to law.

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

Popular name: Act 368

333.12541 Testing and evaluating quality of water at bathing beaches; purpose; posting sign; injunction; definitions.

Sec. 12541. (1) The local health officer or an authorized representative of the local health department having jurisdiction may test and otherwise evaluate the quality of water at bathing beaches to determine whether the water is safe for bathing purposes. However, the local health officer or authorized representative shall notify the city, village, or township in which the bathing beach is located prior to conducting the test or evaluation.

(2) If a local health officer or an authorized representative of a local health department conducts a test or evaluation of a bathing beach under subsection (1), within 36 hours of conducting the test or evaluation, he or she shall notify the department, the city, village, or township in which the bathing beach is located, and the owner of the bathing beach of the results of the test or evaluation.

(3) The owner of the bathing beach shall post at the main entrance to the bathing beach or other visible location a sign that states whether or not the bathing beach has been tested or evaluated under subsection (1) and, if the bathing beach has been tested, the location of where test results may be reviewed. Open stretches of beach or beaches at road ends that are not advertised or posted as public bathing beaches do not need to have signs posted.

(4) If a local health officer or authorized representative of the local health department conducts a test or

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evaluation under subsection (1) and, based upon the standards promulgated under section 12544, the health officer or the authorized representative determines that the water is unsafe for bathing, he or she may petition the circuit court of the county in which the bathing beach is located for an injunction ordering the person owning or operating the bathing beach to close the bathing beach for use by bathers or ordering other measures to keep persons from entering on the bathing beach. Upon receipt of a petition under this subsection, the court may grant an injunction if circumstances warrant it.

(5) As used in this section:

(a) "Bathing beach" means a beach or bathing area offered to the public for recreational bathing or swimming. It does not include a public swimming pool as defined in section 12521.

(b) "Department" means the department of environmental quality.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 507, Eff. Mar. 31, 2003.

Popular name: Act 368

333.12542 Public bathing beach; safety and rescue equipment; communication with outside sources of assistance.

Sec. 12542. The owner or person in charge of a public bathing beach shall provide and maintain suitable and adequate safety and rescue equipment and suitable and adequate means of communication with outside sources of assistance, which shall be available and accessible at the public bathing beach when it is open to bathers.

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

Popular name: Act 368

333.12543 Consulting and cooperating with local health officers; training for employees; assistance.

Sec. 12543. The department or an authorized representative of the department shall consult and cooperate with local health officers and shall provide training for employees thereof and otherwise assist in the effective administration of sections 12541 to 12545.

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

Popular name: Act 368

333.12544 Rules; contents; use.

Sec. 12544. The department, in cooperation with local health departments, shall promulgate rules which shall contain minimum sanitation standards for determining water quality at bathing beaches open to the public. The rules shall be used by a local health department to establish the safety of the water for swimming. Water quality standards adopted under this section shall be in conformity with the official state water quality standards adopted by the department of environmental quality under the authority of part 31 (water resources protection) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.3101 to 324.3119 of the Michigan Compiled Laws.

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

Popular name: Act 368

333.12545 Violation as misdemeanor.

Sec. 12545. A person who violates sections 12541 to 12543 is guilty of a misdemeanor.

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

Popular name: Act 368

333.12546 Local regulations.

Sec. 12546. Sections 12541 to 12544 shall not change the authority of local health departments or county boards of commissioners to enact local regulations governing public bathing beaches.

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

Popular name: Act 368

333.12561-333.12563 Repealed. 2004, Act 246, Eff. Oct. 1, 2004.

Compiler's note: The repealed sections pertained to permits to chemically treat nuisance-producing organisms in waters of this state.

PART 126
SMOKING IN PUBLIC PLACES

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333.12601 Definitions.

Sec. 12601. (1) As used in this part:

(a) "Casino" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202. Casino does not include a casino operated under the Indian gaming regulatory act, 25 USC 2701 to 2721.

(b) "Child caring institution" and "child care center" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.

(c) "Cigar" means any roll of tobacco weighing 3 or more pounds per 1,000, which roll has a wrapper or cover consisting only of tobacco.

(d) "Cigar bar" means an establishment or area within an establishment that is open to the public and is designated for the smoking of cigars, purchased on the premises or elsewhere.

(e) "County medical care facility" means that term as defined in section 20104.

(f) "Educational facility" means a building owned, leased, or under the control of a public or private school system, college, or university.

(g) "Food service establishment" means a food service establishment as defined in section 12905.

(h) "Health facility" means a health facility or agency licensed under article 17, except a home for the aged, nursing home, county medical care facility, hospice, or hospital long-term care unit.

(i) "Home for the aged" means that term as defined in section 20106.

(j) "Hospice" means that term as defined in section 20106.

(k) "Hospital long-term care unit" means that term as defined in section 20106.

(*l*) "Meeting" means a meeting as defined in section 2 of the open meetings act, 1976 PA 267, MCL 15.262.

(m) "Motor vehicle" means that term as defined in section 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33.

(n) "Nursing home" means that term as defined in section 20109.

(o) "Place of employment" means an enclosed indoor area that contains 1 or more work areas for 1 or more persons employed by a public or private employer. Place of employment does not include any of the following:

(*i*) A structure used primarily as the residence of the owner or lessee that is also used as an office for the owner or lessee and for no other employees.

(*ii*) A food service establishment that is subject to section 12905.

(*iii*) A motor vehicle.

(p) "Public body" means a public body as defined in section 2 of the open meetings act, 1976 PA 267, MCL 15.262.

(q) "Public place", except as otherwise provided in subsection (2), means any of the following:

(*i*) An enclosed, indoor area owned or operated by a state or local governmental agency and used by the general public or serving as a meeting place for a public body, including an office, educational facility, home for the aged, nursing home, county medical care facility, hospice, hospital long-term care unit, auditorium, arena, meeting room, or public conveyance.

(*ii*) An enclosed, indoor area that is not owned or operated by a state or local governmental agency, is used by the general public, and is any of the following:

(A) An educational facility.

(B) A home for the aged, nursing home, county medical care facility, hospice, or hospital long-term care unit.

(C) An auditorium.

(D) An arena.

(E) A theater.

(F) A museum.

(G) A concert hall.

(H) Any other facility during the period of its use for a performance or exhibit of the arts.

(*iii*) Unless otherwise exempt under this part, a place of employment.

(r) "Smoking" or "smoke" means the burning of a lighted cigar, cigarette, pipe, or any other matter or substance that contains a tobacco product.

(s) "Smoking paraphernalia" means any equipment, apparatus, or furnishing that is used in or necessary for the activity of smoking.

(t) "Tobacco product" means a product that contains tobacco and is intended for human consumption, including, but not limited to, cigarettes, noncigarette smoking tobacco, or smokeless tobacco, as those terms

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are defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422, and cigars.

(u) "Tobacco specialty retail store" means an establishment in which the primary purpose is the retail sale of tobacco products and smoking paraphernalia, and in which the sale of other products is incidental. Tobacco specialty retail store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

(v) "Work area" means a site within a place of employment at which 1 or more employees perform services for an employer.

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

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989;—Am. 2009, Act 188, Eff. May 1, 2010.

Compiler's note: For transfer of certain powers and duties of the center for health promotion and chronic disease prevention 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

333.12603 Smoking in public place or at meeting of public body prohibited; duties of owner, operator, manager, or person having control of public place, food establishment, or casino; good faith effort to prohibit smoking; affirmative defense; affidavit; section referred to as "Dr. Ron Davis Law."

Sec. 12603. (1) An individual shall not smoke in a public place or at a meeting of a public body, and a state or local governmental agency or the person who owns, operates, manages, or is in control of a public place shall make a reasonable effort to prohibit individuals from smoking in a public place.

(2) The owner, operator, manager, or person having control of a public place, a food service establishment, or a casino subject to section 12606b shall do all of the following:

(a) Clearly and conspicuously post "no smoking" signs or the international "no smoking" symbol at the entrances to and in every building or other area where smoking is prohibited under this act.

(b) Remove all ashtrays and other smoking paraphernalia from anywhere smoking is prohibited under this act.

(c) Inform individuals smoking in violation of this act that they are in violation of state law and subject to penalties.

(d) If applicable, refuse to serve an individual smoking in violation of this act.

(e) Ask an individual smoking in violation of this act to refrain from smoking and, if the individual continues to smoke in violation of this act, ask him or her to leave the public place, food service establishment, or nonsmoking area of the casino.

(3) The owner, operator, manager, or person in control of a hotel, motel, or other lodging facility shall comply with subsection (2) and section 12606. It is an affirmative defense to a prosecution or civil or administrative action for a violation of this section that the owner, operator, manager, or person in control of a hotel, motel, or other lodging facility where smoking is prohibited under this section made a good faith effort to prohibit smoking by complying with subsection (2). To assert the affirmative defense under this subsection, the owner, operator, manager, or person shall file a sworn affidavit setting forth his or her efforts to prohibit smoking and his or her actions of compliance with subsection (2).

(4) This section may be referred to as the "Dr. Ron Davis Law".

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1993, Act 217, Eff. Apr. 1, 1994;—Am. 2009, Act 188, Eff. May 1, 2010.

Popular name: Act 368

333.12604 Smoking in a child caring institution or child care center or on the real property under control of institution or center; violation; penalties.

Sec. 12604. (1) An individual shall not smoke in a child caring institution or child care center or on real property that is under the control of a child caring institution or a child care center and upon which the child caring institution or child care center is located, including other related buildings.

(2) An individual who violates this section is subject to all the penalties described in section 15 of Act No. 116 of the Public Acts of 1973, being section 722.125 of the Michigan Compiled Laws, except imprisonment.

History: Add. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1991, Act 178, Eff. June 21, 1992;—Am. 1993, Act 217, Eff. Apr. 1, 1994.

Popular name: Act 368

333.12604a, 333.12605 Repealed. 2009, Act 188, Eff. May 1, 2010.

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Compiler's note: The repealed sections pertained to prohibitions against smoking in private practice of health facility and designation of smoking areas.

333.12606 Retaliatory or adverse personnel action against employee or applicant prohibited.

Sec. 12606. An employer or a food service establishment shall not take any retaliatory or adverse personnel action against an employee or applicant for employment on the basis of the individual's exercise of or attempt to exercise his or her rights under this part with respect to place of employment or part 129 with respect to food service establishments.

History: Add. 2009, Act 188, Eff. May 1, 2010.

Popular name: Act 368

333.12606a Cigar bar or tobacco specialty retail store in existence on effective date of section; exemption from smoking prohibition; affidavit; request for additional information; failure to file affidavit.

Sec. 12606a. (1) A cigar bar in existence on May 1, 2010 that meets the requirements of this section is exempt from the smoking prohibition of section 12603 and may allow smoking on its premises. Except as otherwise provided in subsection (3), to qualify for the exemption under this section, the person that owns or operates a cigar bar must file an affidavit with the department on or before the expiration of 30 days after May 1, 2010 and on January 31 of each year after May 1, 2010. The affidavit must be signed by the owner or operator of the cigar bar and must certify that the cigar bar was in existence on May 1, 2010 and that it meets all of the following requirements:

(a) In the 30-day period immediately preceding May 1, 2010, the cigar bar generated 10% or more of its total gross annual income from the on-site sale of cigars and the rental of on-site humidors.

(b) Except as otherwise provided in this subdivision, the cigar bar generates 10% or more of its total gross annual income from the on-site sale of cigars and the rental of on-site humidors for each calendar year after the calendar year in which the first affidavit is filed under this subsection. If the cigar bar has qualified for the exemption under this section pursuant to subsection (2), the requirement under this subdivision does not include the 3 calendar years immediately preceding the calendar year in which the affidavit under subsection (2) was filed.

(c) The cigar bar is located on premises that are physically separated from any areas of the same or adjacent establishment in which smoking is prohibited under this part or part 129 and where smoke does not infiltrate into those nonsmoking areas. As used in this subdivision, "physically separated" means an area that is enclosed on all sides by any combination of solid walls, windows, or doors that extend from the floor to ceiling.

(d) The cigar bar has installed on its premises an on-site humidor.

(e) The cigar bar prohibits entry to an individual who is less than 21 years of age during the time the cigar bar is open for business.

(f) The cigar bar allows only the smoking of cigars on the premises that retail for over $1.00 per cigar.

(g) The cigar bar prohibits the smoking of all other tobacco products.

(2) For 1 calendar year only, a cigar bar qualifies for the exemption under this section if an affidavit, signed by the person that owns or operates the cigar bar, is filed with the department and certifies that all of the following circumstances apply to the cigar bar:

(a) The cigar bar is located in a city with a population of more than 32,000 and less than 34,000 that is located in a county with a population of more than 100,000 and less than 105,000.

(b) Not earlier than 2023, the cigar bar failed to file an affidavit under subsection (1) for not less than 1 calendar year and not more than 3 calendar years.

(c) The cigar bar has not previously filed an affidavit under this subsection.

(3) If a cigar bar has qualified for the exemption under this section pursuant to subsection (2), the cigar bar's affidavit filing requirement under subsection (1) does not include the range of calendar years described in subsection (2)(b), as applicable to the cigar bar.

(4) A tobacco specialty retail store in existence on May 1, 2010 that meets the requirements of this section is exempt from the smoking prohibition of section 12603 and may allow smoking on its premises. To qualify for the exemption under this section, the person that owns or operates a tobacco specialty retail store must file an affidavit with the department on or before the expiration of 30 days after May 1, 2010 and on January 31 of each year after May 1, 2010. The affidavit must be signed by the owner or operator of the tobacco specialty retail store and must certify that the tobacco specialty retail store was in existence on May 1, 2010 and that it meets all of the following requirements:

(a) In the 30-day period immediately preceding May 1, 2010, the tobacco specialty retail store generated

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75% or more of its total gross annual income from the on-site sale of tobacco products and smoking paraphernalia.

(b) For each calendar year after the calendar year in which the first affidavit is filed under this subsection, the tobacco specialty retail store generated 75% or more of its total gross annual income from the on-site sale of tobacco products and smoking paraphernalia.

(c) The tobacco specialty retail store is located on premises that are physically separated from any areas of the same or adjacent establishments in which smoking is prohibited under this part or part 129 and where smoke does not infiltrate into those nonsmoking areas. As used in this subdivision, "physically separated" means an area that is enclosed on all sides by any combination of solid walls, windows, or doors that extend from the floor to ceiling.

(d) The tobacco specialty retail store prohibits entry to an individual who is less than 21 years of age during the time the tobacco specialty retail store is open for business.

(5) The department may request additional information from a cigar bar or tobacco specialty retail store to verify that the cigar bar or tobacco specialty retail store meets the requirements of this section. A cigar bar or tobacco specialty retail store shall comply with requests from the department under this section.

(6) Except as otherwise provided in this subsection, a cigar bar or tobacco specialty retail store that does not meet the requirements of this section or violates this section is not exempt from the smoking prohibition of section 12603 and shall immediately prohibit smoking on its premises. A cigar bar or tobacco specialty retail store that meets the requirements of this section, other than filing the affidavit as required under subsection (1) or (4), retains its exemption and may continue to allow smoking during the period beginning on the date the affidavit is due and ending on the expiration of 21 days after that date. However, if the affidavit remains unfiled after the 21-day grace period, the cigar bar or tobacco specialty retail store is not exempt from the smoking prohibition of section 12603 and shall immediately prohibit smoking on its premises. A cigar bar or tobacco specialty retail store that loses its exemption under this subsection is not exempt from the smoking prohibition of section 12603, shall immediately prohibit smoking on its premises, and may only again qualify for the exemption under this section by filing an affidavit and meeting the requirements of subsection (1), (2), or (4), as applicable.

History: Add. 2009, Act 188, Eff. May 1, 2010;—Am. 2022, Act 168, Imd. Eff. July 21, 2022;—Am. 2023, Act 318, Imd. Eff. Dec. 14, 2023.

Popular name: Act 368

333.12606b Casino in existence on effective date of section; "gaming area" defined.

Sec. 12606b. (1) A casino that is in existence on the effective date of this section may allow smoking in the gaming area of the casino. Section 12603 applies to a casino that is not in existence on the effective date of this section and to all areas of a casino not part of the gaming area. A food service establishment in or part of a casino is subject to section 12905. However, any part of the gaming area where food and beverage is taken by patrons for immediate consumption is not considered a food service establishment under this part or part 129.

(2) A casino that is in existence on the effective date of this section shall comply with section 12603(2) for all areas of the casino not part of the gaming area. Section 12606 does not apply with respect to employees working in the gaming area of a casino where smoking is allowed under this section. However, section 12606 does apply with respect to employees working in areas other than the gaming area of a casino.

(3) As used in this section, "gaming area" means that term as defined in R 432.1103 of the Michigan administrative code.

History: Add. 2009, Act 188, Eff. May 1, 2010.

Popular name: Act 368

333.12607 Repealed. 2009, Act 188, Eff. May 1, 2010.

Compiler's note: The repealed section pertained to duties of state or local governments to prevent smoking.

333.12609 Rules.

Sec. 12609. The department may promulgate rules to implement this part.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987.

Popular name: Act 368

333.12610 Rules prohibited.

Sec. 12610. Notwithstanding section 12609 or any other provision of this act to the contrary, the department shall not promulgate rules to implement or administer the provisions of this part that were added

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by the amendatory act that added this section.

History: Add. 2009, Act 188, Eff. May 1, 2010.

Popular name: Act 368

333.12611 Violation; compliance; civil fine; perjury.

Sec. 12611. A person or state or local governmental agency that violates this part or part 129 shall be directed to comply with this part and is subject to a civil fine of not more than $100.00 for a first violation and not more than $500.00 for a second or subsequent violation. A person who makes a false statement in an affidavit under this part is guilty of perjury under section 423 of the Michigan penal code, 1931 PA 328, MCL 750.423.

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989;—Am. 1993, Act 217, Eff. Apr. 1, 1994;—Am. 2009, Act 188, Eff. May 1, 2010.

Popular name: Act 368

333.12613 Enforcement; civil fine; injunctive relief; remedies independent and cumulative.

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

(2) Pursuant to section 2235, the department may authorize a local health department to enforce this part and part 129 and any rules promulgated under this part. A local health department authorized to enforce this part and part 129 and any rules promulgated under this part shall enforce this part and part 129 and any rules promulgated under this part pursuant to sections 2461(2) and 2462. In addition to the civil fine authorized under section 12611, a local health department may enforce this part and part 129 and any rules promulgated under this part through an action commenced pursuant to section 2465 or any other appropriate action authorized by law.

(3) In addition to any other enforcement action authorized by law, a person alleging a violation of this part may bring a civil action for appropriate injunctive relief, if the person has used the public place, child caring institution, or child care center within 60 days before the civil action is filed.

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

History: Add. 1986, Act 198, Eff. Jan. 1, 1987;—Am. 1988, Act 294, Eff. Oct. 1, 1988;—Am. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 1988, Act 315, Eff. Mar. 30, 1989;—Am. 2009, Act 188, Eff. May 1, 2010.

Popular name: Act 368

333.12614 Reports.

Sec. 12614. (1) The director shall report biennially to the legislature on the effect and enforcement of this part and part 129. The report shall include, at a minimum, compliance with sections 12603 and 12905.

(2) Upon request of the department, the director of the department of management and budget annually shall report to the department, at a minimum, a list of each public place owned or operated by the state and its compliance with section 12603.

History: Add. 1988, Act 296, Eff. Mar. 30, 1989;—Am. 2009, Act 188, Eff. May 1, 2010.

Popular name: Act 368

333.12615 Repealed. 2009, Act 188, Eff. May 1, 2010.

Compiler's note: The repealed section pertained to smoking of tobacco in nursing home or food service establishment.

333.12616 Short title.

Sec. 12616. This part shall be known and may be cited as the "Michigan clean indoor air act".

History: Add. 1988, Act 296, Eff. Mar. 30, 1989.

Popular name: Act 368

333.12617 Repealed. 2009, Act 188, Eff. May 1, 2010.

Compiler's note: The repealed section pertained to effective date of part.

PART 127
WATER SUPPLY AND SEWER SYSTEMS

333.12701 Definitions used in MCL 333.12701 to 333.12715.

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Sec. 12701. (1) As used in sections 12701 to 12715:

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

(b) "Pump" means a mechanical equipment or device used to remove water from a well.

(c) "Pump installer" means a person who is qualified to engage in the installation, removal, alteration, or repair of water well pumping equipment in connection with a water well.

(d) "Well" means an opening in the surface of the earth for the purpose of removing fresh water or a test well, recharge well, waste disposal well, or a well used temporarily for dewatering purposes during construction.

(e) "Well drilling contractor" means a person qualified to engage in well construction, well alteration, or well repair and pump installation, who supervises the construction of water wells and the installation of pumps, and who owns, rents, or leases equipment used in the construction of water wells.

(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.

Compiler's note: For transfer of powers and duties of the division of environmental health and the division of water supply from the director of the department of public health to the director of the department of environmental quality, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.12703 Applicability of MCL 333.12701 to 333.12715.

Sec. 12703. (1) Sections 12701 to 12715 shall not apply to:

(a) A well, pump, or other equipment used temporarily for dewatering purposes during construction when the well is not more than 2 inches in diameter and not more than 25 feet in total depth below the natural ground surface or is used in the relief of artesian pressure at hydroelectric projects or is used with the drilling of oil or gas wells.

(b) A brine, test, storage, or disposal well regulated pursuant to part 625 (mineral wells) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.62501 to 324.62518 of the Michigan Compiled Laws.

(2) Sections 12701 to 12715 shall not prevent a person from constructing a well or installing a pump on property owned or leased by the person which is intended for use only in a single family house which is that person's permanent residence, or intended for use only for farming purposes on that person's farm, and where the waters to be produced are not intended for use by the public or in any residence other than his or her own. The person shall submit the drilling record required by section 12707 and comply with the rules and construction code promulgated under section 12714.

(3) Sections 12701 to 12715 shall not restrict a master plumber licensed under Act No. 266 of the Public Acts of 1929, being sections 338.901 to 338.917 of the Michigan Compiled Laws, from engaging in the licensee's legally recognized trade. A licensed master plumber may perform the work of a pump installer prescribed in sections 12701 to 12715 or rules and construction code promulgated under section 12714 without a certificate of registration as a pump installer.

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

Popular name: Act 368

333.12704 Certificate of registration as well drilling contractor, pump installer, water well drilling contractor, or dewatering well pump installer; application; fees; exemption.

Sec. 12704. (1) Before engaging in the business of well drilling or pump installing, a person shall obtain a certificate of registration annually as a well drilling contractor or pump installer, using an application prepared by the department.

(2) Before engaging in the business of constructing dewatering wells or installing dewatering well pumps, a person shall obtain a certificate of registration annually as a water well drilling contractor limited to the construction of dewatering wells or as a dewatering well pump installer, using an application prepared by the department.

(3) The applicant shall pay a registration fee with the application. The initial registration fee and the annual renewal registration fee for a well drilling contractor is $40.00 and for a pump installer is $25.00. A well drilling contractor shall pay an additional annual fee of $10.00 for each additional drilling machine. A registered well drilling contractor may do any of the work of a pump installer without payment of the fee for a pump installer.

(4) A county, city, village, township, or other governmental unit engaged in well drilling or pump installing shall be registered under sections 12701 to 12715, but shall be exempt from paying the registration

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fees if the drilling or installing is done by regular employees of, and with equipment owned by, the governmental unit and the work is on wells or pumps intended for use by the governmental unit.

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

Popular name: Act 368

333.12705 Certificate of registration; issuance; nontransferable; expiration; renewal; examination; eligibility; reciprocity.

Sec. 12705. (1) The department shall issue certificates of registration to well drilling contractors and pump installers who meet the requirements of sections 12701 to 12715.

(2) A certificate of registration is not transferable and expires on April 30 of each year. After July 1 of each year a certificate of registration may be renewed only upon application for renewal and payment of a fee of 50% of the basic registration fee in addition to the regular registration fee.

(3) A new applicant for a certificate of registration shall be examined in accordance with the rules and construction code promulgated under section 12714. The advisory board created by section 12711 shall determine and advise the department as to the eligibility of a well drilling contractor or pump installer for registration. A well drilling contractor or pump installer which is a firm, partnership, or corporation shall designate at least 1 partner, officer, or responsible full-time employee to take the examination on its behalf.

(4) The department, upon application and payment of the prescribed fees, may issue a certificate of registration as a well drilling contractor or a pump installer to a person who holds a similar certificate of registration in another state or a foreign country, if the requirements for the registration of a well drilling contractor and pump installer under which the certificate of registration was issued do not conflict with this part, are of a standard not lower than that specified by the rules and construction code promulgated under section 12714, and if equal reciprocal privileges are granted to a registrant of this state.

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

Popular name: Act 368

333.12706 Numbers, seal, and words to be placed on well drilling machine.

Sec. 12706. A well drilling contractor shall place the registration number, including the county code number for the business location, in figures not less than 2 inches high in a conspicuous location on both sides of the contractor's well drilling machine. A seal furnished by the department designating the year the certificate of registration was issued or renewed and the words "Michigan registered water well drilling contractor" shall be affixed directly adjacent to the registration number.

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

Popular name: Act 368

333.12707 Record required; contents; copies; forms; sufficiency of record for drive point well.

Sec. 12707. Not later than 60 days after the completion of a well, a well drilling contractor shall provide the owner with a copy and the department, or local health department, with 2 copies of a record indicating the well owner's name, location of the well, well depth, geologic materials and thicknesses of materials penetrated, amount of casing, static water levels, and any other information which may be required by the rules and construction code promulgated under section 12714. The department or local health department shall send 1 copy of the record to the director of the department of natural resources not later than 30 days after its receipt from the well drilling contractor. Standard forms for the record shall be provided by the department or the contractor's forms may be used if approved by the department. A record for a drive point well where no earth materials are removed from the well bore is sufficient if the owner's name, well location, depth, casing, static water level, and screen data are stated.

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

Popular name: Act 368

333.12708 Entering and inspecting installation.

Sec. 12708. The department or local health department may enter and inspect, at reasonable hours, an installation on public or private property for the development or abandonment of ground water supplies.

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

Popular name: Act 368

333.12709 Inspection of violation; order; notice of suspension of certificate of registration; petition for hearing; revocation of certificate of registration.

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Sec. 12709. (1) When the department or local health department determines that there are reasonable grounds to believe there has been a violation of sections 12701 to 12715 or a rule or the construction code promulgated under section 12714, the department or the local health department shall investigate the violation. If the department or local health department establishes that a violation has been committed, the department or the local health department shall order the responsible person to make the proper corrections.

(2) When the department finds that the holder of a certificate of registration has engaged in a practice in violation of sections 12701 to 12715 or a rule, construction code, or order issued pursuant to those sections, the department may give written notice to the holder of the certificate of registration that the certificate of registration is suspended. A person who receives notice from the department that his or her certificate of registration is suspended, upon request, shall be granted a hearing before the department or an authorized representative of the department. If a petition for a hearing is not filed within 30 days after the day on which the certificate of registration was suspended, the certificate of registration is automatically revoked.

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

Popular name: Act 368

333.12711 Advisory board; creation; appointment and qualifications of members.

Sec. 12711. An advisory board of 9 members is created in the department composed of the following: 5 members who are residents of this state registered under sections 12701 to 12715, at least 4 of whom are well drilling contractors, and who shall be appointed by the governor with the advice and consent of the senate; an employee of the bureau of environmental and occupational health of the department, and a representative of a local health department, each to be appointed by the director; an employee of the geological survey section of the department of natural resources appointed by the director of the department of natural resources; and an employee of the water resources commission appointed by the executive secretary of the water resources commission. Of 4 well drilling contractors 1 shall be from each of 4 geographic regions:

(a) Region 1: The Upper Peninsula.

(b) Region 2: That part of the Lower Peninsula bordered on the south by Oceana, Newaygo, Mecosta, Isabella, Midland, and Bay counties and the area north of those counties.

(c) Region 3: The area bordered on the north and west by Huron, Tuscola, Saginaw, Shiawassee, Livingston, Washtenaw, and Lenawee counties and the area south and east of those counties.

(d) Region 4: The area bordered on the east and north by Hillsdale, Jackson, Ingham, Clinton, Gratiot, Montcalm, Kent, and Muskegon counties and the area south and west of those counties.

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

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the water well drillers advisory committee to the director of the Michigan state department of public health, see E.R.O. No. 1994-1, compiled at MCL 333.26322 of the Michigan Compiled Laws.

Popular name: Act 368

333.12712 Advisory board; terms of members; vacancies.

Sec. 12712. Each member of the advisory board shall be appointed for a 3-year term. The terms of the 5 members registered under sections 12701 to 12715 shall alternate so that not more than 2 are appointed each year, except that of the first appointees, 1 shall be appointed for 1 year and 2 each shall be appointed for 2 and 3 years. The terms of the members representing the department of natural resources, the water resources commission, and the local health department shall alternate so that only 1 is appointed each year, except that of the first appointees 1 member shall be appointed for 1 year, 1 for 2 years, and 1 for 3 years. Vacancies shall be filled by appointment for the balance of the unexpired terms by the respective officials designated in section 12711.

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

Popular name: Act 368

333.12713 Advisory board; election of chairperson; secretary; number of meetings; quorum; conducting business at public meeting; notice of meeting; compensation and expenses.

Sec. 12713. (1) The members of the advisory board, as soon as appointed, shall organize and elect from their number a chairperson. Thereafter, annually when new members are appointed to the board, a chairperson shall be elected at the next board meeting. The member from the department shall be the secretary of the board.

(2) The board shall hold not less than 1 meeting each year for the purpose of examining candidates for registration. Additional meetings may be called by the chairperson or director as may be reasonably necessary to carry out sections 12701 to 12715. Five members shall constitute a quorum. The business which the

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advisory board may perform shall be conducted at a public meeting of the advisory board held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(3) The per diem compensation of the members of the advisory board registered under sections 12701 to 12715 shall be established annually by the legislature. Expenses shall be reimbursed pursuant to section 1216.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 143, Imd. Eff. June 2, 1980.

Popular name: Act 368

333.12714 Rules and construction code.

Sec. 12714. The department, with the advice of the advisory board, shall promulgate rules and a construction code reasonably necessary to implement sections 12701 to 12715. The rules and construction code shall include provisions for qualifications and examination of well drilling contractors and pump installers, standards for the construction and installation of developments of ground water supplies, dewatering wells, abandonment of wells and dewatering wells, and for the administration of sections 12701 to 12715.

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

Popular name: Act 368

Administrative rules: R 325.1601 et seq. of the Michigan Administrative Code.

333.12715 Violation as misdemeanor; penalties; prosecution.

Sec. 12715. (1) Except as provided in subsection (2), a person who violates sections 12701 to 12714, a rule or the construction code promulgated under section 12714, or an order issued by the department or local health department under sections 12701 to 12714 is guilty of a misdemeanor.

(2) A member of the advisory board who intentionally violates section 12713(2) shall be subject to the penalties prescribed in Act No. 267 of the Public Acts of 1976, as amended.

(3) The attorney general or local prosecuting attorney shall be responsible for prosecuting a person who violates sections 12701 to 12715.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 143, Imd. Eff. June 2, 1980.

Popular name: Act 368

333.12721 Adding fluoride to water.

Sec. 12721. (1) A state department, board, commission, or agency shall not order a county, city, township, village, or any combination thereof to add fluoride to water which is supplied to the public that may be consumed by human beings.

(2) A county, city, township, village or any combination thereof which supplies water to the public may add fluoride to the water, in a manner and amount to be prescribed by the department, unless the addition of fluoride is rejected by an ordinance of the or by a majority of the electors of the county, city, township, village or any combination thereof.

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

Popular name: Act 368

333.12751 Definitions used in MCL 333.12752 to 333.12758.

Sec. 12751. As used in sections 12752 to 12758:

(a) "Acceptable alternative greywater system" means a system for the treatment and disposal of waste water which normally does not receive human body wastes or industrial waste and is approved for use by a local health department.

(b) "Acceptable innovative or alternative waste treatment system" means a decentralized or individual waste system which has been approved for use by a local health department and which is properly operated and maintained so as not to cause a health hazard or nuisance. An acceptable innovative or alternative waste treatment system may include, but is not limited to, an organic waste treatment system or compost toilet which operates on the principle of decomposition of heterogeneous organic materials by aerobic and facultatively anaerobic organisms and utilizes an effectively aerobic composting process which produces a stabilized humus. Acceptable innovative or alternative waste treatment system does not include a septic tankdrain field system or any other system which is determined by the department to pose a similar threat to the public health, safety and welfare, and the quality of surface and subsurface waters of this state.

(c) "Available public sanitary sewer system" means a public sanitary sewer system located in a right of way, easement, highway, street, or public way which crosses, adjoins, or abuts upon the property and passing

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not more than 200 feet at the nearest point from a structure in which sanitary sewage originates.

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

(e) "Public sanitary sewer system" means a sanitary sewer or a combined sanitary and storm sewer used or intended for use by the public for the collection and transportation of sanitary sewage for treatment or disposal.

(f) "Structure in which sanitary sewage originates" or "structure" means a building in which toilet, kitchen, laundry, bathing, or other facilities which generate water-carried sanitary sewage are used or are available for use for household, commercial, industrial, or other purposes.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 421, Eff. Mar. 31, 1981.

Popular name: Act 368

333.12752 Public sanitary sewer systems; declaration of necessity.

Sec. 12752. Public sanitary sewer systems are essential to the health, safety, and welfare of the people of the state. Septic tank disposal systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of septic tank disposal systems poses a threat to the public health, safety, and welfare; presents a potential for ill health, transmission of disease, mortality, and economic blight; and constitutes a threat to the quality of surface and subsurface waters of this state. The connection to available public sanitary sewer systems at the earliest, reasonable date is a matter for the protection of the public health, safety, and welfare and necessary in the public interest which is declared as a matter of legislative determination.

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

Popular name: Act 368

333.12753 Structures in which sanitary sewage originates to be connected to public sanitary sewer; approval; time.

Sec. 12753. (1) Structures in which sanitary sewage originates lying within the limits of a city, village, or township shall be connected to an available public sanitary sewer in the city, village, or township if required by the city, village, or township.

(2) Structures in which sanitary sewage originates lying outside the limits of the city, village, or township in which the available public sanitary sewer lies shall be connected to the available public sanitary sewer after the approval of both the city, village, or township in which the structure and the public sanitary sewer system lies and if required by the city, village, or township in which the sewage originates.

(3) Except as provided in subsection (4), the connection provided for in subsections (1) and (2) shall be completed promptly but not later than 18 months after the date of occurrence of the last of the following events or before the city, village, or township in which the sewage originates requires the connection:

(a) Publication of a notice by the governmental entity which operates the public sanitary sewer system of availability of the public sanitary sewer system in a newspaper of general circulation in the city, village, or township in which the structure is located.

(b) Modification of a structure so as to become a structure in which sanitary sewage originates.

(4) A city, village, or township may enact ordinances, or a county or district board of health, may adopt regulations to require completion of the connection within a shorter period of time for reasons of public health.

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

Popular name: Act 368

333.12754 Failure to connect structure to public sanitary sewer; notice; action to compel connection.

Sec. 12754. (1) When the structure in which sanitary sewage originates is not connected to an available public sanitary sewer system within the time specified in section 12753, the governmental unit in which the structure lies shall require the connection to be made immediately after notice, which may be by first class or certified mail to the owner of the property or by posting on the property.

(2) The notice shall give the approximate location of the public sanitary sewer system which is available for connection of the structure involved and shall advise the owner of the requirements and enforcement provisions of sections 12752 to 12758 and any applicable ordinance or regulation.

(3) Where a structure in which sanitary sewage originates is not connected to an available public sanitary sewer system within 90 days after the date of mailing or posting of the written notice, the governmental unit which operates the available sanitary sewer system may bring an action for a mandatory injunction or order in the district, municipal, or circuit court in the county in which the structure is situated to compel the owner to connect to the available sanitary sewer system immediately. The governmental unit may join any number of

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owners of structures situated within the governmental unit in the action to compel each owner to connect to an available sanitary sewer system immediately.

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

Popular name: Act 368

333.12756 Tap-in fee for connection; deferment of payment by reason of hardship; application; evidence of hardship; ordinance defining hardship and permitting deferred or partial payment; condition to granting deferred or partial payment.

Sec. 12756. (1) An owner of property who by reason of hardship is unable to comply with provisions of sections 12752 to 12758 requiring connection to an available sanitary sewer system when the local unit of government charges a tap-in fee for connection may have the fee payment deferred by application to the assessing officer. Upon receipt of evidence of hardship, the local unit of government may defer partial or total payment of the fee.

(2) The local unit of government may enact ordinances to define hardship in its area and to permit deferred or partial payment of the tap-in fee. As a condition to the granting of the deferred or partial payment of the tap-in fee, the local unit of government may require mortgage security on the real property of the beneficiary payable on or before death, or, in any event, on the sale or transfer of the property.

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

Popular name: Act 368

333.12757 Installation and use of acceptable innovative or alternative waste treatment system alone or in combination with acceptable alternative greywater system; regulation by local health department; guidelines; exemption from special assessments not permitted; connection to available public sanitary sewer system not required; payment of sewer availability fee in lieu of connection or user fees; exemption from connection or user fees.

Sec. 12757. (1) Notwithstanding sections 12752 to 12756, a person may install and use in a structure an acceptable innovative or alternative waste treatment system or an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system. The installation and use of an acceptable innovative or alternative waste treatment system or an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system in a structure shall be subject to regulation by the local health department in accordance with the ordinances and regulations of the local units of government in which the structure lies. A local health department may inspect each acceptable innovative or alternative waste treatment system within its jurisdiction at least once each year to determine if it is being properly operated and maintained. A local health department may charge the owner of an acceptable innovative or alternative waste treatment system a reasonable fee for such an inspection and for the plan review and installation inspection. A copy of the approved application or permit to install and use an alternative system and a copy of each maintenance inspection report shall be forwarded to the department and to the local unit of government in which the structure lies. The department shall maintain a record of approved alternative systems and their maintenance and operation.

(2) The department, after consultation with the state plumbing board, shall adopt guidelines to assist local health departments in determining what are acceptable alternative greywater systems and what are acceptable innovative or alternative waste treatment systems. The department shall advise local health departments regarding the appropriate installation and use of acceptable innovative or alternative waste treatment systems and acceptable innovative or alternative waste treatment systems in combination with acceptable alternative greywater systems.

(3) A person who installs and uses an acceptable innovative or alternative waste treatment system or an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system shall not be exempt from any special assessments levied by a local unit of government for the purpose of financing the construction of an available public sanitary sewer system.

(4) Notwithstanding sections 12752 to 12756, an owner of a structure using an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system shall not be required to connect to an available public sanitary sewer system.

(5) An owner who does not connect to an available public sanitary sewer system pursuant to subsection (4), shall not be required to pay connection or user fees to a local unit of government except those connection or user fees which are allocated for financing of construction of an available public sanitary sewer system. In lieu of connection or user fees, an owner may be required by the local unit of government to pay a sewer

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availability fee if that fee is to be used for the purpose of paying a proportionate share of financing the construction of an existing available public sanitary sewer system. The exemption from connection or user fees under this subsection shall not apply to an owner connected to an available public sanitary sewer system on the effective date of this act.

(6) A local unit of government may exempt an owner proposing to use an acceptable innovative or alternative waste treatment system in combination with an acceptable alternative greywater system from connection or user fees related to the financing, construction, use, or maintenance of an available public sanitary sewer system.

History: Add. 1980, Act 421, Eff. Mar. 31, 1981.

Popular name: Act 368

333.12758 Voluntary connection to public sanitary sewer system; provisions cumulative.

Sec. 12758. (1) Sections 12752 to 12758 shall not limit the right of the owner of a structure in which sanitary sewage originates voluntarily to connect the structure to a public sanitary sewer system where the operator of the system agrees to the connection.

(2) Sections 12752 to 12758 are in addition to and not in limitation of the power of a governmental unit to adopt, amend, and enforce ordinances relating to the connection of a structure in which sanitary sewage originates to its public sanitary sewer system.

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

Popular name: Act 368

333.12771 Outhouses; requirements; rules; violation as misdemeanor; public nuisance; "outhouse" defined.

Sec. 12771. (1) A person shall not maintain, or permit to be maintained, on premises owned or controlled by the person an outhouse unless the outhouse is kept in a sanitary condition, and constructed and maintained in a manner which will not injure or endanger the public health.

(2) The department shall promulgate rules governing the construction and maintenance of outhouses to safeguard the public health and to prevent the spread of disease and the existence of sources of contamination.

(3) A person who violates this section is guilty of a misdemeanor. An outhouse not constructed or maintained as required by this section or the rules promulgated pursuant to this section shall be a public nuisance.

(4) As used in this section, "outhouse" means a building or other structure not connected with a sewer system or with a properly installed and operated sewage disposal system, and which is used for the reception, disposition, or storage, either temporarily or permanently, of feces or other excreta from the human body.

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

Popular name: Act 368

Administrative rules: R 325.421 et seq. of the Michigan Administrative Code.

PART 129.
SMOKE-FREE FOOD SERVICE ESTABLISHMENTS

333.12901-333.12904 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: The repealed sections pertained to definitions, preparation and service of wild game, creation of food service sanitation advisory board, and license to operate food service establishment.

Popular name: Act 368

333.12905 Food service establishment; smoking prohibited; shopping malls; inspection; determination of compliance; investigation of complaint; order to cease food service operations; good faith effort to prohibit smoking; affirmative defense; affidavit; violation; civil fine; definitions.

Sec. 12905. (1) An individual shall not smoke in a food service establishment, and the person who owns, operates, manages, or is in control of a food service establishment shall make reasonable effort to prohibit individuals from smoking in a food service establishment.

(2) In addition to a food service establishment that provides its own seating, subsection (1) applies to a food service establishment or group of food service establishments that are located in a shopping mall in which the seating for the food service establishment or group of food service establishments is provided or maintained, or both, by the person who owns or operates the shopping mall.

(3) The director, an authorized representative of the director, or a representative of a local health

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department to which the director has delegated responsibility for enforcement of this part shall inspect each food service establishment that is subject to this section. The inspecting entity shall determine compliance with this section during each inspection.

(4) Within 5 days after receipt of a written complaint of violation of this section, a local health department shall investigate the complaint to determine compliance. If a violation of this section is identified and not corrected as ordered by the local health department within 2 days after receipt of the order by the food service establishment, the local health officer may issue an order to cease food service operations until compliance with this section is achieved.

(5) A food service establishment shall comply with sections 12603(2) and 12606. It is an affirmative defense to a prosecution or civil or administrative action for a violation of this section that the owner, operator, manager, or person in control of a food service establishment where smoking is prohibited under this section made a good faith effort to prohibit smoking by complying with section 12603(2). To assert the affirmative defense under this subsection, the owner, operator, manager, or person shall file a sworn affidavit setting forth his or her efforts to prohibit smoking and his or her actions of compliance with section 12603(2).

(6) An individual who violates this part shall be directed to comply with this part and is subject to a civil fine of not more than $100.00 for a first violation and not more than $500.00 for a second or subsequent violation.

(7) As used in this section:

(a) "Food service establishment" means that term as defined in section 1107 of the food law of 2000, 2000 PA 92, MCL 289.1107.

(b) "Shopping mall" means a shopping center with stores facing an enclosed mall.

(c) "Smoking" means that term as defined in section 12601.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 96, Eff. July 1, 1986;—Am. 1988, Act 297, Eff. Mar. 30, 1989;—Am. 1993, Act 242, Eff. Apr. 1, 1994;—Am. 2009, Act 188, Eff. May 1, 2010.

Popular name: Act 368

333.12905a-333.12908 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: The repealed sections pertained to display of poster diagramming and explaining antichoking techniques in food service establishment; payment of sanitation service and state license fees; denial, suspension, limitation, or revocation of license; and delegation of authority and responsibility for enforcement of requirements.

Popular name: Act 368

****** 333.12909 SUBSECTION (3) EXPIRES AUGUST 17, 1981: See (3) of 333.12909 ******

333.12909 Rules; manufacturing, processing, or freezing frozen desserts; compliance with standards; adoption of federal provisions by reference; recognition of other enforcement procedures; meanings of certain terms; expiration of subsection (3); food service establishment or vending machine in place before effective date of part; food service sanitation program as required service.

Sec. 12909. (1) The department shall promulgate rules to prescribe criteria for programs by local health departments and procedures for the administration and enforcement of this part. The department may promulgate rules to prescribe minimum standards of sanitation for the protection of the public health and otherwise provide for the implementation of this part. The department in promulgating these rules shall seek the advice and counsel of local health departments and the food service industry.

(2) The manufacturing, processing, or freezing of frozen desserts as defined in section 2 of the frozen desserts act of 1968, Act No. 298 of the Public Acts of 1968, being section 288.322 of the Michigan Compiled Laws, in food service establishments licensed pursuant to this part, which frozen desserts are intended only for use in the soft form by patrons, guests, patients, or employees, shall comply with the standards of this part and rules promulgated pursuant to this part.

(3) Except as otherwise specifically defined or described in this part, the provisions of the 1976 recommendations of the United States food and drug administration for a food service sanitation manual, including a model food service sanitation ordinance and the unabridged form of "the vending of food and beverages--a sanitation ordinance and code--1965 recommendations of the public health service" are adopted, except any reference in these ordinances and codes to adulteration, misbranding, advertising, and enforcement procedures. Upon written request from a local health department, the department may recognize certain enforcement procedures other than those contained in this part and rules promulgated under this part, when the procedures will result in enforcement which is equivalent in effectiveness and have been legally adopted by the local department of health. The words "municipality of . . ." as used in the recommendations for a

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model food service sanitation ordinance shall mean the state and the term "regulatory authority" shall mean the local health officer in charge of a local health department or the local health officer's designated representative. This subsection shall expire September 30, 1981 or when the rules promulgated under subsection (1) are promulgated, whichever is sooner.

(4) The design, construction, and equipment of a food service establishment or vending machine which was in place before the effective date of standards developed or adopted under this part shall be considered to be in compliance with this part if they are in compliance with the standards in effect on the date they were installed and if they are in good repair and are being maintained in a sanitary condition.

(5) A food service sanitation program which meets the requirements of this part is a required service under part 24.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 324, Eff. Mar. 30, 1983.

Compiler's note: Subsection (3) of this section expired August 17, 1981, the date rules authorized under subsection (1) were promulgated, being R 325.25101 et seq. of the Michigan Administrative Code.

For transfer of powers and duties of the food service sanitation program from the department of public health to the director of the department of agriculture, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

Administrative rules: R 285.514.1 of the Michigan Administrative Code.

333.12910-333.12913 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: The repealed sections pertained to transitory food units; construction, remodeling, or alteration of food service establishments; investigation of food-borne diseases and poisonings; and storage or application of sulfiting agents prohibited.

Popular name: Act 368

333.12914 Rules prohibited.

Sec. 12914. Notwithstanding any other provision of this act to the contrary, the department shall not promulgate rules to implement or administer the provisions of this part that were added by the amendatory act that added this section.

History: Add. 2009, Act 188, Eff. May 1, 2010.

Popular name: Act 368

333.12915 Local authority limited; exception; local permit; compliance with local codes, regulations, or ordinances.

Sec. 12915. A county, city, village, or township shall not regulate those aspects of food service establishments or vending machines which are subject to regulation under this part except to the extent necessary to carry out the responsibility of a local health department pursuant to sections 12906 and 12908. This part shall not relieve the applicant for a license or a licensee from responsibility for securing a local permit or complying with applicable local codes, regulations, or ordinances not in conflict with this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 526, Eff. Mar. 30, 1983.

Popular name: Act 368

333.12916 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: The repealed section pertained to food establishment, delicatessen, or bakery offering certain food for sale.

Popular name: Act 368

333.12921 Repealed. 2000, Act 92, Eff. Nov. 8, 2000.

Compiler's note: The repealed section pertained to injunction or other process.

Popular name: Act 368

333.12922 Violation as misdemeanor.

Sec. 12922. A person who violates this part or a rule promulgated under this part is guilty of a misdemeanor.

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

Popular name: Act 368

PART 131.
BODY ART FACILITIES

333.13101 Definitions.

Sec. 13101. (1) As used in this part:

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(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Applicant" means the person who submits an application for a body art facility license under this part and includes the owner or operator, an agent of the owner or operator, or any other person operating under the apparent authority of the owner or operator of a body art facility that is required to be licensed under this part.

(c) "Body art facility" means the location at which an individual does 1 or more of the following:

(*i*) Performs tattooing.

(*ii*) Performs branding.

(*iii*) Performs body piercing.

(d) "Body piercing" means the perforation of human tissue other than an ear for a nonmedical purpose.

(e) "Branding" means a permanent mark made on human tissue by burning with a hot iron or other instrument.

(f) "Controlled substance" means that term as defined in section 7104.

(g) "Critical violation" means a violation of this part that is determined by the department or a local health department to be more likely than other violations of this part to contribute to illness in humans.

(h) "Licensee" means the person who is the holder of a license under this part or the person who is legally responsible for the operation of a body art facility and includes the owner or operator, an agent of the owner or operator, or any other person operating under the apparent authority of the owner or operator of a body art facility that is required to be licensed under this part.

(i) "Local governing entity" means that term as defined in section 2406.

(j) "Minor" means an individual under 18 years of age who is not emancipated under section 4 of 1968 PA 293, MCL 722.4.

(k) "Smoking" means that term as defined in section 12601.

(*l*) "Tattoo" means 1 or more of the following:

(*i*) An indelible mark made upon the body of another individual by the insertion of a pigment under the skin.

(*ii*) An indelible design made upon the body of another individual by production of scars other than by branding.

(m) "Temporary body art facility" means a body art facility that operates at a fixed or temporary location in this state for a time period that does not exceed 14 consecutive days and includes out-of-state facilities operating within this state.

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

History: Add. 1996, Act 223, Eff. Sept. 1, 1996;—Am. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

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333.13102 Tattoo, brand, or body piercing on minor; consent and proof of authority of parent or guardian required.

Sec. 13102. An individual shall not tattoo, brand, or perform body piercing on a minor unless the individual obtains the prior written informed consent of the minor's parent or legal guardian and proof of that individual's authority to give the informed consent required under this section. The minor's parent or legal guardian shall execute the written, informed consent required under this section in the presence of the licensee or an employee or agent of the licensee. The minor's parent or legal guardian shall present to the licensee or employee or agent of the licensee the minor's birth certificate or legal proof of guardianship to establish the individual's authority to give the informed consent required under this section.

History: Add. 1996, Act 223, Eff. Sept. 1, 1996;—Am. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

333.13103 Repealed. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

Compiler's note: The repealed section pertained to violation of part or rules as misdemeanor.

Popular name: Act 368

333.13104 Tattooing, branding, or performing body piercing; licensure of body art facility required; application; form; issuance; duration; temporary license; fees; adjustment.

Sec. 13104. (1) An individual shall not tattoo, brand, or perform body piercing on another individual unless the tattooing, branding, or body piercing occurs at a body art facility licensed under this part. Any tattooing,

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branding, or body piercing occurring in this state other than at a facility licensed under this part is considered an imminent danger under section 2251 or 2451 and the department or a local health department shall order the immediate cessation of that activity in the manner prescribed in this act.

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

(3) If the department determines that the application is complete and the body art facility proposed or operated by the applicant meets the requirements of this part and any rules promulgated under this part, the department shall issue the appropriate license to the applicant for the operation of that body art facility. Except for a temporary license issued under this part, the license is effective for up to 1 year and expires at 12 midnight on December 31. A temporary license issued under this part is effective for not more than 14 consecutive days and expires at 12 midnight on the date prescribed on the temporary license.

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

(a)	For an annual license	$	500.00.
(b)	For a temporary license to operate a body art facility at a fixed location for not more than 14 consecutive days	$	150.00.

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

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

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

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

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

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

(8) The department shall adjust the fees prescribed in this section annually by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit-Ann Arbor-Flint consumer price index, but not by an amount that exceeds 5%. As used in this subsection, "Detroit-Ann Arbor-Flint consumer price index" means the most comprehensive index of consumer prices available for the Detroit, Ann Arbor, and Flint areas from the bureau of labor statistics of the United States department of labor.

History: Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

333.13105 Inspection by local health department; results; recommendation; annual inspection; license nontransferable.

Sec. 13105. (1) Before issuing a license to an applicant under this part, the department shall receive the results of an inspection of the premises of the body art facility that is the subject of the application from the appropriate local health department. The local health department shall convey the results of the inspection of the premises of the body art facility that is the subject of the application to the department as soon as practical after the inspection occurs, along with its recommendation on whether the department should issue a license to that facility under this part.

(2) The appropriate local health department shall inspect each body art facility prior to being licensed under this part and shall at least annually inspect each body art facility licensed under this part to ensure compliance with this part. Subject to section 13108, the department shall authorize a local health department under section 2235 to perform the inspections required under this subsection.

(3) The department shall issue a license under this part to a specific person for a body art facility at a specific or temporary location.

(4) A license issued under this part is nontransferable.

History: Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

333.13105a Access to body art facility; books and records; findings; inspection report; order

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to immediately cease operation of facility; license limitations.

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

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

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

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

(2) As part of an inspection under this part, the local health department may examine, take photographs, or make copies of the books and records of the body art facility.

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

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

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

(6) At any time it determines appropriate, a local health department may place limitations on the license of a body art facility, which limitations include the imposition of restrictions or conditions, or both, on the operations of that body art facility. A body art facility shall comply with all license limitations imposed under this subsection until the local health department has conducted an inspection, has determined that the license limitations are no longer necessary, and has issued an order allowing the body art facility to resume operations without the license limitations.

History: Add. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

333.13106 License renewal.

Sec. 13106. The licensee shall apply to the department for renewal of the annual license on or before December 1 each year. A licensee that fails to file an application for renewal as prescribed in this section is subject to the late fee under section 13104.

History: Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

333.13107 Licensee; duties.

Sec. 13107. A licensee shall do all of the following:

(a) Display the license issued under this part in a conspicuous place within the customer service area of the body art facility.

(b) Comply with and ensure that the body art facility is in compliance with this part and part 138 and with rules promulgated under those parts.

(c) Develop and maintain a bloodborne infectious disease exposure control plan that is specific to the location of that facility and that is in compliance with applicable Michigan occupational safety and health administration standards including the standards for bloodborne infectious diseases under R 325.70001 to R 325.70018 of the Michigan administrative code.

(d) Ensure that the body art facility as a whole, the owner or operator, an agent of the owner or operator, an employee, and any individual engaged in tattooing, cleaning tattooing instruments, performing branding or body piercing, or cleaning branding or body piercing instruments who has the potential for occupational exposure to blood or other potentially infectious materials receive training annually on bloodborne infectious diseases.

(e) Ensure that tattooing, branding, or body piercing is performed with sterile needles, sterile instruments,

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and only single-use ink.

(f) Maintain a confidential record of each individual who has been tattooed or branded or who has had body piercing performed at the body art facility and make the records available for inspection by a local health department. The record shall include, at a minimum, the individual's name, address, date of birth, and signature; the procedure date; the design and location of the tattooing, branding, or body piercing; the name of the individual performing the tattooing, branding, or body piercing; and any known complications the individual has with any previous tattooing, branding, or body piercing procedure. The licensee or employee of the licensee shall provide a copy of the record to the individual at the time he or she is tattooed, is branded, or has body piercing performed. The department shall develop guidelines for the confidential handling of this record, including, but not limited to, the maintenance, storage, inspection, and destruction of the record.

(g) Prohibit smoking within the body art facility.

(h) Provide each customer with a written information sheet that provides at least all of the following:

(*i*) Instructions on the care of a tattoo site, brand site, or body piercing site.

(*ii*) A recommendation that an individual seek medical attention if the tattoo site, brand site, or body piercing site becomes infected or painful or if the person develops a fever soon after being tattooed, branded, or having body piercing performed.

(*iii*) Notice that the individual may be allowed to donate blood within the standard deferral period if the individual presents a copy of the record required under subdivision (f) to the blood donor facility.

(i) Maintain on file on the premises of the body art facility and have available for inspection by a local health department all of the following:

(*i*) All of the following regarding each technician employed by or who performs tattooing, branding, or body piercing at the body art facility:

(A) His or her full legal name.

(B) His or her exact duties at the facility.

(C) His or her date of birth.

(D) His or her gender.

(E) His or her home address.

(F) His or her home and work telephone numbers.

(G) His or her prior or other current places of employment as a technician, if known.

(H) His or her training and experience.

(I) An identification photo.

(J) Documentation of compliance with the educational, training, or experience requirements of the department under this part.

(K) Documentation of HBV vaccination status or other vaccination status requirements of the department under this part.

(*ii*) Full legal name of the body art facility.

(*iii*) The hours of operation of the body art facility.

(*iv*) All of the following regarding each owner and operator of the body art facility:

(A) His or her full legal name.

(B) His or her home address.

(C) His or her home and work telephone numbers.

(*v*) A complete description of all tattooing, branding, or body piercing performed at the body art facility.

(*vi*) A record of all instruments, body jewelry, sharps, and inks used for the tattooing, branding, or body piercing performed at the body art facility. The record shall include the name of the item's manufacturer and serial or lot number, if applicable. The body art facility may provide invoices or orders to satisfy the requirement of this subparagraph.

(*vii*) A copy of this part and rules promulgated under this part.

(*viii*) A copy of the current bloodborne infectious disease exposure control plan developed and maintained under subdivision (c).

(*ix*) Documentation of the annual training required under subdivision (d).

History: Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

333.13108 Enforcement.

Sec. 13108. (1) Pursuant to section 2235, the department shall authorize a local health department to enforce this part and any rules promulgated under this part. A local health department authorized to enforce this part and any rules promulgated under this part shall enforce this part and any rules promulgated under this part pursuant to sections 2461(2) and 2462. In addition to the penalties and remedies under this part, a local

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health department may enforce this part and any rules promulgated under this part through an action commenced pursuant to section 2465 or any other appropriate action authorized by law.

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

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

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

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

History: Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

333.13109 Violation as misdemeanor; penalty; civil action.

Sec. 13109. (1) Except as otherwise provided in section 13110, a person who violates this part or a rule promulgated under this part is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $2,500.00, or both, for each violation.

(2) A person who violates this part or a rule promulgated under this part is liable in a civil action for actual damages or $1,000.00, whichever is greater, plus reasonable court costs, attorney fees, and any other fines, fees, or claims for reimbursement as determined by the court or the department.

History: Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

333.13110 Giving or selling tattooing, branding, body piercing kit or device to minor prohibited; violation; fine.

Sec. 13110. A person shall not give or sell to a minor a tattooing, branding, or body piercing kit or other tattooing, branding, or body piercing device. A person who violates this section is responsible for a state civil infraction and is subject to a civil fine of not more than $500.00. This section shall be enforced pursuant to chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835.

History: Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

333.13111 Local codes, regulations, or ordinances; variance.

Sec. 13111. (1) A local governing entity of a local health department authorized to enforce this part under section 13108 may adopt and enforce local codes, ordinances, or regulations that are more stringent than the minimum applicable standards set forth in this part, rules promulgated under this part, or any safety standards or other requirements issued by the department applicable to body art facilities. This part shall not relieve the applicant or a licensee from the responsibility for securing a local permit or complying with applicable local codes, regulations, or ordinances that are in addition to this part.

(2) A local health department may grant a variance to a body art facility from a requirement of this part if the local health department determines that the variance will not create or increase the potential for a health hazard or nuisance and that the activity or condition for which the variance is proposed will not violate any other provisions of this part. The applicant or licensee shall request the variance in writing, which writing shall include all of the following:

(a) A statement of the proposed variance and a citation to the requirement of this part for which the variance is requested.

(b) An analysis of the rationale for the variance.

(c) A description of the alternative methods the applicant or licensee will utilize to ensure that the variance will not create or increase the potential for any health hazard or nuisance.

(3) A variance granted under subsection (2) shall be in writing and shall be maintained in the records of the local health department for that body art facility.

History: Add. 2007, Act 149, Imd. Eff. Dec. 13, 2007;—Am. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

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Popular name: Act 368

333.13112 Individual under influence of alcohol or controlled substance; prohibition.

Sec. 13112. (1) An individual shall not tattoo, brand, or perform body piercing on another individual if the other individual is under the influence of alcoholic liquor or a controlled substance.

(2) An individual who is under the influence of alcoholic liquor or a controlled substance shall not tattoo, brand, or perform body piercing on another individual.

History: Add. 2010, Act 375, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

PART 133
DRY CLEANING

333.13301 Definitions and principles of construction.

Sec. 13301. (1) As used in this part:

(a) "Approved" means acceptable to the department.

(b) "Class IV installation" means a dry cleaning system utilizing solvents classified as nonflammable or as nonflammable at ordinary temperatures and only slightly flammable at higher temperatures.

(c) "Dry cleaning" includes dry dyeing and means the process of removing dirt, grease, paints, and other stains from wearing apparel, textiles, fabrics, and rugs by use of nonaqueous liquid solvents, including:

(*i*) Immersion and agitation in open vessels.

(*ii*) Immersion and agitation in closed machines.

(*iii*) Spotting or local application of flammable liquid solvents to spots of dirt, grease, paints, and stains not removed by the immersion and agitation process.

(*iv*) Brushing or scouring with inflammable solutions.

(d) "Dry dyeing" means the process of dyeing clothes or other fabrics of textiles in a solution of dye colors and nonaqueous solvents.

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

(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.

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

For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13303 Class IV cleaning installation; establishment or remodeling; examination and approval of drawings; scale and contents of drawings; specifications.

Sec. 13303. Before a class IV cleaning installation is established or before an existing plant is remodeled, complete drawings shall be submitted to the department for examination and approval. The drawings shall be drawn to an indicated scale, give the relative location of dry cleaning building, boiler room, finishing building or department, storage tanks for solvents, pumps, washers, drying tumblers, extractors, filter traps, stills, condensers, piping, and show elevation of the buildings, including lowest floors or pits, tanks, and their fittings and devices. Specifications prescribed by rules promulgated pursuant to this part shall accompany the drawings.

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

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13304 Inspection of building and premises; conformity as condition to issuance of license.

Sec. 13304. When the construction and establishment of a class IV installation is completed, the department shall be notified and it shall inspect the buildings and premises in which the dry cleaning operations are contemplated. If the building and premises conform to the approved plans submitted in accordance with this part or rules promulgated pursuant to this part, the department shall issue to the applicant

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a license to conduct a class IV installation.

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

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13305 License required.

Sec. 13305. A person shall not operate a class IV installation until issued a license under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 53, Imd. Eff. May 20, 1992.

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13306 License; application; issuance; duration; fee; fee adjustment; “Detroit consumer price index” defined.

Sec. 13306. (1) The department may receive license applications for the operation of a class IV installation. Upon compliance by an applicant with the requirements of this part and rules promulgated pursuant to this part, the department shall issue a class IV installation license.

(2) The department shall issue a license under this part for a period of 1 year.

(3) Except as otherwise provided in subsection (4), the initial application and annual license fee for a class IV installation license is $100.00 for each class IV installation with operating equipment and an additional $2.75 per pound of rated capacity per cleaning wheel for each dry cleaning machine.

(4) The department shall adjust on an annual basis the installation license fees prescribed by subsection (3) by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index, not to exceed 5%. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 53, Imd. Eff. May 20, 1992.

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

Administrative rules: R 325.17101 et seq. of the Michigan Administrative Code.

333.13307 Inspections; delegation to local health department; costs; local ordinance prohibited; staff.

Sec. 13307. (1) The department shall conduct annual inspections of class IV installations to insure compliance with the requirements of this part and rules promulgated pursuant to this part.

(2) The department may delegate the duty of inspections for approval of class IV installation permits to a local health department which has the technical and other capabilities to protect the public health, safety, and welfare in this field. The delegation shall not take place unless the department has first consulted with an ad hoc committee which shall be appointed by the department for the purpose of advising on such delegation. Membership on the ad hoc committee shall include representatives of the department, local public health agencies, and an association which represents the class IV installations which would be subject to the inspections. The state shall reimburse each local health department the full amount of the fees collected, as reimbursement for cost of inspection, on vouchers certified by the local health officer and approved by the department.

(3) A local governmental unit shall not enact or enforce an ordinance which duplicates the standards regarding class IV installations imposed in this part.

(4) The department shall adequately staff the dry cleaning section to carry out the duties of the department under this section.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 53, Imd. Eff. May 20, 1992.

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

Administrative rules: R 325.17101 et seq. of the Michigan Administrative Code.

333.13308 License renewal; application; fee; issuance.

Sec. 13308. (1) A person operating a class IV installation shall apply for license renewal and shall pay a

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fee as prescribed by section 13306.

(2) Upon compliance by an applicant with the requirements of this part and rules promulgated pursuant to this part and payment of the license renewal fee, the department shall issue a renewal license.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 53, Imd. Eff. May 20, 1992.

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13309 Exhibition of license.

Sec. 13309. A license shall be exhibited at all times in the customer area of a class IV installation in a conspicuous place.

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

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13310 Repealed. 2006, Act 195, Imd. Eff. June 19, 2006.

Compiler's note: The repealed section pertained to applicability of MCL 28.5i to class IV installation in same building or establishment as other classes of dry cleaning installations.

For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13311 Installation in building approved by department.

Sec. 13311. A class IV installation in which no flammable liquids as defined in section 1 of the fire prevention code, Act No. 207 of the Public Acts of 1941, being section 29.1 of the Michigan Compiled Laws, are employed for other than spotting purposes may be installed in a building approved by the department.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 53, Imd. Eff. May 20, 1992.

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13312 Prohibited installation; exception.

Sec. 13312. A class IV installation shall not be located in a building occupied in part as a dwelling. An exception may be granted when due to special construction, location, or use the class IV installation will not create injury or hazard to health as determined by the department.

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

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13313 Preventing escape of vapors; ventilation; exception.

Sec. 13313. (1) A class IV installation shall be constructed and installed so as to prevent the escape of substantially all vapors into the atmosphere of the dry cleaning room.

(2) Ventilation shall be installed in a class IV installation to meet the requirements of rules promulgated pursuant to this part.

(3) A class IV installation shall not be installed in a basement or other location difficult to ventilate. An exception may be granted when due to special construction, location, or use the class IV installation will not create injury or hazard to health as determined by the department.

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

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13314 Use of flammable solvent.

Sec. 13314. A class IV installation shall not use a flammable solvent for brushing, scouring, or scrubbing. The use of a flammable solvent for spotting purposes shall be limited to 1 quart with storage and application from an approved safety can.

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

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Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13315 Fire extinguishers.

Sec. 13315. One or more fire extinguishers, of either the carbon dioxide or dry chemical type shall be provided for use against A, B, and C class fires for every room in which the dry cleaning or spotting operations are carried on.

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

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13316 Installation to be kept in clean and sanitary condition.

Sec. 13316. A person engaged in conducting a class IV installation shall keep the installation in a clean and sanitary condition free from the accumulation of dirt, waste, and fire hazards.

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

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13321 Enforcement; suspension, revocation, or denial of license; finding of emergency; emergency order; hearing; continuing, modifying, or revoking order.

Sec. 13321. (1) The department shall enforce this part and the rules promulgated pursuant to this part.

(2) The department may suspend, revoke, or deny a class IV installation license.

(3) Upon a finding that an emergency exists requiring immediate action to protect occupational or public health and safety, the department may issue an order, without notice or hearing, reciting the existence of the emergency and providing for the protection of public health and safety. Notwithstanding this part or the administrative procedures act of 1969, the order shall be effective immediately. A person to whom the order is directed shall comply immediately but on application to the department shall be afforded a hearing within 15 days. On the basis of the hearing, the emergency order shall be continued, modified, or revoked not later than 30 days after the hearing.

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

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13322 Rules; appointment of advisory committee.

Sec. 13322. The department shall promulgate rules necessary to carry out this part, and may appoint an advisory committee to assist in rule development. The rules shall include the following:

(a) Plans.

(b) Drawings.

(c) Specifications.

(d) Construction.

(e) Installation of equipment standards.

(f) Inspections.

(g) Other matters necessary to protect the health, safety, and welfare of the public.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1992, Act 53, Imd. Eff. May 20, 1992.

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

Administrative rules: R 325.17101 et seq. of the Michigan Administrative Code.

333.13325 Violations; penalties.

Sec. 13325. (1) The owner or lessee of a class IV installation who uses a liquid other than that for which the owner or lessee is licensed is guilty of a misdemeanor, punishable by imprisonment for not less than 30 days nor more than 90 days, or a fine of not less than $10.00 nor more than $100.00, or both.

(2) The owner, occupant, or lessee of a class IV installation, or an agent thereof who fails to comply with this part or rules promulgated pursuant to this part within the time specified by the department, or who builds

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in violation of a detailed statement of specifications, plans, or license approved by the department, is guilty of a misdemeanor, punishable by imprisonment for not less than 30 days nor more than 90 days, or a fine of not less than $10.00 nor more than $100.00, or both for each violation or noncompliance.

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

Compiler's note: For transfer of powers and duties of Michigan dry cleaning program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

PART 134.
TANNING FACILITIES

333.13401 Definitions.

Sec. 13401. As used in this part:

(a) "Eye protection" or "protective eyewear" means protective eyewear that protects the eyes from ultraviolet radiation, allows adequate vision to maintain balance, and meets the requirements of 21 CFR 1040.20.

(b) "Tanning device" means equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and is used for tanning of the skin. Tanning device includes, but is not limited to, a sunlamp, tanning booth, or tanning bed and accompanying equipment, including, but not limited to, protective eyewear, timers, and handrails.

(c) "Tanning facility" means a location that provides individuals with access to a tanning device. Tanning facility does not include a private residence with a tanning device if the tanning device is used only by an owner or occupant of the private residence.

History: Add. 2008, Act 368, Imd. Eff. Dec. 23, 2008.

Popular name: Act 368

333.13403 Statement; contents; display of poster; claim or distribution of promotional materials; prohibition.

Sec. 13403. (1) Before allowing an individual to use a tanning device in any tanning facility, the owner, operator, or an employee of the tanning facility shall provide the individual with a written statement that contains all of the following information:

(a) Not wearing either his or her own eye protection or eye protection made available to the individual by the tanning facility while using a tanning device may cause damage to the eyes.

(b) Overexposure to the ultraviolet radiation produced by the tanning devices used in the tanning facility causes burns.

(c) Repeated exposure to the ultraviolet radiation produced by the tanning devices used in the tanning facility may cause premature aging of the skin or skin cancer, or both.

(d) Abnormal skin sensitivity to ultraviolet radiation or burning may be caused by certain foods, cosmetics, and medication. The medication includes, but is not limited to, all of the following:

(*i*) Tranquilizers.

(*ii*) Diuretics.

(*iii*) Antibiotics.

(*iv*) High blood pressure medication.

(*v*) Birth control medication.

(e) An individual who is taking a prescription drug or over-the-counter drug should consult a physician before using a tanning device.

(f) An individual that suffers an injury while using a tanning device at a tanning facility must report the injury to the owner or operator of the tanning facility.

(g) That any skin-related treatment involving microdermabrasion, including, but not limited to, facials, waxing, or skin peels, may cause abnormal sensitivity to ultraviolet radiation.

(2) The owner or operator of a tanning facility shall conspicuously display a poster in an area frequented by customers. The poster shall be printed in at least 32-point boldfaced type and in substantially the following form:

"DANGER: ULTRAVIOLET RADIATION

1. Follow instructions.

2. Avoid too frequent or too lengthy exposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause chronic sun damage, characterized by wrinkling, dryness, fragility, and bruising of the skin, and skin cancer.

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3. Wear protective eyewear.

FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS AND LONG-TERM INJURY TO THE EYES

4. Ultraviolet radiation from sunlamps will intensify the effects of the sun. Therefore, do not sunbathe before or after exposure to ultraviolet radiation.

5. Some oral or skin medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult your physician before using a tanning device if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women on birth control pills who use this tanning device may develop discolored skin.

6. If you do not tan in the sun, you are unlikely to tan from use of this tanning device.

7. If you suffered an injury while using a tanning device at this tanning facility, you must report the injury to the owner or operator.

8. Any skin-related treatment involving microdermabrasion, including, but not limited to, facials, waxing, or skin peels, may cause abnormal sensitivity to ultraviolet radiation.".

(3) The owner or operator or an employee of a tanning facility shall not claim or distribute printed promotional materials that claim or otherwise advertise that using a tanning device is safe, nonburning, or free from risk.

History: Add. 2008, Act 368, Imd. Eff. Dec. 23, 2008.

Popular name: Act 368

333.13405 Acknowledgment that customer has read statement required under MCL 333.13403; signing of statement and agreement to use protective eyewear; duties of owner or operator of tanning facility; signing of statement by parent or legal guardian of customer under 18 years of age.

Sec. 13405. (1) Before allowing a customer to use a tanning device, the owner or operator of any tanning facility shall require the customer to sign a written statement acknowledging that the customer has read and understood the written statement required under section 13403(1) and agrees to use protective eyewear. The owner or operator of the tanning facility shall do all of the following:

(a) Require a customer to sign the statement at least once in a 1-year period.

(b) Retain the written statement for not less than 1 year.

(c) Make the written statement available for inspection upon request of a law enforcement officer.

(2) In the case of a customer under 18 years of age, the written statement described in subsection (1) shall also be signed by the customer's parent or legal guardian while the parent or legal guardian is physically present at the tanning facility and shall be signed in the presence of the owner or operator.

History: Add. 2008, Act 368, Imd. Eff. Dec. 23, 2008..

Popular name: Act 368

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333.13407 Repealed. 2008, Act 368, Imd. Eff. Dec. 23, 2008.

Compiler's note: The repealed section pertained to use of tanning device by minor.

333.13407a Action by individual suffering injury.

Sec. 13407a. If an individual suffers an injury while using a tanning device at a tanning facility and if that tanning facility has failed to comply with the disclosure and consent requirements of this part, the individual may bring an action in a court of competent jurisdiction for actual damages plus an amount of not more than $1,000.00, as well as actual and reasonable attorney fees.

History: Add. 2008, Act 368, Imd. Eff. Dec. 23, 2008..

Popular name: Act 368

333.13409 Remedies.

Sec. 13409. The remedies under this part are independent and cumulative. The use of 1 remedy by a person does not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

History: Add. 2008, Act 368, Imd. Eff. Dec. 23, 2008..

Popular name: Act 368

PART 135
RADIATION CONTROL

333.13501 Definitions; principles of construction.

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Sec. 13501. (1) As used in this part:

(a) "General license" means a license, effective pursuant to rules promulgated by the department without the filing of an application, to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing, radioactive material.

(b) "Ionizing radiation" means gamma rays and x-rays, alpha particles, beta particles, high speed electrons, neutrons, protons, high speed ions, and other high speed nuclear particles.

(c) "Mammography" means radiography of the breast for the purpose of enabling a physician to determine the presence, size, location, and extent of cancerous or potentially cancerous tissue in the breast.

(d) "Mammography authorization" means authorization under section 13523 to use a radiation machine for mammography.

(e) "Mammography interpreter" means an individual who meets the requirements set forth in section 13523(2)(g) and is responsible for evaluating and interpreting mammographic images.

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

(g) "Radioactive material" means a solid, liquid, or gas material which emits ionizing radiation spontaneously.

(h) "Radiography" means the making of a film or other record of an internal structure of the body by passing x-rays or gamma rays through the body to act on film or other image receptor.

(i) "Registration" means registration of a source of ionizing radiation in writing with the department.

(j) "Source of ionizing radiation" means a device or material that emits ionizing radiation.

(k) "Specific license" means a license issued to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing, radioactive material.

(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. 1989, Act 56, Imd. Eff. June 16, 1989;—Am. 1994, Act 100, Imd. Eff. Apr. 18, 1994.

Compiler's note: For transfer of powers and duties of the radiation machine licensing and registration program in the division of radiological health in the bureau of environmental and occupational health from the department of public health to the director of the department of commerce, 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 division of radiological health, with the exception of the radiation machine licensing and registration program, from the director of the department public health to the director of the department of environmental quality, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

Administrative rules: R 325.5001 et seq. of the Michigan Administrative Code.

333.13505 License, registration, or exemption required.

Sec. 13505. A person shall not manufacture, produce, transport, transfer, dispose of, acquire, own, possess, or use a radioactive material or other source of ionizing radiation unless licensed, registered, or exempted by the department in accordance with rules promulgated pursuant to this part or unless exempted by this part.

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

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13506 Applicability of MCL 333.13505 and 333.13515 to 333.13536.

Sec. 13506. Sections 13505 and 13515 to 13536 do not apply to the following sources or conditions, except as noted:

(a) Electrical or other equipment or material not intended primarily to produce radiation which, by nature of design, does not produce radiation at the point of nearest approach at a weekly rate higher than 1/10 the appropriate limit generally accepted by the medical profession for any critical organ exposed. The production testing or production servicing of the equipment is not exempt.

(b) A radiation machine during process of manufacture or in storage or transit. The production testing or production servicing of the machine is not exempt.

(c) A radioactive material while being transported under the jurisdiction of and in conformity with regulations adopted by the nuclear regulatory commission or the United States department of transportation, or their successors, specifically applicable to the transportation of such radioactive material.

(d) Sound waves, radio waves, and visible, infrared, or ultraviolet light.

(e) A production or utilization facility, as defined in the federal atomic energy act of 1954, 42 U.S.C. 2011

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to 2281, or a source of ionizing radiation used in or in connection with the operation of a production or utilization facility pursuant to a license from the federal nuclear regulatory commission or successor thereto. However, the department may collect radiation data and perform environmental monitoring in connection with the operation of the facility in accordance with this part.

(f) A source material, by-product material, or special nuclear material over which the federal nuclear regulatory commission or a successor thereto has exclusive regulatory jurisdiction under the federal atomic energy act of 1954, which jurisdiction has not been transferred to this state pursuant to an agreement under Act No. 54 of the Public Acts of 1965, being sections 3.801 and 3.802 of the Michigan Compiled Laws.

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

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13511 Agreements as to inspections, environmental monitoring, or other functions.

Sec. 13511. (1) The governor may enter into agreements with the federal government, other states, or interstate agencies, whereby the department shall perform for or on a cooperative basis with the federal government, other states, or interstate agencies inspections, environmental monitoring, or other functions relating to control of sources of ionizing radiation.

(2) An agreement entered into pursuant to subsection (1) does not transfer, delegate, or impose upon the department any power, authority, or responsibility that is not fully consistent with this part.

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

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13515 Department as radiation control agency; duties generally.

Sec. 13515. (1) The department is designated as the radiation control agency of this state and shall coordinate radiation control programs of state departments acting within their statutory authorities.

(2) Pursuant to rules promulgated under this part, the department shall require licensing and registration of radioactive materials and other sources of ionizing radiation.

(3) The department shall develop and conduct programs for evaluation and control of hazards associated with the use of radioactive materials and other sources of ionizing radiation.

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

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13516 Finding of emergency; emergency order; hearing; continuing, modifying, or revoking order.

Sec. 13516. When the department finds that an emergency exists requiring immediate action to protect occupational or public health and safety, the department shall issue an order, with or without notice or hearing, reciting the existence of the emergency and providing for the protection of public health and safety. Notwithstanding this act or the administrative procedures act of 1969, the order shall be effective immediately. A person to whom the order is directed shall comply therewith immediately but on request to the department shall be granted a hearing within 15 days. On the basis of the hearing, the emergency order shall be continued, modified, or revoked within 30 days after the hearing.

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

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13517 Right of entry to determine compliance or violation; warrant; search and seizure.

Sec. 13517. (1) The department may enter at all reasonable times upon private or public property upon which sources of ionizing radiation are reasonably believed to be located, with the permission of the owner or custodian thereof, to determine if there is compliance with or violation of this part or a rule or license.

(2) If the department has reasonable or probable cause to believe that a violation of this part or a rule or license is being committed on private or public property or that there exists on the property evidence of a violation, and permission to enter thereon is denied by the owner or custodian thereof, the department may

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apply to the proper judicial officer under Act No. 189 of the Public Acts of 1966, being sections 780.651 to 780.659 of the Michigan Compiled Laws, for a warrant commanding the sheriff or a law enforcement officer, with the aid of the department, to search the property and seize any source of ionizing radiation that is possessed, controlled, or used wholly or partially in violation of this part or a rule or license, or any evidence of a violation of this part or a rule or license.

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

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13518 Operation of environmental monitoring systems; collection and coordination of radiation data.

Sec. 13518. The department shall operate and collect data from environmental monitoring systems in the environs of facilities which emit or could emit significant quantities of radioactive material effluents to measure the effect on public health and safety. The department shall receive and coordinate radiation data collected by other state departments.

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

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13521 Rules generally.

Sec. 13521. (1) The department shall promulgate rules providing for general or specific licenses or registration, or exemption from licensing or registration, for radioactive materials and other sources of ionizing radiation. The rules must provide for amendment, suspension, or revocation of licenses. In connection with those rules, subject to section 13527, the department may promulgate rules to establish requirements for record keeping, permissible levels of exposure, notification and reports of accidents, protective measures, technical qualifications of personnel, handling, transportation, storage, waste disposal, posting and labeling of hazardous sources and areas, surveys, and monitoring.

(2) The rules must not limit the intentional exposure of patients to radiation for the purpose of lawful therapy or research conducted by licensed health professionals.

(3) The department shall promulgate rules specifying the minimum training and performance standards for an individual using a radiation machine for mammography as set forth in section 13523.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1989, Act 56, Imd. Eff. June 16, 1989;—Am. 2018, Act 544, Eff. Mar. 28, 2019.

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

Administrative rules: R 325.5001 et seq., R 325.5801 et seq., and R 325.5901 et seq. of the Michigan Administrative Code.

333.13522 Rules; avoiding dual licensing; recognition of other state or federal licenses; schedule of fees; deposit of fees; nonrefundable fees in connection with mammography authorization; waiver of fee; waiver prohibited; adjustment of fees.

Sec. 13522. (1) In promulgating rules under this part, the department shall avoid requiring dual licensing, insofar as practical. Rules promulgated by the department may provide for the recognition of other state or federal licenses as the department considers desirable, subject to registration requirements prescribed by the department. A person that, on the effective date of an agreement under 1965 PA 54, MCL 3.801 to 3.802, possesses a license issued by the federal government for a source of ionizing radiation of the type for which the state assumes regulatory responsibility under the agreement, is considered to possess an identical license issued under this part, which license expires either 90 days after receipt of a written notice of termination from the department or on the date of expiration stated in the federal license, whichever occurs first.

(2) The department may promulgate rules to establish a schedule of fees to be paid by applicants for licenses for radioactive materials and devices and equipment utilizing the radioactive materials.

(3) Except as otherwise provided in this subsection, the department may promulgate rules to establish a schedule of fees to be paid by an applicant for a license for other sources of ionizing radiation and the renewal of the license, and by a person possessing sources of ionizing radiation that are subject to registration. The registration or registration renewal fee for a radiation machine registered under this part is $104.88 for the first veterinary or dental x-ray or electron tube and $58.19 for each additional veterinary or dental x-ray or electron tube annually, or $174.88 annually per nonveterinary or nondental x-ray or electron tube. The

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department shall not assess a fee for the amendment of a radiation machine registration certificate. In addition, the department shall assess a fee of $233.23 for each follow-up inspection due to noncompliance during the same year. The department may accept a written certification from the licensee or registrant that the items of noncompliance have been corrected instead of performing a follow-up inspection. If the department does not inspect a source of ionizing radiation for a period of 5 consecutive years, the licensee or registrant of the source of ionizing radiation does not have to pay further license or registration fees as to that source of ionizing radiation until the first license or registration renewal date following the time an inspection of the source of ionizing radiation is made.

(4) A fee collected under this part must be deposited in the state treasury and credited to the general fund of this state.

(5) Except as otherwise provided in subsection (6), the department shall assess the following nonrefundable fees in connection with mammography authorization:

(a) Inspection, per radiation machine	$ 233.23
(b) Reinspection for reinstatement of mammography authorization, per radiation machine	$ 233.23
(c) Department evaluation of compliance with section 13523(2)(a), per radiation machine	$ 1,567.45
Each reevaluation of a radiation machine due to failure during the previous evaluation, relocation of the radiation machine, or similar changes that could affect earlier evaluation results	$ 671.65

(6) If an applicant for mammography authorization submits an evaluation report issued by the American College of Radiology that evidences compliance with section 13523(2)(a), the department shall waive the fee under subsection (5) for department evaluation of compliance with that provision.

(7) Except as otherwise provided in subsections (3) and (6), the department shall not waive a fee required under this section.

(8) The department shall adjust on an annual basis the fees prescribed by subsections (3) and (5) by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit Consumer Price Index, not to exceed 5%. As used in this subsection, "Detroit Consumer Price Index" means the most comprehensive index of consumer prices available for the Detroit area from the Bureau of Labor Statistics of the United States Department of Labor.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 522, Imd. Eff. Jan. 26, 1981;—Am. 1982, Act 403, Eff. Oct. 1, 1983;—Am. 1989, Act 56, Imd. Eff. June 16, 1989;—Am. 1992, Act 88, Imd. Eff. June 4, 1992;—Am. 1994, Act 100, Imd. Eff. Apr. 18, 1994;—Am. 2023, Act 138, Imd. Eff. Sept. 29, 2023.

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

Administrative rules: R 325.5001 et seq., R 325.5801 et seq., and R 325.5901 et seq. of the Michigan Administrative Code.

333.13523 Radiation machine; registration; temporary authorization; authorization; standards; application; certificate; inspections; denial or withdrawal of authorization; hearing; emergency order; reinstatement of authorization; fine; notice; rules; definitions.

Sec. 13523. (1) Beginning August 16, 1989, a person shall not use a radiation machine to perform mammography unless the radiation machine is registered with the department under department rules for registration of radiation machines and is specifically authorized under this section for use for mammography.

(2) The department shall authorize a radiation machine for use for mammography if the radiation machine, the personnel operating the radiation machine, and the facility in which the radiation machine is used meet all of the following standards:

(a) The radiation machine and the facility in which the radiation machine is used meet the criteria for the American college of radiology mammography accreditation program dated August, 1993 and published by the American college of radiology in the documents entitled "overview, mammography accreditation program, and ACR standards for the performance of screening mammography", which documents and criteria are incorporated by reference, excluding the physician interpreter and the accreditation fee schedule. The department shall make copies of those criteria available to the public and may by rule adopt modified criteria. The department may accept an evaluation report issued by the American college of radiology as evidence that a radiation machine, the personnel operating the radiation machine, and the facility in which the radiation machine is used meet those criteria. If at any time the department determines that it will not accept any evaluation reports issued by the American college of radiology as evidence that a radiation machine, the personnel operating the radiation machine, and the facility in which the radiation machine is used meet those

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criteria, the department shall promptly notify each person who has registered a radiation machine used exclusively to perform mammography under this part and the rules promulgated under this part.

(b) The radiation machine, the film or other image receptor used in the radiation machine, and the facility in which the radiation machine is used meet the requirements set forth in department rules for radiation machines.

(c) The radiation machine is specifically designed to perform mammography.

(d) The facility in which the radiation machine is used does all of the following:

(*i*) At least annually has a qualified radiation physicist provide on-site consultation to the facility, including, but not limited to, a complete evaluation of the entire mammography system to ensure compliance with this part and the rules promulgated under this part.

(*ii*) Maintains for at least 7 years records of the consultation required in subparagraph (*i*) and the findings of the consultation.

(*iii*) Designates a physician or osteopathic physician licensed under article 15 to provide medical direction for the delivery of mammography services and to be responsible for the clinical aspects of the x-ray examinations and other procedures related to mammography. The physician designated under this subparagraph is responsible for conducting an on-site visit to each mammography station within the facility at least monthly for the purpose of providing professional feedback regarding clinical image quality and quality assurance procedures, for review of quality control documentation, and for ensuring that safe operating procedures are used in the delivery of mammographic services. If the physician designated under this subparagraph practices primarily outside of the facility, the physician shall keep a log of each on-site visit signed by the physician. The chief administrative officer of the facility or his or her designee may request to view the log at any time. The physician designated under this subparagraph shall meet the requirements of subdivision (g)(*i*) and (*ii*) or, until January 1, 1996, the requirements of subdivision (g)(*ii*) and (*iii*).

(e) The radiation machine is used according to department rules on patient radiation exposure and radiation dose levels.

(f) Each individual who operates the radiation machine can demonstrate to the department that he or she is specifically trained in mammography or an individual who is a physician or an osteopathic physician, and beginning 60 days after the rules required under section 13521(3) are promulgated, each individual who operates the radiation machine can demonstrate to the department that he or she meets the standards required by those rules or an individual who is a physician or an osteopathic physician.

(g) The x-ray images of each mammographic examination performed with the radiation machine are interpreted by a mammography interpreter who is a physician or osteopathic physician licensed under article 15 and who meets the requirements of subparagraphs (*i*), (*ii*), (*iii*), (*iv*), and (*v*):

(*i*) Except as otherwise provided in this subparagraph, is certified in radiology or diagnostic radiology by the American board of radiology or the American osteopathic board of radiology, has been eligible for certification in radiology or diagnostic radiology for not more than 2 years, or is certified or determined to be qualified in radiology or diagnostic radiology by another professional organization approved by the radiation advisory board appointed under section 13531. Until the expiration of 2 years after the effective date of the amendatory act that added this subdivision, a physician or osteopathic physician licensed under article 15 who has been eligible for certification in radiology or diagnostic radiology for more than 2 years shall be considered to meet the requirement of this subparagraph.

(*ii*) Shall successfully complete or teach not less than 15 hours of continuing medical education every 3 years after the effective date of the amendatory act that added this subdivision in the technical aspects or clinical aspects, or both, of mammography in courses or programs approved by the individual's respective specialty organization and licensing board and has documentation of successful completion or teaching that is satisfactory to the department.

(*iii*) Shall have successfully completed not less than 2 months of formal training in reading mammograms with instruction in medical radiation physics, radiation effects, and radiation protection and has documentation of successful completion of the training that is satisfactory to the department. For purposes of this subparagraph, the department may accept time spent in a residency program that includes specific training in mammography if the individual has documentation of the residency program that is satisfactory to the department.

(*iv*) Interprets not less than 520 mammographic examinations each year.

(*v*) Maintains annual records concerning outcome data for correlation of positive mammograms to biopsies done, and the number of cancers detected.

(3) The department may issue a nonrenewable temporary authorization for a radiation machine for use for mammography if additional time is needed to allow submission of evidence satisfactory to the department that the radiation machine, the personnel operating the radiation machine, and the facility in which the radiation

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machine is used meet the standards set forth in subsection (2) for approval for mammography. A temporary authorization granted under this subsection after February 16, 1991 is effective for no more than 12 months. The department may withdraw a temporary authorization before its expiration if the radiation machine, the personnel operating the radiation machine, or the facility in which the radiation machine is used does not meet 1 or more of the standards set forth in subsection (2).

(4) To obtain authorization from the department to use a radiation machine for mammography, the person who owns or leases the radiation machine or an authorized agent of the person shall apply to the department for mammography authorization on an application form provided by the department and shall provide all of the information required by the department as specified on the application form. A person who owns or leases more than 1 radiation machine used for mammography shall obtain authorization for each radiation machine. The department shall process and respond to an application within 30 days after the date of receipt of the application. Upon determining to grant mammography authorization for a radiation machine, the department shall issue a certificate of registration specifying mammography authorization for each authorized radiation machine. A mammography authorization is effective for 3 years contingent upon the radiation machine, the personnel operating the radiation machine, and the facility in which the radiation machine is operated for which the mammography authorization is issued meeting 1 of the following requirements:

(a) Maintaining continued accreditation by the American college of radiology.

(b) Having an active accreditation application in process with the American college of radiology.

(c) Maintaining approval or being in the process of obtaining approval under a department evaluation process equivalent to that described in subdivisions (a) and (b).

(5) No later than 60 days after initial mammography authorization of a radiation machine under this section, the department shall inspect the radiation machine. After that initial inspection, the department shall annually inspect the radiation machine and may inspect the radiation machine more frequently. The department shall make reasonable efforts to coordinate the inspections under this section with the department's other inspections of the facility in which the radiation machine is located.

(6) After each satisfactory inspection by the department, the department shall issue a certificate of radiation machine inspection or a similar document identifying the facility and radiation machine inspected and providing a record of the date the radiation machine was inspected. The facility shall post the certificate or other document near the inspected radiation machine.

(7) The department may withdraw the mammography authorization for a radiation machine if it does not meet 1 or more of the standards set forth in subsection (2).

(8) The department shall provide an opportunity for a hearing in connection with a denial or withdrawal of mammography authorization.

(9) Upon a finding that a deficiency in a radiation machine used for mammography or a violation of this part or the rules promulgated under this part seriously affects the health, safety, and welfare of individuals upon whom the radiation machine is used for mammography, the department may issue an emergency order summarily withdrawing the mammography authorization of the radiation machine. The department shall incorporate its findings in the order and shall provide an opportunity for a hearing within 5 working days after issuance of the order. The order is effective during the proceedings.

(10) If the department withdraws the mammography authorization of a radiation machine, the radiation machine shall not be used for mammography. An application for reinstatement of a mammography authorization shall be filed and processed in the same manner as an application for mammography authorization under subsection (4), except that the department shall not issue a reinstated certificate of mammography registration until the department receives the reinspection fee required under section 13522(5), inspects the radiation machine, and determines that it meets the standards set forth in subsection (2). The department shall conduct an inspection required under this subsection no later than 60 days after receiving a proper application for reinstatement of a mammography authorization.

(11) In addition to the penalties provided in section 13535 and the reinspection fee required under section 13522(5), if a person violates subsection (1), the department may impose an administrative fine against the owner of the radiation machine or, if a lessee of the radiation machine has effective control of the radiation machine, the lessee, of not more than $500.00 for each calendar week in which a mammography is performed in violation of subsection (1). If a person continues to violate subsection (1) for a period of 2 weeks after a fine is imposed under this subsection, the department shall post a conspicuous notice on the unauthorized radiation machine and at the entry to the facility where the radiation machine is located warning the public that the facility is performing mammography using a radiation machine that is a substantial hazard to the public health.

(12) The department may promulgate rules necessary to implement this section after consultation with the radiation advisory board established under section 13531.

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(13) As used in this section:

(a) "Radiation machine" means a machine, other than those exempted by department rule, that emits ionizing radiation.

(b) "Mammography system" means the radiation machine used for mammography; automatic exposure control devices; films, screens, and cassettes; image processor; darkroom; and viewboxes.

History: Add. 1989, Act 56, Imd. Eff. June 16, 1989;—Am. 1994, Act 100, Imd. Eff. Apr. 18, 1994.

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

Administrative rules: R 325.5001 et seq. of the Michigan Administrative Code.

333.13524 Mammogram demonstrating dense breast tissue; notification to patient; information to be provided in report; "dense breast tissue" defined.

Sec. 13524. (1) If a patient's mammogram demonstrates dense breast tissue, a person who provides mammography services in this state shall provide notification to the patient that includes, but is not limited to, the following information, in the summary of the written report of the results of a mammography examination that is sent directly to a patient pursuant to 42 USC 263b:

"Your mammogram shows that your breast tissue is dense. Dense breast tissue is very common and is not abnormal. However, dense breast tissue can make it harder to find cancer through a mammogram. Also, dense breast tissue may increase your risk for breast cancer. This information about the result of your mammogram is given to you to raise your awareness. Use this information to discuss with your health care provider whether other supplemental tests in addition to your mammogram may be appropriate for you, based on your individual risk. A report of your results was sent to your ordering physician. If you are self-referred, a report of your results was sent to you in addition to this summary.".

(2) As used in this section, "dense breast tissue" means heterogeneously or extremely dense breast tissue as defined in nationally recognized guidelines or systems for breast imaging reporting of mammography screening including, but not limited to, the breast imaging reporting and data system established by the American college of radiology. If, after the effective date of this section, new terms are defined in revised guidelines or systems for breast imaging reporting of mammography screening, and the department determines that those new terms are more appropriate for the purposes of the information required to be provided under this section, the department, by order, may update the definition of dense breast tissue under this subsection to use those new terms. Upon issuance, the department shall forward an order issued under this subsection to the legislature.

History: Add. 2014, Act 517, Eff. June 1, 2015.

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13525 Licensing, regulation, or registration by municipalities prohibited.

Sec. 13525. A municipality or a department, agency, or official of a municipality may not license, regulate, or require the registration of a radioactive material or other source of ionizing radiation.

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

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13527 Use of handheld dental X-ray system; registration requirements; "handheld dental X-ray system" defined.

Sec. 13527. (1) A person shall not use a handheld dental X-ray system to perform dental radiography unless the machine is registered with the department under department rules for registration of radiation machines and the system, the personnel operating the system, and the facility in which the system is used meet all of the following requirements:

(a) The system has been approved for human use by the United States Food and Drug Administration and is used in a manner consistent with that approval.

(b) The system has a backscatter shield that meets all of the following requirements:

(*i*) The shield is composed of a leaded polymer or a lead-equivalent substance that has a substantially equivalent protective capacity.

(*ii*) The shield has at least 0.5 millimeters of lead or lead-equivalent shielding, as determined by the

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department.

(*iii*) The shield is permanently affixed to the system.

(c) The system is calibrated by its manufacturer before its first use and is recalibrated at least every 24 months after the date of the last calibration.

(d) When not in use, the system is stored in a manner that restricts access to the system, such as by storing the system in a locked area of the facility.

(e) Each individual who operates the system is an individual who is authorized to operate a dental radiography machine pursuant to rules promulgated under part 166. An individual operating the system is not required to wear a lead apron or other personal monitoring equipment while operating the system if it is determined that the use of the system is in compliance with part 381 of the Michigan occupational safety and health administration occupational health standards, R 325.60601a to R 325.60618 of the Michigan Administrative Code, or equivalent federal occupational safety and health standards; part 33 of the Michigan occupational safety and health administration general industry safety and health standard, R 408.13301 to R 408.13395g of the Michigan Administrative Code, or equivalent federal occupational safety and health standards; R 333.5057 of the Michigan Administrative Code; and R 333.5063 to R 333.5065 of the Michigan Administrative Code. Upon request, a registrant shall make a lead apron or other personal monitoring equipment available to an individual who operates the system.

(f) The system is not used if the backscatter shield described in subdivision (b) is broken, missing, or malfunctioning.

(2) A handheld dental X-ray system that meets the requirements described in this section may be used for routine dental radiography in a dental office or a situation in which it is impractical to transfer a patient to a radiation machine that is stationary.

(3) As used in this section, "handheld dental X-ray system" or "system" means an X-ray system that is used to take radiographs, is designed to be handheld during its operation, and is portable.

History: Add. 2018, Act 544, Eff. Mar. 28, 2019.

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13531 Radiation advisory board; appointment, qualifications, and terms of members; expenses; duty to furnish technical advice.

Sec. 13531. The governor shall appoint, with the advice and consent of the senate, a radiation advisory board of 9 members, 3 of whom shall represent industry, 3 the healing arts, and 3 the public and private institutions of higher learning. Members of the board shall serve at the pleasure of the governor. The members shall be reimbursed for necessary and actual expenses incurred in attendance at meetings or for authorized business of the board pursuant to section 1216. The board shall furnish to the department technical advice the board deems desirable or the department may reasonably request on matters relating to the radiation control program.

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

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the radiation advisory board to the director of the Michigan state department of public health, see E.R.O. No. 1994-1, compiled at MCL 333.26322 of the Michigan Compiled Laws.

For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13535 Violations; penalties.

Sec. 13535. A person who violates this part or a rule promulgated under this part or who fails to obtain or comply with conditions of licensure or registration under this part is guilty of a misdemeanor, punishable by imprisonment for not more than 180 days, or a fine of not more than $10,000.00, or both. A court may fine a person not more than $2,000.00 for each violation of this part. Each day a violation continues shall be a separate violation.

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

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13536 Injunction; order directing compliance.

Sec. 13536. If, after thorough investigation by the department, it is the judgment of the department that a

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person has engaged in or is about to engage in an act or practice which constitutes a violation of this part or a rule or order, the attorney general, at the request of the department, shall make application to the appropriate circuit court for an order enjoining the act or practice or for an order directing compliance with this part or a rule or order issued pursuant to this part.

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

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13537 Part subject to MCL 324.1401 to 324.1429.

Sec. 13537. This part is subject to part 14 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1401 to 324.1429.

History: Add. 2012, Act 556, Imd. Eff. Jan. 2, 2013.

Compiler's note: For transfer of powers and duties of Michigan indoor radon program from department of health and human services to department of environmental quality, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

PART 136
RADIOACTIVE WASTE CONTROL COMMITTEE

333.13601-333.13606 Repealed. 1985, Act 190, Eff. Dec. 31, 1993.

Compiler's note: The repealed sections pertained to the radioactive waste control committee.

Popular name: Act 368

333.13607 Repeal of MCL 333.13601 to 333.13606.

Sec. 13607. Sections 13601 to 13606 of Act No. 368 of the Public Acts of 1978, being sections 333.13601 to 333.13606 of the Michigan Compiled Laws, are repealed effective December 31, 1993.

History: Add. 1985, Act 190, Imd. Eff. Dec. 20, 1985.

Popular name: Act 368

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PART 137

333.13701 Meanings of words and phrases.

Sec. 13701. As used in this part, the words and phrases defined in sections 13702 to 13704 have the meanings ascribed to them in those sections.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13702 Definitions; A to H.

Sec. 13702. (1) "Above ground vault" means an engineered structure with a floor, walls, and a roof constructed at least partially above grade that is designed in a manner that is compatible with the requirements of this part and the rules promulgated under this part.

(2) "Above or below ground canisters" are individual, engineered modular containers that contain 1 or more waste packages that are approved by the department, in compliance with applicable federal law, and designed in a manner that meets all of the requirements of this part and the rules promulgated under this part.

(3) "Authority" means the low-level radioactive waste authority created in the low-level radioactive waste authority act, Act No. 204 of the Public Acts of 1987, being sections 333.26201 to 333.26226 of the Michigan Compiled Laws.

(4) "Below ground vault" means an engineered structure with a floor, walls, and a roof constructed entirely below grade that is designed in a manner that is compatible with the requirements of this part and the rules promulgated under this part.

(5) "Candidate site" means a site designated by the authority as a possible host site.

(6) "Carrier" means a person authorized pursuant to this part who is engaged in the transportation of waste by air, rail, highway, or water.

(7) "Collector" means a person authorized pursuant to this part who receives prepackaged waste from a generator and who does not treat or repackage that waste.

(8) "Compact" means a contractual, cooperative agreement among 2 or more states to provide for the disposal of low-level radioactive waste, that is reflected in the passage of statutes by the participating states.

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(9) "Disposal" means the isolation of waste from the biosphere by emplacement in the disposal site or as otherwise authorized in section 13709(3).

(10) "Disposal site" means a geographic location in this state upon which the disposal unit and any other structures and appurtenances are located, the property upon which any monitoring equipment is located, and the isolation distance from the disposal unit to adjacent property lines.

(11) "Disposal unit" means the portion of the disposal site into which waste is placed for disposal.

(12) "Host site" means the candidate site that is designated by the commissioner as the location for the disposal site in this state.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

Compiler's note: For transfer of powers and duties of the division of radiological health, with the exception of the radiation machine licensing and registration program, from the director of the department public health to the director of the department of environmental quality, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13703 Definitions; G to M.

Sec. 13703. (1) "Generator" means any person licensed as a generator by the nuclear regulatory commission and authorized pursuant to this part whose act or process results in the production of waste or whose act first causes waste to become subject to regulation under this part or federal law.

(2) "Groundwater" means water below the land surface in a zone of saturation.

(3) "Hazardous waste" has the meaning attributed to it in part 111 (hazardous waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11101 to 324.11152 of the Michigan Compiled Laws.

(4) "Host site" means the candidate site that is designated by the authority as the location for the disposal site in this state.

(5) "Host site community" means the municipality that is designated by the authority as the host site.

(6) "Institutional control" means the continued surveillance, monitoring, and care of the disposal site after site closure and stabilization to insure the protection of the public health, safety, and welfare, and the environment until the contents of the disposal site no longer have a radioactive content that is greater than the natural background radiation of the host site as determined during its site characterization.

(7) "Local monitoring committee" means a committee established pursuant to the low-level radioactive waste authority act to provide for the participation of the residents of a candidate site community.

(8) "Low-level radioactive waste" or "waste" means radioactive material that consists of or contains class A, B, or C radioactive waste as defined by 10 C.F.R. 61.55, as in effect on January 26, 1983 but does not include waste or material that is any of the following:

(a) Owned or generated by the department of energy.

(b) Generated by or resulting from the operation or closure of a superconducting super collider.

(c) Owned or generated by the United States navy as a result of the decommissioning of vessels of the United States navy.

(d) Owned or generated as a result of any research, development, testing, or production of an atomic weapon.

(e) Identified under the formerly utilized sites remedial action program.

(f) High-level radioactive waste, spent nuclear fuel, or byproduct material as defined in section 11(e)(2) of the atomic energy act of 1954, chapter 1073, 68 Stat. 922, 42 U.S.C.2014.

(g) Contains greater than or equal to 100 nanocuries per gram of transuranic elements.

(h) Contains concentrations of radionuclides that exceed the limits established by the nuclear regulatory commission for class C radioactive waste as defined by 10 C.F.R. 61.55, as in effect on January 26, 1983.

(i) Classified as naturally occurring or accelerator-produced radioactive materials known as N.A.R.M. waste.

(j) Waste that after the effective date of this part is determined by the nuclear regulatory commission to be waste that is beneath regulatory concern, or B.R.C. waste as defined by the nuclear regulatory commission, unless the department and the authority concur with this designation.

(9) "Low-level radioactive waste management fund" or "fund" means the fund created in section 20 of the low-level radioactive waste authority act, Act No. 204 of the Public Acts of 1987, being section 333.26220 of the Michigan Compiled Laws.

(10) "Management" means the collection, storage, packaging, processing, transportation, or disposal, where applicable, of low-level radioactive waste.

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(11) "Manifest" means a form provided or approved by the department that is used for identifying the quantity; composition, including the class, curie count, and radioactive nuclides; origin; routing; and destination of waste from the point of generation to the point of processing, collection, or disposal.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1996, Act 67, Imd. Eff. Feb. 26, 1996.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13704 Definitions; M to S.

Sec. 13704. (1) "Municipality" means a city, village, township, or Indian tribe.

(2) "Operation" means the control, supervision, or implementation of the actual physical activities involved in the acceptance, storage, disposal, and monitoring of waste at the disposal site, the maintenance of the disposal site, and any other responsibility pertaining to the disposal unit and the disposal site.

(3) "Performance assessment" means an analysis of the potential pathways for release of waste to the environment and the potential impacts of a release during the transportation of radioactive waste to the disposal site and during the handling and disposal of waste at the disposal site, including, but not limited to:

(a) A description of the potential pathways for radioactive nuclide migration beyond the boundaries of the disposal site during the operation of the site and in the event there is a release.

(b) A description of the potential pathways for radioactive nuclide migration beyond the packaging boundaries in the event of a release that occurs during transportation.

(c) An analysis of safety factors pertaining to the transportation of waste.

(d) The identification of the potential impacts to air, surface water, and groundwater quality, and vegetation, animals, and humans, or any other living thing beyond the boundaries of the disposal site.

(e) A description of potential mechanisms for radioactive release, including, but not limited to, mechanical failure, structural failure, and human error.

(4) "Person" means a person as defined in section 1106, and, for the purposes of this part, includes the authority, a municipality, county, the state, and any subdivision of the state.

(5) "Postclosure observation and maintenance" means the surveillance, monitoring, and maintenance of the disposal site after it has been closed and continuing through site closure and stabilization and institutional control.

(6) "Processing" means any method, technique, or process, including storage to facilitate radioactive decay, designed to change the physical, chemical, radioactive concentration, or biological characteristics or composition of the waste, in order to render the waste safer for transport, storage, or disposal, amenable to recovery, convertible to another usable material, or to reduce the volume of waste. Processing does not include incineration or dilution of a material that has a radioactive concentration that is greater than the radioactive concentration of low-level radioactive waste.

(7) "Processor" means a person authorized pursuant to this part who processes or repackages waste.

(8) "Release" means any intentional or unintentional spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, or placing of waste into the environment, except in compliance with all of the following:

(a) This part.

(b) The rules promulgated under part 135.

(c) Any rules promulgated under this part.

(d) Federal law.

(e) A permit or license issued pursuant to federal law, if the person who is responsible for the release holds such a permit or license.

(f) A permit or license issued pursuant to this part, if the person who is responsible for the release holds such a permit or license.

(9) "Remedial actions" means those actions taken in the event of a radioactive release or threatened release into the environment to prevent or minimize the radioactive release so that it does not migrate and cause significant danger to the present or future public health, safety, or welfare, or to the environment. Remedial action includes, but is not limited to, actions at the location of the release such as storage, confinement, perimeter protection which may include dikes, trenches, and ditches, clay cover, neutralization, dredging or excavation, repair or replacement of leaking containers, collection of leachate and runoff, efforts to minimize the social and economic harm of processing, provision of alternative water supplies, and any required monitoring to assure that the actions taken are sufficient to protect the public health, safety, and welfare, and the environment.

(10) "Shallow land burial" means the disposal of waste in an excavated trench constructed entirely below

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grade without a below-ground vault and without below-ground canisters.

(11) "Site characterization" means the site specific investigation of a candidate site undertaken pursuant to section 12 of the low-level radioactive waste authority act.

(12) "Site closure and stabilization" means the actions taken at the disposal site during the time period after the closure of the disposal unit during which on-site low-level radioactive waste is disposed in accordance with this part, equipment is dismantled, decontaminated, removed for reuse or disposed of, and radioactive residues are removed from, or properly isolated on, the disposal site.

(13) "Storage" means the temporary holding of low-level radioactive waste prior to processing or disposal.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

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Administrative rules: R 325.5001 et seq., R 325.5801 et seq., and R 325.5901 et seq. of the Michigan Administrative Code.

333.13705 Regulatory responsibility.

Sec. 13705. Subject to any limitations in this part, the department shall have the regulatory responsibility that is held by this state in all matters related to the generating, storage, processing, handling, transporting, possession, or disposal of waste.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13706 Implementation and enforcement of part; coordination of regulatory activities; consultation, cooperation, and assistance.

Sec. 13706. (1) The department shall implement and enforce this part, and shall coordinate all regulatory activities of state agencies and departments acting within the scope of their responsibilities related to waste.

(2) The departments of agriculture, management and budget, commerce, natural resources, state police, the state transportation department, and other state departments and agencies shall consult and cooperate with the department and shall assist the department in the implementation of this part.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13707 Review and recommendations; conflicting laws and rules.

Sec. 13707. (1) The department shall enter into negotiations with the federal government on behalf of this state for full agreements providing for the discontinuance of specified federal authority with regard to waste disposal, radioactive by-product, source and special nuclear material, or for other authority over radioactive materials or sources of ionizing radiation in this state and assumption of that authority by this state. The governor with the advice and consent of the senate may enter into 1 or more agreements with the federal government negotiated pursuant to this subsection.

(2) The department and the attorney general shall review this part and all applicable federal and state laws and rules pertaining to the authority, the disposal site, and to generators, carriers, collectors, and processors and shall submit written recommendations to the legislature and the governor regarding whether this state should require additional or more stringent regulations for generators, carriers, collectors, or processors to protect the public health, safety, and welfare, and the environment. In addition, the department and the attorney general shall submit written recommendations and the rationale supporting the recommendations to the legislature regarding whether this state should include naturally occurring or accelerator produced radioactive materials known as N.A.R.M. waste in the definition of waste that may be disposed of in the disposal site. The recommendation required in this subsection shall be submitted by April 1, 1988.

(3) If a portion of this part or a rule that is promulgated under this part conflicts with part 135 or with a rule that is promulgated under part 135 prior to the effective date of this part, this part and any rules promulgated under this part shall be given precedence unless a contrary legislative intent is evident.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

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Administrative rules: R 325.5001 et seq., R 325.5801 et seq., and R 325.5901 et seq. of the Michigan Administrative Code.

333.13708 Duties of director or director's designee.

Sec. 13708. The director or the director's designee, with the assistance of other state departments and agencies, shall do all of the following:

(a) Implement a regulatory, inspection, and enforcement program to carry out the provisions of this part.

(b) Issue a construction and operating license to the authority upon the submittal by the authority of an application for a license for the construction and operation of the disposal unit on the disposal site that is in compliance with the requirements of this part and with rules promulgated under this part.

(c) Issue permits to generators, carriers, collectors, and processors if all the requirements of this part and rules promulgated under this part are met.

(d) Assure that the authority fulfills its responsibilities under this act and under the low-level radioactive waste authority act.

(e) Promulgate rules and take any other action considered necessary by the department as authorized under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. In fulfilling the requirement to promulgate rules, the director shall promulgate rules necessary to implement the provisions of this part that pertain to the issuance of permits to generators, transporters, collectors, and processors, including rules pertaining to the possession of waste by a generator, transporter, collector, or processor that is incidental to the regulated activity of the permit holder.

(f) Contract as necessary for research and services to assist in the implementation of the department's powers and duties under this part.

(g) Insure the permanent maintenance of records that are sufficient to assure a complete accounting of all waste that is generated, transported, processed, collected, and disposed of in this state, and which includes the maintenance of records pertaining to the operation of the disposal site, the site, site closure and stabilization, and institutional control.

(h) Review the monthly report submitted by the authority to the department as required in section 18 of the low-level radioactive waste authority act.

(i) Take responsive action regarding any discrepancy or other matter considered necessary by the department after reviewing the monthly report described in subdivision (h).

(j) Biannually audit all of the records pertaining to manifests that are maintained by the authority.

(k) Develop and implement policies and programs to insure adequate and informed public participation in matters pertaining to the regulation of the disposal site.

(*l*) Review and comment on the site selection process developed by the authority pursuant to the low-level radioactive waste authority act.

(m) Review and approve or disapprove the weekly construction inspection submitted by the authority during the construction of the disposal site.

(n) Review for completeness only the contracts entered into by the authority pursuant to the low-level radioactive waste authority act.

(o) Review the authority's recommendation regarding sanctions against a generator, carrier, collector, or processor who the authority suspects has violated this part, rules promulgated under this part, or a permit issued under this part and respond by taking appropriate regulatory action.

(p) Assure that the authority charges just and reasonable fees and surcharges for the disposal of waste and obtains sufficient funds to cover expenses incurred under this part and as required in the low-level radioactive waste authority act.

(q) Seek appropriations from the general fund and from the low-level radioactive waste management fund from the legislature in amounts that are sufficient to fulfill the department's responsibilities under this part.

(r) Approve or disapprove a waiver by the authority of 1 or more of the criteria for the selection of 3 candidate sites provided for in section 11(4) of the low-level radioactive waste authority act. If the director approves the waiver, the approval shall indicate why the director concludes that the waiver will not compromise the public health, safety, or welfare, or the environment and that a candidate site for which a waiver is sought is an appropriate candidate site despite the site's inability to meet 1 or more of the criteria in section 11(3) of the low-level radioactive waste authority act. Prior to approving a waiver under this subdivision, the director shall forward the proposed approval and supporting documentation to the department of natural resources for review and written comments.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

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333.13709 Compliance; disposal of waste; full agreement state status; waiver; acceptance of waste for disposal.

Sec. 13709. (1) A person shall not possess, generate, collect, process, package, store, transport, or dispose of waste in this state without complying with the requirements of this part.

(2) Except as otherwise provided in subsection (3), if this state has not obtained full agreement state status with the federal government, a person shall not dispose of waste in this state except in the disposal site licensed by the United States nuclear regulatory commission, or its successor agency, and by the director through the issuance of a construction and operating license under this part. Except as otherwise provided in subsection (3), if this state has full agreement state status, a person shall not dispose of waste in this state except at the disposal site licensed by the director through the issuance of a construction and operating license under this part.

(3) Prior to the issuance of a construction and operating license under this part, if a person obtains a waiver pursuant to 10 C.F.R. 20.302, the requirement that waste be disposed of only in the disposal site shall be waived by the director upon receipt of notice and evidence of such a waiver. Following the issuance of a construction and operating license under this part, the director with the written concurrence of the authority may grant or deny an application for a waiver of the requirement that waste be disposed of only in the disposal site if either of the following occurs:

(a) If this state has obtained full agreement state status with the federal government, the department approves the disposal of the waste in a location other than the disposal site and concludes that the waiver will not harm the public health, safety, or welfare, or the environment and will not substantially impact on the volume of waste available for disposal in the disposal site or the financial solvency of the disposal site.

(b) If this state has not obtained a full agreement state status with the federal government, the department concludes that any waiver granted by the nuclear regulatory commission will not harm the public health, safety, or welfare, or the environment and will not substantially impact on the volume of waste available for disposal in the disposal site or the financial solvency of the disposal site.

(4) The department shall assure that waste that is not generated in this state or in a state with which this state may elect to enter a compact shall not be accepted for disposal at the disposal site. In addition, if this state is a member of a compact the department shall assure that this state does not accept waste for disposal from any member of the compact that does either of the following:

(a) Is delinquent in paying dues or fees payable under the compact.

(b) Fails to establish or maintain a permitting and regulatory system, including penalties and remedies, that equals or exceeds the laws and rules of this state as they apply to generators, carriers, processors, and collectors.

(5) If this state is not a member of a compact, the department shall assure that the disposal site accepts only waste generated in this state.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

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333.13710 Minimum criteria for design, construction, and operation of disposal site.

Sec. 13710. (1) The director, following consultation with the department of natural resources, shall establish minimum criteria for the design, construction, and operation of the disposal site. The minimum criteria shall reflect and shall be updated to include state-of-the-art technology in regard to disposal site design, construction, operation, and waste disposal technology. The criteria shall be developed and prepared in the form of specifications to be included in the construction and operating license issued to the authority pursuant to sections 13712 to 13714 and in any modification of that license. The criteria at a minimum shall comply with criteria adopted under the atomic energy act of 1954, 42 U.S.C. 2011 to 2296 and regulations pertaining to licensing requirements for land disposal of waste under 10 C.F.R. 61.1 to 61.81 and shall require that the isolation distance between the disposal unit and adjacent property lines be at least 3,000 feet.

(2) Shallow land burial shall not be permitted. Acceptable disposal technologies shall be limited to above and below ground canisters or above and below ground vaults, or both. The criteria shall also include provisions for monitoring at the disposal site and within the disposal unit and provisions for the recoverability of waste that has been disposed of in the disposal site.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

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Popular name: Act 368

333.13711 Licensing requirements for design, construction, and operation of disposal site.

Sec. 13711. The licensing requirements for the design, construction, and operation of the disposal site shall be at least as stringent as all applicable federal design, construction, and operating requirements. The director, following consultation with the department of natural resources, shall establish requirements for the design, construction, and operation of the disposal site that reflect those practices that are necessary to protect the public health, safety, and welfare, and the environment, and that include at least all of the following:

(a) Requirements and performance standards for the operation of the disposal site.

(b) Requirements and standards for the keeping of records and the reporting and retaining of data collected by the authority.

(c) Requirements, training, and standards for the personnel who operate, monitor, and maintain the disposal site.

(d) Requirements and standards for the emergency closure of the disposal site.

(e) Requirements and standards for the postclosure observation and maintenance, and postclosure ownership, monitoring, maintenance, and use, if any, of the disposal site.

(f) Specifications regarding the amounts, sources, form, chemical, and physical composition, and concentrations of the waste that may be accepted at the disposal site.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13712 Construction and operating license; application; additional information; fee; license nontransferable.

Sec. 13712. (1) The disposal site shall not be constructed or operated in this state except upon issuance of a construction and operating license issued under this part by the director. The director shall consider only an application submitted by the authority for a construction and operating license. However, the authority may submit a license that has been prepared for the authority pursuant to a contract entered into by the authority as provided in the low-level radioactive waste authority act.

(2) An application for a construction and operating license shall contain all of the following information pertaining to the disposal site:

(a) The mailing address of the authority.

(b) The location of the host site.

(c) A hydrogeological report specifying the existing hydrogeological characteristics.

(d) A monitoring program acceptable to the department and consistent with all applicable federal and state laws and rules pertaining to the protection of the public health, safety, and welfare, and the environment.

(e) A performance assessment.

(f) Engineering plans and specifications for construction.

(g) A detailed basis for design specifications.

(h) The disposal technology.

(i) Procedures for the pre-closure monitoring.

(j) Operating procedures.

(k) A site closure and stabilization plan.

(*l*) A postclosure observation and maintenance plan and an institutional control plan, both of which shall contain specific provisions as to who is responsible for all aspects of monitoring, maintenance, and other procedures necessary to protect the public health, safety, and welfare, and the environment for as long as the waste is in the disposal site.

(m) Estimates of the quantities and types of wastes to be stored, treated, or disposed of at the disposal site.

(n) The personnel information necessary to assure the integrity and qualifications of the personnel hired by the authority.

(o) A contingency plan to establish the procedures to be followed in the event of a release.

(3) If any information required to be included in the application regarding a person undertaking a responsibility of the authority changes, or is supplemented after the filing of the statement, the person undertaking a responsibility of the authority shall provide that information to the department in writing, within 30 days of the change or addition.

(4) An application for a construction and operating license shall be accompanied by a nonrefundable application fee that is determined by the department to be sufficient to cover the costs of processing the

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application.

(5) A construction and operating license shall not be transferable from the office of the authority.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13713 Application for construction and operating license; additional information; nullification of contract; supplementing and keeping current information.

Sec. 13713. (1) The application for a construction and operating license shall contain such additional information as may be required by the department, and shall disclose all of the following information regarding persons with whom the authority enters into agreements or contracts to prepare a construction and operating license for the disposal site or for the construction or operation of the disposal site, if known:

(a) The full name and business address of all of the following:

(*i*) Each person who enters into a contract to undertake a responsibility of the authority.

(*ii*) The 5 persons holding the largest shares of the equity in or debt liability of the person undertaking a responsibility of the authority. The director may waive all or any portion of this requirement for a person who is a corporation with publicly traded stock.

(*iii*) If known, the 3 employees of the person who contracts with the authority who will have the most responsibility for the day-to-day operation of the site.

(*iv*) Any other business entity listed in which any person listed in subdivisions (*i*) to (*iii*) has at any time had 25% or more of the equity in or debt liability of that business entity.

(b) A listing of all convictions for criminal violations of an environmental statute promulgated by a federal, state, Canadian, or provincial agency for each person required to be listed under this subsection. If debt liability is held by a chartered lending institution, information required in this subsection shall not be required from that institution.

(c) A listing of all civil judgments resulting from a violation of an environmental statute promulgated by a federal, state, Canadian, or provincial agency for each person required to be listed under this subsection. If debt liability is held by a chartered lending institution, information required in this subsection shall not be required from that institution.

(d) A listing of all environmental permits or licenses issued by a federal, state, Canadian, or provincial agency held by each person required to be listed under this subsection and a listing of any of those permits or licenses that were permanently revoked because of noncompliance.

(e) A listing of all activities at property owned or operated by each person required to be listed under this subsection, if the incident resulted in a threat or potential threat to the environment.

(2) Notwithstanding any other provision of law, the director may nullify a contract between the authority and a person who undertakes or may undertake a responsibility of the authority if there are any listings as originally disclosed or as supplemented pursuant to subsection (1)(b), (c), or (e) or subsection (1)(d) as it pertains to permits or licenses that were permanently revoked because of noncompliance.

(3) The authority shall have the continuous responsibility to supplement and keep current the information required in subsection (1). The authority shall provide the department with the information required in subsection (1) for persons with whom the authority enters into contracts following the original submittal of an application for a construction and operating license.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13714 Surety bond, secured trust fund, or other suitable secured instrument or mechanism.

Sec. 13714. The authority shall file as a part of the application for a construction and operating license a surety bond, secured trust fund, or other suitable secured instrument or mechanism that shall be approved by the department and shall cover the cost of site closure and stabilization. In addition, the authority shall file a surety bond, secured trust fund, or other suitable secured instrument or mechanism that shall be approved by the department, and shall cover the cost of the postclosure observation and maintenance of the disposal site and institutional control. The authority may use a combination of bonds, instruments, mechanisms, or funds, as approved by the department, to satisfy the requirements of this section. The bond, instrument, mechanism, or fund, or combination of these methods of assurance, shall be in an amount equal to a reasonable estimate of

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the site closure and stabilization costs, based on the level of operations proposed in the application for the construction and operating license, and for institutional control. The bond, instrument, mechanism, or fund, or the combination of these methods of assurance, shall be adjusted periodically as determined by the department to account for inflation or changes in the permitted level of operation of the disposal site. A failure to maintain the bond, instrument, mechanism, or fund, or combination of these methods of assurance, constitutes a violation of this part.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13715 Financial responsibility.

Sec. 13715. The authority, as part of the application for a construction and operating license, shall demonstrate financial responsibility through the establishment of a fully funded trust fund or a liability bond, or both, providing for bodily injury and property damage to third parties caused by sudden and accidental releases arising from operations of the disposal site. The authority shall obtain and maintain liability coverage for sudden and accidental releases in an amount of not less than $3,000,000.00 per occurrence with an annual aggregate of not less than $6,000,000.00, and additional coverage sufficient to meet anticipated legal defense costs.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13716 Duties of department; issuance or denial of license; consultation; cooperation; assistance; exemption; effect of local requirements.

Sec. 13716. (1) Upon receipt of an application for a construction and operating license, the department shall do all of the following:

(a) Within 45 days, determine whether the application is complete. If the application is not complete, the department shall notify the authority of all deficiencies and request that the additional information that the department considers necessary to make the application complete be supplied by the authority within 15 days. If the authority is unable to supply the requested information within 15 days, the authority shall notify the department in writing of the reason for any delay and when the requested information will be forwarded.

(b) Immediately notify the local monitoring committee of the host site community, the governing body of the county in which the host site is located, and impacted state departments and agencies as determined by the department of the receipt of an application for a construction and operating license and the procedure by which the license may be approved or denied.

(c) Publish a notice in a newspaper that has statewide circulation, and a newspaper that has major circulation in the municipality in the immediate vicinity of the host site, and a newspaper that is circulated in the county in which the host site is located. The published notice shall contain a map indicating the location of the host site and shall contain a description of the host site and the location where the complete application package may be reviewed and where copies may be obtained. The notice shall describe the procedure by which the construction and operating license may be granted or denied. The director shall provide an opportunity for public comment at least 60 days before making a final decision to grant or deny an application for a construction and operating license.

(d) Along with other impacted state departments and agencies as determined by the department, review the entire application for a construction and operating license. The review shall include, but not be limited to, considerations pertaining to air quality, water quality, waste management, hydrogeology, and proposed waste transportation routes, and the protection of the public health, safety, and welfare, and the environment. The review shall be completed within 140 days after a complete application is received. Following the completion of the 140-day review, the department shall prepare a draft version of a construction and operating license that the department is considering issuing. Before the department prepares a draft construction and operating license, the department shall assure that all concerns expressed by the review board created in section 13 of the low-level radioactive waste authority act, the local monitoring committee of the host site community, the governing body of the county in which the host site is located, and impacted state departments and agencies during the review process are considered. A written and signed review by each person representing a department who reviews the application and plans shall be reviewed and recorded by the department before a draft license is prepared by the department. In addition, before a draft license is prepared, but following the

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completion of the 140-day review, the department shall prepare a responsive summary that describes any public comments received by the department and describes how those comments have been evaluated and addressed by the department.

(e) Insure that the draft construction and operating license, written and signed reviews, and the responsive summary provided for in subdivision (d) are submitted to impacted state agencies as determined by the director and to the department of environmental quality.

(2) The director shall make a decision to issue a construction and operating license or deny the application for a construction and operating license as soon as practicable but not later than 12 months after the receipt of a complete application that is in compliance with this part. If the director denies the authority's application for a construction and operating license, the director shall state his or her reason or reasons in writing. If the construction and operating license application meets the requirements of this part and the rules promulgated under this part, the department shall, after preparing a draft version, prepare and issue to the authority a construction and operating license.

(3) The departments of agriculture, natural resources, environmental quality, state police, the state transportation department, and other state departments and agencies shall consult and cooperate with the department in a timely manner in the review of an application for a construction and operating license. The department may also seek the assistance of any other person in evaluating the application for a construction and operating license and in the development of a draft or final construction and operating license, or both.

(4) Except as provided in this subsection, the issuance of a construction and operating license by the director pursuant to this part shall exempt the authority from obtaining other permits, licenses, or registrations which may be required under other applicable state laws, but shall not exempt the authority from meeting other standards and requirements of applicable state laws or federal laws or from obtaining an operating license pursuant to part 111 (hazardous waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11101 to 324.11152 of the Michigan Compiled Laws, before construction commences.

(5) A local ordinance or permit requirement or other local requirement shall not prohibit, restrict, or regulate the construction or operation of the disposal site.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1996, Act 67, Imd. Eff. Feb. 26, 1996.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13717 Independent contractor; inspecting and verifying construction of disposal site; qualification of contractor; certification; compliance; filing and availability of inspection results; addressing deficiencies.

Sec. 13717. (1) Prior to the commencement of the construction of the disposal site, the department shall enter into a contract with an independent contractor who shall inspect and verify that the construction of the disposal site is progressing according to this part, rules promulgated under this part, and the conditions and stipulations included in the construction and operating license. The contractor hired under this subsection shall be knowledgeable in construction projects of the scope and complexity of the disposal site and shall not be associated in any business capacity with a contractor hired by the authority to construct the disposal site. A representative of the local monitoring committee for the host site community may be present during an inspection of the disposal site by the independent contractor.

(2) Prior to the commencement of the operation of the disposal site, the authority shall submit to the director a certification under the seal of a registered professional engineer who contracted with the authority verifying that the construction of the disposal site has proceeded according to the plans approved by the department and the construction and operating license. The department may require additional certification periodically during the operation of the disposal site.

(3) Following the construction of the disposal site and receipt of the certification required under subsection (2), the department and the independent contractor hired pursuant to subsection (1) shall inspect the disposal site and determine if the site complies with this part, rules promulgated under this part, and the conditions and stipulations included in the construction and operating license. The results of the inspection shall be filed in writing with the department before the operation of the disposal site is authorized, and shall be made available to the local monitoring committee of the host site community, the governing body of the county in which the host site is located, and to the public for review. The department shall assure that all deficiencies noted in the inspection shall be addressed to the satisfaction of the department prior to the commencement of the operation of the disposal site.

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History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13718 Temporary or permanent closure of disposal site; reopening.

Sec. 13718. The director may issue an order temporarily or permanently closing the disposal site prior to its scheduled closing date if the director finds that there is a potential hazard to the public health, safety, or welfare or to the environment that justifies a temporary or permanent closure. A disposal site that is temporarily closed shall not receive waste and shall remain closed while remedial action is taken. Before authorizing the reopening of a temporarily closed disposal site, the department shall seek the advice of the local monitoring committee of the host site community and the department of natural resources, and shall provide a documented explanation of its reasons for authorizing the reopening.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13719 Release of waste or hazardous waste; remedial action; site closure and stabilization; cost.

Sec. 13719. (1) If there has been a release of waste or hazardous waste at the disposal site during its operation, closure, or postclosure, the department shall assure that the authority takes appropriate remedial action.

(2) If there is a release that requires the disposal site to be closed permanently, the department shall insure that site closure and stabilization is complete and adequate and that the authority retains control of the disposal site through the period of institutional control. The cost of site closure and stabilization shall be paid from the low-level radioactive waste management fund.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13720 Site closure and stabilization; control; cost; rules; surveillance and maintenance of disposal site.

Sec. 13720. (1) Beginning on January 1, 2014, or prior to that date if the disposal site has been permanently closed for any reason, the authority shall begin site closure and stabilization. The department shall assure that site closure and stabilization is complete and adequate and that the authority retains control of the disposal site. The cost of site closure and stabilization shall be borne by the authority.

(2) The department shall promulgate rules pertaining to site closure and stabilization and the active surveillance and maintenance of the disposal site.

(3) After completing site closure and stabilization, the authority shall be required by the department to assure that surveillance and maintenance of the disposal site occurs in accordance with the requirements and conditions of the construction and operating license and with any rules promulgated under this part. The department shall assure that the authority retain control of the site through the period of institutional control.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13721 Amendment to construction and operating license.

Sec. 13721. If the authority proposes an amendment to the construction and operating license for the disposal site to conform to the requirements of this part and the rules promulgated under this part, or if the director determines that amendments are necessary to conform to the requirements of this part or the rules promulgated under this part, the director may amend the construction and operating license issued to the authority as necessary to protect the public health, safety, and welfare, and the environment. However, prior to authorizing an amendment to a construction and operating license, the director shall submit a proposed amendment to the department of natural resources for review and comment. The director shall submit the department of natural resources' comments and the director's response to those comments to the review board created in the low-level radioactive waste authority act, and to the local monitoring committees. An

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amendment to a construction and operating license shall specify the time required to complete any required modifications. The director may prescribe a fee to be paid by the authority from revenues collected by the disposal site that is sufficient to cover the department's administrative costs associated with the processing and modification of the construction and operating license. A construction and operating license issued under this part is subject to amendment, as provided in the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13721a Disposal shipment registration system; validity and contents of approved disposal shipment certificate; application for certificate; duty of generator, processor, or collector; duty of carrier; approval or denial of application for certificate; amended certificate.

Sec. 13721a. (1) The authority shall establish and implement a disposal shipment registration system which shall at a minimum require a valid disposal shipment certificate to accompany each shipment of waste to be delivered to the disposal site.

(2) An approved disposal shipment certificate shall be valid for not more than 3 days, and shall specify, at a minimum, all of the following:

(a) The date on which a designated shipment shall be delivered to the disposal site. The date shall be 1 of the 3 days for which the disposal certificate is valid.

(b) The hours during which a designated shipment shall be delivered to the disposal site.

(c) The name of the carrier, type of transport vehicle, type of shipping container or cask, type of disposal container, and applicable department of transportation hazard classifications.

(d) The transportation route that a carrier who is specified by the generator shall use to deliver a designated shipment.

(e) The amount, type, class, and curie count of waste to be included in a designated shipment.

(3) A generator, processor, or collector who is arranging the transport of waste to the disposal site shall submit to the authority an application for a disposal shipment certificate for each shipment of waste to be delivered to the disposal site. The application shall be made on a form provided by or approved by the authority. The generator, processor, or collector shall submit the application at least 15 days, but not more than 30 days, prior to the date requested by the generator, processor, or collector for a carrier to transport the waste shipment to the disposal site.

(4) A generator, processor, or collector who is arranging the transport of waste to the disposal site shall ensure that a carrier who transports waste to the disposal site has been supplied with the information required in subsection (2).

(5) A carrier delivering a shipment of waste to the disposal site shall comply with the requirements of the disposal shipment certificate.

(6) The authority shall approve or deny within 10 days each complete application for a disposal shipment certificate that is submitted by a generator, processor, or collector who is arranging the transport of waste to the disposal site. An application shall not be approved unless the authority has signed the certificate and has assigned to it a disposal shipment certificate number. The disposal shipment certificate number shall be placed on each manifest that is a part of the waste shipment approved on the disposal shipment certificate.

(7) Without requiring submission of a new application for a disposal shipment certificate, upon the written request of a generator, processor, or collector, the authority may issue an amended disposal shipment certificate that is valid for 3 days, within 15 days of the original delivery date designated by the authority.

(8) Upon written prenotification by the authority to a generator, carrier, or processor within 72 hours of the original delivery date designated by the authority, the authority may issue an amended disposal shipment certificate. If the amended date is unacceptable to the generator, processor, or collector, a new application for a disposal shipment certificate shall be submitted.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13722 Manifest; duties of authority accepting waste at disposal site.

Sec. 13722. (1) The authority or any other person shall not accept delivery of waste unless the waste is

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accompanied by a manifest certified by each generator, carrier, processor, or collector who possessed the waste and who is authorized to possess waste under this part, and the location of acceptance is the destination indicated on the manifest.

(2) When the authority accepts waste at the disposal site, the authority shall do all of the following:

(a) Keep permanent records as required by the department.

(b) Compile an annual report pertaining to the operation of the disposal site, the volume and type of waste placed in the disposal unit, and any other information required by the department.

(c) Make manifest copies, certificates of disposal, and reports available for review and inspection at reasonable times by the department or a peace officer.

(d) Certify on the manifest receipt of the waste and furnish a copy of the manifest to the generator within 10 days after receipt of the waste.

(e) Within 30 days of receipt of waste, notify the generator whether the manifest was properly completed.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13723 Operation of disposal site; inspection of shipment; refusal to accept waste; return of waste; seizure and impoundment of vehicle and contents; imposition of surcharges; notice; unloading; requirements as to transport vehicle; informing department of violations.

Sec. 13723. (1) The disposal site shall be operated in accordance with this part, the rules promulgated under this part, and in compliance with the terms and conditions of the construction and operating license and any applicable federal requirements.

(2) Each shipment of waste that arrives at the disposal site shall not proceed into the unloading area until inspected by both the authority and the department and found by the authority and the department to be in compliance with this part, the rules promulgated under this part, the manifest, and any applicable provisions of the construction and operating license. Shipments that are not in compliance shall proceed to a controlled area for appropriate action to remedy the noncompliance or the authority may refuse to accept the waste. If the authority refuses to accept the waste, the authority may order the waste returned by the carrier to the generator or processor who contracted with the carrier to transport the waste to the disposal site. If the waste is ordered to be returned, the authority shall specify on the manifest the address of the generator or processor to whom the waste shall be returned. The authority may seize and impound a vehicle and the contents of that vehicle if it transports waste in a manner that is not in compliance with this part or the rules promulgated under this part or if the contents of the truck are not in compliance with this part or the rules promulgated under this part. In addition, the authority may impose surcharges as provided in the low-level radioactive waste authority act. A vehicle and its contents that are impounded as provided in this subsection shall not be released until the department informs the authority that appropriate remedial and enforcement action has been concluded. The authority or his or her authorized agent shall notify the department and the local monitoring committee of the host site community of the noncomplying shipment. Shipments that are found to be in compliance shall proceed to the unloading area. After a transport vehicle is unloaded, or leaves the unloading area without being unloaded, it shall not leave the disposal site until it is inspected by the authorized agent of the authority and the department and is decontaminated, if necessary.

(3) The authority shall promptly inform the department of any violation of this part, the rules promulgated under this part, a permit issued under this part, or the low-level radioactive waste authority act, that is committed or that the authority suspects was committed by a generator, collector, carrier, or processor.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13724 Compact member states; list of generators, carriers, processors, and collectors; state laws and rules; valid permits; permitting and regulatory system; permission to receive waste; equivalent privileges; expenses; liabilities; primary place of business; eligibility for permit.

Sec. 13724. (1) If this state is a member of a compact, the department shall obtain from each compact member a list of generators, carriers, processors, and collectors who hold permits to generate, transport, process, or collect waste in each compact member state. The department shall also obtain an updated list of

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the generators, carriers, processors, and collectors as necessary. In addition, the department shall obtain from each state that is a member of a compact with this state the state laws and rules that regulate generators, carriers, processors, and collectors in each compact member state.

(2) The department shall compile and maintain a list of all generators, carriers, processors, and collectors who hold valid permits issued in this state under this part, including updated information regarding any change in the status of a permit issued in this state under this part.

(3) If this state is a member of a compact, the department shall determine which compact member states have established and maintained to the satisfaction of the department a permitting and regulatory system, including penalties and remedies, that equals or exceeds the laws and rules of this state as they apply to generators, carriers, processors, and collectors, and the department shall prepare a master list that includes only the names of generators, carriers, processors, and collectors who hold permits in those compact member states and the names of generators, carriers, processors, and collectors who hold permits under this part.

(4) The department shall permit the authority to receive waste only from a generator, carrier, processor, or collector whose name is on the master list and who holds a valid permit issued in this state under this part or who holds a valid permit issued by a compact member state that has equivalent privileges in this state because the state in which that person generates, carries, processes, or collects waste has established and maintains to the satisfaction of the department a permitting and regulatory system, including penalties and remedies, that equals or exceeds the laws and rules of this state as they pertain to generators, carriers, processors, and collectors. If this state is a member of a compact, a compact member state that establishes and maintains a permitting and regulatory system that the department determines equals or exceeds this state's system as provided in subsection (3) shall, by accepting equivalent privileges in this state as provided in this subsection, give its consent to the requirements of this part, the rules promulgated under this part, and the provisions of the low-level radioactive waste authority act. In addition, each of the compact member states shall be considered to have consented to share with this state and any other compact member states the expenses incurred in the construction, operation, site closure and stabilization, postclosure observation and maintenance, and institutional control of the disposal site and liabilities incurred as a result of the locating of the disposal site in this state.

(5) A carrier, processor, or collector whose primary place of business is in this state shall be eligible to seek a permit from the department under this part to transport, process, or collect waste in this state. A carrier, processor, or collector whose primary place of business is in a state that is not a compact member state shall be eligible to seek a permit from the department under this part to transport, process, or collect waste generated in this state. The department shall issue a permit only to a generator who generates waste in this state.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13725 Generator's permit; identification number; requirements; conditions; validity; issuance or renewal; application; nontransferable; applicability; fee; modification of permit; administrative costs; automatic issuance of permit.

Sec. 13725. (1) After the issuance of a construction and operating license for a disposal site under this part, a person shall not generate waste in this state unless the person holds a generator's permit issued under this section. The department shall assign an identification number to each generator who is issued a permit or who has been granted equivalent privileges in this state under section 13724.

(2) A generator's permit shall include requirements as provided in this part and any rules promulgated under this part, in the low-level radioactive waste authority act, and conditions that are equivalent to applicable federal requirements. Other conditions as necessary and provided by law may be imposed after the department has submitted to the governor and the legislature the written recommendations required under section 13707(2). A generator's permit is valid for 3 years after the date of issuance.

(3) Upon receipt of the application and a fee as required in subsection (6), the department shall issue or renew a generator's permit if it determines that the generator meets the requirements of this part.

(4) An application for a generator's permit shall contain information required by the department to implement and enforce this part, including all of the following:

(a) The estimated quantities and types of waste generated.

(b) The procedures and methods to be used for responding to a release of waste.

(c) The location and use of storage and transfer facilities, if any.

(5) A generator's permit is not transferable, and shall state with particularity the persons and real or

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personal property to which it applies.

(6) Each person who submits an application for a generator's permit or permit renewal in this state under this section shall pay a permit application fee of $500.00.

(7) If a generator requests modification of a generator's permit, or if the director determines that modifications are necessary to conform to the requirements of this part, the director may invoke permit modifications which the director considers necessary and may specify the time required to complete the modifications. The director may prescribe a fee not to exceed $500.00 for administrative costs associated with the processing of a modification of a generator permit.

(8) The department shall automatically issue a generator's permit to an applicant who makes an initial application for a generator's permit under this part if that person holds a valid permit or other authorization to generate waste issued by the nuclear regulatory commission at the time of the initial application. A person granted a generator's permit under this subsection is subject to all the applicable provisions of this part, rules promulgated under this part, and the provisions of the permit.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13726 Duties of generator; generator acting as carrier, collector, or processor.

Sec. 13726. (1) A generator required to be permitted under this part or who has privileges in this state pursuant to section 13724 shall do all of the following:

(a) Prepare a manifest for each shipment of waste.

(b) Provide a separate manifest for each unit of waste as determined by the department that is to be transported to or collected or processed on property other than the property to which the generator's permit applies.

(c) Include with each manifest details as specified by the department, including sufficient qualitative and quantitative analysis and physical description of the waste to permit an evaluation of the potential hazards associated with the waste and to determine proper methods of transportation, processing, collecting, storage, and disposal. The manifest shall also indicate any safety or transportation requirements required by law for each shipment of waste.

(d) Within 10 days after the transfer of the waste to a carrier, processor, or collector, or to the disposal site, submit a copy of the manifest to the authority.

(e) Compile and maintain information and records regarding the quantities and the disposition of waste shipped.

(f) Package waste in accordance with applicable federal requirements, this part, rules promulgated under this part, and any requirements under the low-level radioactive waste authority act.

(g) Label each container of waste with the generator's identification number and an identification number that corresponds to the number listed on the manifest for that waste and comply with all lawful requirements for labeling and containerization of waste for shipment.

(h) Keep all records and copies of manifests available for review and inspection at reasonable times by the department or a peace officer.

(i) Retain all records and manifest copies for 3 years. The retention period required by this subdivision shall be automatically extended during the course of an unresolved enforcement action regarding a regulated activity or as required by the director.

(j) Certify that the information contained in each manifest is accurate.

(k) Provide for the transport, collection, or processing of waste only by persons holding a carrier's, collector's, or processor's permit issued under this part or who has equivalent privileges in this state under section 13724.

(2) Without obtaining an additional permit under this part, a person who holds a generator's permit issued in this state may act as a carrier, collector, or processor in regard to waste that is generated by the holder under the generator's permit. A generator who acts as a carrier, collector, or processor pursuant to this subsection shall be subject to the same requirements provided for in this part for a carrier, collector, or a processor.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

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333.13727 Carrier's permit; identification number; requirements; conditions; validity; issuance or renewal; application; registration and inspection of vehicle; inspection fee; vehicle tag; permit nontransferable; applicability; application fee; modification of permit; administrative costs; specifying available routes.

Sec. 13727. (1) Except as otherwise provided in section 13726(2), a person shall not transport waste in this state after the issuance of a construction and operating license for a disposal site under this part unless the person holds a carrier's permit issued under this section or issued by a state that has been granted equivalent privileges in this state under section 13724. The department shall assign an identification number to each carrier who is issued a permit or who has equivalent privileges in this state under section 13724.

(2) A carrier's permit shall include requirements as provided in this part and in any rules promulgated under this part, in the low-level radioactive waste authority act, and conditions that are equivalent to applicable federal requirements. Other conditions as necessary and provided by law may be imposed after the department has submitted to the governor and the legislature the written recommendations required under section 13707(2). A carrier's permit is valid for 3 years after the date of issuance.

(3) Upon receipt of the application and fee required in subsection (7), the department shall issue or renew a carrier's permit if it determines that the carrier meets the requirements of this part.

(4) An application for a carrier's permit shall contain information required by the department to implement and enforce this part, including all of the following information:

(a) The estimated quantities and types of wastes to be transported.

(b) The procedures and methods to be used for responding to a release of waste.

(c) The location and use of storage and transfer facilities, if any.

(5) As a condition of a carrier's permit from this state, each vehicle used by a carrier to transport waste shall be registered and inspected by the department of state police annually to insure compliance with applicable state and federal law. The department of state police may collect a fee of $200.00 for each vehicle that is inspected. The department of state police shall supply the carrier with a vehicle tag for each vehicle registered under this subsection. The vehicle tag shall be displayed by the carrier on each registered vehicle.

(6) A carrier's permit is not transferable, and shall state with particularity the persons and real or personal property to which it applies.

(7) Each person who submits an application for a carrier's permit or permit renewal in this state under this section shall pay a permit application fee of $500.00.

(8) If a carrier requests modification of a carrier's permit, or if the director determines that modifications are necessary to conform to the requirements of this part, the director may invoke permit modifications which the director considers necessary and may specify the time required to complete the modifications. The director may prescribe a fee not to exceed $500.00 for administrative costs associated with the processing of a modification to a carrier permit.

(9) The department with the assistance of the department of state police and the state transportation department shall specify the routes available in this state for the transportation of waste.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13728 Manifest as condition to transporting of waste by carrier; certification; contents; delivery; retaining copy of manifest; forwarding copy of manifest.

Sec. 13728. (1) A carrier shall not transport waste unless each shipment of waste is accompanied by a manifest.

(2) A carrier shall certify on the manifest the receipt of waste for transportation, and shall specify on the manifest the number of containers of waste received and actually delivered and the corresponding identification numbers for each container of waste, and the carrier's identification number. The carrier shall deliver the waste and the manifest only to the destination specified on the manifest.

(3) A carrier shall retain a copy of each manifest for 3 years. The retention period required by this subsection shall be automatically extended during the course of an unresolved enforcement action regarding a regulated activity or as required by the director. The carrier shall forward a copy of the manifest to the authority within 10 days of its delivery to a processor, collector, or to the disposal site.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

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Popular name: Act 368

333.13729 Collector's permit; identification number; requirements; conditions; validity; issuance or renewal; application; nontransferable; applicability; fee; modification of permit; administrative costs.

Sec. 13729. (1) Except as otherwise provided in section 13726(2), a person shall not collect waste for disposal in this state after the issuance of a construction and operating license for a disposal site under this part unless the person holds a collector's permit issued under this section or issued by a state that has been granted equivalent privileges in this state under section 13724. The department shall assign an identification number to each collector who is issued a permit or who has equivalent privileges in this state pursuant to section 13724.

(2) A collector's permit shall include requirements as provided in this part and any rules promulgated under this part, in the low-level radioactive waste authority act, and conditions that are equivalent to applicable federal requirements. Other conditions as necessary and provided by law may be imposed after the department has submitted to the governor and the legislature the written recommendations required under section 13707(2). A collector's permit is valid for 3 years after the date of issuance.

(3) Upon receipt of the application and fee required in subsection (6), the department shall issue or renew a collector's permit if it determines that the collector meets the requirements of this part.

(4) An application for a collector's permit shall contain information required by the department to implement and enforce this part, including all of the following information:

(a) The estimated quantities and types of wastes to be collected.

(b) The procedures and methods to be used for responding to the release of waste.

(c) The location and use of storage and transfer facilities, if any.

(5) A collector's permit is not transferable, and shall state with particularity the persons and real or personal property to which it applies.

(6) Each person who submits an application for a permit or permit renewal in this state under this section shall pay a permit application fee of $500.00.

(7) If a collector requests modification of a collector's permit or if the director determines that modifications are necessary to conform to the requirements of this part, the director may invoke permit modifications which the director considers necessary and may specify the time required to complete the modifications. The director may prescribe a fee not to exceed $500.00 for administrative costs associated with the processing of a modification to a collector permit.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13730 Manifest as condition to collector accepting delivery of waste; certification; contents; transfer; retaining copy of manifest; forwarding copy of manifest.

Sec. 13730. (1) A collector shall not accept the delivery of waste unless the waste is accompanied by a manifest.

(2) A collector shall certify on the manifest the receipt of waste and shall specify on the manifest the number of containers of waste received and actually delivered and the corresponding identification numbers for each container of waste, and the collector's identification number. The collector shall transfer the manifest with the waste to a carrier for transportation.

(3) The collector shall retain a copy of each manifest for 3 years. The retention period required by this subsection shall be automatically extended during the course of an unresolved enforcement action regarding the regulated activity or as required by the director.

(4) The collector shall forward a copy of the manifest to the authority within 10 days of transferring the waste to a carrier for transportation.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13731 Processor's permit; identification number; requirements; conditions; validity; issuance or renewal; application; nontransferable; applicability; fee; modification of permit; administrative costs.

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Sec. 13731. (1) Except as otherwise provided in section 13726(2), a person shall not process waste in this state after the issuance of a construction and operating license for a disposal site under this part unless the person holds a processor's permit issued under this section or issued in a state that has been granted equivalent privileges in this state under section 13724. The department shall assign an identification number to each processor who is issued a permit or who has equivalent privileges in this state pursuant to section 13724.

(2) A processor's permit shall include requirements as provided in this part, and in any rules promulgated under this part, in the low-level radioactive waste authority act, and conditions that are equivalent to applicable federal requirements. Other conditions as necessary and provided by law may be imposed after the department has submitted to the governor and the legislature the written recommendations required under section 13707(2). A processor's permit is valid for 3 years after the date of issuance.

(3) Upon receipt of the application and fee in subsection (6), the department shall issue or renew a processor's permit if it determines that the processor meets the requirements of this part.

(4) An application for a processor's permit shall contain information required by the department to implement and enforce this part, including all of the following information:

(a) The estimated quantities and types of waste to be processed.

(b) The procedures and methods to be used for responding to the release of waste, including an analysis of the potential pathways for a release of waste to the environment and the potential impact of such a release.

(c) The location and use of storage and transfer facilities, if any.

(5) A processor's permit shall not be transferable, and shall state with particularity the persons and real or personal property to which it applies.

(6) Each person who submits an application for a processor's permit or permit renewal under this section shall pay a permit application fee of $500.00.

(7) If a processor requests modification of a processor's permit, or if the director determines that modifications are necessary to conform to the requirements of this part, the director may invoke permit modifications which the director considers necessary and may specify the time required to complete the modifications. The director may prescribe a fee not to exceed $500.00 for administrative costs associated with the processing of a modification to a processor permit.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13732 Manifest as condition to processor accepting delivery of waste; certification; contents; transportation of waste; forwarding copy of certified manifest to generator; retaining copy of manifest; preparation of manifest; compliance; records; packaging waste; labeling containers.

Sec. 13732. (1) A processor shall not accept the delivery of waste unless the waste is accompanied by a manifest.

(2) A processor shall certify on the manifest the receipt of waste, the amount, and the type of waste received for processing, and shall include on the manifest the processor's identification number. A processor shall provide for the transportation of waste only by a person holding a carrier's permit authorized under this part.

(3) A processor shall forward a copy of the certified manifest to the generator within 10 days of receiving the waste. The processor shall retain a copy of each manifest for a period of 3 years. The retention period required by this subsection shall be automatically extended during the course of an unresolved enforcement action regarding the regulated activity or as required by the director.

(4) A processor shall prepare a manifest for each shipment of waste it transfers to a person holding a carrier's permit issued under this part. A processor shall comply with the requirements of section 13726(c) to (k).

(5) A processor shall maintain any records necessary to trace a generator's shipment from the point of receipt by the processor to the point of transfer to a carrier.

(6) A processor shall package waste in accordance with applicable federal requirements, this part, and any requirements under the low-level radioactive waste authority act.

(7) If a processor places waste in a different container than the container in which the generator places that waste, the processor shall label each new container of waste with the generator's identification number, an identification number that corresponds to the number listed on the manifest by the generator for that waste, the processor's identification number, and the identification number listed on the manifest by the processor for

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that repackaged waste.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13733 Condition to possession of waste; data as public information.

Sec. 13733. (1) A person shall not possess waste in this state without complying with the manifest requirements of this part.

(2) Data obtained from any person on a manifest required under this part is public information.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13734 Implied consent; due process rights; surety bond, secured trust fund, or other secured instrument or mechanism; reimbursement of costs resulting from violation; conduct constituting violation.

Sec. 13734. (1) A generator, carrier, processor, and a collector who holds a permit issued under this part or who holds a permit in a state that has been granted equivalent privileges in this state under section 13724 shall by utilizing the disposal site in this state be considered to have given implied consent to the duties and responsibilities imposed on that person under this part, rules promulgated under this part, and the low-level radioactive waste management act.

(2) Nothing in subsection (1) shall be construed to impact upon the due process rights, including any appellate rights, of a generator, carrier, processor, or a collector who gives implied consent as provided in subsection (1).

(3) A generator, carrier, processor, and collector who holds a permit issued under this part shall post a surety bond or present evidence of a secured trust fund or other suitable secured instrument or mechanism in an amount determined by the department. The bond, trust fund, or other instrument or mechanism shall be payable to the department and conditioned upon performance in accordance with the terms and conditions of the permit of the generator, carrier, collector, or processor. The bond, trust fund, or other instrument or mechanism shall provide that if the generator, carrier, processor, or collector violates the provisions of this part, any rules promulgated under this part, or any terms or conditions of a permit issued under this part, the department shall be reimbursed for the costs that are incurred as a result of the violation. The failure to maintain a surety bond, secured trust fund, or other suitable instrument or mechanism constitutes a violation of this part.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13735 Notice of release of waste; report.

Sec. 13735. A generator, carrier, processor, and collector shall be responsible for giving immediate oral notice to the department, the law enforcement agency and governing body of the municipality and county in which a release occurs, the local monitoring committee of the host site community, and the authority regarding any known release of waste in this state. Within 10 days after the release, a written report shall be submitted by the generator, carrier, processor, or collector to the department, the local monitoring committee, and the authority, which shall include all of the following information:

(a) The date, time, and location of the release.

(b) The cause, nature, and details of the release.

(c) The remedial actions, if any, taken to effectuate corrective measures and to mitigate the impact of the release.

(d) The measures to be taken to prevent the occurrence of future releases.

(e) Other information as may be required by the department.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

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333.13736 Sanctions for negligence or failure to exercise due care; grounds for suspending, revoking, annulling, withdrawing, recalling, or cancelling license or permit; order; procedures, hearings, oaths, subpoenas, and testimony; books, papers, or documents; aid of circuit court; grounds for denial of application for license or permit; monitoring, surveillance, and inspection; spot checks; advising authority of regulatory actions; administrative inspection warrant; search warrant; probable cause.

Sec. 13736. (1) A person who holds a license or permit issued under this part may be subject to sanctions as provided in subsection (2) for negligence or a failure to exercise due care, including negligent supervision, regarding the license or permit holder's contractors, employees, agents, or subordinates.

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

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

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

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

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

(a) Discontinue handling or otherwise possessing waste.

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

(4) The department may establish procedures, hold hearings, administer oaths, issue subpoenas, and order testimony to be taken at a hearing or by deposition in a proceeding under this part. A person may be compelled to appear and testify and to produce books, papers, or documents in a proceeding. In case of disobedience of a subpoena, a party to a hearing may invoke the aid of the circuit court of the county in which the hearing is held to require the attendance and testimony of witnesses. The circuit court may issue an order requiring an individual to appear and give testimony.

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

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

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

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

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

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

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

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

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13737 Action to restrain, enjoin, prevent, or correct violation; rules adopting schedule of monetary civil fines.

Sec. 13737. (1) Notwithstanding the existence and pursuit of any other remedy, the director, without posting a bond, may request the attorney general to bring an action in the name of the people of this state to restrain, enjoin, prevent, or correct a violation of this part, rules promulgated under this part, or a permit or license or order issued under this part.

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

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13738 Order requiring compliance or remedial action; emergency order; civil action; venue; civil fine; violation as misdemeanor or felony; penalty; "state of mind"; "placing person in imminent danger of death or serious bodily injury"; affirmative defense; "serious bodily injury"; action for damage; costs of litigation; intervention.

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

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

(3) Any person who knowingly possesses, generates, processes, collects, transports, or disposes of waste in violation of subsection (2) and who knows at that time that he or she thereby places another person in imminent danger of death or serious bodily injury, and if his or her conduct in the circumstances manifests an unjustified and inexcusable disregard for human life, or if his or her conduct in the circumstances manifests an extreme indifference for human life, is guilty of a misdemeanor, punishable by a fine of not more than $250,000.00 or imprisonment for not more than 2 years, or both, except that any person whose actions constitute an extreme indifference for human life is guilty of a felony punishable by a fine of not less than $250,000.00 and not more than $500,000.00 and imprisonment for not less than 5 years and not more than 20 years. A defendant that is not an individual and not a governmental entity shall be subject, upon conviction, to

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a fine of not more than $1,000,000.00.

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

(a) His or her conduct, if he or she is aware of the nature of his or her conduct.

(b) An existing circumstance, if he or she is aware or believes that the circumstance exists.

(c) A result of his or her conduct, if he or she is aware or believes that his or her conduct is substantially certain to cause danger of death or serious bodily injury.

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

(a) The person is responsible only for actual awareness or actual belief that he or she possessed.

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

(6) It is an affirmative defense to a prosecution under this part that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of either of the following:

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

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

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

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

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

(b) Unconsciousness.

(c) Extreme physical pain.

(d) Protracted and obvious disfigurement.

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

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

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

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

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13739 Action for injunction; noncompliance by department.

Sec. 13739. (1) A person may bring an action for an injunction against the director to compel the director to fulfill a requirement of this part.

(2) The failure of the department to comply with a requirement of this part that pertains to specified dates by which certain acts are to occur shall not invalidate an action taken by the department after the specified date if that action is otherwise in compliance with this part.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13740 Disposition of receipts from civil fines and fees; appropriations; construction of section; expenditures required as result of release.

Sec. 13740. (1) The department shall deposit all receipts from civil fines and fees collected pursuant to this part and from judgments, settlements, and any other payments collected pursuant to this part in the state

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treasury to the credit of the general fund.

(2) Funds credited to the general fund as required by this section shall be appropriated for the purposes provided in this section and if insufficient funds are available or appropriated from the general fund, the department may seek appropriations by the legislature from the low-level radioactive waste management fund for purposes authorized by this part, including, but not limited to, any of the following:

(a) Hiring personnel and any other operating and contingent expenses necessary for the proper administration of this part, to fulfill the state's obligations under the low-level radioactive waste policy act, Public Law 96-573, 42 U.S.C. 2021b to 2021d, and if this state is a member of a compact to assure adequate involvement by this state in any compact activities and responsibilities.

(b) Regulatory costs, including, but not limited to, the costs of promulgating and enforcing administrative rules if this state enters into an agreement with the United States nuclear regulatory commission as provided in section 13707.

(c) Contracting with any person or vendor for the purpose of carrying out this part and the rules promulgated under this part.

(d) Taking any actions necessary to protect the public health, safety, and welfare, and the environment from actual or threatened harm from activities regulated under this part.

(3) This section shall not be construed to limit the financial responsibilities of a person who holds a permit or license under this part, or establish or imply any liability on the part of the state.

(4) If expenditures are required as a result of a release or threatened release, the department, the attorney general on behalf of the department, the department of natural resources, and the authority shall seek to obtain funds from a responsible party including a surety bond, secured trust fund, or other instrument, mechanism, fund, or liability insurance held by that party.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987;—Am. 1994, Act 435, Imd. Eff. Jan. 6, 1995.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.13741 Lawful activity not prohibited or restricted.

Sec. 13741. A municipality or county shall not prohibit or restrict a lawful activity regulated under this part.

History: Add. 1987, Act 203, Imd. Eff. Dec. 22, 1987.

Compiler's note: For transfer of powers and duties of radioactive materials program from department of health and human services to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

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PART 138
MEDICAL WASTE

333.13801 Short title.

Sec. 13801. This part shall be known and may be cited as the "medical waste regulatory act".

History: Add. 1990, Act 18, Eff. May 31, 1990.

Popular name: Act 368

333.13803 Meanings of words and phrases; general definitions and principles of construction.

Sec. 13803. (1) For purposes of this part, the words and phrases defined in sections 13805 and 13807 have the meanings ascribed to them in those sections.

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

History: Add. 1990, Act 21, Eff. June 4, 1990.

Popular name: Act 368

333.13805 Definitions; A to M.

Sec. 13805. (1) "Advisory council" means the interdepartmental medical waste advisory council created in section 13827.

(2) "Autoclave" means to sterilize using superheated steam under pressure.

(3) "Decontamination" means rendering medical waste safe for routine handling as solid waste.

(4) "Fund" means the medical waste emergency response fund created in section 13829.

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(5) "Health facility or agency" means that term as defined in section 20106.

(6) "Household" means a single detached dwelling unit or a single unit of a multiple dwelling.

(7) "Infectious agent" means a pathogen that is sufficiently virulent so that if a susceptible host is exposed to the pathogen in an adequate concentration and through a portal of entry, the result could be transmission of disease to a human.

(8) "Medical waste" means any of the following that are not generated from a household, a farm operation or other agricultural business, a home for the aged, or a home health care agency:

(a) Cultures and stocks of infectious agents and associated biologicals, including laboratory waste, biological production wastes, discarded live and attenuated vaccines, culture dishes, and related devices.

(b) Liquid human and animal waste, including blood and blood products and body fluids, but not including urine or materials stained with blood or body fluids.

(c) Pathological waste.

(d) Sharps.

(e) Contaminated wastes from animals that have been exposed to agents infectious to humans, these being primarily research animals.

History: Add. 1990, Act 21, Eff. June 4, 1990.

Popular name: Act 368

333.13807 Definitions; P to T.

Sec. 13807. (1) "Pathogen" means a microorganism that produces disease.

(2) "Pathological waste" means human organs, tissues, body parts other than teeth, products of conception, and fluids removed by trauma or during surgery, autopsy, or other medical procedure, and not fixed in formaldehyde. Pathological waste does not include a fetus or fetal body parts.

(3) "Point of generation" means the point at which medical waste leaves the producing facility site.

(4) "Producing facility" means a facility that generates, stores, decontaminates, or incinerates medical waste.

(5) "Products of conception" means any tissues or fluids, placenta, umbilical cord, or other uterine contents resulting from a pregnancy. Products of conception do not include a fetus or fetal body parts.

(6) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of medical waste into the environment in violation of this part.

(7) "Response activity" means an activity necessary to protect the public health, safety, welfare, and the environment, and includes, but is not limited to, evaluation, cleanup, removal, containment, isolation, treatment, monitoring, maintenance, replacement of water supplies, and temporary relocation of people.

(8) "Sharps" means needles, syringes, scalpels, and intravenous tubing with needles attached.

(9) "Storage" means the containment of medical waste in a manner that does not constitute disposal of the medical waste.

(10) "Transport" means the movement of medical waste from the point of generation to any intermediate point and finally to the point of treatment or disposal. Transport does not include the movement of medical waste from a health facility or agency to another health facility or agency for the purposes of testing and research.

History: Add. 1990, Act 21, Eff. June 4, 1990;—Am. 2012, Act 499, Eff. Mar. 31, 2013.

Popular name: Act 368

333.13809 Producing facility not incinerating medical waste on site; containment of medical waste.

Sec. 13809. A producing facility that does not incinerate medical waste on site shall do all of the following to contain medical waste:

(a) Package, contain, and locate medical waste in a manner that protects and prevents the medical waste from release at the producing facility or at any time before ultimate disposal.

(b) Separate the categories of medical waste at the point of origin into appropriate containers that are labelled as required under subdivision (c).

(c) Label the containers required under subdivision (b) with a biohazard symbol or the words "medical waste" or "pathological waste" in letters not less than 1 inch high.

(d) Not compact or mix medical waste with other waste materials before decontamination, incineration, and disposal.

(e) If decontaminated medical waste is mixed with other solid waste, clearly label the container to indicate that it contains decontaminated medical waste.

(f) Store medical waste in such a manner that prevents putrefaction and also prevents infectious agents

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from coming in contact with the air or with individuals.

(g) If medical waste is stored outside of the producing facility, store the medical waste in a secured area or locked in a container that weighs more than 500 pounds and prevent access to the area or container by vermin or unauthorized individuals.

(h) Except as provided under subdivision (i), not store medical waste on the premises of the producing facility for more than 90 days.

(i) Store sharps contained in a sharps container on the premises of the producing facility until the sharps container is filled to no more than 3/4 capacity but for no more than 18 months from the date the first sharps is deposited into the container.

History: Add. 1990, Act 21, Eff. June 4, 1990;—Am. 2024, Act 105, Imd. Eff. July 23, 2024.

Popular name: Act 368

333.13810 Producing facility incinerating medical waste on site; containment of medical waste.

Sec. 13810. A producing facility that incinerates medical waste on site shall do all of the following to contain medical waste:

(a) Package, contain, and locate medical waste in a manner that protects and prevents the medical waste from release at the producing facility or at any time before ultimate disposal.

(b) Separate and dispose of sharps in the manner described in section 13811(d).

(c) Label the containers required under subdivision (a) with a biohazard symbol or the words "medical waste" or "pathological waste" in letters not less than 1 inch high.

(d) Except as provided under subdivision (e), not store medical waste on the premises of the producing facility for more than 90 days.

(e) Store sharps contained in a sharps container on the premises of the producing facility until the sharps container is filled to no more than 3/4 capacity but for no more than 18 months from the date the first sharps is deposited into the container.

History: Add. 1990, Act 21, Eff. June 4, 1990;—Am. 2024, Act 105, Imd. Eff. July 23, 2024.

Popular name: Act 368

333.13811 Storage, decontamination, and disposal of medical waste.

Sec. 13811. A producing facility shall store, decontaminate, and dispose of medical waste pursuant to the following:

(a) Cultures and stocks of material contaminated with an infectious agent shall be stored in closed, puncture-resistant containers, decontaminated by autoclaving or incineration, and disposed of in a sanitary landfill.

(b) Blood and blood products and body fluids shall be disposed of by 1 or more of the following methods:

(*i*) Flushing down a sanitary sewer.

(*ii*) Decontaminating by autoclaving or incineration.

(*iii*) Solidifying.

(*iv*) If not in liquid form, transferring to a sanitary landfill.

(*v*) A process approved by the department.

(c) Pathological waste shall be disposed of by 1 or more of the following methods:

(*i*) Incineration or cremation.

(*ii*) Grinding and flushing into a sanitary sewer.

(*iii*) Burial in a cemetery, if transported in leakproof containers of sufficient integrity to prevent rupture.

(*iv*) Grinding until rendered unrecognizable, stored in closed, puncture-resistant, properly labeled containers, and, if not in liquid form, disposed of in a sanitary landfill.

(*v*) A process approved by the department.

(d) Sharps shall be disposed of by 1 of the following methods:

(*i*) Placement in rigid, puncture-resistant containers that are appropriately labeled and transported to a sanitary landfill in a manner that retains the integrity of the container.

(*ii*) Incineration or decontamination and grinding that renders the objects unrecognizable. Ground sharps shall be placed in a sealed, rupture-resistant container and transported to a sanitary landfill.

(*iii*) A process approved by the department.

(e) Animal waste contaminated with organisms infectious to humans shall be disposed of by incineration or by burial in a sanitary landfill in properly labeled, double containers that are leakproof and puncture-resistant and are tightly sealed to prevent escape of fluids or material. Contaminated animal organs disposed of separately shall be rendered unrecognizable.

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History: Add. 1990, Act 21, Eff. June 4, 1990.

Popular name: Act 368

333.13813 Producing facility; registration; form; medical waste management plan required; registration fee; certificate of registration; investigation of complaint; inspection of facility; disposition of fees.

Sec. 13813. (1) Each producing facility shall register with the department on a form prescribed by the department. A producing facility shall have a written medical waste management plan that contains information required in section 13817 on file on the premises within 90 days after registration.

(2) A producing facility shall submit the following registration fee with the registration form:

(a) For a producing facility that is a private practice office with fewer than 4 licensees under article 15 who are physicians, dentists, podiatrists, certified nurse practitioners, certified nurse midwives, or veterinarians employed by, under contract to, or working at the producing facility, a registration fee of $50.00.

(b) For a producing facility that is a private practice office with 4 or more licensees under article 15 who are physicians, dentists, podiatrists, certified nurse practitioners, certified nurse midwives, or veterinarians employed by, under contract to, or working at the producing facility, a registration fee of $20.00 for each licensee, up to a maximum total registration fee of $80.00.

(3) Upon receipt of a complete registration form and registration fee under this section or section 13815, the department shall issue a certificate of registration to the producing facility. A certificate of registration issued under this section is valid for 3 years from its date of issuance. The department shall investigate each complaint received and may inspect a producing facility registered under this section pursuant to the receipt of a complaint.

(4) Registration fees collected pursuant to this section and section 13815 shall be forwarded to the state treasury and deposited pursuant to section 13829.

History: Add. 1990, Act 18, Eff. May 31, 1990.

Popular name: Act 368

333.13815 Registration fee.

Sec. 13815. A producing facility shall submit the following registration fee with the registration form required under section 13813:

(a) For a producing facility that is a health facility or agency other than a hospital described in subdivision (b) and for a producing facility that is not a health facility or agency, a registration fee of $75.00.

(b) For a producing facility that is a health facility or agency that is a hospital with 150 or more licensed beds or a clinical laboratory, a registration fee of $150.00.

History: Add. 1990, Act 21, Eff. June 4, 1990.

Popular name: Act 368

333.13817 Medical waste management plan; contents; compliance; update; availability.

Sec. 13817. (1) The medical waste management plan required in section 13813 shall contain information relating to the handling of all medical waste generated, stored, decontaminated, or incinerated at each producing facility or transported from the producing facility for handling by another facility for storage, decontamination, incineration, or for disposal in a sanitary landfill, cemetery, or other disposal site. A professional corporation may identify and prepare a common medical waste management plan for all producing facilities owned and operated by the corporation. The medical waste management plan shall describe each of the following, to the extent the information is applicable to the producing facility:

(a) The types of medical waste handled.

(b) The segregation, packaging, labeling, and collection procedures used.

(c) The use and methods of on-site or off-site storage.

(d) The use and methods of on-site or off-site decontamination.

(e) The use of on-site or off-site incineration.

(f) The corporate or other legally recognized business name of solid waste haulers who transport medical waste for the producing facility.

(g) The use of sanitary landfills, cemeteries, and other disposal sites.

(h) The measures to minimize exposure of the facility's employees to infectious agents throughout the process of handling and disposing of the medical waste, including, where applicable, the use of protocols, procedures and training, personal protective devices and clothing, physical containment or isolation devices or systems, and prevention or control of aerosols.

(i) The name of the individual responsible for the management of the medical waste.

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(2) A medical waste management plan shall comply with the requirements of this act.

(3) A producing facility shall update a medical waste management plan each time there is a change in either of the following, within 30 days after the change occurs:

(a) A person or site named in the plan.

(b) The types of medical waste handled or the methods of handling medical waste at the facility.

(4) Upon request, a producing facility shall make its medical waste management plan available to the department pursuant to a routine or unannounced inspection or the investigation of a complaint.

(5) Upon receipt of 24 hours' advance notice, a producing facility shall make its medical waste management plan available to an employee of the producing facility for inspection on the premises or provide a copy of the medical waste management plan to the employee.

(6) A producing facility shall comply with its medical waste management plan.

History: Add. 1990, Act 18, Eff. May 31, 1990.

Popular name: Act 368

333.13819 Medical waste management plan; modification; warning.

Sec. 13819. (1) Upon review of a medical waste management plan under section 13817(4), the department may require a producing facility to modify the medical waste management plan at any time the department determines the plan is not adequate to protect the public health or is inconsistent with state or federal law. Upon determining that the plan is inadequate or inconsistent under this section, the department shall notify the producing facility in writing of its determination and the specific modifications necessary for compliance. The producing facility shall modify the plan within 10 days after receipt of the notice from the department.

(2) The department may issue a warning to a producing facility that fails to modify a plan within the 10-day period.

History: Add. 1990, Act 18, Eff. May 31, 1990.

Popular name: Act 368

333.13821 Manner of packaging medical waste.

Sec. 13821. A producing facility that transports medical waste off the premises of the producing facility shall package the medical waste in the following manner:

(a) Sharps that are not ground or incinerated as described in section 13811(d) shall be contained for disposal in individual leakproof, rigid, puncture-resistant containers that are secured to preclude loss of the contents. In addition, a container used to store or transport a number of individual sharps containers shall be leakproof. These containers shall be conspicuously labeled with the word "sharps". Sharps that are contained pursuant to this subdivision may be disposed of as solid waste pursuant to part 115 (solid waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11501 to 324.11549 of the Michigan Compiled Laws. However, sharps shall not be compacted or handled during transport in a manner that will result in breakage of a sharps container.

(b) Medical waste other than sharps shall be contained in bags other than body pouches or other containers that are impervious to moisture and have a strength sufficient to resist ripping, tearing, breaking, or bursting under normal conditions of usage or handling. The bags or containers shall be secured so as to prevent leakage during storage, handling, or transport.

History: Add. 1990, Act 18, Eff. May 31, 1990;—Am. 1996, Act 67, Imd. Eff. Feb. 26, 1996.

Popular name: Act 368

333.13823 Investigation and confirmation of reported medical waste on land or water; report; protective measures; consultations; information on results of investigation.

Sec. 13823. (1) If suspected medical waste is discovered on any land or water in the state and reported to the department of natural resources, the department of public health, a local health department, the department of state police, or any other state or local governmental agency, the agency or department receiving the report shall promptly investigate to confirm the existence of medical waste. If the existence of medical waste is confirmed by a department or agency other than the department of natural resources, a report shall be transmitted immediately to the department of natural resources. The department of natural resources may if appropriate take measures to contain the medical waste, to close off the area, to remove the medical waste from the environment, and to do all things necessary to protect the public health, safety, and welfare and the environment. The department of natural resources may if appropriate conduct an investigation to determine the source of the medical waste.

(2) The department of natural resources may consult with the department of public health, the appropriate local health department, the department of state police, and the department of attorney general on the actions

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taken by the department of natural resources under this section.

(3) After the department of natural resources confirms the existence of medical waste under this section, the department of natural resources shall inform the legislature, the governor, the advisory council, and the public on the results of any investigation conducted within 30 days after the investigation is completed.

History: Add. 1990, Act 18, Eff. May 31, 1990.

Popular name: Act 368

333.13825 Investigation and confirmation of violation; report; corrective and protective measures; consultations; assistance; information on results of investigation.

Sec. 13825. (1) If there is a suspected violation of this part on the premises of a health facility or agency or on the premises of an incinerator owned and operated by a health facility or agency, the department of public health shall promptly conduct an investigation to confirm the violation. If the suspected violation is reported to the department of natural resources, a local health department, the department of state police, or any other state or local governmental agency, the report immediately shall be transmitted to the department of public health. If the investigation confirms the existence of a violation of this part, the department of public health may if appropriate take measures to correct the violation and to do all things necessary to protect the public health, safety, and welfare and the environment.

(2) The department of public health may consult with the department of natural resources, the appropriate local health department, the department of state police, and the department of attorney general on the actions taken by the department of public health under this section. If the suspected violation of this part is at an incinerator owned and operated by a health facility or agency, the department of public health immediately shall notify the department of natural resources and request the assistance of the department of natural resources in conducting the investigation.

(3) If the department of public health confirms the existence of a violation under this section, the department of public health shall inform the legislature, the governor, the advisory council, and the public on the results of the investigation conducted within 30 days after the investigation is completed.

History: Add. 1990, Act 18, Eff. May 31, 1990.

Popular name: Act 368

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333.13827 Interdepartmental medical waste advisory council; creation; appointment and qualifications of members; chairperson; duties of advisory council.

Sec. 13827. (1) The interdepartmental medical waste advisory council is created in the department. The council shall consist of the following members appointed as follows:

(a) One individual appointed by the director of public health representing the department.

(b) One individual appointed by the director of the department of natural resources representing the department of natural resources.

(c) One individual appointed by the director of the department of state police representing the department of state police.

(d) One individual appointed by the director of commerce representing the department of commerce, who has knowledge of tourism in the state.

(e) One individual appointed by the attorney general representing the department of the attorney general.

(2) The representative of the department shall serve as chairperson.

(3) The advisory council shall do all of the following:

(a) Collect data pertaining to medical waste reports and investigations under this part.

(b) Annually report to the governor, the standing committees in the senate and house of representatives with jurisdiction over public health matters, the department of public health, and the department of natural resources on all of the following:

(*i*) The number of medical waste reports received and investigations conducted under this part.

(*ii*) The implementation and effectiveness of this part.

(*iii*) Changes in the overall regulatory scheme pertaining to medical waste, including, but not limited to, the enactment of pertinent federal law.

(*iv*) Recommendations, if any, that the advisory council has for changes to this part or any other state statute or rule that pertains to medical waste.

(*v*) Coordinate reports and investigations under this part between the department of public health and the department of natural resources.

History: Add. 1990, Act 18, Eff. May 31, 1990.

Popular name: Act 368

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333.13829 Medical waste emergency response fund; creation; deposits; investments; interest and earnings; no reversion to general fund; use of fund.

Sec. 13829. (1) The medical waste emergency response fund is created in the state treasury.

(2) The state treasurer shall deposit in the fund all money received pursuant to this act and all money received by the fund as otherwise provided by law.

(3) The state treasurer shall direct the investment of the fund. Interest and earnings of the fund shall be credited to the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(4) Not more than 80% of the total amount in the fund shall be used by the department of public health for administrative expenses related to the implementation of this part, and the balance may be used by the department of natural resources for response activities necessitated by the release of medical waste into the environment.

History: Add. 1990, Act 18, Eff. May 31, 1990.

Popular name: Act 368

333.13830 Rules to prescribe training standards.

Sec. 13830. (1) The department shall promulgate rules to prescribe training standards for both medical and nonmedical personnel who handle medical waste in producing facilities.

(2) Each producing facility shall train its personnel who handle medical waste pursuant to the rules promulgated under subsection (1).

History: Add. 1990, Act 18, Eff. May 31, 1990.

Popular name: Act 368

Administrative rules: R 325.1541 et seq. of the Michigan Administrative Code.

333.13831 Violation; administrative fine; failure to register or have plan available for inspection; injunction.

Sec. 13831. (1) Except as provided in subsection (2), a person who violates this part or a rule promulgated under this part is subject to an administrative fine of not more than $2,500.00 for each violation and an additional fine of not more than $1,000.00 for each day during which the violation continues. For a first offense, the department of public health or the department of natural resources may postpone the levying of a fine under this subsection for not more than 45 days or until the violation is corrected, whichever occurs first.

(2) A person who fails to register with the department or have a medical waste management plan available for inspection in compliance with sections 13813 and 13817 is subject to an administrative fine of $500.00.

(3) A person who violates this act may be enjoined by a court of competent jurisdiction from continuing the violation.

History: Add. 1990, Act 18, Eff. May 31, 1990.

Popular name: Act 368

333.13832 Part subject to MCL 324.1401 to 324.1429.

Sec. 13832. This part is subject to part 14 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1401 to 324.1429.

History: Add. 2012, Act 556, Imd. Eff. Jan. 2, 2013.

ARTICLE 15
OCCUPATIONS

PART 161
GENERAL PROVISIONS

333.16101 Meanings of words and phrases; general definitions and principles of construction.

Sec. 16101. (1) For purposes of this article, the words and phrases defined in sections 16103 to 16109a have the meanings ascribed to them in those sections unless the context requires a different meaning.

(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. 2021, Act 167, Imd. Eff. Dec. 27, 2021.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department

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of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For transfer of rule-making authority of occupational and health occupation boards and related task forces from the department of commerce to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

For transfer of powers and duties of the bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 368

333.16103 Definitions; A to C.

Sec. 16103. (1) "Armed forces" means the United States Army, Air Force, Navy, Marine Corps, Space Force, or Coast Guard or other military force designated by Congress as part of the Armed Forces of the United States, including the reserve components.

(2) "Board" as used in this part means each board created in this article and as used in any other part covering a specific health profession means the board created in that part.

(3) "Certificate of licensure" means a document issued as evidence of authorization to practice and use a designated title.

(4) "Certificate of registration" means a document issued as evidence of authorization to use a designated title.

(5) "Controlled substance" means that term as defined in section 7104.

(6) "Conviction" means a judgment entered by a court on a plea of guilty, guilty but mentally ill, or nolo contendere or on a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2021, Act 25, Eff. Sept. 7, 2021.

Popular name: Act 368

333.16103a “Committee” defined.

Sec. 16103a. "Committee" means the health professional recovery committee created in section 16165.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16104 Definitions; D to G.

Sec. 16104. (1) "DEA registration number" means the number associated with a certificate of registration issued to a practitioner to prescribe, dispense, or administer controlled substances by the United States Department of Justice Drug Enforcement Administration.

(2) "Delegation" means an authorization granted by a licensee to a licensed or unlicensed individual to perform selected acts, tasks, or functions that fall within the scope of practice of the delegator and that are not within the scope of practice of the delegatee and that, in the absence of the authorization, would constitute illegal practice of a licensed profession.

(3) "Department" means the department of licensing and regulatory affairs.

(4) "Director" means the director of the department or the director's designee.

(5) "Disciplinary subcommittee" means a disciplinary subcommittee appointed under section 16216.

(6) "Good moral character" means good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2020, Act 371, Eff. Apr. 4, 2021.

Popular name: Act 368

333.16105 Definitions; H.

Sec. 16105. (1) "Health occupation" means a health related vocation, calling, occupation, or employment performed by an individual whether or not the individual is licensed or registered under this article.

(2) "Health profession" means a vocation, calling, occupation, or employment performed by an individual acting pursuant to a license or registration issued under this article.

(3) "Health profession specialty field" means an area of practice established under this article that is within the scope of activities, functions, and duties of a licensed health profession and that requires advanced education and training beyond that required for initial licensure.

(4) "Health profession specialty field license" means an authorization to use a title issued to a licensee who has met qualifications established by the Michigan board of dentistry for registration in a health profession specialty field. An individual who holds a dental specialty certification on the effective date of the amendatory act that added this subsection is considered to hold a health profession specialty field license in

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that speciality and may obtain renewal of the health profession specialty field license in that speciality on the expiration date of the specialty certification. The health profession specialty field license is not a license as that term is defined in section 16106(2).

(5) "Health profession subfield" means an area of practice established under this article which is within the scope of the activities, functions, and duties of a licensed health profession, and requires less comprehensive knowledge and skill than is required to practice the full scope of the health profession.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.16105a "Health professional recovery program" defined.

Sec. 16105a. "Health professional recovery program" or "program" means a nondisciplinary, treatment-oriented program for impaired health professionals established under section 16167.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16106 Definitions; I to L.

Sec. 16106. (1) "Incompetence" means a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for a health profession, whether or not actual injury to an individual occurs.

(2) "License", except as otherwise provided in this subsection and section 17708(2), means an authorization issued under this article to practice where practice would otherwise be unlawful. License includes an authorization to use a designated title which use would otherwise be prohibited under this article and may be used to refer to a health profession subfield license, limited license, or a temporary license. License does not include a health profession specialty field license.

(3) "Licensee", as used in a part that regulates a specific health profession, means an individual to whom a license is issued under that part, and as used in this part means each licensee regulated by this article.

(4) "Limitation" means an action by which a board imposes restrictions or conditions, or both, on a license.

(5) "Limited license" means a license to which restrictions or conditions, or both, as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client served are imposed by a board.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1997, Act 153, Eff. Mar. 31, 1998;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2022, Act 80, Eff. Mar. 29, 2023.

Popular name: Act 368

333.16106a Definitions.

Sec. 16106a. "Impaired" or "impairment" means the inability or immediately impending inability of a health professional to practice his or her health profession in a manner that conforms to the minimum standards of acceptable and prevailing practice for that health profession due to the health professional's substance abuse, chemical dependency, or mental illness or the health professional's use of drugs or alcohol that does not constitute substance abuse or chemical dependency. As used in this section:

(a) "Chemical dependency" means a group of cognitive, behavioral, and physiological symptoms that indicate that an individual has a substantial lack of or no control over the individual's use of 1 or more psychoactive substances.

(b) "Mental illness" means that term as defined in section 400 of the mental health code, 1974 PA 258, MCL 330.1400.

(c) "Substance abuse" means substance use disorder as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2012, Act 501, Eff. Jan. 1, 2013.

Popular name: Act 368

333.16107 Definitions; P.

Sec. 16107. (1) "Permanent revocation" means the permanent cancellation or withdrawal of a license, registration, or authorization to engage in the practice of a health profession under this article that is issued by the department, board, or task force.

(2) "Probation" means a sanction that permits a board to evaluate over a period of time a licensee's or registrant's fitness to continue to practice under a license or registration.

(3) "Public member" means a member of the general public who is not a licensee or registrant, is a resident of this state, is not less than 18 years of age, and does not have a material financial interest in the provision of health services and has not had a material financial interest within the 12 months before appointment.

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2014, Act 410, Eff. Mar. 30, 2015.

Popular name: Act 368

333.16108 Definitions; R.

Sec. 16108. (1) "Reclassification" means an action by a disciplinary subcommittee by which restrictions or conditions, or both, applicable to a license are added or removed.

(2) "Registration" means an authorization only for the use of a designated title which use would otherwise be prohibited under this article. Registration includes specialty certification of a licensee and a health profession specialty field license.

(3) "Registrant" as used in a part that regulates the use of a title means an individual to whom a registration, a specialty certification, or a health profession specialty field license is issued under that part, and as used in this part means each registrant regulated by this article.

(4) "Reinstatement" means the granting of a license or certificate of registration, with or without limitations or conditions, to an individual whose license or certificate of registration has been suspended or revoked.

(5) "Relicensure" means the granting of a license to an individual whose license has lapsed for failure to renew the license within 60 days after the expiration date.

(6) "Reregistration" means the granting of a certificate of registration to an individual whose certificate of registration has lapsed for failure to renew the certificate within 60 days after the expiration date.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.16109 Definitions; S to U.

Sec. 16109. (1) "Specialty certification" means an authorization to use a title by a licensee who has met qualifications established by a board for registration in a health profession specialty field.

(2) "Supervision", except as otherwise provided in this article, means the overseeing of or participation in the work of another individual by a health professional licensed under this article in circumstances where at least all of the following conditions exist:

(a) The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional.

(b) The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual's functions.

(c) The provision by the licensed supervising health professional of predetermined procedures and drug protocol.

(3) "Task force" means a task force created by this article.

(4) "Temporary license" means a license of limited duration granted to an applicant who has completed all requirements for licensure except an examination or other required evaluation procedure.

(5) "Uniformed services" means the Commissioned Corps of the United States Public Health Service and the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1991, Act 58, Imd. Eff. June 27, 1991;—Am. 2021, Act 25, Eff. Sept. 7, 2021.

Popular name: Act 368

333.16109a “Treatment” or “treatment plan” defined.

Sec. 16109a. "Treatment" or "treatment plan" means a plan of care and rehabilitation services provided to impaired licensees, registrants, and applicants.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16111 Applicability of part; part controlling over other parts in article; effect of part on other licenses and registrants.

Sec. 16111. (1) This part applies to health professions, but, except for sections 16201, 16261, 16299, 16301, 16303, 16305, and 16307, does not apply to any of the following regulated under part 177:

(a) A pharmacy.

(b) A dispensing prescriber.

(c) A drug manufacturer.

(d) A wholesale distributor.

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(e) A wholesale distributor-broker.

(2) Except as otherwise provided by this article, this part controls over all other parts in this article.

(3) A part in this article does not prohibit a licensee under another part or other law of this state from performing activities and using designated titles authorized by a license issued to him or her under that other part or other law of this state.

(4) A part in this article does not prohibit a registrant under another part or other state law from using designated titles authorized by a registration issued to him or her under that other part or other state law.

(5) This article does not prohibit a licensee from advising a patient to seek professional services or advice from another person.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006;—Am. 2020, Act 142, Imd. Eff. July 14, 2020.

Popular name: Act 368

333.16113 Repealed. 2020, Act 245, Eff. June 30, 2021.

Compiler's note: The repealed section pertained to the administration of COVID-19 testing.

Popular name: Act 368

333.16115 Board created as successor to former board with same or similar name.

Sec. 16115. A board created by this article is the successor to the board with the same or similar name created or continued by a statute repealed by this code.

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

Popular name: Act 368

333.16121 Board or task force; appointment of members; vacancy; nominations; removal or suspension of member.

Sec. 16121. (1) The governor shall appoint by and with the advice and consent of the senate the members of the boards and task forces except ex officio members.

(2) A vacancy on a board or task force shall be filled for the balance of the unexpired term in the same manner as the original appointment. An appointment for a vacancy shall be submitted to the senate not later than 60 days after the vacancy occurs.

(3) The governor shall seek nominations from a wide range of sources including professional associations, educational institutions, consumer organizations, labor unions, health planning agencies, and other community health organizations when making appointments under this article.

(4) The governor may remove or suspend a board or task force member from office in accordance with section 10 of article 5 of the state constitution of 1963.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16122 Board or task force; terms.

Sec. 16122. Except as otherwise provided in this article, the term of office of members of a board or task force is 4 years, commencing on the day after the date prescribed in each respective part and terminating on the prescribed date. A member shall not serve more than 2 terms and 1 partial term, consecutive or otherwise, including service on a predecessor council, board, or task force. However, a member serving when this section takes effect may complete the term to which the member was appointed.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.16123 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's note: The repealed section pertained to membership of council.

Popular name: Act 368

333.16125 Licensing board; membership.

Sec. 16125. A licensing board shall be composed of a majority of members licensed in the health profession which that board licenses. The board shall include at least 1 public member. The director shall be an ex officio member without vote, but is not a member for the purposes of section 5 of article 5 of the state constitution of 1963 or for determining a quorum. If a licensed health profession subfield is created by this article, the board shall include at least 1 licensee from each subfield. If a health profession subfield task force is created by this article, 1 licensee from each subfield so appointed to the board shall also be appointed as a

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member of the health profession subfield task force. If a certified health profession specialty field task force is created by this article, 1 member of the board holding a license other than a health profession subfield license shall also be appointed to the specialty field task force.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1989, Act 202, Imd. Eff. Oct. 23, 1989.

Popular name: Act 368

333.16126 Registration board; membership.

Sec. 16126. A registration board shall be composed of a majority of members registered in the profession which that board registers. The board shall include at least 1 public member. The director shall be an ex officio member without vote, but is not a member for the purposes of section 5 of article 5 of the state constitution of 1963 or for determining a quorum.

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

Popular name: Act 368

333.16128 Health profession subfield task force and health profession specialty field task force; membership.

Sec. 16128. (1) A health profession subfield task force shall be composed of a majority of members licensed in the subfields of the health profession that are created by this article and shall include at least 1 licensed member from each of the subfields of the health profession that is created by this article. A health profession subfield task force shall include at least 1 public member and 1 member of that profession who holds a license other than a subfield license in that health profession.

(2) A health profession specialty field task force shall be composed of a majority of members registered in the specialty fields of the health profession that are created by this article. A health profession specialty field task force shall include at least 1 public member and 1 member of that health profession who is a member of the board.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.16131 Repealed. 2006, Act 392, Imd. Eff. Sept. 27, 2006

Compiler's note: The repealed section pertained to terms of office of members of boards and task forces.

Popular name: Act 368

333.16132 Expired. 1978, Act 368, Eff. Sept. 30, 1983.

Compiler's note: The expired section pertained to the extension of certain terms of board members.

Popular name: Act 368

333.16134 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's note: The repealed section pertained to appointment of health profession subfield licenses.

Popular name: Act 368

333.16135 Board, committee, or task force; qualifications of members.

Sec. 16135. (1) Except as otherwise provided in subsection (2), a member of a board, the committee, or a task force created by this article must meet all of the following requirements:

(a) Be 18 or more years of age.

(b) Be of good moral character.

(c) Be a resident of this state for not less than the 6 months immediately preceding appointment and remain a resident of this state throughout the term of the appointment.

(d) Be currently licensed or registered in this state if licensure or registration in a health profession is a requirement for membership. The member must have actively practiced that profession or taught in an approved educational institution that prepares applicants for licensure or registration in that profession, or a combination of both, in any state for not less than the 2 years immediately preceding appointment.

(e) Not be a spouse, parent, child, or sibling of another member of the board, committee, or task force and meet this requirement throughout the term of the appointment.

(f) Not provide supervision over or be under the supervision of another member of the board, committee, or task force and meet this requirement throughout the term of the appointment.

(2) Subject to subsection (3), the governor may appoint as a member of a board who is required to be licensed or registered under subsection (1)(d) an individual who meets either or both of the following requirements:

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(a) Is certified or otherwise approved by a national organization that certifies or otherwise approves individuals in the profession to be licensed or registered by the board.

(b) Has actively practiced the profession licensed or registered by the board or taught in an educational institution that prepares applicants for licensure or registration in that profession, or a combination of both, for not less than the 2 years immediately preceding his or her appointment.

(3) An individual appointed under subsection (2) must be licensed or registered under this article in the profession licensed or registered by that board within 3 years after the effective date of the amendatory act that created the board.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 421, Eff. Mar. 30, 1989;—Am. 1988, Act 473, Imd. Eff. Dec. 28, 1988;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16137 Board, committee, or task force; compensation and expenses of members.

Sec. 16137. The legislature annually shall fix the per diem compensation of the members of the council, the committee, the boards, and the task forces. Expenses of members incurred in the performance of official duties shall be reimbursed as provided in section 1216.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16138 Board, committee, or task force; meetings; quorum; final action; voting by proxy prohibited; times and places of meetings; minutes; record of actions; meetings open to public.

Sec. 16138. (1) A board, the committee, or a task force shall hold regular meetings at places and on separate dates fixed by it. The committee shall meet not less than quarterly. Special meetings may be called by the chairperson, by a majority of the members of the committee, a board, or a task force, or by the department. Except as otherwise provided in this article or in the bylaws of the committee, a board, or a task force, a majority of the members appointed and serving constitute a quorum. Final action by the committee, a board, or a task force shall be taken only by affirmative vote of a majority of the members present at a meeting or for a hearing. A member shall not vote by proxy.

(2) The department shall make available the times and places of meetings of the boards and the task forces and keep minutes of their meetings and a record of their actions. Meetings of a board, or a task force shall be open to the public in accordance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16139 Board or task force; election of chairperson or vice-chairperson; selection and terms of officers; vacancy; presiding officer.

Sec. 16139. A board or a task force shall elect annually a chairperson and vice-chairperson at the first meeting held after the date set forth in each respective part. The committee shall elect annually a chairperson and vice-chairperson at the first meeting of each calendar year. The officers shall be selected from board, committee, or task force members and shall hold office for 1 year or until their successors are elected and qualified. The committee, a board, or a task force may fill a vacancy in the office of chairperson or vice-chairperson for the balance of the unexpired term. The chairperson shall preside at meetings, and if absent or unable to preside, the vice-chairperson shall preside.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16141 Committee, board, or task force; office services; offices, records, and money; managerial and administrative functions; administrative and secretarial staff, clerks, and employees; salaries and expenses; rules.

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Sec. 16141. (1) The department shall furnish office services to the committee, the boards, and the task forces; have charge of their offices, records, and money collected; and perform managerial and administrative functions for them.

(2) The department shall appoint administrative and secretarial staff, clerks, and employees necessary to allow the proper exercise of the powers and duties of the committee, a board, or a task force. Salaries and other expenses incurred by the committee, a board, or a task force and staff and expenses for studies and activities authorized under this article must be paid out of funds appropriated by the legislature for those purposes.

(3) The department may promulgate rules to promote the effective and consistent administration of this article. However, except as provided in a specific part of this article, the department shall not promulgate rules that constitute the licensure, registration, or examination of health professionals.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2024, Act 39, Eff. Apr. 2, 2025.

Popular name: Act 368

Administrative rules: R 338.951 et seq. of the Michigan Administrative Code.

333.16143 Committee, board, or task force; bylaws; annual report; actions and determinations; contracts for assistance.

Sec. 16143. (1) The committee, a board, or a task force may adopt bylaws for the regulation of its internal affairs.

(2) The committee, a disciplinary subcommittee, a board, or a task force shall report its activities annually to the department. The report shall include statistical data on applicants for examination, licensure, and registration; allegations and disciplinary actions against licensees and registrants; and other matters relating to the licensure, registration, and regulatory activity of the boards or a task force as prescribed by the department.

(3) The committee, a disciplinary subcommittee, a board, or a task force may perform acts and make determinations necessary and proper to carry out its functions and the department may contract with other state agencies, private agencies, organizations, and consultants to assist the committee, disciplinary subcommittee, board, or task force to perform the acts or to aid in carrying out functions of the committee, board, or task force.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16145 Board or task force; official seal; rules.

Sec. 16145. (1) A board may adopt and have an official seal.

(2) A board or task force may promulgate rules necessary or appropriate to fulfill its functions under this article.

(3) Except as provided in a specific part of this article, only a board or task force shall promulgate rules to specify requirements for licenses, registrations, renewals, examinations, and required passing scores.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2024, Act 39, Eff. Apr. 2, 2025.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

Administrative rules: R 325.321 et seq.; R 338.91 et seq.; R 338.101 et seq.; R 338.121; R 338.241; R 338.251 et seq.; R 338.281; R 338.291; R 338.311 et seq.; R 338.471 et seq.; R 338.1161; R 338.1201 et seq.; R 338.2301 et seq.; R 338.2501 et seq.; R 338.3001 et seq.; R 338.3031; R 338.3101 et seq.; R 338.3601 et seq.; R 338.3701 et seq.; R 338.3821; R 338.3901 et seq.; R 338.3921; R 338.4101 et seq.; R 338.4601; R 338.4901 et seq.; R 338.4971 et seq.; R 338.7101 et seq.; R 338.7201 et seq.; R 338.10101 et seq.; R 338.11101 et seq.; R 338.12001 et seq.; and R 340.801 et seq. of the Michigan Administrative Code.

333.16146 Board; granting license or registration.

Sec. 16146. (1) A board shall grant a license or registration to an applicant meeting the requirements for the license or registration as prescribed in this article and the rules promulgated under this article.

(2) A board which grants licenses may:

(a) Certify licensees in those health profession specialty fields within its scope of practice which are established in this article.

(b) Reclassify licenses on the basis of a determination that the addition or removal of conditions or restrictions is appropriate.

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(c) Upon good cause, request that a licensee or registrant have a criminal history check conducted in accordance with section 16174(3).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 2006, Act 26, Imd. Eff. Feb. 17, 2006.

Popular name: Act 368

333.16147 Department or board; order, rule, or other method requiring a national or regional certification as condition for licensure or renewal; prohibit.

Sec. 16147. Notwithstanding any provision of this act to the contrary, the department or the board of medicine or board of osteopathic medicine and surgery shall not by order, rule, or other method require a physician applicant or licensee under its jurisdiction to maintain a national or regional certification that is not otherwise specifically required in this article before it issues a license or license renewal to that physician applicant or licensee under this article.

History: Add. 2018, Act 486, Imd. Eff. Dec. 27, 2018.

Popular name: Act 368

333.16148 Rules; establishing standards for education and training for practice of health profession; training standards for identifying victims of human trafficking; accreditation of training programs; requirements for action or decision; voting; applicability of R 338.10305 to certain members of nursing faculties.

Sec. 16148. (1) Except as otherwise provided in this section or section 17060, the department, in consultation with a board, may promulgate rules to establish standards for the education and training of individuals to be licensed or registered, or whose licenses or registrations are to be renewed, for the purposes of determining whether graduates of a training program have the knowledge and skills requisite for practice of a health profession or use of a title. By 2 years after the effective date of the amendatory act that added this sentence, the department shall promulgate rules to include training standards for identifying victims of human trafficking required for individuals licensed or registered under this article, except those licensed under part 188 or subject to section 17060. The training standards for identifying victims of human trafficking shall apply for a license or registration renewal beginning with the first renewal cycle after the rules are promulgated and for an initial license or registration issued 5 or more years after the rules are promulgated.

(2) Except as otherwise provided in section 17060 and subject to subsections (6) and (7), only a board may accredit training programs in hospitals, schools, colleges, universities, and institutions offering training programs meeting educational standards and may deny or withdraw accreditation of training programs for failure to meet established standards. The board shall give a hospital, school, college, university, or institution that has its program accreditation withdrawn an opportunity for a hearing.

(3) The board shall take action or make a decision under subsection (1) or (2) relating to a specific health profession subfield only after consultation with the task force in the affected health profession subfield and with at least 1 of the affected health profession subfield board members present.

(4) A member of a licensing board from the health profession subfield shall vote as an equal member in all matters except those issues designated in subsections (1) and (2) that are outside the health profession subfield.

(5) A decision of a board on standards for the education and training of individuals or the accreditation of a training program under subsection (1) or (2) must be concurred in by a majority of the board members who are not health profession subfield licensees if the decision relates solely to licenses that are not health profession subfield licenses.

(6) The requirement of subsection (2)(b)(*iii*) of R 338.10305 of the Michigan administrative code, that each member of the nursing faculty in a program of nursing education for registered nurses who provides instruction in the clinical laboratory or cooperating agencies hold a baccalaureate degree in nursing science does not apply to a member of the nursing faculty described in this subsection who meets both of the following requirements:

(a) Was employed by or under contract to a program of nursing education on or before September 1, 1989.

(b) Is employed by or under contract to a program of nursing education on June 29, 1995.

(7) The requirement of subsection (2)(c)(*ii*) of R 338.10305 of the Michigan administrative code, that each member of the nursing faculty in a program of nursing education for licensed practical nurses hold a baccalaureate degree in nursing science does not apply to a member of the nursing faculty described in this subsection who meets both of the following requirements:

(a) Was employed by or under contract to a program of nursing education on or before September 1, 1989.

(b) Is employed by or under contract to a program of nursing education on June 29, 1995.

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1995, Act 115, Imd. Eff. June 29, 1995;—Am. 2014, Act 343, Eff. Jan. 14, 2015.

Compiler's note: In subsections (6) and (7), the references to "subsection" evidently should read "subrule."

Popular name: Act 368

Administrative rules: R 325.321 et seq.; R 338.91 et seq.; R 338.101 et seq.; R 338.251 et seq.; R 338.281; R 338.291; R 338.311 et seq.; R 338.471a et seq.; R 338.1201 et seq.; R 338.3031; R 338.3701 et seq.; R 338.4101 et seq.; and R 340.801 et seq. of the Michigan Administrative Code.

333.16151-333.16156 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's note: The repealed sections pertained to creation, duties, and powers of health occupations council, and recommended licensure or registration.

Popular name: Act 368

333.16158 Repealed. 1986, Act 77, Imd. Eff. Apr. 7, 1986.

Compiler's note: The repealed section pertained to studies and recommendations of health occupations council.

Popular name: Act 368

333.16161 Health profession subfield task force and health profession specialty field task force; function.

Sec. 16161. (1) If a health profession subfield task force is created for a health profession, that task force shall serve as the task force for all health profession subfields within the scope of practice of the health profession and shall function as set forth in this part.

(2) If a health profession specialty field task force is created for a health profession, that task force shall serve as the task force for all health profession specialty fields within the scope of practice of the health profession and shall function as set forth in this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1989, Act 202, Imd. Eff. Oct. 23, 1989.

Popular name: Act 368

333.16163 Task force; recommendations to board.

Sec. 16163. A task force shall recommend to the board as to:

(a) Determination of standards of education, training, and experience required for practice in a health profession subfield or for registration in a health profession specialty field, and where appropriate, guidelines for approval of educational programs for the health profession subfield or health profession specialty field.

(b) Qualifications required of applicants for licensure in health profession subfields or for registration in health profession specialty fields.

(c) Evaluation of qualifications for initial and continuing licensure of practitioners in health profession subfields or health profession specialty fields. The evaluation may cover assessment of educational credentials, work experience and related training, and administration of tests and examinations.

(d) Guidelines for utilization of, and standards of practice for, licensees in health profession subfields or registrants in health profession specialty fields.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.16165 Health professional recovery committee; creation; appointment of members; ex officio member; qualifications.

Sec. 16165. (1) The health professional recovery committee is created in the department and shall consist of the following voting members, appointed as follows:

(a) Subject to subsection (4), each board created under this article and the physician's assistants task force, in consultation with the appropriate professional associations, shall appoint 1 health professional member.

(b) The director shall appoint 2 public members, 1 of whom has specialized training or experience, or both, in treatment of individuals with addictive behavior.

(2) The director shall serve as an ex officio member of the committee without vote.

(3) The director and the boards and the physician's assistants task force shall not appoint as a member of the committee an individual who is at the time of appointment a member of a board or task force.

(4) The members appointed by the boards and the physician's assistants task force under subsection (1)(a) shall have education, training, and clinical expertise in the treatment of individuals with addictive behavior or mental illness, or both.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

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333.16166 Committee; term; vacancy.

Sec. 16166. The term of office of an appointed member of the committee is 2 years, commencing on January 1 and terminating on December 31. An appointed member shall not serve more than 2 terms and 1 partial term, consecutive or otherwise. A board or the physician's assistants task force or the director shall fill a vacancy for the balance of the unexpired term in the same manner as the original appointment.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16167 Committee; duties.

Sec. 16167. The committee shall do all of the following:

(a) Establish the general components of the health professional recovery program and a mechanism for monitoring health professionals who may be impaired.

(b) Subject to sections 16169 and 16170 and in conjunction with the health professional recovery program consultants described in section 16168, develop and implement criteria for the identification, assessment, and treatment of health professionals who may be impaired.

(c) In conjunction with the health professional recovery program consultants described in section 16168, develop and implement mechanisms for the evaluation of continuing care or aftercare plans for health professionals who may be impaired.

(d) Develop a mechanism and criteria for the referral of a health professional who may be impaired to a professional association when appropriate for the purpose of providing assistance to the health professional. In developing criteria under this subdivision, the committee shall require that a referral be made only with the consent of the health professional.

(e) Annually report to each board and the physician's assistants task force created under this article on the status of the health professional recovery program. The committee shall include in the report, at a minimum, statistical information on the level of participation in the program of each health profession. The committee may include in the report recommendations for changes in the health professional recovery program and for participation by the boards and the physician's assistants task force, professional associations, substance abuse treatment and prevention programs, and other appropriate agencies.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16168 Contracts with private entities to assist with health professional recovery program; report.

Sec. 16168. (1) The department shall enter into a contract with a private entity to act as a consultant to assist the committee with the administration of the health professional recovery program including, but not limited to, the duties described in section 16167(b) and (c). The department shall require the private entity to demonstrate that it has expertise and knowledge regarding the treatment of impaired health professionals.

(2) In the contract between the department and the private entity entered into under subsection (1), the department shall require the private entity to report immediately to the department any circumstances known to the private entity that indicate that an impaired health professional may be a threat to the public health, safety, or welfare.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16169 Impairment of health professional; transmitting information; determination.

Sec. 16169. (1) If an individual employed by or under contract to the department has reasonable cause to believe that a health professional may be impaired, the individual shall transmit the information to the committee either orally or in writing. Upon receipt of the information, the committee shall request the program consultant described in section 16168 to determine whether or not the health professional may be impaired.

(2) If, based on the information received by the department under section 16168(2), the department determines that the health professional involved may be a threat to the public health, safety, or welfare and has violated this article, article 7, or article 8 or the rules promulgated under this article, article 7, or article 8, the department may proceed under sections 16211 and 16231.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

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333.16170 Acceptance into health professional recovery program; requirements; participation; false representation of completion; violation as felony.

Sec. 16170. (1) If the program consultant described in section 16168 determines under section 16169(1) that a health professional may be impaired, the committee may accept the health professional into the health professional recovery program if both of the following requirements are met:

(a) The health professional acknowledges his or her impairment.

(b) The health professional voluntarily does all of the following:

(*i*) Withdraws from or limits the scope of his or her practice, as determined necessary by the committee. To comply with this subparagraph, a health professional may request the limitation of his or her license under section 16182.

(*ii*) Agrees to participate in a treatment plan that meets the criteria developed under section 16167.

(2) If a health professional does not satisfactorily participate in the treatment plan described in subsection (1)(b)(*ii*), as determined by the committee, the committee shall report that fact to the department.

(3) A health professional participating in or who has participated in a treatment plan under the health professional recovery program or an individual treating the health professional under the treatment plan shall not falsely represent, either individually or together, that the health professional has successfully completed the treatment plan. An individual who intentionally violates this subsection is guilty of a felony.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16170a Confidentiality; destruction of records; applicability of subsection (3).

Sec. 16170a. (1) The identity of an individual submitting information to the committee or the department regarding the suspected impairment of a health professional is confidential.

(2) The identity of a health professional who participates in the health professional recovery program is confidential and is not subject to disclosure under discovery or subpoena or the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, unless the health professional fails to satisfactorily participate in and complete a treatment plan prescribed under the health professional recovery program or violates section 16170(3).

(3) If a health professional successfully participates in and completes a treatment plan prescribed under the health professional recovery program, as determined by the committee, the department shall destroy all records pertaining to the impairment of the health professional, including records pertaining to the health professional's participation in the treatment plan, upon the expiration of 5 years after the date of the committee's determination. This subsection does not apply to records pertaining to a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.16171 License for practice of health profession; exemptions.

Sec. 16171. Under the circumstances and subject to the limitations stated in each case, the following individuals are not required to have a license issued under this article for practice of a health profession in this state:

(a) A student who is in a health profession training program, that has been approved by the appropriate board, while performing the duties assigned in the course of training.

(b) An individual who is practicing a health profession in the discharge of official duties while in the military service of the United States, the United States Public Health Service, the United States Department of Agriculture, or the United States Department of Veterans Affairs. The institution in which the individual practices shall report the name and address of the individual to the appropriate board within 30 days after the date of employment.

(c) An individual who by education, training, or experience substantially meets the requirements of this article for licensure while rendering medical care in a time of disaster or to an ill or injured individual at the scene of an emergency.

(d) If the director of the department of health and human services determines that control of an epidemic is necessary to protect the public health under section 2253, an individual who is authorized to practice a health profession in another state, who would otherwise meet the requirements of this article for licensure, while rendering medical care during an epidemic-related staffing shortage to meet health professional staffing needs. As used in this subdivision, "epidemic-related staffing shortage" means a shortage of individuals who are licensed under this article during the epidemic. Epidemic-staffing shortage does not include a staffing shortage caused by a labor dispute as that term is defined in section 2 of 1939 PA 176, MCL 423.2.

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(e) An individual who provides nonmedical nursing or similar services in the care of the ill or suffering or an individual who in good faith ministers to the ill or suffering by spiritual means alone, through prayer, in the exercise of a religious freedom, and who does not hold himself or herself out to be a health professional.

(f) An individual who resides in another state or country and is authorized to practice a health profession in that state or country who, in an exceptional circumstance, is called in for consultation or treatment by a health professional in this state.

(g) An individual who resides in another state or country and is authorized to practice a health profession in that state or country, when attending meetings or conducting lectures, seminars, or demonstrations under the auspices of professional associations or training institutions in this state, if the individual does not maintain an office or designate a place to meet patients or receive calls in this state.

(h) An individual who is authorized in another country to practice a health profession and who is employed by the United States Public Health Service or the government of another country for the exclusive use of members of its merchant marine and members of its consular and diplomatic corps, while caring for those members in the performance of his or her official duties.

(i) An individual who resides adjacent to the land border between this state and an adjoining state and is authorized under the laws of that state to practice a health profession and whose practice may extend into this state, but who does not maintain an office or designate a place to meet patients or receive calls in this state.

(j) An individual who is authorized to practice a health profession in another state and who is appointed by the United States Olympic Committee to provide health services exclusively to team personnel and athletes registered to train and compete at a training site in this state approved by the United States Olympic Committee or at an event conducted under the sanction of the United States Olympic Committee. An exemption granted under this subdivision applies to the individual while he or she is performing the duties assigned in the course of the sanctioned training program or event and for the time period specified by the United States Olympic Committee.

(k) An individual who is currently authorized to practice a health profession in another state and is providing health services for an athletic team, if all of the following are met:

(*i*) The individual provides only those health services he or she would be permitted to provide if he or she were authorized under this article to engage in that health profession in this state.

(*ii*) The athletic team is from the same state that authorized the individual to practice the health profession.

(*iii*) The individual provides the health services under the terms of a written agreement with the athletic team.

(*iv*) The individual only provides the health services while the athletic team is traveling to or from or participating in a sporting event in this state and only to any of the following:

(A) A member of the athletic team.

(B) A member of the athletic team's coaching, communications, equipment, or sports medicine staff.

(C) A member of a band or cheerleading squad that is accompanying the athletic team.

(D) The athletic team's mascot.

(*v*) The individual does not provide health services at a health facility or agency, as that term is defined in section 20106, located in this state.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1985, Act 82, Imd. Eff. July 5, 1985;—Am. 2016, Act 60, Eff. June 27, 2016;—Am. 2021, Act 167, Imd. Eff. Dec. 27, 2021.

Popular name: Act 368

333.16174 License or registration; requirements; fingerprints; criminal history check; permitted acts by board or task force; sanctions; disclosure.

Sec. 16174. (1) An individual who is licensed or registered under this article shall meet all of the following requirements:

(a) Be 18 or more years of age.

(b) Be of good moral character.

(c) Have a specific education or experience in the health profession or in a health profession subfield or health profession specialty field of the health profession, or training equivalent, or both, as prescribed by this article or rules of a board necessary to promote safe and competent practice and informed consumer choice.

(d) Have a working knowledge of the English language as determined in accordance with minimum standards established for that purpose by the department.

(e) Pay the appropriate fees as prescribed in this article.

(2) In addition to the requirements of subsection (1), an applicant for licensure, registration, specialty certification, or a health profession specialty subfield license under this article shall meet all of the following requirements:

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(a) Establish that disciplinary proceedings before a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country are not pending against the applicant.

(b) Establish that if sanctions have been imposed against the applicant by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country based upon grounds that are substantially similar to those set forth in this article, article 7, or article 8 or the rules promulgated under this article, article 7, or article 8, as determined by the board or task force to which the applicant applies, the sanctions are not in force at the time of application. This subdivision does not apply to an application for licensure that the board may grant under section 17011(4) or 17511(2).

(c) File with the board or task force a written, signed consent to the release of information regarding a disciplinary investigation involving the applicant conducted by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country.

(3) Beginning October 1, 2008, an applicant for initial licensure or registration shall submit his or her fingerprints to the department of state police to have a criminal history check conducted and request that the department of state police forward his or her fingerprints to the federal bureau of investigation for a national criminal history check. The department of state police shall conduct a criminal history check and request the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant. The department of state police shall provide the department with a written report of the criminal history check if the criminal history check contains any criminal history record information. The department of state police shall forward the results of the federal bureau of investigation determination to the department within 30 days after the request is made. The department shall notify the board and the applicant in writing of the type of crime disclosed on the federal bureau of investigation determination without disclosing the details of the crime. The department of state police may charge a reasonable fee to cover the cost of conducting the criminal history check. The criminal history record information obtained under this subsection shall be used only for the purpose of evaluating an applicant's qualifications for licensure or registration for which he or she has applied. A member of the board shall not disclose the report or its contents to any person who is not directly involved in evaluating the applicant's qualifications for licensure or registration. Information obtained under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this section or for law enforcement purposes.

(4) Before granting a license, registration, specialty certification, or a health profession specialty field license to an applicant, the board or task force to which the applicant applies may do 1 of the following:

(a) Make an independent inquiry into the applicant's compliance with the requirements described in subsection (2). If subsection (2)(b) applies to an application for licensure and a licensure or registration board or task force determines under subsection (2)(b) that sanctions have been imposed and are in force at the time of application, the board or task force shall not grant a license or registration or specialty certification or health profession specialty field license to the applicant.

(b) Require the applicant to secure from a national association or federation of state professional licensing boards certification of compliance with the requirements described in subsection (2). If an application is for licensure that the board may grant under section 17011(4) or 17511(2), the applicant is not required to secure the certification of compliance with respect to the requirements described in subsection (2)(b).

(5) If, after issuing a license, registration, specialty certification, or health profession specialty field license, a board or task force or the department determines that sanctions have been imposed against the licensee or registrant by a similar licensure or registration or specialty licensure or specialty certification board as described in subsection (2)(b), the disciplinary subcommittee may impose appropriate sanctions upon the licensee or registrant. The licensee or registrant may request a show cause hearing before a hearing examiner to demonstrate why the sanctions should not be imposed.

(6) An applicant for licensure, registration, specialty certification, or a health profession specialty field license who is or has been licensed, registered, or certified in a health profession or specialty by another state or country shall disclose that fact on the application form.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 1998, Act 227, Imd. Eff. July 3, 1998;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2006, Act 26, Imd. Eff. Feb. 17, 2006;—Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006;—Am. 2012, Act 49, Imd. Eff. Mar. 13, 2012;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

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333.16174a Preliminary determination; procedure; effect.

Sec. 16174a. (1) The department shall establish a procedure that allows an individual to obtain a preliminary determination from the department concerning whether any court judgments against him or her would likely result in a denial of a license or registration for failing to meet the good moral character requirement for that license or registration.

(2) All of the following apply for purposes of subsection (1):

(a) To obtain a preliminary determination under this section, an individual must file a request that meets all of the following:

(*i*) Is submitted on a form provided by the department.

(*ii*) Identifies the license or registration for which he or she may apply.

(*iii*) Includes a detailed description of any criminal proceedings that resulted in a judgment against him or her.

(*iv*) Includes the nonrefundable fee required by the department.

(b) The department shall only consider the information provided by an individual under subdivision (a)(*ii*) and (*iii*) in making a preliminary determination.

(c) A preliminary determination under this section that is adverse to an individual does not prevent the individual from subsequently applying for a license or registration.

(d) The department or a board is not bound by a preliminary determination under this section if the individual applies for a license or registration under this act.

(e) The issuance of a preliminary determination under this section does not limit the authority of the department to review applications for a license or registration, or to issue or deny a license or registration.

(f) The department shall notify an individual of a preliminary determination by delivering a preliminary determination letter to the individual, in a form determined by the department.

(3) An individual shall not request more than 1 preliminary determination under this section in any 120-day period.

History: Add. 2018, Act 453, Eff. Mar. 21, 2019.

Popular name: Act 368

333.16175 License or registration; minimum standards of educational prerequisites.

Sec. 16175. In developing minimum standards of educational prerequisites for licensure or registration, a board and its task forces shall consider equivalency and proficiency testing and other mechanisms, and where appropriate grant credit for past training, education, or experience in health and related fields. Standards may include those for formal education, practice proficiency, and other training, education, or experience which may provide equivalence to completion of formal educational requirements.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979.

Popular name: Act 368

333.16177 License or registration; form of application; inclusion of social security number; examination; passing scores; additional information; exception to social security requirement.

Sec. 16177. (1) An individual applying for licensure or registration under this article shall do so on a form provided by the department. The department shall require each applicant to include on the application form his or her social security number. The department shall not display an applicant's social security number on his or her license or registration. If the facts set forth in the application meet the requirements of the board or task force and this article for licensure or registration, the board or task force shall grant a license or registration to the applicant. A board or task force may require the applicant to take an examination to determine if the applicant meets the qualifications for licensure or registration. The examination shall include subjects determined by the board or task force to be essential to the safe and competent practice of the health profession, the appropriate use of a title, or both. Passing scores or the procedure used to determine passing scores shall be established before an examination is administered.

(2) In addition to the information required under subsection (1), an applicant for licensure or registration or a licensee or registrant applying for renewal shall include on a form provided by the department all of the following information, if applicable:

(a) A felony conviction.

(b) A misdemeanor conviction punishable by imprisonment for a maximum term of 2 years or a misdemeanor conviction involving the illegal delivery, possession, or use of alcohol or a controlled substance.

(c) Sanctions imposed against the applicant by a similar licensure, registration, certification, or disciplinary

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board of another state or country.

(3) In addition to the information required under subsections (1) and (2), a physician, osteopathic physician, dentist, or podiatrist applying for licensure or renewal under this article shall report to the department on a form provided by the department the name of each hospital with which he or she is employed or under contract, and each hospital in which he or she is allowed to practice.

(4) In addition to the information required under subsections (1), (2), and (3), an applicant for licensure and, beginning the license renewal cycle after the effective date of the amendatory act that added section 16213, a licensee applying for renewal shall provide the department, on the application or the license renewal form, with an affidavit stating that he or she has a written policy for protecting, maintaining, and providing access to his or her medical records in accordance with section 16213 and for complying with section 16213 in the event that he or she sells or closes his or her practice, retires from practice, or otherwise ceases to practice under this article. The applicant or licensee shall make the written policy available to the department upon request.

(5) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number or to an applicant who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The department shall inform the applicant of this possible exemption.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 1998, Act 332, Imd. Eff. Aug. 10, 1998;—Am. 2006, Act 481, Imd. Eff. Dec. 22, 2006.

Popular name: Act 368

333.16178 Examinations, investigations, or evaluations to determine qualifications of applicants; passing national or regional examination; reexamination; notice of examination or evaluation.

Sec. 16178. (1) Unless otherwise necessary for a board to fulfill national or regional testing requirements, the department shall conduct examinations or other evaluations necessary to determine qualifications of applicants for initial licensure or registration at least annually and may conduct other investigations or evaluations necessary to determine the qualifications of applicants. A board may accept passing a national or regional examination developed for use in the United States for the purpose of meeting a state board examination or a part thereof.

(2) An individual who fails to pass a required examination may be reexamined to the extent and in a manner determined by the board.

(3) The department shall give public notice of the time and place of a required regular initial licensure or registration examination or evaluation in a manner it considers best not less than 90 days before the date of the examination or evaluation.

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

Popular name: Act 368

333.16179 Unlawful conduct in connection with examination or application.

Sec. 16179. An individual shall not make a false representation or impersonation or act as a proxy for another individual or allow or aid an individual to impersonate him or her in connection with an examination or application for licensure or registration or a request to be examined, licensed, or registered.

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

Popular name: Act 368

333.16181 Temporary license; nonrenewable; eligibility; duration; automatically voiding; expiration; supervision; issuance; applicant dependent of a member of armed forces or veteran.

Sec. 16181. (1) A board may grant a nonrenewable, temporary license to an applicant who has completed all requirements for licensure except for examination or other required evaluation procedure. A board shall not grant a temporary license to an individual who has previously failed the examination or other required evaluation procedure or whose license has been suspended or revoked. A temporary license issued under this subsection is valid for 18 months, but a board shall automatically void the temporary license if the applicant fails the examination or other required evaluation procedure.

(2) The Michigan board of nursing may grant a nonrenewable, temporary license to an applicant for a license under part 172 to engage in the practice of nursing as a registered professional nurse if the applicant is licensed as a registered professional nurse by an equivalent licensing board or authority in another state or is licensed as a registered professional nurse by an equivalent licensing board or authority in Canada. A

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temporary license issued under this subsection expires on the earliest of the following:

(a) One year after the date of issuance.

(b) The date the applicant is notified that he or she failed the CGFNS International, Inc., qualifying examination, as approved by the department.

(c) The date the applicant is notified that he or she failed the National Council Licensure Examination, as approved by the department.

(d) The date the applicant is issued a license under part 172 to engage in the practice of nursing as a registered professional nurse.

(e) The date the applicant is notified that he or she has failed to meet the requirements of this article and rules promulgated under this article for licensure.

(f) The date the applicant is notified that he or she has failed to complete the application process for full licensure.

(3) The holder of a temporary license issued under subsection (1) or (5) shall practice only under the supervision of a licensee who holds a license, other than a health profession subfield license, in the same health profession. The holder of a temporary license issued under subsection (1) or (5) must not be supervised by a licensee who holds a limited license or temporary license.

(4) The department shall issue a temporary license within 48 hours on receipt of proof that the applicant's license issued by another state or a province in Canada is currently active and in good standing.

(5) Beginning June 11, 2014, the department shall grant a temporary license or registration to an applicant who meets all of the following:

(a) He or she provides proof acceptable to the department that he or she is a dependent of a member of the armed forces, a dependent of a member of the uniformed services, or a dependent of a veteran. As used in this subdivision, "dependent" and "veteran" mean those terms as defined in section 16303.

(b) He or she provides proof acceptable to the department that he or she holds a current license in good standing, or a current registration in good standing, in that health profession, issued by an equivalent licensing department, board, or authority in another state or country, as determined by the department, in consultation with the applicable board.

(c) He or she complies with section 16174(3) so that a criminal history check is conducted in the manner prescribed in that section.

(6) A temporary license issued under subsection (5) is valid for 6 months and may be renewed for 1 additional 6-month term if the board determines the temporary licensee continues to meet the requirements of subsection (5) and needs additional time to fulfill the requirements for initial licensure under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1989, Act 293, Imd. Eff. Jan. 3, 1990;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2000, Act 256, Imd. Eff. June 29, 2000;—Am. 2004, Act 200, Imd. Eff. July 12, 2004;—Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006;—Am. 2006, Act 643, Imd. Eff. Jan. 5, 2007;—Am. 2014, Act 41, Imd. Eff. Mar. 20, 2014;—Am. 2014, Act 148, Imd. Eff. June 11, 2014;—Am. 2021, Act 25, Eff. Sept. 7, 2021.

Compiler's note: Section 3 of Act 174 of 1986 provides: “This amendatory act shall only apply to contested cases filed on or after July 1, 1986.”

Popular name: Act 368

333.16182 Limited licenses; issuance.

Sec. 16182. (1) A board may grant a limited license to an individual if the board determines that the limitation is consistent with the ability of the individual to practice the health profession in a safe and competent manner, is necessary to protect the health and safety of patients or clients, or is appropriate to promote the efficient and effective delivery of health care services.

(2) In addition to the licenses issued under subsection (1), a board may grant the following types of limited licenses upon application by an individual or upon its own determination:

(a) Educational, to an individual engaged in postgraduate education.

(b) Nonclinical, to an individual who functions only in a nonclinical academic, research, or administrative setting and who does not hold himself or herself out to the public as being actively engaged in the practice of the health profession, or otherwise directly solicit patients or clients.

(c) Clinical academic, to an individual who practices the health profession only as part of an academic institution and only in connection with his or her employment or other contractual relationship with that academic institution. For an individual applying for a limited license under this subdivision to engage in the practice of medicine under part 170, "academic institution" means that term as defined in section 17001.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1990, Act 248, Imd. Eff. Oct. 12, 1990;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

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Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16183 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's note: The repealed section pertained to grounds for reclassification of license.

Popular name: Act 368

333.16184 Special volunteer license.

Sec. 16184. (1) An individual who is retired from engaging in the active practice of a health profession and who wishes to donate his or her expertise for the health care and treatment of indigent and needy individuals in this state or for the health care and treatment of individuals in medically underserved areas of this state may obtain a special volunteer license to engage in the practice of the health profession from which he or she is retired by submitting an application to the board under this section. An applicant shall submit an application for a special volunteer license on a form provided by the department and shall include each of the following:

(a) Documentation that the individual has been previously licensed to engage in the practice of a health profession in this state and that his or her license was in good standing at the time his or her license expired.

(b) Acknowledgment and documentation that the applicant will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any health care and treatment services provided under the special volunteer license.

(c) If the applicant has been out of practice for 3 or more years, documentation that, during the 3 years immediately preceding the application, he or she has attended at least 2/3 of the continuing education courses or programs required for that health profession under this article or any rules promulgated under this article for the renewal of a license for that health profession.

(2) If the board determines that the application of the individual satisfies the requirements of subsection (1) and that the individual meets the requirements for a license under this article and rules promulgated under this article, the board shall grant a special volunteer license to the applicant. A licensee seeking renewal under this section shall provide the board with an updated acknowledgment and documentation as described in subsection (1)(b). Except as otherwise provided in this subsection, the board shall not charge a fee for the issuance or renewal of a special volunteer license under this section.

(3) Except as otherwise provided in this subsection, an individual who is granted a special volunteer license under this section and who accepts the privilege of engaging in the practice of a health profession in this state is subject to all of the provisions of this article applicable to that health profession, including those provisions concerning continuing education and disciplinary action.

(4) For purposes of this section, an individual is considered retired from engaging in the practice of a health profession if the individual's license has expired with the individual's intention of ceasing to engage, for remuneration, in the practice of the health profession.

(5) An individual who is granted a special volunteer license under this section shall only engage in activities within the scope of practice of the health profession for which he or she was licensed before his or her retirement.

(6) As used in this section and section 16185, "health profession" means a health profession for which an individual must be licensed, registered, or otherwise authorized under article 15 to practice in this state.

History: Add. 2006, Act 24, Imd. Eff. Feb. 16, 2006;—Am. 2006, Act 591, Imd. Eff. Jan. 3, 2007;—Am. 2012, Act 4, Imd. Eff. Feb. 7, 2012;—Am. 2013, Act 171, Imd. Eff. Nov. 18, 2013.

Popular name: Act 368

333.16185 Care by individual under special volunteer license; civil liability; gross negligence; definitions.

Sec. 16185. (1) Subject to subsection (2), an individual who provides care under a special volunteer license to engage in the practice of a health profession granted under section 16184 is not liable in a civil action for personal injury or death proximately caused by the professional negligence or malpractice of the individual in providing the care if both of the following apply:

(a) The care is provided at a health facility or agency that provides at least 75% of its care annually to medically indigent individuals.

(b) The individual does not receive and does not intend to receive compensation for providing the care.

(2) Subsection (1) does not apply if the negligent conduct or malpractice of the individual is gross negligence.

(3) As used in this section:

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(a) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(b) "Medically indigent individual" means that term as defined in section 106 of the social welfare act, 1939 PA 280, MCL 400.106.

History: Add. 2006, Act 25, Imd. Eff. Feb. 16, 2006;—Am. 2011, Act 55, Imd. Eff. June 8, 2011;—Am. 2012, Act 4, Imd. Eff. Feb. 7, 2012;—Am. 2013, Act 171, Imd. Eff. Nov. 18, 2013.

Popular name: Act 368

333.16186 Reciprocity; requirements; person licensed as respiratory therapist in Canada.

Sec. 16186. (1) An individual who is licensed to practice a health profession in another state or in a province of Canada, who is registered in another state, or who holds a health profession specialty field license or specialty certification from another state and who applies for licensure, registration, specialty certification, or a health profession specialty field license in this state may be granted an appropriate license or registration or specialty certification or health profession specialty field license upon satisfying the board or task force to which the applicant applies as to all of the following:

(a) The applicant substantially meets the requirements of this article and rules promulgated under this article for licensure, registration, specialty certification, or a health profession specialty field license.

(b) Subject to subsection (3), the applicant is licensed, registered, specialty certified, or specialty licensed in another state or is licensed in a province in Canada that maintains standards substantially equivalent to those of this state.

(c) Subject to subsection (3), if the applicant is licensed to practice a health profession in a province in Canada, the applicant completed the educational requirements in Canada or in the United States for licensure in Canada or in the United States.

(d) If the applicant is licensed to practice a health profession in a province in Canada, that the applicant will perform the professional services for which he or she bills in this state, and that any resulting request for third-party reimbursement will originate from the applicant's place of employment in this state.

(2) Before granting a license, registration, specialty certification, or a health profession specialty field license to the applicant, the board or task force to which the applicant applies may require the applicant to appear personally before it for an interview to evaluate the applicant's relevant qualifications.

(3) An applicant who is licensed in a province in Canada who meets the requirements of subsection (1)(c) and takes and passes a national examination in this country that is approved by the appropriate licensing board of this state, or who takes and passes a Canadian national examination approved by the appropriate licensing board of this state, is considered to have met the requirements of subsection (1)(b). This subsection does not apply if the department, in consultation with the appropriate licensing board, promulgates a rule disallowing the use of this subsection for an applicant licensed in a province in Canada who does not substantially meet the training or educational requirements expected of an applicant for the same health profession who received his or her education in the United States or who is not licensed in a province in Canada that maintains standards substantially equivalent to those of this state.

(4) If the department receives an application for licensure under part 187 from an individual who is licensed as a respiratory therapist in Canada, the department shall consult the international reciprocity agreement executed by the National Board for Respiratory Care and the Canadian Society of Respiratory Therapists in effect on July 1, 2004.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 81, Eff. May 1, 1988;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2002, Act 441, Imd. Eff. June 13, 2002;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003;—Am. 2004, Act 3, Eff. July 1, 2004;—Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006;—Am. 2020, Act 329, Eff. Mar. 24, 2021.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16186a License or registration without examination; member of armed forces, veteran, or dependent of member or veteran; requirements.

Sec. 16186a. (1) Notwithstanding any other provision of this article to the contrary, an applicant must be granted an initial license or initial registration, without examination, if the applicant meets all of the following:

(a) Demonstrates to the satisfaction of the department that he or she is 1 of the following:

(*i*) A member of the armed forces or the uniformed services.

(*ii*) A veteran.

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(*iii*) A dependent of a member of the armed forces, a member of the uniformed services, or a veteran.

(b) Demonstrates to the satisfaction of the department that he or she holds a current license or registration in good standing in another state or country for the health profession for which the applicant is seeking licensure or registration in this state and the department determines that the requirements for licensure or registration in the other state or country are substantially equivalent to or exceed the requirements of this article and rules promulgated by the department, in consultation with the applicable board, under this article for licensure or registration.

(c) Demonstrates to the satisfaction of the department that he or she is competent in the health profession for which he or she is seeking licensure or registration, as demonstrated by the applicant's training or experience or by another method prescribed by the department, in consultation with the applicable board.

(d) He or she complies with section 16174(3) so that a criminal history check is conducted in the manner prescribed in that section.

(2) As used in this section, "dependent" and "veteran" mean those terms as defined in section 16303.

History: Add. 2021, Act 25, Eff. Sept. 7, 2021.

Popular name: Act 368

333.16189 Repealed. 2022, Act 38, Eff. Mar. 28, 2025.

Compiler's note: The repealed section pertained to the interstate medical licensure compact.

333.16189a Disclosure of information under the interstate medical licensure compact; conditions; subpoena requirements; conditions for certain violation investigation; definitions.

Sec. 16189a. (1) Notwithstanding section 16189 and any rule promulgated by the interstate commission under the compact, a member board of this state may only disclose information about an individual under the compact if all of the following are met:

(a) Any of the following apply to the individual:

(*i*) He or she holds a current expedited license that was granted by a member board of this state under the compact.

(*ii*) He or she holds a current expedited license that was granted by another member state or is applying to receive an expedited license in another member state, and this state is currently designated as the individual's state of principal license.

(*iii*) He or she is requesting to designate this state as his or her state of principal license under the compact.

(*iv*) He or she is applying to receive an expedited license to practice in this state under the compact.

(b) The information is provided only to a member board of another state with responsibility for authorizing the practice of medicine in the member state or to the interstate commission.

(c) The information is not considered confidential under a law of this state.

(2) A subpoena issued under the compact is only enforceable in this state or against a citizen of this state if all of the following apply:

(a) The subpoena is issued by a member board with responsibility for authorizing the practice of medicine in the member state.

(b) The individual being subpoenaed meets 1 of the following:

(*i*) He or she is a physician who holds a current expedited license granted by a member board of this state under the compact.

(*ii*) He or she is a physician who holds a current expedited license granted by another member state, and this state is currently designated as the physician's state of principal license.

(3) In applying section 9(e) of the compact, a member board of this state may only undertake an investigation of a violation of another state's statute authorizing the practice of medicine if 1 of the following applies to the physician being investigated:

(a) He or she holds a current expedited license that was granted by a member board of this state and holds a current expedited license that was granted by the other state under the compact.

(b) He or she holds a current expedited license that was granted by a member board of this state under the compact and the other state is the physician's currently designated state of principal license.

(c) He or she holds a current expedited license that was granted by the other state under the compact and this state is the physician's currently designated state of principal license.

(4) As used in this section and section 16189b:

(a) "Compact" means the interstate medical licensure compact enacted in section 16189(1).

(b) "Expedited license" means that term as defined in section 2(d) of the compact.

(c) "Interstate commission" means that term as defined in section 2(e) of the compact.

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(d) "Member board" means that term as defined in section 2(h) of the compact.

(e) "Practice of medicine" means that term as defined in section 2(j) of the compact.

(f) "State of principal license" means that term as defined in section 2(o) of the compact.

History: Add. 2018, Act 524, Eff. Mar. 28, 2019.

Popular name: Act 368

333.16189b Application for expedited license under the interstate medical licensure compact; fingerprints required; criminal history check; automated fingerprint identification system database; definitions.

Sec. 16189b. (1) An individual who is applying for an expedited license under the compact with a member board of this state shall submit 1 set of his or her fingerprints to the department of state police in order for the department of state police to conduct a criminal history check on the individual and to forward the individual's fingerprints to the Federal Bureau of Investigation for a national criminal history check. The individual shall submit with the application his or her written consent to the criminal history check described in this section and the submission of his or her fingerprints to, and the inclusion of his or her fingerprints in, the state and federal database systems described in subsection (4).

(2) The fingerprints required under subsection (1) may be taken by a law enforcement agency or any other person determined by the department of state police to be qualified to take fingerprints. The individual described in subsection (1) shall submit a fingerprint processing fee to the department in an amount required under section 3 of 1935 PA 120, MCL 28.273, and any costs imposed by the Federal Bureau of Investigation.

(3) The department of state police shall conduct a criminal history check on the individual described in subsection (1) and shall request the Federal Bureau of Investigation to make a determination of the existence of any national criminal history pertaining to the individual. The department of state police shall provide a member board of this state with a written report containing the criminal history record information of the individual who was the subject of the criminal history check conducted under this section.

(4) All of the following apply concerning fingerprints submitted to the department of state police under this section:

(a) The department of state police shall store and retain all fingerprints submitted under this section in an automated fingerprint identification system database that searches against latent fingerprints, and provides for an automatic notification if and when a subsequent fingerprint is submitted into the system that matches a set of fingerprints previously submitted under this section or if and when the criminal history of an individual whose fingerprints are retained in the system is updated. Upon receiving a notification, the department of state police shall immediately notify a member board of this state. Information in the database maintained under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(b) The department of state police shall forward all fingerprints submitted to it under this section to the Federal Bureau of Investigation for submission of those fingerprints into the FBI automatic notification system. This subdivision does not apply until the department of state police is a participant in the FBI automatic notification system. As used in this subdivision:

(*i*) "Automatic notification system" means a system that stores and retains fingerprints, and that provides for an automatic notification to a participant if and when a fingerprint is submitted into the system that matches an individual whose fingerprints are retained in the system or if and when the criminal history of an individual whose fingerprints are retained in the system is updated.

(*ii*) "FBI automatic notification system" means the automatic notification system that is maintained by the Federal Bureau of Investigation.

History: Add. 2018, Act 524, Eff. Mar. 28, 2019.

Popular name: Act 368

333.16190 Psychology interjurisdictional compact.

Sec. 16190. (1) The psychology interjurisdictional compact is enacted into law and entered into by this state as a party with all jurisdictions that legally join in the compact, in the form substantially as follows:

PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT)

ARTICLE I

PURPOSE

Whereas, states license psychologists, in order to protect the public through verification of education, training and experience and ensure accountability for professional practice; and

Whereas, this Compact is intended to regulate the day to day practice of telepsychology (i.e. the provision

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of psychological services using telecommunication technologies) by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority; and

Whereas, this Compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority;

Whereas, this Compact is intended to authorize State Psychology Regulatory Authorities to afford legal recognition, in a manner consistent with the terms of the Compact, to psychologists licensed in another state;

Whereas, this Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety;

Whereas, this Compact does not apply when a psychologist is licensed in both the Home and Receiving States; and

Whereas, this Compact does not apply to permanent in-person, face-to-face practice, it does allow for authorization of temporary psychological practice.

Consistent with these principles, this Compact is designed to achieve the following purposes and objectives:

1. Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology;

2. Enhance the states' ability to protect the public's health and safety, especially client/patient safety;

3. Encourage the cooperation of Compact States in the areas of psychology licensure and regulation;

4. Facilitate the exchange of information between Compact States regarding psychologist licensure, adverse actions and disciplinary history;

5. Promote compliance with the laws governing psychological practice in each Compact State; and

6. Invest all Compact States with the authority to hold licensed psychologists accountable through the mutual recognition of Compact State licenses.

ARTICLE II
DEFINITIONS

A. "Adverse Action" means any action taken by a State Psychology Regulatory Authority which finds a violation of a statute or regulation that is identified by the State Psychology Regulatory Authority as discipline and is a matter of public record.

B. "Association of State and Provincial Psychology Boards (ASPPB)" means the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

C. "Authority to Practice Interjurisdictional Telepsychology" means a licensed psychologist's authority to practice telepsychology, within the limits authorized under this Compact, in another Compact State.

D. "Bylaws" means those Bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to Article X for its governance, or for directing and controlling its actions and conduct.

E. "Client/Patient" means the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision, and/or consulting services.

F. "Commissioner" means the voting representative appointed by each State Psychology Regulatory Authority pursuant to Article X.

G. "Compact State" means a state, the District of Columbia, or United States territory that has enacted this Compact legislation and which has not withdrawn pursuant to Article XIII, Section C or been terminated pursuant to Article XII, Section B.

H. "Coordinated Licensure Information System" also referred to as "Coordinated Database" means an integrated process for collecting, storing, and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities.

I. "Confidentiality" means the principle that data or information is not made available or disclosed to unauthorized persons and/or processes.

J. "Day" means any part of a day in which psychological work is performed.

K. "Distant State" means the Compact State where a psychologist is physically present (not through the use of telecommunications technologies), to provide temporary in-person, face-to-face psychological services.

L. "E.Passport" means a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

M. "Executive Board" means a group of directors elected or appointed to act on behalf of, and within the

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powers granted to them by, the Commission.

N. "Home State" means a Compact State where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one Compact State and is practicing under the Authorization to Practice Interjurisdictional Telepsychology, the Home State is the Compact State where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one Compact State and is practicing under the Temporary Authorization to Practice, the Home State is any Compact State where the psychologist is licensed.

O. "Identity History Summary" means a summary of information retained by the Federal Bureau of Investigation, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.

P. "In-Person, Face-to-Face" means interactions in which the psychologist and the client/patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.

Q. "Interjurisdictional Practice Certificate (IPC)" means a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the State Psychology Regulatory Authority of intention to practice temporarily, and verification of one's qualifications for such practice.

R. "License" means authorization by a State Psychology Regulatory Authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

S. "Non-Compact State" means any State which is not at the time a Compact State.

T. "Psychologist" means an individual licensed for the independent practice of psychology.

U. "Psychology Interjurisdictional Compact Commission" also referred to as "Commission" means the national administration of which all Compact States are members.

V. "Receiving State" means a Compact State where the client/patient is physically located when the telepsychological services are delivered.

W. "Rule" means a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Article XI of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a Compact State, and includes the amendment, repeal or suspension of an existing rule.

X. "Significant Investigatory Information" means:

1. Investigative information that a State Psychology Regulatory Authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or

2. Investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified and/or had an opportunity to respond.

Y. "State" means a state, commonwealth, territory, or possession of the United States, the District of Columbia.

Z. "State Psychology Regulatory Authority" means the Board, office or other agency with the legislative mandate to license and regulate the practice of psychology.

AA. "Telepsychology" means the provision of psychological services using telecommunication technologies.

BB. "Temporary Authorization to Practice" means a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another Compact State.

CC. "Temporary In-Person, Face-to-Face Practice" means where a psychologist is physically present (not through the use of telecommunications technologies), in the Distant State to provide for the practice of psychology for 30 days within a calendar year and based on notification to the Distant State.

ARTICLE III

HOME STATE LICENSURE

A. The Home State shall be a Compact State where a psychologist is licensed to practice psychology.

B. A psychologist may hold one or more Compact State licenses at a time. If the psychologist is licensed in more than one Compact State, the Home State is the Compact State where the psychologist is physically present when the services are delivered as authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.

C. Any Compact State may require a psychologist not previously licensed in a Compact State to obtain and retain a license to be authorized to practice in the Compact State under circumstances not authorized by the

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Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.

D. Any Compact State may require a psychologist to obtain and retain a license to be authorized to practice in a Compact State under circumstances not authorized by Temporary Authorization to Practice under the terms of this Compact.

E. A Home State's license authorizes a psychologist to practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only if the Compact State:

1. Currently requires the psychologist to hold an active E.Passport;

2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;

3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than ten years after activation of the Compact; and

5. Complies with the Bylaws and Rules of the Commission.

F. A Home State's license grants Temporary Authorization to Practice to a psychologist in a Distant State only if the Compact State:

1. Currently requires the psychologist to hold an active IPC;

2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;

3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than ten years after activation of the Compact; and

5. Complies with the Bylaws and Rules of the Commission.

ARTICLE IV

COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

A. Compact States shall recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice telepsychology in other Compact States (Receiving States) in which the psychologist is not licensed, under the Authority to Practice Interjurisdictional Telepsychology as provided in the Compact.

B. To exercise the Authority to Practice Interjurisdictional Telepsychology under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:

1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

a. Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees, OR authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

b. A foreign college or university deemed to be equivalent to 1 (a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

2. Hold a graduate degree in psychology that meets the following criteria:

a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;

c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

d. The program must consist of an integrated, organized sequence of study;

e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

f. The designated director of the program must be a psychologist and a member of the core faculty;

g. The program must have an identifiable body of students who are matriculated in that program for a degree;

h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for

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doctoral degree and a minimum of one academic year of full-time graduate study for master's degree;

j. The program includes an acceptable residency as defined by the Rules of the Commission.

3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;

4. Have no history of adverse action that violate the Rules of the Commission;

5. Have no criminal record history reported on an Identity History Summary that violates the Rules of the Commission;

6. Possess a current, active E.Passport;

7. Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology; criminal background; and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

8. Meet other criteria as defined by the Rules of the Commission.

C. The Home State maintains authority over the license of any psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology.

D. A psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology will be subject to the Receiving State's scope of practice. A Receiving State may, in accordance with that state's due process law, limit or revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology in the Receiving State and may take any other necessary actions under the Receiving State's applicable law to protect the health and safety of the Receiving State's citizens. If a Receiving State takes action, the state shall promptly notify the Home State and the Commission.

E. If a psychologist's license in any Home State, another Compact State, or any Authority to Practice Interjurisdictional Telepsychology in any Receiving State, is restricted, suspended or otherwise limited, the E.Passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a Compact State under the Authority to Practice Interjurisdictional Telepsychology.

ARTICLE V

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

A. Compact States shall also recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice temporarily in other Compact States (Distant States) in which the psychologist is not licensed, as provided in the Compact.

B. To exercise the Temporary Authorization to Practice under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:

1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

a. Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees, OR authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

b. A foreign college or university deemed to be equivalent to 1 (a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

2. Hold a graduate degree in psychology that meets the following criteria:

a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;

c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

d. The program must consist of an integrated, organized sequence of study;

e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

f. The designated director of the program must be a psychologist and a member of the core faculty;

g. The program must have an identifiable body of students who are matriculated in that program for a degree;

h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degree;

j. The program includes an acceptable residency as defined by the Rules of the Commission.

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3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;

4. No history of adverse action that violate the Rules of the Commission;

5. No criminal record history that violates the Rules of the Commission;

6. Possess a current, active IPC;

7. Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

8. Meet other criteria as defined by the Rules of the Commission.

C. A psychologist practicing into a Distant State under the Temporary Authorization to Practice shall practice within the scope of practice authorized by the Distant State.

D. A psychologist practicing into a Distant State under the Temporary Authorization to Practice will be subject to the Distant State's authority and law. A Distant State may, in accordance with that state's due process law, limit or revoke a psychologist's Temporary Authorization to Practice in the Distant State and may take any other necessary actions under the Distant State's applicable law to protect the health and safety of the Distant State's citizens. If a Distant State takes action, the state shall promptly notify the Home State and the Commission.

E. If a psychologist's license in any Home State, another Compact State, or any Temporary Authorization to Practice in any Distant State, is restricted, suspended or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a Compact State under the Temporary Authorization to Practice.

ARTICLE VI
CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

A. A psychologist may practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate State Psychology Regulatory Authority, as defined in the Rules of the Commission, and under the following circumstances:

1. The psychologist initiates a client/patient contact in a Home State via telecommunications technologies with a client/patient in a Receiving State;

2. Other conditions regarding telepsychology as determined by Rules promulgated by the Commission.

ARTICLE VII
ADVERSE ACTIONS

A. A Home State shall have the power to impose adverse action against a psychologist's license issued by the Home State. A Distant State shall have the power to take adverse action on a psychologist's Temporary Authorization to Practice within that Distant State.

B. A Receiving State may take adverse action on a psychologist's Authority to Practice Interjurisdictional Telepsychology within that Receiving State. A Home State may take adverse action against a psychologist based on an adverse action taken by a Distant State regarding temporary in-person, face-to-face practice.

C. If a Home State takes adverse action against a psychologist's license, that psychologist's Authority to Practice Interjurisdictional Telepsychology is terminated and the E.Passport is revoked. Furthermore, that psychologist's Temporary Authorization to Practice is terminated and the IPC is revoked.

1. All Home State disciplinary orders which impose adverse action shall be reported to the Commission in accordance with the Rules promulgated by the Commission. A Compact State shall report adverse actions in accordance with the Rules of the Commission.

2. In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the Rules of the Commission.

3. Other actions may be imposed as determined by the Rules promulgated by the Commission.

D. A Home State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a Receiving State as it would if such conduct had occurred by a licensee within the Home State. In such cases, the Home State's law shall control in determining any adverse action against a psychologist's license.

E. A Distant State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under Temporary Authorization Practice which occurred in that Distant State as it would if such conduct had occurred by a licensee within the Home State. In such cases, Distant State's law shall control in determining any adverse action against a psychologist's Temporary Authorization to Practice.

F. Nothing in this Compact shall override a Compact State's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the Compact State's law. Compact States must require psychologists who enter any

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alternative programs to not provide telepsychology services under the Authority to Practice Interjurisdictional Telepsychology or provide temporary psychological services under the Temporary Authorization to Practice in any other Compact State during the term of the alternative program.

G. No other judicial or administrative remedies shall be available to a psychologist in the event a Compact State imposes an adverse action pursuant to subsection C, above.

ARTICLE VIII

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY

A. In addition to any other powers granted under state law, a Compact State's Psychology Regulatory Authority shall have the authority under this Compact to:

1. Issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a Compact State's Psychology Regulatory Authority for the attendance and testimony of witnesses, and/or the production of evidence from another Compact State shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing State Psychology Regulatory Authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

2. Issue cease and desist and/or injunctive relief orders to revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice.

3. During the course of any investigation, a psychologist may not change his/her Home State licensure. A Home State Psychology Regulatory Authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The Home State Psychology Regulatory Authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his/her Home State licensure. The Commission shall promptly notify the new Home State of any such decisions as provided in the Rules of the Commission. All information provided to the Commission or distributed by Compact States pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The Commission may create additional rules for mandated or discretionary sharing of information by Compact States.

ARTICLE IX

COORDINATED LICENSURE INFORMATION SYSTEM

A. The Commission shall provide for the development and maintenance of a Coordinated Licensure Information System (Coordinated Database) and reporting system containing licensure and disciplinary action information on all psychologists individuals to whom this Compact is applicable in all Compact States as defined by the Rules of the Commission.

B. Notwithstanding any other provision of state law to the contrary, a Compact State shall submit a uniform data set to the Coordinated Database on all licensees as required by the Rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Significant investigatory information;

4. Adverse actions against a psychologist's license;

5. An indicator that a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice is revoked;

6. Non-confidential information related to alternative program participation information;

7. Any denial of application for licensure, and the reasons for such denial; and

8. Other information which may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. The Coordinated Database administrator shall promptly notify all Compact States of any adverse action taken against, or significant investigative information on, any licensee in a Compact State.

D. Compact States reporting information to the Coordinated Database may designate information that may not be shared with the public without the express permission of the Compact State reporting the information.

E. Any information submitted to the Coordinated Database that is subsequently required to be expunged by the law of the Compact State reporting the information shall be removed from the Coordinated Database.

ARTICLE X

ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION

A. The Compact States hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

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1. The Commission is a body politic and an instrumentality of the Compact States.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. The Commission shall consist of one voting representative appointed by each Compact State who shall serve as that state's Commissioner. The State Psychology Regulatory Authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the Compact State. This delegate shall be limited to:

a. Executive Director, Executive Secretary or similar executive;

b. Current member of the State Psychology Regulatory Authority of a Compact State; OR

c. Designee empowered with the appropriate delegate authority to act on behalf of the Compact State.

2. Any Commissioner may be removed or suspended from office as provided by the law of the state from which the Commissioner is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compact State in which the vacancy exists.

3. Each Commissioner shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of Bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.

4. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Bylaws.

5. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article XI.

6. The Commission may convene in a closed, non-public meeting if the Commission must discuss:

a. Non-compliance of a Compact State with its obligations under the Compact;

b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation against the Commission;

d. Negotiation of contracts for the purchase or sale of goods, services or real estate;

e. Accusation against any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information which is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigatory records compiled for law enforcement purposes;

i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal and state statute.

7. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws and/or Rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including but not limited to:

1. Establishing the fiscal year of the Commission;

2. Providing reasonable standards and procedures:

a. For the establishment and meetings of other committees; and

b. Governing any general or specific delegation of any authority or function of the Commission;

3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of

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individuals of such proceedings, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the Commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each Commissioner with no proxy votes allowed;

4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar law of any Compact State, the Bylaws shall exclusively govern the personnel policies and programs of the Commission;

6. Promulgating a Code of Ethics to address permissible and prohibited activities of Commission members and employees;

7. Providing a mechanism for concluding the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

8. The Commission shall publish its Bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compact States;

9. The Commission shall maintain its financial records in accordance with the Bylaws; and

10. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rule shall have the force and effect of law and shall be binding in all Compact States;

2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Psychology Regulatory Authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compact State;

5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

8. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property real, personal or mixed;

9. To establish a budget and make expenditures;

10. To borrow money;

11. To appoint committees, including advisory committees comprised of Members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the Bylaws;

12. To provide and receive information from, and to cooperate with, law enforcement agencies;

13. To adopt and use an official seal; and

14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice and telepsychology practice.

E. The Executive Board

The elected officers shall serve as the Executive Board, which shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The Executive Board shall be comprised of six members:

a. Five voting members who are elected from the current membership of the Commission by the Commission;

b. One ex-officio, nonvoting member from the recognized membership organization composed of State

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and Provincial Psychology Regulatory Authorities.

2. The ex-officio member must have served as staff or member on a State Psychology Regulatory Authority and will be selected by its respective organization.

3. The Commission may remove any member of the Executive Board as provided in Bylaws.

4. The Executive Board shall meet at least annually.

5. The Executive Board shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or Bylaws, changes to this Compact legislation, fees paid by Compact States such as annual dues, and any other applicable fees;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or Bylaws.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.

3. The Commission may levy on and collect an annual assessment from each Compact State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission which shall promulgate a rule binding upon all Compact States.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Compact States, except by and with the authority of the Compact State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its Bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, Executive Director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, Executive Director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, Executive Director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE XI

RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in

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each rule or amendment.

B. If a majority of the legislatures of the Compact States rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any Compact State.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or Rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission; and

2. On the website of each Compact States' Psychology Regulatory Authority or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons who submit comments independently of each other;

2. A governmental subdivision or agency; or

3. A duly appointed person in an association that has at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

1. All persons wishing to be heard at the hearing shall notify the Executive Director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Compact State funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after

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posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE XII

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

A. Oversight

1. The Executive, Legislative and Judicial branches of state government in each Compact State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a Compact State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Compact State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other Compact States of the nature of the default, the proposed means of remedying the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to remedy the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the Compact States, and all rights, privileges and benefits conferred by this Compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the Compact States.

4. A Compact State which has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations which extend beyond the effective date of termination.

5. The Commission shall not bear any costs incurred by the state which is found to be in default or which has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the State of Georgia or the federal district where the Compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a Compact State, the Commission shall attempt to resolve disputes related to the Compact which arise among Compact States and between Compact and Non-Compact States.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the State of Georgia or the federal district where the Compact has its principal offices against a Compact State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and Bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE XIII

DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

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A. The Compact shall come into effect on the date on which the Compact is enacted into law in the seventh Compact State. The provisions which become effective at that time shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state which joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule which has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any Compact State may withdraw from this Compact by enacting a statute repealing the same.

1. A Compact State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Psychology Regulatory Authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a Compact State and a Non-Compact State which does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Compact States. No amendment to this Compact shall become effective and binding upon any Compact State until it is enacted into the law of all Compact States.

ARTICLE XIV

CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this Compact shall be held contrary to the constitution of any state member thereto, the Compact shall remain in full force and effect as to the remaining Compact States.

(2) Subsection (1) shall be known as the "psychology interjurisdictional compact".

History: Add. 2022, Act 255, Eff. Mar. 29, 2023.

Popular name: Act 368

333.16191 Certificate of licensure or registration; issuance; display; card to be available for inspection; displaying statement of limitation.

Sec. 16191. (1) The department shall issue a certificate of licensure or registration to an applicant who is granted a license or registration by a board.

(2) A licensee or registrant shall display his or her current certificate of licensure or registration prominently and where visible to the public in the licensee's or registrant's principal place of business, if any.

(3) A licensee or registrant shall have available for inspection a card, which shall be issued by the department, containing the essential information on the certificate.

(4) If a license is limited by a board, the licensee shall display the statement of limitation prepared by the department in the same manner as prescribed for display of the certificate and shall attach the statement to the certificate or display the statement in immediate proximity with the certificate.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986.

Compiler's note: Section 3 of Act 174 of 1986 provides: “This amendatory act shall only apply to contested cases filed on or after July 1, 1986.”

Popular name: Act 368

333.16192 Reporting change in name or address; notice of hearing or complaint; service; license or registration not transferable; service by electronic mail.

Sec. 16192. (1) A licensee or registrant shall report to the department a change in name, mailing address, or electronic mail address if the licensee or registrant has provided an electronic mail address under subsection (4), not later than 30 days after the change occurs.

(2) The department may serve a notice of hearing or a complaint on an applicant, licensee, or registrant in an action or proceeding for a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 by regular mail and by certified mail, return receipt requested, to the applicant's, licensee's, or registrant's last known address, by serving the notice on the applicant, licensee, or registrant, or by making a reasonable attempt to serve the notice on the applicant, licensee, or registrant. For purposes of this subsection, if service is by mail, service is effective 3 days after the date of mailing, and nondelivery does not affect the validity of the service if the nondelivery was caused by the refusal of the applicant, licensee, or registrant to accept service.

(3) A license or registration is not transferable.

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(4) If the department is required or permitted under this article to deliver or serve a notice or other communication to a licensee or registrant by mail, the department may deliver or serve the notice or communication by electronic mail rather than by first-class mail if the licensee or registrant has provided an electronic mail address to the department; authorized the department in writing to deliver or serve notices and communications to the licensee or registrant at the electronic mail address; and agreed in writing that the licensee or registrant consents to the service of any notice or communication sent to the electronic mail address that the department would otherwise serve by mail.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2016, Act 49, Eff. June 13, 2016.

Compiler's note: Section 3 of Act 174 of 1986 provides: “This amendatory act shall only apply to contested cases filed on or after July 1, 1986.”

Enacting section 1 of Act 49 of 2016 provides:

"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."

Popular name: Act 368

333.16193 Chemical analysis; implied consent to submit.

Sec. 16193. Acceptance of a license or registration under this article constitutes implied consent to submit to a chemical analysis under section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

History: Add. 2003, Act 234, Imd. Eff. Dec. 29, 2003.

Popular name: Act 368

333.16194 Expiration of licenses and registrations for health professions; authority to issue part-term licenses and registrations.

Sec. 16194. (1) Licenses and registrations for health professions expire on dates prescribed by the department by rule, unless sooner terminated by death of the individual licensed or registered or otherwise terminated pursuant to this part.

(2) Administrative authority to issue part-term licenses and registrations due to changing the terms from annual to a longer term in subsection (1) and to provide for initial issuances for terms longer or shorter than a normal term is granted in section 1222.

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

Popular name: Act 368

Administrative rules: R 338.7001 et seq. of the Michigan Administrative Code.

333.16196 License or registration of individual inducted or entering into service; continuation; notice.

Sec. 16196. The license or registration of an individual practicing his or her profession while in active service in the military service of the United States, an auxiliary thereof, or the United States public health service, who was licensed or registered at the time of induction or entering into service, continues in effect without further action by the individual until discharge or leaving the service. The individual shall notify the board of the military service or federal employment and the cessation thereof.

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

Popular name: Act 368

333.16201 Renewal of license or registration; mailing notice; electronic mail; failure to receive notice; failure to renew; relicensing or reregistration; temporary license or registration; authority to impose sanctions not terminated by expiration or surrender of license or registration.

Sec. 16201. (1) A licensee or registrant shall renew the license or registration on or before the expiration date as prescribed by rule. The department shall mail a notice to the licensee or registrant at the last known address on file with a board, or may send the notice by electronic mail to a licensee or registrant described in section 16192(4), advising of the time, procedure, and fee for renewal. Failure of the licensee or registrant to receive notice under this subsection does not relieve the licensee or registrant of the responsibility for renewing his or her license or registration.

(2) A license or registration not renewed by the expiration date may be renewed within 60 days after the expiration date on application, payment of renewal and late renewal fees, and fulfillment of any continued competency or continuing education requirements set forth in this article or rules promulgated under this article. The licensee or registrant may continue to practice and use the title during the 60-day time period.

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(3) If a license or registration is not renewed within 60 days after the expiration date under subsection (2), the license or registration is considered null and void. The licensee shall not practice or use the title and a registrant shall not use the title. Except as otherwise provided in this article or by rule, an individual may be relicensed or reregistered within 3 years after the expiration date on application, payment of the application processing, renewal, and late renewal fees, and fulfillment of any continued competency or continuing education requirements in effect on the expiration date, or that would have been required had the individual renewed his or her license or registration under subsection (1). A temporary license or registration may be issued under section 16181 pending the results of action taken under this subsection.

(4) Except as otherwise provided in this article or by rule, an individual may be relicensed or reregistered more than 3 years after the expiration date on application as a new applicant, meeting all licensure or registration requirements in effect at the time of application, taking or retaking and passing any examinations required for initial licensure or registration, and payment of fees required of new applicants.

(5) The expiration or surrender of a license or registration does not terminate the board's authority to impose sanctions on the licensee or registrant whose license or registration has expired or been surrendered.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1981, Act 79, Imd. Eff. June 30, 1981;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 2016, Act 49, Eff. June 13, 2016;—Am. 2019, Act 96, Eff. Jan. 27, 2020.

Compiler's note: Section 3 of Act 174 of 1986 provides: “This amendatory act shall only apply to contested cases filed on or after July 1, 1986.”

Enacting section 1 of Act 49 of 2016 provides:

"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."

Popular name: Act 368

333.16203 Repealed. 1986, Act 174, Imd. Eff. July 7, 1986.

Compiler's note: The repealed section pertained to relicensing or reregistration of individuals and to temporary licenses.

Popular name: Act 368

333.16204 Completion of continuing education as condition for license renewal; completion of hours or courses in pain and symptom management; rules; certain individuals excluded.

Sec. 16204. (1) Effective for the renewal of licenses or registrations issued under this article and expiring after January 1, 1997 if the completion of continuing education is a condition for renewal, the appropriate board shall by rule require an applicant for renewal to complete an appropriate number of hours or courses in pain and symptom management. Rules promulgated by a board under section 16205(2) for continuing education in pain and symptom management shall cover both course length and content and shall take into consideration the recommendation for that health care profession by the interdisciplinary advisory committee created in section 16204a. A board shall submit the notice of public hearing for the rules as required under section 42 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.242, not later than 90 days after the first interdisciplinary advisory committee makes its initial recommendations and shall promulgate the rules as expeditiously as possible.

(2) If a board proposes rules under section 16205(2) to institute a requirement that continuing education be a mandatory condition for the renewal of a license or registration issued under this article, the rules shall require, as part of the continuing education requirements, completion of an appropriate number of hours or courses in pain and symptom management, taking into consideration the recommendation for that health care profession by the interdisciplinary advisory committee created in section 16204a.

(3) This section does not apply to individuals licensed or registered under part 184 or 188.

History: Add. 1994, Act 234, Imd. Eff. June 30, 1994;—Am. 2005, Act 273, Imd. Eff. Dec. 19, 2005.

Popular name: Act 368

333.16204a Advisory committee on pain and symptom management; creation; members; compensation; expenses; terms; duties; review of guidelines.

Sec. 16204a. (1) Subject to subsection (2), an advisory committee on pain and symptom management is created in the department. The committee consists of the following members appointed in the following manner:

(a) The Michigan board of medicine created in part 170 and the Michigan board of osteopathic medicine and surgery created in part 175 each shall appoint 2 members, 1 of whom is a physician specializing in primary care and 1 of whom is a physician certified in the specialty of pain medicine by 1 or more national professional organizations approved by the department of consumer and industry services, including, but not

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limited to, the American board of medical specialists or the American board of pain medicine.

(b) One psychologist who is associated with the education and training of psychology students, appointed by the Michigan board of psychology created in part 182.

(c) One individual appointed by the governor who is representative of the general public.

(d) One registered professional nurse with training in pain and symptom management who is associated with the education and training of nursing students, appointed by the Michigan board of nursing created in part 172.

(e) One dentist with training in pain and symptom management who is associated with the education and training of dental students, appointed by the Michigan board of dentistry created in part 166.

(f) One pharmacist with training in pain and symptom management who is associated with the education and training of pharmacy students appointed by the Michigan board of pharmacy created in part 177.

(g) One individual appointed by the governor who represents the Michigan hospice organization or its successor.

(h) One representative from each of the state's medical schools, appointed by the governor.

(i) One individual appointed by the governor who has been diagnosed as a chronic pain sufferer.

(j) One physician's assistant with training in pain and symptom management appointed by the Michigan task force on physician's assistants.

(k) The director of the department of consumer and industry services or his or her designee, who shall serve as chairperson.

(*l*) The director of the department of community health or his or her designee.

(2) Advisory committee members appointed under subsection (1)(a) through (j) shall receive per diem compensation as established by the legislature and shall be reimbursed for expenses under section 1216.

(3) The advisory committee members appointed under subsection (1)(a) through (j) shall be appointed by May 15, 1999. A member of the advisory committee shall serve for a term of 2 years or until a successor is appointed, whichever is later. A vacancy on the advisory committee shall be filled in the same manner as the original appointment.

(4) The advisory committee shall do all of the following, as necessary:

(a) At least once annually consult with all of the following boards to develop an integrated approach to understanding and applying pain and symptom management techniques:

(*i*) All licensure boards created under this article, except the Michigan board of veterinary medicine.

(*ii*) The Michigan board of social work created in section 18505.

(b) Hold a public hearing in the same manner as provided for a public hearing held under the administrative procedures act of 1969, within 90 days after the members of the advisory committee are appointed under subsection (1) to gather information from the general public on issues pertaining to pain and symptom management.

(c) Develop and encourage the implementation of model core curricula on pain and symptom management.

(d) Develop recommendations to the licensing and registration boards and the task force created under this article on integrating pain and symptom management into the customary practice of health care professionals and identifying the role and responsibilities of the various health care professionals in pain and symptom management.

(e) Advise the licensing and registration boards created under this article on the duration and content of continuing education requirements for pain and symptom management.

(f) Annually report on the activities of the advisory committee and make recommendations on the following issues to the director of the department of consumer and industry services and to the director of the department of community health:

(*i*) Pain management educational curricula and continuing educational requirements of institutions providing health care education.

(*ii*) Information about the impact and effectiveness of previous recommendations, if any, that have been implemented, including, but not limited to, recommendations made under subdivision (d).

(*iii*) Activities undertaken by the advisory committee in complying with the duties imposed under subdivisions (c) and (d).

(g) Beginning in January of 2000, annually review any changes occurring in pain and symptom management.

(5) In making recommendations and developing written materials under subsection (4), the advisory committee shall review guidelines on pain and symptom management issued by the United States department of health and human services.

History: Add. 1994, Act 232, Imd. Eff. June 30, 1994;—Am. 1998, Act 421, Eff. Apr. 1, 1999;—Am. 2001, Act 234, Imd. Eff. Jan. 3, 2002.

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Compiler's note: For transfer of the advisory committee on pain and symptom management to the department of community health by Type II transfer, see. E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 368

333.16204b Treatment of pain; enactment of legislation.

Sec. 16204b. The legislature finds that the treatment of pain is an appropriate issue for the legislature to consider, and that the citizens of this state would be well served by the enactment of legislation that accomplishes all of the following:

(a) Provides more and better information to health care consumers regarding the medical treatment of pain, health care coverage and benefits for the treatment of pain, and the education of health professionals in pain and symptom management.

(b) Provides for the appointment of an advisory body to study and make recommendations on model core curricula on pain and symptom management for the institutions in this state providing health care education, continuing education for health professionals on pain and symptom management, and the integration of pain and symptom management into the customary practice of health care.

(c) Educates health professionals about the disciplinary process for state licensees and registrants, including, but not limited to, how the department of consumer and industry services processes allegations of wrongdoing against licensees and registrants.

History: Add. 1998, Act 422, Eff. Apr. 1, 1999;—Am. 2001, Act 241, Imd. Eff. Jan. 8, 2002.

Popular name: Act 368

333.16204c Medical treatment of pain; use of controlled substances; legislative findings; treatment by licensed health professionals; electronic monitoring system; "controlled substance" defined.

Sec. 16204c. (1) The legislature finds that the use of controlled substances is appropriate in the medical treatment of certain forms of pain, and that efforts to control diversion or improper administration of controlled substances should not interfere with the legitimate, medically recognized use of those controlled substances to relieve pain and suffering.

(2) The legislature finds that some patients in this state with pain are unable to obtain from their health care providers sufficient pain relief through the prescription of controlled substances, especially controlled substances included in schedule 2 under section 7214.

(3) It is the intent of the legislature to permit and facilitate adequate treatment for pain by licensed health professionals, including, but not limited to, the prescription or dispensing of controlled substances included in schedule 2 under section 7214, when medically appropriate, and to enable regulatory and law enforcement agencies to prevent the abuse and diversion of controlled substances by creating an electronic monitoring system.

(4) As used in this section, "controlled substance" means that term as defined in section 7104.

History: Add. 1998, Act 423, Eff. Apr. 1, 1999;—Am. 2001, Act 241, Imd. Eff. Jan. 8, 2002.

Popular name: Act 368

333.16204d Information booklet on pain; development by department of consumer and industry services; educational program for health professionals.

Sec. 16204d. (1) The department of consumer and industry services, in consultation with the department of community health, shall develop, publish, and distribute an informational booklet on pain. The department of consumer and industry services shall include at least all of the following in the informational booklet:

(a) Pain management educational curricula and continuing educational requirements of institutions providing health care education recommended by the advisory committee on pain and symptom management under section 16204a.

(b) Other information considered relevant or useful by the department of consumer and industry services.

(2) The department of consumer and industry services, in conjunction with the controlled substances advisory commission created in article 7, shall develop and conduct an educational program for health professionals who are licensed under part 73 to prescribe or dispense, or both, controlled substances. The department of consumer and industry services shall include, at a minimum, all of the following in the educational program:

(a) Information on how the department of consumer and industry services processes allegations of wrongdoing against licensees under this article and article 17, including, but not limited to, how the permanent historical record is maintained for each licensee, how and why a review of the permanent historical record is done, and how the decision is made to issue a formal complaint against a licensee.

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(b) Information on the disciplinary process, including a licensee's rights and duties if an allegation of wrongdoing is filed against the licensee or if some other circumstance occurs that causes or requires the department of consumer and industry services to review a licensee's permanent historical record.

(c) Other information considered relevant or useful by the department of consumer and industry services or the controlled substances advisory commission, especially information that would address the findings and statements of intent contained in section 16204c.

History: Add. 1998, Act 423, Eff. Apr. 1, 1999;—Am. 2001, Act 241, Imd. Eff. Jan. 8, 2002.

Popular name: Act 368

333.16204e Rules; circumstances under which bona fide prescriber-patient relationship not required.

Sec. 16204e. Not later than 1 year after the effective date of the amendatory act that added this section, the department in consultation with the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, the Michigan board of dentistry, the Michigan board of podiatric medicine and surgery, the Michigan board of optometry, the Michigan task force on physician's assistants, and the Michigan board of nursing may promulgate rules describing the circumstances under which a bona fide prescriber-patient relationship is not required for purposes of prescribing a schedule 2 to 5 controlled substance under section 7303a(2). The rules may include an alternative requirement for prescribing a schedule 2 to 5 controlled substance when a bona fide prescriber-patient relationship is not required by the rules promulgated under this section.

History: Add. 2017, Act 247, Imd. Eff. Dec. 27, 2017.

Popular name: Act 368

333.16205 Attendance at educational programs as condition to license renewal; waiver; rules for assessing continued competence.

Sec. 16205. (1) A board which requires evidence of attendance at educational programs as a condition to license renewal may waive those requirements if, upon written application, the board finds the failure of the licensee to attend was due to the licensee's disability, military service, absence from the continental United States, or a circumstance beyond the control of the licensee which the board considers good and sufficient.

(2) A board may promulgate rules to establish a system of assessing the continued competence of licensees as a condition of periodic license renewal.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1984, Act 268, Imd. Eff. Dec. 18, 1984;—Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986.

Popular name: Act 368

333.16206 Electronic continuing education tracking system; agreement with nongovernmental entity; rules.

Sec. 16206. (1) The department may enter into an agreement with an entity that is not an agency of a state or the federal government to provide an electronic continuing education tracking system that provides an electronic record of the continuing education courses, classes, or programs completed by all of the individuals who are licensed or registered under this article. All of the following apply to an electronic system provided by an agreement under this subsection:

(a) All continuing education tracking provided by the system must accurately reflect the continuing education requirements under this article and rules promulgated under this article.

(b) A confirmation of completion of continuing education requirements generated by the system is considered verification of completion of those requirements for renewal of a license or registration and for purposes of any audit of licensees or registrants conducted by the department.

(c) The system must provide access to continuing education information about an individual who is licensed or registered under this article to the individual, to the appropriate board for the individual's health profession, and to the department.

(2) The department shall promulgate any rules it considers appropriate to implement and administer this section.

History: Add. 2016, Act 29, Eff. June 6, 2016.

Popular name: Act 368

333.16208 Expired. 1978, Act 368, Eff. Sept. 30, 1984.

Compiler's note: The expired section pertained to assessing continued competency of licensees. Subsequent to its expiration this section was repealed by Act 268 of 1984.

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Popular name: Act 368

333.16211 Individual historical record; creation; contents; review by department; retention of unsubstantiated allegations; removal; review of record by licensee or applicant.

Sec. 16211. (1) The department shall create and maintain a permanent historical record for each licensee and registrant with respect to information and data transmitted pursuant to law.

(2) The individual historical record shall include a written allegation against the licensee or registrant that is substantiated after investigation.

(3) The individual historical record may include other items concerning a licensee's or registrant's record of practice that the appropriate board determines will facilitate proper and periodic review, but only those items as designated by rule.

(4) The department shall promptly review the entire file of a licensee or registrant, including all prior matters with respect to which no action was taken at the time, with respect to whom there is received 1 or more of the following:

(a) A notice of revocation, suspension, or limitation of staff privileges or a change in employment status due to disciplinary action by a licensed health facility.

(b) A written allegation of a violation of this article, article 7, or a rule promulgated under this article or article 7 that is substantiated after investigation.

(c) A notice of disciplinary action by a health professional society.

(d) An adverse malpractice settlement, award, or judgment.

(e) Written notice of 1 or more of the following:

(*i*) A felony conviction.

(*ii*) A misdemeanor conviction punishable by imprisonment for a maximum term of 2 years.

(*iii*) A misdemeanor conviction, if the misdemeanor involves the illegal delivery, possession, or use of alcohol or a controlled substance.

(f) Notice that a licensee or registrant is ineligible to participate as a provider in a federally funded health insurance or health benefits program based upon the licensee's or registrant's failure to meet the program's standards of professional practice. A certified copy of the action or final order making the licensee or registrant ineligible is sufficient notice for purposes of this subdivision.

(g) A report or notice under section 16222.

(h) Notice of a disciplinary action by a licensure, registration, disciplinary, or specialty certification board in another state.

(5) The department shall retain written allegations that are unsubstantiated for 5 years, after which the department shall remove the allegations from the file, if no further allegations against the licensee or registrant have been received by the department within the 5-year period.

(6) Except as provided in section 16231(6), a licensee, registrant, or applicant may review his or her individual historical record.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16213 Retention of records.

Sec. 16213. (1) A licensee shall keep and maintain a record for each patient for whom the licensee has provided medical services, including a full and complete record of tests and examinations performed, observations made, and treatments provided. If a medical service provided to a patient on or after the effective date of the amendatory act that added this sentence involves the vaginal or anal penetration of the patient, a licensee shall expressly state in the patient's record that vaginal or anal penetration was performed unless the medical service meets any of the circumstances described in subsection (2)(b)(*i*), (*ii*), (*iii*), or (*iv*).

(2) Unless a longer retention period is otherwise required under federal or state laws or regulations or by generally accepted standards of medical practice, a licensee shall keep and retain each record required under subsection (1) as follows:

(a) Except as otherwise provided in subdivision (b), for a minimum of 7 years from the date of service to which the record pertains.

(b) If the record is for a medical service performed on or after the effective date of the amendatory act that added this subdivision that involves the vaginal or anal penetration of a patient, for a minimum of 15 years from the date of service to which the record pertains. This subdivision does not apply to a record for any of the following:

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(*i*) A medical service that primarily relates to the patient's urological, gastrointestinal, reproductive, gynecological, or sexual health.

(*ii*) A medical service that is necessary and associated with or incident to a medical emergency. As used in this subparagraph, "medical emergency" means a circumstance that, in the licensee's good-faith medical judgment, creates an immediate threat of serious risk to the life or physical health of the patient.

(*iii*) A medical service performed for the purpose of rectally administering a drug or medicine.

(*iv*) A medical service performed to measure a patient's temperature.

(3) The records required under subsection (1) must be maintained in such a manner as to protect their integrity, to ensure their confidentiality and proper use, and to ensure their accessibility and availability to each patient or the patient's authorized representative as required by law.

(4) Except as otherwise provided in subsection (7), a licensee may destroy a record required under subsection (1) that is less than 7 years old only if both of the following are satisfied:

(a) The licensee sends a written notice to the patient at the last known address of that patient informing the patient that the record is about to be destroyed, offering the patient the opportunity to request a copy of that record, and requesting the patient's written authorization to destroy the record.

(b) The licensee receives written authorization from the patient or the patient's authorized representative agreeing to the destruction of the record.

(5) If a licensee is unable to comply with this section, the licensee shall employ or contract, arrange, or enter into an agreement with another health care provider, a health facility or agency, or a medical records company to protect, maintain, and provide access to those records required under subsection (1).

(6) If a licensee or registrant sells or closes the licensee's or registrant's practice, retires from practice, or otherwise ceases to practice under this article, the licensee or the personal representative of the licensee, if the licensee is deceased, shall not abandon the records required under this section and shall send a written notice to the department that specifies who will have custody of the medical records and how a patient may request access to or copies of the patient's medical records and shall do either of the following:

(a) Transfer the records required under subsection (1) to any of the following:

(*i*) A successor licensee.

(*ii*) If requested by the patient or the patient's authorized representative, to the patient or a specific health facility or agency or other health care provider licensed under article 15.

(*iii*) A health care provider, a health facility or agency, or a medical records company with which the licensee had contracted or entered into an agreement to protect, maintain, and provide access to those records required under subsection (1).

(b) Except as otherwise provided in subsection (7), and in accordance with subsections (1) to (4), as long as the licensee or the personal representative of the licensee, if the licensee is deceased, sends a written notice to the last known address of each patient for whom the licensee has provided medical services and receives written authorization from the patient or the patient's authorized representative, destroy the records required under subsection (1). The notice must provide the patient with 30 days to request a copy of the patient's records or to designate where the patient would like the patient's medical records transferred and must request from the patient within 30 days written authorization for the destruction of the patient's medical records. Except as otherwise provided in subsection (7), if the patient fails to request a copy or transfer of the patient's medical records or to provide the licensee with written authorization for the destruction, then the licensee or the personal representative of the licensee shall not destroy those records that are less than 7 years old but may destroy, in accordance with subsection (8), those that are 7 years old or older.

(7) A licensee or the personal representative of a licensee, if the licensee is deceased, shall only destroy a record described in subsection (2)(b) in accordance with subsection (8).

(8) Except as otherwise provided under this section or federal or state laws and regulations, records required to be maintained under subsection (1), other than a record described in subsection (2)(b), may be destroyed or otherwise disposed of after being maintained for 7 years and records described in subsection (2)(b) may be destroyed or otherwise disposed of after being maintained for 15 years. If records maintained in accordance with this section are subsequently destroyed or otherwise disposed of, those records must be shredded, incinerated, electronically deleted, or otherwise disposed of in a manner that ensures continued confidentiality of the patient's health care information and any other personal information relating to the patient. If records are not destroyed or otherwise disposed of as provided under this subsection, the department may take action, including, but not limited to, contracting for or making other arrangements to ensure that those records and any other confidential identifying information related to the patient are properly destroyed or disposed of to protect the confidentiality of patient's health care information and any other personal information relating to the patient. Before the department takes action in accordance with this subsection, the department, if able to identify the licensee responsible for the improper destruction or disposal

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of the medical records at issue, shall send a written notice to that licensee at the licensee's last known address or place of business on file with the department and provide the licensee with an opportunity to properly destroy or dispose of those medical records as required under this subsection unless a delay in the proper destruction or disposal may compromise the patient's confidentiality. The department may assess the licensee with the costs incurred by the department to enforce this subsection.

(9) Except as otherwise provided in section 16213a, a person that fails to comply with this section is subject to an administrative fine of not more than $10,000.00 if the failure was the result of gross negligence or willful and wanton misconduct.

(10) Nothing in this section shall be construed to create or change the ownership rights to any medical records.

(11) As used in this section:

(a) "Medical record" or "record" means information, oral or recorded in any form or medium, that pertains to a patient's health care, medical history, diagnosis, prognosis, or medical condition and that is maintained by a licensee in the process of providing medical services.

(b) "Medical records company" means a person who contracts for or agrees to protect, maintain, and provide access to medical records for a health care provider or health facility or agency in accordance with this section.

(c) "Patient" means an individual who receives or has received health care from a health care provider or health facility or agency. Patient includes a guardian, if appointed, and a parent, guardian, or person acting in loco parentis, if the individual is a minor, unless the minor lawfully obtained health care without the consent or notification of a parent, guardian, or other person acting in loco parentis, in which case the minor has the exclusive right to exercise the rights of a patient under this section with respect to the minor's medical records relating to that care.

History: Add. 2006, Act 481, Imd. Eff. Dec. 22, 2006;—Am. 2023, Act 62, Eff. Oct. 10, 2023.

Popular name: Act 368

333.16213a Violation of record retention; medical service involving vaginal or anal penetration; penalties.

Sec. 16213a. (1) Except as otherwise provided in subsections (2) and (3), a person that violates section 16213(1) regarding the documentation of a medical service involving vaginal or anal penetration in a patient's medical record is subject to an administrative fine or guilty of a crime as follows:

(a) For a first violation, an administrative fine of not more than $1,000.00.

(b) For a second violation, an administrative fine of not more than $2,500.00.

(c) For a third or subsequent violation, a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than $5,000.00, or both.

(2) A person that violates section 16213(1) regarding the documentation of a medical service involving vaginal or anal penetration in a patient's medical record is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of $5,000.00, or both, if the violation was the result of gross negligence.

(3) A person that intentionally violates section 16213(1) regarding the documentation of a medical service involving vaginal or anal penetration in a patient's medical record is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $7,500.00, or both.

(4) This section does not limit any other sanction or additional action a disciplinary subcommittee is authorized to impose or take.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023.

Popular name: Act 368

333.16215 Delegation of acts, tasks, or functions to licensed or unlicensed individual; supervision; rules; immunity; third party reimbursement or worker's compensation benefits.

Sec. 16215. (1) Subject to subsections (2) to (6), a licensee who holds a license other than a health profession subfield license may delegate to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience the performance of selected acts, tasks, or functions where the acts, tasks, or functions fall within the scope of practice of the licensee's profession and will be performed under the licensee's supervision. A licensee shall not delegate an act, task, or function under this section if the act, task, or function, under standards of acceptable and prevailing practice, requires the level of education, skill, and judgment required of the licensee under this article.

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(2) Subject to subsection (1) and except as otherwise provided in this subsection and subsections (3) and (4), a licensee who is an allopathic physician or osteopathic physician and surgeon shall delegate an act, task, or function that involves the performance of a procedure that requires the use of surgical instrumentation only to an individual who is licensed under this article. A licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in this subsection to an individual who is not licensed under this article if the unlicensed individual is 1 or more of the following and if the procedure is directly supervised by a licensed allopathic physician or osteopathic physician and surgeon who is physically present during the performance of the procedure:

(a) A student enrolled in a school of medicine or osteopathic medicine approved by the Michigan board of medicine or the Michigan board of osteopathic medicine and surgery.

(b) A student enrolled in a physician's assistant training program approved by the joint physician's assistant task force created under part 170.

(3) Subject to subsection (1), a licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in subsection (2) to an individual who is not licensed under this article and who is 1 of the following:

(a) Performing acupuncture. This subdivision does not apply beginning 36 months after the effective date of the rules promulgated under section 16525 on the licensure of acupuncturists.

(b) Surgically removing only bone, skin, blood vessels, cartilage, dura mater, ligaments, tendons, pericardial tissue, or heart valves only from a deceased individual for transplantation, implantation, infusion, injection, or other medical or scientific purpose.

(4) Subject to subsection (1), a licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in subsection (2) to an individual who is not licensed under this article if the procedure is directly supervised by a licensed allopathic physician or osteopathic physician and surgeon who is physically present during the performance of the procedure, the delegation of such procedure is not prohibited or otherwise restricted by the board or that health facility or agency, and the delegation of that act, task, or function is specifically authorized by that health facility or agency to be delegated and performed by either of the following unlicensed individuals:

(a) A surgical technologist who meets the qualifications established by the health facility or agency with which he or she is employed or under contract.

(b) A surgical first assistant who meets the qualifications established by the health facility or agency with which he or she is employed or under contract.

(5) A board may promulgate rules to further prohibit or otherwise restrict delegation of specific acts, tasks, or functions to a licensed or unlicensed individual if the board determines that the delegation constitutes or may constitute a danger to the health, safety, or welfare of the patient or public.

(6) To promote safe and competent practice, a board may promulgate rules to specify conditions under which, and categories and types of licensed and unlicensed individuals for whom, closer supervision may be required for acts, tasks, and functions delegated under this section.

(7) An individual who performs acts, tasks, or functions delegated pursuant to this section does not violate the part that regulates the scope of practice of that health profession.

(8) The amendatory act that added this subsection does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual authorized to perform those services under subsection (4).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 279, Eff. Mar. 28, 1991;—Am. 1999, Act 60, Eff. Sept. 1, 1999;—Am. 2005, Act 211, Imd. Eff. Nov. 17, 2005;—Am. 2019, Act 140, Eff. Mar. 4, 2020.

Popular name: Act 368

333.16216 Disciplinary subcommittee for board or task force; members; voting; chairperson; final decision; set aside by department; issuance of different final action; inclusion of final decision on website.

Sec. 16216. (1) The chair of each board or task force shall appoint 1 or more disciplinary subcommittees for that board or task force. A disciplinary subcommittee for a board or task force shall consist of 2 public members and 3 professional members from the board or task force.

(2) A final decision of a disciplinary subcommittee finding a violation of this article, article 7, or article 8 requires a majority vote of the members appointed and serving on the disciplinary subcommittee.

(3) A final decision of a disciplinary subcommittee imposing a sanction under this article, article 7, or article 8 or a final decision of a disciplinary subcommittee other than a final decision described in subsection (2) requires a majority vote of the members appointed and serving on the disciplinary subcommittee with an affirmative vote by at least 1 public member.

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(4) The chair of a board or task force shall appoint a public member of the disciplinary subcommittee of that board or task force as the chairperson of that disciplinary subcommittee. The chair of a board or task force shall not serve as a member of the disciplinary subcommittee of that board or task force.

(5) The department may review a final decision of a disciplinary subcommittee within 30 days after the date of the disciplinary subcommittee's decision. If the department determines that the action taken by a disciplinary subcommittee does not protect the health, safety, and welfare of the public, the department, with the approval of the board chair, may set aside the decision of the disciplinary subcommittee and issue a different final action. The final action of the department serves as the final action on the matter and is subject to judicial review in the same manner as the final decision of the disciplinary subcommittee.

(6) Beginning January 1, 2015, the department shall include on its public licensing and registration website each final decision that imposes disciplinary action against a licensee, including the reason for and description of that disciplinary action.

History: Add. 1993, Act 87, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 98, Eff. July 1, 2014;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

Compiler's note: Former MCL 333.16216, which pertained to disciplinary subcommittee for board or task force, was repealed by Act 87 of 1993, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16216a Member of disciplinary subcommittee; conflict of interest; disclosure; "conflict of interest" defined.

Sec. 16216a. (1) A member of a disciplinary subcommittee shall not participate in making a decision of that subcommittee that 1 or more of the grounds listed in section 16221 exist, in any investigation, or in the imposition of sanctions under section 16226, concerning a licensee or registrant if that subcommittee member has a conflict of interest.

(2) A member of a disciplinary subcommittee shall disclose a potential conflict of interest described in subsection (1) before that subcommittee takes any action described in subsection (1).

(3) As used in this section, "conflict of interest" means any of the following:

(a) Has a personal or financial interest in the outcome of the investigation of or the imposition of disciplinary sanctions on the licensee, registrant, or applicant for licensure or registration.

(b) Had a past or has a present business or professional relationship with the individual that the disciplinary subcommittee is investigating or against whom the disciplinary subcommittee is considering sanctions.

(c) Has given expert testimony in a medical malpractice action against or on behalf of the individual that the disciplinary subcommittee is investigating or against whom the disciplinary subcommittee is considering sanctions.

(d) Has other interest or relationship designated as a conflict of interest in a rule promulgated or order issued under this act.

History: Add. 2014, Act 95, Eff. July 1, 2014.

Popular name: Act 368

333.16221 Investigation of licensee, registrant, or applicant for licensure or registration; hearings, oaths, and testimony; complaint; grounds for proceeding under MCL 333.16226.

Sec. 16221. Subject to section 16221b, the department shall investigate any allegation that 1 or more of the grounds for disciplinary subcommittee action under this section exist, and may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The department may hold hearings, administer oaths, and order the taking of relevant testimony. After its investigation, the department shall provide a copy of the administrative complaint to the appropriate disciplinary subcommittee. The disciplinary subcommittee shall proceed under section 16226 if it finds that 1 or more of the following grounds exist:

(a) Except as otherwise specifically provided in this section, a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully engage in the practice of the health profession.

(b) Personal disqualifications, consisting of 1 or more of the following:

(*i*) Incompetence.

(*ii*) Subject to sections 16165 to 16170a, substance use disorder as that term is defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

(*iii*) Mental or physical inability reasonably related to and adversely affecting the licensee's or registrant's ability to practice in a safe and competent manner.

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(*iv*) Declaration of mental incompetence by a court of competent jurisdiction.

(*v*) Conviction of a misdemeanor punishable by imprisonment for a maximum term of 2 years; conviction of a misdemeanor involving the illegal delivery, possession, or use of a controlled substance; or conviction of any felony other than a felony listed or described in another subparagraph of this subdivision. A certified copy of the court record is conclusive evidence of the conviction.

(*vi*) Lack of good moral character.

(*vii*) Conviction of a criminal offense under section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g. A certified copy of the court record is conclusive evidence of the conviction.

(*viii*) Conviction of a violation of section 492a of the Michigan penal code, 1931 PA 328, MCL 750.492a. A certified copy of the court record is conclusive evidence of the conviction.

(*ix*) Conviction of a misdemeanor or felony involving fraud in obtaining or attempting to obtain fees related to the practice of a health profession. A certified copy of the court record is conclusive evidence of the conviction.

(*x*) Final adverse administrative action by a licensure, registration, disciplinary, or certification board involving the holder of, or an applicant for, a license or registration regulated by another state or a territory of the United States, by the United States military, by the federal government, or by another country. A certified copy of the record of the board is conclusive evidence of the final action.

(*xi*) Conviction of a misdemeanor that is reasonably related to or that adversely affects the licensee's or registrant's ability to practice in a safe and competent manner. A certified copy of the court record is conclusive evidence of the conviction.

(*xii*) Conviction of a violation of section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430. A certified copy of the court record is conclusive evidence of the conviction.

(*xiii*) Conviction of a criminal offense under section 83, 84, 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321, 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the court record is conclusive evidence of the conviction.

(*xiv*) Conviction of a violation of section 136 or 136a of the Michigan penal code, 1931 PA 328, MCL 750.136 and 750.136a. A certified copy of the court record is conclusive evidence of the conviction.

(*xv*) Conviction of a violation of section 90 of the Michigan penal code, 1931 PA 328, MCL 750.90, or a violation of a state or federal crime that is substantially similar to the violation described in this subparagraph. A certified copy of the court record is conclusive evidence of the conviction.

(c) Prohibited acts, consisting of 1 or more of the following:

(*i*) Fraud or deceit in obtaining or renewing a license or registration.

(*ii*) Permitting a license or registration to be used by an unauthorized person.

(*iii*) Practice outside the scope of a license.

(*iv*) Obtaining, possessing, or attempting to obtain or possess a controlled substance or a drug as that term is defined in section 7105 without lawful authority; or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

(d) Except as otherwise specifically provided in this section, unethical business practices, consisting of 1 or more of the following:

(*i*) False or misleading advertising.

(*ii*) Dividing fees for referral of patients or accepting kickbacks on medical or surgical services, appliances, or medications purchased by or in behalf of patients.

(*iii*) Fraud or deceit in obtaining or attempting to obtain third party reimbursement.

(e) Except as otherwise specifically provided in this section, unprofessional conduct, consisting of 1 or more of the following:

(*i*) Misrepresentation to a consumer or patient or in obtaining or attempting to obtain third party reimbursement in the course of professional practice.

(*ii*) Betrayal of a professional confidence.

(*iii*) Promotion for personal gain of an unnecessary drug, device, treatment, procedure, or service.

(*iv*) Either of the following:

(A) A requirement by a licensee other than a physician or a registrant that an individual purchase or secure a drug, device, treatment, procedure, or service from another person, place, facility, or business in which the licensee or registrant has a financial interest.

(B) A referral by a physician for a designated health service that violates 42 USC 1395nn or a regulation promulgated under that section. For purposes of this subdivision, 42 USC 1395nn and the regulations promulgated under that section as they exist on June 3, 2002 are incorporated by reference. A disciplinary subcommittee shall apply 42 USC 1395nn and the regulations promulgated under that section regardless of

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the source of payment for the designated health service referred and rendered. If 42 USC 1395nn or a regulation promulgated under that section is revised after June 3, 2002, the department shall officially take notice of the revision. Within 30 days after taking notice of the revision, the department shall decide whether or not the revision pertains to referral by physicians for designated health services and continues to protect the public from inappropriate referrals by physicians. If the department decides that the revision does both of those things, the department may promulgate rules to incorporate the revision by reference. If the department does promulgate rules to incorporate the revision by reference, the department shall not make any changes to the revision. As used in this sub-subparagraph, "designated health service" means that term as defined in 42 USC 1395nn and the regulations promulgated under that section and "physician" means that term as defined in sections 17001 and 17501.

(*v*) For a physician who makes referrals under 42 USC 1395nn or a regulation promulgated under that section, refusing to accept a reasonable proportion of patients eligible for Medicaid and refusing to accept payment from Medicaid or Medicare as payment in full for a treatment, procedure, or service for which the physician refers the individual and in which the physician has a financial interest. A physician who owns all or part of a facility in which the physician provides surgical services is not subject to this subparagraph if a referred surgical procedure the physician performs in the facility is not reimbursed at a minimum of the appropriate Medicaid or Medicare outpatient fee schedule, including the combined technical and professional components.

(*vi*) Any conduct by a licensee or registrant with a patient while the licensee or registrant is acting within the health profession for which the licensee or registrant is licensed or registered, including conduct initiated by a patient or to which the patient consents, that is sexual or may reasonably be interpreted as sexual, including, but not limited to, sexual intercourse, kissing in a sexual manner, or touching of a body part for any purpose other than appropriate examination, treatment, or comfort.

(*vii*) Offering to provide practice-related services, such as drugs, in exchange for sexual favors.

(*viii*) A violation of section 16655(4) by a dental therapist.

(f) Failure to notify under section 16222(3) or (4).

(g) Failure to report a change of name or mailing address as required in section 16192.

(h) A violation, or aiding or abetting in a violation, of this article or of a rule promulgated under this article.

(i) Failure to comply with a subpoena issued pursuant to this part, failure to respond to a complaint issued under this article, article 7, or article 8, failure to appear at a compliance conference or an administrative hearing, or failure to report under section 16222(1) or 16223.

(j) Failure to pay an installment of an assessment levied under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, within 60 days after notice by the appropriate board.

(k) A violation of section 17013 or 17513.

(*l*) Failure to meet 1 or more of the requirements for licensure or registration under section 16174.

(m) A violation of section 17015, 17015a, or 17515.

(n) Failure to comply with section 9206(3).

(o) A violation of section 5654 or 5655.

(p) A violation of section 16274.

(q) A violation of section 17020 or 17520.

(r) A violation of the medical records access act, 2004 PA 47, MCL 333.26261 to 333.26271.

(s) A violation of section 17764(2).

(t) Failure to comply with the terms of a practice agreement described in section 17047(2)(a) or (b), 17547(2)(a) or (b), or 18047(2)(a) or (b).

(u) A violation of section 7303a(2).

(v) A violation of section 7303a(4) or (5).

(w) A violation of section 7303b.

(x) A violation of section 17754a.

(y) Beginning January 1, 2021, a violation of section 24507 or 24509.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1986, Act 195, Imd. Eff. July 8, 1986;—Am. 1986, Act 319, Imd. Eff. Dec. 26, 1986;—Am. 1987, Act 178, Imd. Eff. Nov. 19, 1987;—Am. 1989, Act 15, Imd. Eff. May 15, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 133, Eff. Apr. 1, 1994;—Am. 1995, Act 196, Imd. Eff. Nov. 22, 1995;—Am. 1996, Act 273, Eff. Mar. 31, 1997;—Am. 1996, Act 540, Imd. Eff. Jan. 15, 1997;—Am. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 1998, Act 109, Eff. Mar. 23, 1999;—Am. 1998, Act 227, Imd. Eff. July 3, 1998;—Am. 2000, Act 29, Imd. Eff. Mar. 15, 2000;—Am. 2002, Act 402, Imd. Eff. June 3, 2002;—Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003;—Am. 2004, Act 48, Imd. Eff. Apr. 1, 2004;—Am. 2004, Act 214, Eff. Oct. 12, 2004;—Am. 2011, Act 222, Imd. Eff. Nov. 15, 2011;—Am. 2012, Act 499, Eff. Mar. 31, 2013;—Am. 2012, Act 501, Eff. Jan. 1, 2013;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 97, Eff. July 1, 2014;—Am. 2014,

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Act 411, Eff. Mar. 30, 2015;—Am. 2016, Act 379, Eff. Mar. 22, 2017;—Am. 2017, Act 75, Eff. Oct. 9, 2017;—Am. 2017, Act 246, Imd. Eff. Dec. 27, 2017;—Am. 2017, Act 247, Imd. Eff. Dec. 27, 2017;—Am. 2017, Act 249, Imd. Eff. Dec. 27, 2017;—Am. 2018, Act 463, Eff. Mar. 27, 2019;—Am. 2020, Act 135, Imd. Eff. July 8, 2020;—Am. 2020, Act 232, Imd. Eff. Oct. 22, 2020;—Am. 2023, Act 47, Eff. Sept. 27, 2023;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Section 2 of Act 319 of 1986 provides: "Section 16221(e)(*iv*) of Act No. 368 of the Public Acts of 1978, as added by this amendatory act, shall take effect April 1, 1987."

Popular name: Act 368

333.16221a Investigation of health care provider's recommendation or treatment under right to try act; definitions.

Sec. 16221a. (1) Except in the case of gross negligence or willful misconduct as determined by the department, a health care provider's recommendation or treatment provided as authorized under the right to try act is not grounds for the department to investigate under section 16221 or for disciplinary action against a licensee under section 16226.

(2) As used in this section:

(a) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether serious injury to a person would result.

(b) "Willful misconduct" means conduct committed with an intentional or reckless disregard for the safety of others, as by failing to exercise reasonable care to prevent a known danger.

History: Add. 2014, Act 346, Imd. Eff. Oct. 17, 2014.

Popular name: Act 368

333.16221b Violation of MCL 333.7303a(4) or (5) or 333.17754a; reasonable basis; issuance of letter.

Sec. 16221b. (1) If the department has a reasonable basis to believe that a licensee has violated any of the following, the department is not required to investigate under section 16221 or 16231 and may issue a letter to the licensee notifying the licensee that he or she may be in violation of the applicable section:

(a) Section 7303a(4).

(b) Section 7303a(5).

(c) Section 17754a.

(2) A letter that is issued under this section is not considered discipline.

History: Add. 2017, Act 249, Imd. Eff. Dec. 27, 2017;—Am. 2020, Act 135, Imd. Eff. July 8, 2020.

Popular name: Act 368

333.16222 Knowledge of violation; report to department; confidentiality of information; failure to make report; exception; identity of licensee or registrant making report; notice of criminal conviction or disciplinary action by another state.

Sec. 16222. (1) A licensee or registrant who has knowledge that another licensee or registrant has committed a violation under section 16221, article 7, or article 8 or a rule promulgated under article 7 or article 8 shall report the conduct and the name of the subject of the report to the department. Information obtained by the department under this subsection is confidential and is subject to sections 16238 and 16244. Failure of a licensee or registrant to make a report under this subsection does not give rise to a civil cause of action for damages against the licensee or registrant, but the licensee or registrant is subject to administrative action under sections 16221 and 16226. This subsection does not apply to a licensee or registrant who obtains the knowledge of a violation while providing professional services to the licensee or registrant to whom the knowledge applies, who is serving on a duly constituted ethics or peer review committee of a professional association, or who is serving on a committee assigned a professional review function in a health facility or agency.

(2) Unless the licensee or registrant making a report under subsection (1) otherwise agrees in writing, the identity of the licensee or registrant making a report under subsection (1) shall remain confidential unless disciplinary proceedings under this part are initiated against the subject of the report and the licensee or registrant making the report is required to testify in the proceedings.

(3) A licensee or registrant shall notify the department of any criminal conviction within 30 days after the date of the conviction. Failure of a licensee or registrant to notify the department under this subsection shall result in administrative action under sections 16221 and 16226.

(4) A licensee or registrant shall notify the department of any disciplinary licensing or registration action

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taken by another state against the licensee or registrant within 30 days after the date of the action. This subsection includes, but is not limited to, a disciplinary action that is stayed pending appeal. Failure of a licensee or registrant to notify the department under this subsection shall result in administrative action under sections 16221 and 16226.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 97, Eff. July 1, 2014.

Popular name: Act 368

333.16223 Impairment of licensee, registrant, or applicant; report; exception; liability.

Sec. 16223. (1) Except as otherwise provided in this section, a licensee or registrant who has reasonable cause to believe that a licensee, registrant, or applicant is impaired shall report that fact to the department. For purposes of this subsection, a report filed with the committee or with the program consultants described in section 16168 is considered to be filed with the department. A licensee or registrant who fails to report under this subsection is not liable in a civil action for damages resulting from the failure to report, but the licensee or registrant is subject to administrative action under sections 16221 and 16226.

(2) This section does not apply to a licensee or registrant who is in a bona fide health professional-patient relationship with a licensee, registrant, or applicant believed to be impaired.

(3) A licensee or registrant who in good faith complies with this section is not liable for damages in a civil action or subject to prosecution in a criminal proceeding as a result of the compliance.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16224 Failure or refusal to submit to examination as grounds for denial or suspension of license; additional grounds for disciplinary actions.

Sec. 16224. (1) Failure or refusal to submit to an examination that the department, a disciplinary subcommittee, or a board or task force is authorized to require under this part after reasonable notice and opportunity for a hearing constitutes a ground for denial or suspension of a license or registration until the examination is taken.

(2) Additional grounds for disciplinary action may be found in a part dealing with a specific health profession.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16226 Sanctions; determination; judicial review; maximum and minimum fine for violation of MCL 333.16221(a) or (b); completion of program or examination; permanent revocation; finding; violation of MCL 333.16221(b)(xiv) or (xv); disciplinary subcommittee.

Sec. 16226. (1) After finding the existence of 1 or more of the grounds for disciplinary subcommittee action listed in section 16221, a disciplinary subcommittee shall impose 1 or more of the following sanctions for each violation:

Violations of Section 16221	Sanctions
Subdivision (a), (b)(*i*), (b)(*ii*), (b)(*iii*), (b)(*iv*), (b)(*v*), (b)(*vi*), (b)(*vii*), (b)(*ix*), (b)(*x*), (b)(*xi*), or (b)(*xii*)	Probation, limitation, denial, suspension, revocation, permanent revocation, restitution, or fine.
Subdivision (b)(*viii*)	Revocation, permanent revocation, or denial.
Subdivision (b)(*xiii*)	Permanent revocation for a violation described in subsection (5); otherwise, probation, limitation, denial, suspension, revocation, restitution, or fine.

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Subdivision (b)(*xiv*) or (b)(*xv*)	Permanent revocation.
Subdivision (c)(*i*)	Denial, revocation, suspension, probation, limitation, or fine.
Subdivision (c)(*ii*)	Denial, suspension, revocation, restitution, or fine.
Subdivision (c)(*iii*)	Probation, denial, suspension, revocation, restitution, or fine.
Subdivision (c)(*iv*) or (d)(*iii*)	Fine, probation, denial, suspension, revocation, permanent revocation, or restitution.
Subdivision (d)(*i*) or (d)(*ii*)	Reprimand, fine, probation, denial, or restitution.
Subdivision (e)(*i*), (e)(*iii*), (e)(*iv*), (e)(*v*), (h), or (r)	Reprimand, fine, probation, limitation, suspension, revocation, permanent revocation, denial, or restitution.
Subdivision (e)(*ii*) or (i)	Reprimand, probation, suspension, revocation, permanent revocation, restitution, denial, or fine.
Subdivision (e)(*vi*), (e)(*vii*), or (e)(*viii*)	Probation, suspension, revocation, limitation, denial, restitution, or fine.
Subdivision (f)	Reprimand, denial, limitation, probation, or fine.
Subdivision (g)	Reprimand or fine.
Subdivision (j)	Suspension or fine.
Subdivision (k), (o), or (q)	Reprimand, probation, suspension, revocation, permanent revocation, or fine.
Subdivision (*l*)	Reprimand, denial, or limitation.
Subdivision (m) or (n)	Denial, revocation, restitution, probation, suspension, limitation, reprimand, or fine.
Subdivision (p)	Revocation.

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Subdivision (s)	Revocation, permanent revocation, fine, or restitution.
Subdivision (t)	Denial, revocation, probation, suspension, limitation, reprimand, or fine.
Subdivision (u) or (w)	Probation, limitation, denial, fine, suspension, revocation, or permanent revocation.
Subdivision (v)	Denial, fine, reprimand, probation, limitation, suspension, revocation, or permanent revocation.
Subdivision (x)	Subject to subsection (7), fine.
Subdivision (y)	Fine.

(2) Determination of sanctions for violations under this section must be made by a disciplinary subcommittee. If, during judicial review, the court of appeals determines that a final decision or order of a disciplinary subcommittee prejudices substantial rights of the petitioner for 1 or more of the grounds listed in section 106 of the administrative procedures act of 1969, MCL 24.306, and holds that the final decision or order is unlawful and is to be set aside, the court shall state on the record the reasons for the holding and may remand the case to the disciplinary subcommittee for further consideration.

(3) A disciplinary subcommittee may impose a fine in an amount that does not exceed $250,000.00 for a violation of section 16221(a) or (b). A disciplinary subcommittee shall impose a fine of at least $25,000.00 if the violation of section 16221(a) or (b) results in the death of 1 or more patients.

(4) A disciplinary subcommittee may require a licensee or registrant or an applicant for licensure or registration who has violated this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 to satisfactorily complete an educational program, a training program, or a treatment program, a mental, physical, or professional competence examination, or a combination of those programs and examinations.

(5) A disciplinary subcommittee shall impose the sanction of permanent revocation for a violation of section 16221(b)(*xiii*) if the violation occurred while the licensee or registrant was acting within the health profession for which the licensee or registrant was licensed or registered.

(6) Except as otherwise provided in subsection (5) and this subsection, a disciplinary subcommittee shall not impose the sanction of permanent revocation under this section without a finding that the licensee or registrant engaged in a pattern of intentional acts of fraud or deceit resulting in personal financial gain to the licensee or registrant and harm to the health of patients under the licensee's or registrant's care. This subsection does not apply if a disciplinary subcommittee finds that a licensee or registrant has violated section 16221(b)(*xiv*) or (b)(*xv*).

(7) A disciplinary subcommittee shall impose a fine of not more than $250.00 for each violation of section 16221(x).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1986, Act 195, Imd. Eff. July 8, 1986;—Am. 1986, Act 319, Imd. Eff. Dec. 26, 1986;—Am. 1987, Act 178, Imd. Eff. Nov. 19, 1987;—Am. 1989, Act 15, Imd. Eff. May 15, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 133, Eff. Apr. 1, 1994;—Am. 1996, Act 273, Eff. Mar. 31, 1997;—Am. 1996, Act 540, Imd. Eff. Jan. 15, 1997;—Am. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 1998, Act 109, Eff. Mar. 23, 1999;—Am. 2000, Act 29, Imd. Eff. Mar. 15, 2000;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003;—Am. 2004, Act 48, Imd. Eff. Apr. 1, 2004;—Am. 2004, Act 214, Eff. Oct. 12, 2004;—Am. 2011, Act 224, Imd. Eff. Nov. 15, 2011;—Am. 2012, Act 499, Eff. Mar. 31, 2013;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 97, Eff. July 1, 2014;—Am. 2014, Act 412, Eff. Mar. 30, 2015;—Am. 2016, Act 379, Eff. Mar. 22, 2017;—Am. 2017, Act 81, Eff. Oct. 9, 2017;—Am. 2017, Act

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246, Imd. Eff. Dec. 27, 2017;—Am. 2017, Act 247, Imd. Eff. Dec. 27, 2017;—Am. 2017, Act 249, Imd. Eff. Dec. 27, 2017;—Am. 2018, Act 463, Eff. Mar. 27, 2019;—Am. 2020, Act 136, Imd. Eff. July 8, 2020;—Am. 2020, Act 233, Imd. Eff. Oct. 22, 2020;—Am. 2023, Act 48, Eff. Sept. 27, 2023;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16227 Suspension or revocation of license or registration; other sanction or action.

Sec. 16227. (1) For an offense committed within 2 years after a previous offense of the same kind, a disciplinary subcommittee shall suspend the license or registration for a period of at least 180 days or revoke the license or registration.

(2) Section 16226 and this section do not limit any other sanction or additional action a disciplinary subcommittee is authorized to impose or take.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2014, Act 97, Eff. July 1, 2014.

Popular name: Act 368

333.16228 Prescription of controlled substance; investigation; ad hoc review panel.

Sec. 16228. (1) For an investigation involving the prescription of a controlled substance, the department may establish an ad hoc review panel to provide the department with expert information regarding a specific health profession or health specialty or a specific health care treatment or procedure as it relates to the investigation. The department shall establish an ad hoc review panel under this subsection as follows:

(a) The department shall triennially establish a pool of 10 physicians, 5 of whom are allopathic physicians licensed under part 170 and 5 of whom are osteopathic physicians licensed under part 175.

(b) For each ad hoc review panel, the department shall appoint 3 physicians from the pool established under subdivision (a).

(2) The ad hoc review panel shall provide the information described in subsection (1) to the department during the investigation process and before a formal complaint is issued.

History: Add. 1998, Act 423, Eff. Apr. 1, 1999.

Popular name: Act 368

333.16231 Allegation; review; investigation; compliance conference; duties of department following investigation; confidentiality of identity; complaint; failure to respond; conditions applicable to subsection (2)(a); "conflict of interest" defined.

Sec. 16231. (1) A person or governmental entity that believes that a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 exists may submit an allegation of that fact to the department in writing.

(2) Subject to subsection (3) and section 16221b, if the department determines after reviewing an application or an allegation or a licensee's or registrant's file under section 16211(4) that there is a reasonable basis to believe that a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 exists, 1 of the following applies:

(a) Unless subdivision (b) applies, subject to subsection (10), with the authorization of a panel of at least 3 board members that includes the chair and at least 2 other members of the appropriate board or task force designated by the chair, the department shall investigate the alleged violation. Subject to subsection (10), if the panel fails to grant or deny authorization within 7 days after the board or task force receives a request for authorization, the department shall investigate. If the department believes that immediate jeopardy exists, the director or his or her designee shall authorize an investigation and notify the board chair of that investigation within 2 business days.

(b) If it reviews an allegation in writing under subsection (1) that concerns a licensee or registrant whose record created under section 16211 includes 1 substantiated allegation, or 2 or more written investigated allegations, from 2 or more different individuals or entities, received in the preceding 4 years, the department shall investigate the alleged violation. Authorization by a panel described in subdivision (a) is not required for an investigation by the department under this subdivision.

(3) If a person or governmental entity submits a written allegation under subsection (1) more than 4 years after the date of the incident or activity that is the basis of the alleged violation, the department may investigate the alleged violation in the manner described in subsection (2)(a) or (b), as applicable, but is not required to conduct an investigation under subsection (2)(a) or (b).

(4) If it receives information reported under section 16243(2) that indicates 3 or more malpractice settlements, awards, or judgments against a licensee in a period of 5 consecutive years or 1 or more

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malpractice settlements, awards, or judgments against a licensee totaling more than $200,000.00 in a period of 5 consecutive years, whether or not a judgment or award is stayed pending appeal, the department shall investigate.

(5) At any time during an investigation or following the issuance of a complaint, the department may schedule a compliance conference under section 92 of the administrative procedures act of 1969, MCL 24.292. The conference may include the applicant, licensee, registrant, or individual, the applicant's, licensee's, registrant's, or individual's attorney, 1 member of the department's staff, and any other individuals approved by the department. One member of the appropriate board or task force who is not a member of the disciplinary subcommittee with jurisdiction over the matter may attend the conference and provide any assistance that is needed. At the compliance conference, the department shall attempt to reach agreement. If an agreement is reached, the department shall submit a written statement outlining the terms of the agreement, or a stipulation and final order, if applicable, or a request for dismissal to the appropriate disciplinary subcommittee for approval. If the agreement or stipulation and final order or request for dismissal is rejected by the disciplinary subcommittee, or if no agreement is reached, the department shall schedule a hearing before an administrative law judge. A party shall not make a transcript of the compliance conference. All records and documents of a compliance conference held before a complaint is issued are subject to section 16238.

(6) Within 90 days after an investigation is initiated under subsection (2), (3), or (4), the department shall do 1 or more of the following:

(a) Issue a formal complaint.

(b) Conduct a compliance conference under subsection (5).

(c) Issue a summary suspension.

(d) Issue a cease and desist order.

(e) Dismiss the allegation.

(f) Place in the complaint file not more than 1 written extension of not more than 30 days to take action under this subsection.

(7) Unless the person submitting an allegation under subsection (1) otherwise agrees in writing, the department shall keep the identity of a person that submitted the allegation confidential until disciplinary proceedings under this part are initiated against the subject of the allegation and the person that made the allegation is required to testify in the proceedings.

(8) The department shall serve a complaint under section 16192. The department shall include in the complaint a notice that the applicant, licensee, registrant, or individual who is the subject of the complaint has 30 days from the date of receipt to respond in writing to the complaint.

(9) The department shall treat the failure of an applicant, licensee, registrant, or individual to respond to a complaint within the 30-day period set forth in subsection (8) as an admission of the allegations contained in the complaint. The department shall notify the appropriate disciplinary subcommittee of the individual's failure to respond and shall forward a copy of the complaint to that disciplinary subcommittee. The disciplinary subcommittee may then impose an appropriate sanction under this article, article 7, or article 8.

(10) All of the following apply for purposes of subsection (2)(a):

(a) If the chair of the board or task force has a conflict of interest, he or she shall appoint another member of the board or task force as his or her designee and shall not participate in the panel's decision to grant or deny authorization to the department to investigate an individual.

(b) A member of the board or task force shall not participate in the panel's decision to grant or deny authorization to the department to investigate an individual if that member has a conflict of interest. If the chair of the board or task force is notified that a member of the panel has a conflict of interest, the chair shall remove him or her from the panel and appoint another member of the board or task force to serve on the panel.

(c) A member of the board or task force who participates in or is requested to participate in the panel's decision to grant or deny authorization to the department to investigate an individual shall disclose to the department, to the chair of the board or task force, and to the other member of the panel a potential conflict of interest before those participants make that decision.

(11) As used in subsection (10), "conflict of interest" means any of the following:

(a) Has a personal or financial interest in the outcome of the investigation of or the imposition of disciplinary sanctions on the licensee, registrant, or applicant for licensure or registration.

(b) Had a past or has a present business or professional relationship with the individual that the department is investigating or requesting authorization to investigate.

(c) Has given expert testimony in a medical malpractice action against or on behalf of the individual that the department is seeking authorization to investigate.

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(d) Any other interest or relationship designated as a conflict of interest in a rule promulgated or order issued under this act.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2010, Act 382, Imd. Eff. Dec. 22, 2010;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 95, Eff. July 1, 2014;—Am. 2017, Act 249, Imd. Eff. Dec. 27, 2017.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16231a Failure to reach agreement at compliance conference held under MCL 333.16231(4); hearing; conduct; determination by hearings examiner; request for continuance; representation; failure to appear as default; notice; sanction.

Sec. 16231a. (1) If an agreement is not reached at a compliance conference held under section 16231(4), or if an agreement is reached but is rejected by a disciplinary subcommittee and the parties do not reach a new agreement, the department shall hold a hearing before a hearings examiner employed by or under contract to the department. If an agreement is reached but is rejected by the disciplinary subcommittee, the department shall not hold another compliance conference, but may continue to try and reach a new agreement. The hearings examiner shall conduct the hearing within 60 days after the compliance conference at which an agreement is not reached or after the agreement is rejected by the disciplinary subcommittee, unless a new agreement is reached and approved by the disciplinary subcommittee. One member of the appropriate board or task force who is not a member of the disciplinary subcommittee with jurisdiction over the matter may attend the hearing and provide such assistance as needed.

(2) The hearings examiner shall determine if there are grounds for disciplinary action under section 16221 or if the applicant, licensee, or registrant has violated this article, article 7, or article 8 or the rules promulgated under this article, article 7, or article 8. The hearings examiner shall prepare recommended findings of fact and conclusions of law for transmittal to the appropriate disciplinary subcommittee. The hearings examiner shall not recommend or impose penalties.

(3) The applicant, licensee, or registrant who is the subject of the complaint or the department of attorney general may request and be granted not more than 1 continuance by the hearings examiner for good cause shown.

(4) The applicant, licensee, or registrant may be represented at the hearing by legal counsel. The department shall be represented at the hearing by an assistant attorney general from the department of attorney general. The assistant attorney general shall not be the same individual assigned by the department of attorney general to provide legal counsel to the board or the special assistant attorney general described in section 16237.

(5) Unless a continuance has been granted under subsection (3), failure of an applicant, licensee, or registrant to appear or be represented at a scheduled hearing shall be treated by the hearings examiner as a default and an admission of the allegations contained in the complaint. The hearings examiner shall notify the appropriate disciplinary subcommittee of the individual's failure to appear and forward a copy of the complaint and any other relevant records to the disciplinary subcommittee. The disciplinary subcommittee may then impose an appropriate sanction under any combination of this article, article 7, or article 8.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.16232 Hearings; rules.

Sec. 16232. (1) The department shall provide an opportunity for a hearing in connection with the denial, reclassification, limitation, reinstatement, suspension, or revocation of a license or a proceeding to reprimand, fine, order restitution, or place a licensee on probation.

(2) The department shall provide an opportunity for a hearing in connection with the denial, limitation, suspension, revocation, or reinstatement of a registration or a proceeding to reprimand, fine, order restitution, or place a registrant on probation.

(3) A disciplinary subcommittee shall meet within 60 days after receipt of the recommended findings of fact and conclusions of law from a hearings examiner to impose a penalty.

(4) Only the department shall promulgate rules governing hearings under this article, article 7, or article 8 and related preliminary proceedings.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 95, Eff. July 1, 2014.

Popular name: Act 368

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333.16233 Investigation; order to cease and desist; hearing; violation of order; summary suspension of license or registration; notice from federal agency.

Sec. 16233. (1) The department may conduct an investigation necessary to administer and enforce this article. Investigations may include written, oral, or practical tests of a licensee's or registrant's competency. The department may establish a special paralegal unit to assist the department.

(2) The department may order an individual to cease and desist from a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8.

(3) An individual ordered to cease and desist under subsection (2) is entitled to a hearing before a hearings examiner if the individual files a written request for a hearing within 30 days after the effective date of the cease and desist order. The department shall subsequently present the notice, if any, of the individual's failure to respond to a complaint, or attend or be represented at a hearing as described in sections 16231 and 16231a, or the recommended findings of fact and conclusions of law to the appropriate disciplinary subcommittee to determine whether the order is to remain in effect or be dissolved.

(4) Upon a violation of a cease and desist order issued under subsection (2), the department of attorney general may apply in the circuit court to restrain and enjoin, temporarily or permanently, an individual from further violating the cease and desist order.

(5) After consultation with the chair of the appropriate board or task force or his or her designee, the department may summarily suspend a license or registration if the public health, safety, or welfare requires emergency action in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292. If a licensee or registrant is convicted of a felony; a misdemeanor punishable by imprisonment for a maximum term of 2 years; or a misdemeanor involving the illegal delivery, possession, or use of a controlled substance, the department shall find that the public health, safety, or welfare requires emergency action and, in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292, shall summarily suspend the licensee's license or the registrant's registration. If a licensee or registrant is convicted of a misdemeanor involving the illegal delivery, possession, or use of alcohol that adversely affects the licensee's ability to practice in a safe and competent manner, the department may find that the public health, safety, or welfare requires emergency action and, in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292, may summarily suspend the licensee's license or the registrant's registration.

(6) The department may summarily suspend a pharmacy license if the department has received a notice from the United States food and drug administration or the centers for disease control and prevention that there is an imminent risk to the public health, safety, or welfare and emergency action in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292, is appropriate. A suspension under this subsection remains in effect for the duration of the emergency situation that poses a risk to the public health, safety, or welfare. Notwithstanding any provision of this act to the contrary, the department is not required to conduct an investigation or consult with the board of pharmacy to take emergency action under this subsection.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1995, Act 196, Imd. Eff. Nov. 22, 1995;—Am. 2010, Act 382, Imd. Eff. Dec. 22, 2010;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 280, Eff. Sept. 30, 2014.

Compiler's note: Section 3 of Act 174 of 1986 provides: “This amendatory act shall only apply to contested cases filed on or after July 1, 1986.”

Popular name: Act 368

333.16234 Conduct of hearings; authority of department.

Sec. 16234. The department may hold hearings and administer oaths and order testimony to be taken at a hearing or by deposition conducted pursuant to the administrative procedures act of 1969.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16235 Subpoena; prima facie evidence of matters recorded; admissible evidence.

Sec. 16235. (1) Upon application by the attorney general or a party to a contested case, the circuit court may issue a subpoena requiring a person to appear before a hearings examiner in a contested case or before the department in an investigation and be examined with reference to a matter within the scope of that contested case or investigation and to produce books, papers, or documents pertaining to that contested case or investigation. A subpoena issued under this subsection may require a person to produce all books, papers, and documents pertaining to all of a licensee's or registrant's patients in a health facility on a particular day if the allegation that gave rise to the disciplinary proceeding was made by or pertains to 1 or more of those

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patients.

(2) A copy of a record of a board or a task force or a disciplinary subcommittee or a hearings examiner certified by a person designated by the director is prima facie evidence of the matters recorded and is admissible as evidence in a proceeding in this state with the same force and effect as if the original were produced.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16236 Mental or physical examination; expense; consent; waiver.

Sec. 16236. (1) In a hearing or an investigation where mental or physical inability or substance abuse under section 16221 or impairment is alleged, a disciplinary subcommittee or a hearings examiner or the department with the approval of a disciplinary subcommittee may require the applicant, licensee, or registrant to submit to a mental or physical examination conducted by physicians or other appropriate health professionals designated by the disciplinary subcommittee or the department. An examination conducted under this subsection shall be at the expense of the department.

(2) For purposes of this section, an individual licensed or registered under this part who accepts the privilege of practicing in this state, by so practicing or by receiving a license or renewal to practice or by receiving registration, and an individual who applies for licensure or registration, consents to submit to a mental or physical examination under subsection (1) when directed to do so in writing by a disciplinary subcommittee, a hearings examiner, or the department. The individual waives all objections to the admissibility of the testimony or examination reports of the examining health professional on the ground that the testimony or reports constitute privileged communications.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16237 Imposition of penalty by disciplinary subcommittee; review of recommended findings of fact and conclusions of law; assignment of independent special assistant attorney general; additional testimony or evidence; sanction; completion of action; appeal.

Sec. 16237. (1) In imposing a penalty under section 16232(3), a disciplinary subcommittee shall review the recommended findings of fact and conclusions of law of the hearings examiner.

(2) The department of attorney general may assign an independent special assistant attorney general who is under contract to the department of attorney general and is not a member of the state classified civil service to advise the disciplinary subcommittees on matters of law and provide other legal assistance as necessary. A special assistant attorney general assigned to the disciplinary subcommittees under this subsection shall not be the same individual who represented the department before a hearings examiner under section 16231a(4).

(3) In reviewing the recommended findings of fact and conclusions of law of the hearings examiner and the record of the hearing, a disciplinary subcommittee may request the hearings examiner to take additional testimony or evidence on a specific issue or may revise the recommended findings of fact and conclusions of law as determined necessary by the disciplinary subcommittee, or both. A disciplinary subcommittee shall not conduct its own investigation or take its own additional testimony or evidence under this subsection.

(4) If a disciplinary subcommittee finds that a preponderance of the evidence supports the recommended findings of fact and conclusions of law of the hearings examiner indicating that grounds exist for disciplinary action, the disciplinary subcommittee shall impose an appropriate sanction under any combination of this article, article 7, or article 8. If the disciplinary subcommittee finds that a preponderance of the evidence does not support the findings of fact and conclusions of law of the hearings examiner indicating that grounds exist for disciplinary action, the disciplinary subcommittee shall dismiss the complaint. A disciplinary subcommittee shall report final action taken by it in writing to the appropriate board or task force.

(5) The compliance conference, the hearing before the hearings examiner, and final disciplinary subcommittee action shall be completed within 1 year after the department initiates an investigation under section 16231(2) or (3). The department shall note in its annual report any exceptions to the 1-year requirement.

(6) A final decision of a disciplinary subcommittee rendered after the effective date of the amendatory act that added this section but before January 1, 1995 may be appealed only in the manner provided in sections 103 to 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306. A final decision of a disciplinary subcommittee rendered on or after January 1, 1995 may be appealed only to the court of appeals. An appeal filed under this subsection is by right.

History: Add. 1993, Act 87, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

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Compiler's note: Former MCL 333.16237, which pertained to imposition of penalty, review, and appeal, was repealed by Act 87 of 1993, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16238 Confidentiality of information; compliance conference closed to public.

Sec. 16238. (1) Except as otherwise provided in section 13(1)(u) (*i*) and (*ii*) of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.243 of the Michigan Compiled Laws, the information including, but not limited to, patient names, obtained in an investigation or a compliance conference before a complaint is issued, is confidential and shall not be disclosed except to the extent necessary for the proper functioning of a hearings examiner, a disciplinary subcommittee, or the department.

(2) A compliance conference conducted under this part before a complaint is issued shall be closed to the public.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16239 Pamphlet.

Sec. 16239. Each licensee or registrant who is in private practice shall make available upon request of a patient a pamphlet provided by the department outlining the procedure for filing an allegation with the department under section 16231. The department shall prepare the pamphlet in consultation with appropriate professional associations and the boards and task forces. The department shall prepare and print the pamphlet in languages that are appropriate to the ethnic composition of the patient population where the pamphlet will be available.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16241 Publishing list of names and addresses of disciplined individuals; distribution of compilation; report of disciplinary actions; report upon summary suspension of license; notice of revocation or suspension to patient or client; notice to employer or hospital; report.

Sec. 16241. (1) After administrative disciplinary action is final, the department shall publish a list of the names and addresses of disciplined individuals. The department shall indicate on the list that a final administrative disciplinary action is subject to judicial review. The department shall report disciplinary action to the department of community health, the department of insurance and financial services, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association.

(2) Once each calendar year, the department shall transmit to the library of Michigan sufficient copies of a compilation of the lists required under subsection (1) for the immediately preceding 3 calendar years. The library of Michigan shall distribute the compilation to each depository library in this state. The department shall also transmit the compilation to each county clerk in this state once each calendar year.

(3) The department of community health shall report the disciplinary actions to appropriate licensed health facilities and agencies. The department of insurance and financial services shall report the disciplinary actions received from the department to insurance carriers providing professional liability insurance.

(4) In case of a summary suspension of a license under section 16233(5), the department shall report the name and address of the individual whose license has been suspended to the department of community health, the department of insurance and financial services, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association. In case of a summary suspension of a license under section 16233(6), the department shall report the name and address of the pharmacy license that has been suspended to the department of community health, the department of insurance and financial services, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association.

(5) A licensee or registrant whose license or registration is revoked or suspended under this article shall give notice of the revocation or suspension to each patient who contacts the licensee or registrant for professional services during the term of the revocation or suspension. The licensee or registrant may give the notice required under this subsection orally and shall give the notice required under this subsection at the time of contact.

(6) A licensee or registrant whose license or registration is revoked or is suspended for more than 60 days under this article shall notify in writing each patient or client to whom the licensee or registrant rendered professional services in the licensee's or registrant's private practice during the 120 days immediately

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preceding the date of the final order imposing the revocation or suspension and to each individual who is already scheduled for professional services during the first 120 days after the date of the final order imposing the revocation or suspension. The notice must be on a form provided by the licensee's or registrant's board or task force and state, at a minimum, the name, address, and license or registration number of the licensee or registrant, the fact that his or her license or registration has been revoked or suspended, the effective date of the revocation or suspension, and the term of the revocation or suspension. Each board or task force shall develop a notice form that meets at least the minimum requirements of this subsection. The licensee or registrant shall send the notice to each patient or client to whom the licensee or registrant rendered professional services in the licensee's or registrant's private practice during the 120 days immediately preceding the date of the final order imposing the revocation or suspension within 30 days after the date of the final order imposing the revocation or suspension and shall simultaneously transmit a copy of the notice to the department. The licensee or registrant orally shall notify each individual who contacts the licensee or registrant for professional services during the first 120 days after the date of the final order imposing the revocation or suspension. The licensee or registrant shall also provide a copy of the notice within 10 days after the date of the final order imposing the revocation or suspension to his or her employer, if any, and to each hospital, if any, in which the licensee or registrant is admitted to practice.

(7) A licensee or registrant who is reprimanded, fined, placed on probation, or ordered to pay restitution under this article or an applicant whose application for licensure or registration is denied under this article shall notify his or her employer, if any, and each hospital, if any, in which he or she is admitted to practice, in the same manner as provided for notice of revocation or suspension to an employer or hospital under subsection (6), within 10 days after the date of the final order imposing the sanction.

(8) The department shall annually report to the legislature and to each board and task force on disciplinary actions taken under this article, article 7, and article 8. The department shall include, at a minimum, all of the following information in the report required under this subsection:

(a) Investigations conducted, complaints issued, and settlements reached by the department, separated out by type of complaint and health profession.

(b) Investigations and complaints closed or dismissed.

(c) Actions taken by each disciplinary subcommittee, separated out by type of complaint, health profession, and final order issued.

(d) Recommendations by boards and task forces.

(e) The number of extensions and delays granted by the department that were in excess of the time limits required under this article for each phase of the disciplinary process, and the types of cases for which the extensions and delays were granted.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 87, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 280, Eff. Sept. 30, 2014.

Popular name: Act 368

333.16243 Reports; reporting name of licensee, amount of damages awarded, or amount of approved settlement.

Sec. 16243. (1) The department or a disciplinary subcommittee appointed under section 16216 may request and shall receive the following reports:

(a) Information from a licensed health care facility as to disciplinary action taken by it under section 20175.

(b) Information from an insurer providing professional liability insurance as to claims or actions for damages against a licensee; settlements in any amount; a final disposition not resulting in payment on behalf of the insured; or a personal injury claimed to have been caused by an error, omission, or negligence in the performance of the insured professional services. An insurer that receives a request under this subdivision shall submit the information requested directly to the department.

(c) Information from a court in this state as to a felony or misdemeanor conviction of a licensee or registrant or a judgment against a licensee or registrant finding the licensee or registrant negligent in an action for malpractice, whether or not the judgment is appealed.

(d) A report by a licensee or registrant under section 16222.

(e) Information provided by the National Practitioner Data Bank, and reports from the Michigan health care arbitration program.

(f) Reports from any other appropriate source necessary for determination of the competency and safety of the practice of a licensee. Appropriate sources include, but are not limited to, appointed public and private professional review entities and public and private health insurance programs.

(2) Within 10 days after the entry of a judgment against a licensee finding the licensee negligent in an

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action for malpractice or the approval by a court of a settlement in an action for malpractice, the clerk of the court in which the judgment was entered or the settlement approved shall prepare and immediately forward to the department on a form prescribed by the department a report setting forth the name of the licensee and the amount of damages awarded or the amount of the approved settlement.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2016, Act 103, Eff. Aug. 1, 2016.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16244 Immunity from civil or criminal liability; physician-patient privilege inapplicable; confidentiality of information; disclosure; prohibition.

Sec. 16244. (1) A person, including a state or county health professional organization, a committee of the organization, or an employee or officer of the organization furnishing information to, or on behalf of, the organization, acting in good faith who makes a report; assists in originating, investigating, or preparing a report; or assists a board or task force, a disciplinary subcommittee, a hearings examiner, the committee, or the department in carrying out its duties under this article is immune from civil or criminal liability including, but not limited to, liability in a civil action for damages that might otherwise be incurred thereby and is protected under the whistleblowers' protection act, Act No. 469 of the Public Acts of 1980, being sections 15.361 to 15.369 of the Michigan Compiled Laws. A person making or assisting in making a report, or assisting a board or task force, a hearings examiner, the committee, or the department, is presumed to have acted in good faith. The immunity from civil or criminal liability granted under this subsection extends only to acts done pursuant to this article or section 21513(e).

(2) The physician-patient privilege created in section 2157 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2157 of the Michigan Compiled Laws, does not apply in an investigation or proceeding by a board or task force, a disciplinary subcommittee, a hearings examiner, the committee, or the department acting within the scope of its authorization. Unless expressly waived by the individual to whom the information pertains, the information obtained is confidential and shall not be disclosed except to the extent necessary for the proper functioning of a board or task force, a disciplinary subcommittee, the committee, or the department. Except as otherwise provided in this subsection, a person shall not use or disseminate the information except pursuant to a valid court order.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 87, Eff. Apr. 1, 1994.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

In the last sentence of subsection (1), the reference to "section 21513(e)" evidently should be to "section 20175 (5) to (7)."

Popular name: Act 368

333.16245 Reinstatement of limited, suspended, or revoked license or registration; application; payment; time; hearing; guidelines; fee; criminal history check; permanent revocation.

Sec. 16245. (1) Except as otherwise provided in this section or section 16245a, an individual whose license is limited, suspended, or revoked under this part may apply to the individual's board or task force for a reinstatement of a revoked or suspended license or reclassification of a limited license pursuant to section 16247 or 16249.

(2) Except as otherwise provided in this section or section 16245a, an individual whose registration is suspended or revoked under this part may apply to the individual's board for a reinstatement of a suspended or revoked registration pursuant to section 16248.

(3) A board or task force shall reinstate a license or registration suspended for grounds stated in section 16221(j) on payment of the installment.

(4) Except as otherwise provided in this section or section 16245a, in case of a revoked license or registration, an applicant shall not apply for reinstatement before the expiration of 3 years after the effective date of the revocation. Except as otherwise provided in this section or section 16245a, in the case of a license or registration that was revoked for a violation of section 16221(b)(*vii*) or (*xiii*), a violation of section 16221(c)(*iv*) consisting of a felony conviction, any other felony conviction involving a controlled substance, or a violation of section 16221(p), an applicant shall not apply for reinstatement before the expiration of 5 years after the effective date of the revocation. The department shall return an application for reinstatement received before the expiration of the applicable time period under this subsection.

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(5) The department shall provide an opportunity for a hearing before final rejection of an application for reinstatement unless the application is returned because the applicant is ineligible for reinstatement under subsection (4) or (9).

(6) Based on the recommendation of the disciplinary subcommittee for each health profession, the department shall adopt guidelines to establish specific criteria to be met by an applicant for reinstatement under this article, article 7, or article 8. The criteria may include corrective measures or remedial education as a condition of reinstatement. If a board or task force, in reinstating a license or registration, deviates from the guidelines adopted under this subsection, the board or task force shall state the reason for the deviation on the record.

(7) An individual who seeks reinstatement or reclassification of a license or registration under this section shall pay the application processing fee as a reinstatement or reclassification fee. If approved for reinstatement or reclassification, the individual shall pay the per year license or registration fee for the applicable license or registration period.

(8) An individual who seeks reinstatement of a revoked or suspended license or reclassification of a limited license under this section shall have a criminal history check conducted in accordance with section 16174 and submit a copy of the results of the criminal history check to the board with the individual's application for reinstatement or reclassification.

(9) An individual whose license is permanently revoked under section 16221 is ineligible for reinstatement. The department shall return an application for reinstatement received if the applicant is ineligible for reinstatement under this subsection.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 87, Eff. Apr. 1, 1994;—Am. 1998, Act 109, Eff. Mar. 23, 1999;—Am. 2006, Act 26, Imd. Eff. Feb. 17, 2006;—Am. 2011, Act 223, Imd. Eff. Nov. 15, 2011;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 413, Eff. Mar. 30, 2015;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16245a Permanent revocation.

Sec. 16245a. (1) In addition to any other penalty, remedy, or sanction under this act, an individual whose license, registration, or authorization to engage in the practice of a health profession has been permanently revoked under this article is permanently ineligible for a license, registration, or authorization to engage in the practice of a health profession under this article by the department or a board or task force.

(2) The department or a board or task force shall not issue a license or registration to an individual whose license, registration, or authorization to engage in the practice of a health profession has been permanently revoked under this article. The department or a board or task force shall not otherwise authorize an individual to engage in the practice of a health profession under this article if that individual's license, registration, or authorization to engage in the practice of a health profession has been permanently revoked under this article.

History: Add. 2014, Act 413, Eff. Mar. 30, 2015.

Popular name: Act 368

333.16247 Reinstatement of license or issuance of limited license; requirements.

Sec. 16247. (1) Except as otherwise provided in this section, a board or task force may reinstate a license or issue a limited license to an individual whose license has been suspended or revoked under this part if after a hearing the board or task force is satisfied by clear and convincing evidence that the applicant is of good moral character, is able to practice the profession with reasonable skill and safety to patients, has met the criteria in the guidelines adopted under section 16245(6), and should be permitted in the public interest to practice. Pursuant to the guidelines adopted under section 16245(6), as a condition of reinstatement, a disciplinary subcommittee, upon the recommendation of a board or task force, may impose a disciplinary or corrective measure authorized under this part and require that the licensee attend a school or program selected by the board or task force to take designated courses or training to become competent or proficient in those areas of practice in which the board or task force finds the licensee to be deficient. The board or task force may require a statement on a form approved by it from the chief administrator of the school or program attended or the person responsible for the training certifying that the licensee has achieved the required competency or proficiency.

(2) As a condition of reinstatement, a board or task force shall place the licensee on probation for 1 year under conditions set by the board or task force. If a licensee whose license has been revoked cannot apply for reinstatement for 5 years after the date of revocation, then, as a condition of reinstatement, the board or task

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force shall require the licensee to take and pass the current licensure examination.

(3) A board or task force shall not reinstate a license suspended or revoked for grounds stated in section 16221(b)(*i*), (*iii*), or (*iv*) until it finds that the licensee is mentally or physically able to practice with reasonable skill and safety to patients. The board or task force may require further examination of the licensee, at the licensee's expense, necessary to verify that the licensee is mentally or physically able. The board or task force shall give a licensee described in this section the opportunity at reasonable intervals to demonstrate that he or she can resume competent practice in accordance with standards of acceptable and prevailing practice.

(4) A board or task force shall not reinstate a license or issue a limited license to an individual whose license has been permanently revoked under section 16221.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

Popular name: Act 368

333.16248 Reinstatement of registration; requirements.

Sec. 16248. (1) Except as otherwise provided in this section, a registration board may reinstate a registration revoked or suspended under this part if, after a hearing, the board is satisfied by clear and convincing evidence that the individual is of good moral character, has the education and experience as required in this article, has met the criteria in the guidelines adopted under section 16245(6), and will use the title lawfully and act in accordance with this article.

(2) A board or task force shall not reinstate a registration or issue a limited registration to an individual whose license has been permanently revoked under section 16221.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

Popular name: Act 368

333.16249 Reclassification of limited license; requirements.

Sec. 16249. Except as otherwise provided in section 16245a, a disciplinary subcommittee may reclassify a license limited under this part to alter or remove the limitations if, after a hearing, it is satisfied that the applicant will practice the profession safely and competently within the area of practice and under conditions stipulated by the disciplinary subcommittee, and should be permitted in the public interest to so practice. The disciplinary subcommittee may require the submission of information necessary to make the determination required for reclassification. As a condition of reclassification, the disciplinary subcommittee may require that the licensee take an examination or attend a school or program selected by the disciplinary subcommittee to take designated courses or training to become competent in those areas of practice the disciplinary subcommittee determines necessary for reclassification. The disciplinary subcommittee may require a statement on a form approved by it from the chief administrator of the school or program attended or the person responsible for the training certifying that the licensee has achieved the required competency.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

Popular name: Act 368

333.16261 Health profession; prohibited use of insignia, title, letter, word, or phrase.

Sec. 16261. (1) An individual who is not licensed or registered under this article shall not use an insignia, title, or letter, or a word, letter, or phrase singly or in combination, with or without qualifying words, letters, or phrases, under a circumstance to induce the belief that the person is licensed or registered in this state, is lawfully entitled in this state to engage in the practice of a health profession regulated by this article, or is otherwise in compliance with this article.

(2) An individual shall not announce or hold himself or herself out to the public as limiting his or her practice to, as being specially qualified in, or as giving particular attention to a health profession specialty field for which a board issues a specialty certification or a health profession specialty field license, without first having obtained a specialty certification or a health profession specialty field license.

(3) An individual shall not announce or hold himself or herself out to the public as being able to perform a chiropractic adjustment, chiropractic manipulation, or other chiropractic services or chiropractic opinion, unless the individual is a chiropractor licensed under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2002, Act 734, Imd. Eff. Dec. 30, 2002.

Popular name: Act 368

333.16263 Repealed. 2006, Act 392, Imd. Eff. Sept. 27, 2006.

Compiler's note: The repealed section pertained to restricted use of words, titles, or letters.

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Popular name: Act 368

333.16264 Use of insignia, titles, letters, or phrases granted by authorized educational program or institution or professional organization or association.

Sec. 16264. Section 16261 shall not limit the right of an individual to use the insignia, titles, letters, or phrases as granted to the individual by an authorized educational program or institution or professional organization or professional association for the purpose of identifying the individual as having completed or attained specific training or as having established a recognized relationship with a health profession regulated by this article, if the individual does not violate the conditions of those sections or of a specific part in this article.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.16265 Use of terms “doctor” or “dr.”.

Sec. 16265. (1) An individual licensed under this article to engage in the practice of chiropractic, dentistry, medicine, optometry, osteopathic medicine and surgery, podiatric medicine and surgery, psychology, or veterinary medicine shall not use the terms "doctor" or "dr." in any written or printed matter or display without adding thereto "of chiropractic", "of dentistry", "of medicine", "of optometry", "of osteopathic medicine and surgery", "of podiatric medicine and surgery", "of psychology", "of veterinary medicine" or a similar term, respectively.

(2) An individual licensed under part 182 shall not use the terms "doctor" or "dr." without having been granted a doctoral degree in psychology from a regionally or nationally accredited college or university.

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

Popular name: Act 368

333.16266 Compliance.

Sec. 16266. Each licensee who owns or operates, or who owns and operates, a private practice office shall comply with part 138.

History: Add. 1990, Act 21, Eff. June 4, 1990.

Popular name: Act 368

333.16267 HIV infected test subject; compliance reporting requirements; definitions.

Sec. 16267. (1) A licensee who obtains from a test subject a test result that indicates that the test subject is HIV infected shall comply with the reporting requirements of section 5114.

(2) As used in this section:

(a) "HIV" means human immunodeficiency virus.

(b) "HIV infected" means that term as defined in section 5101.

History: Add. 1988, Act 489, Eff. Mar. 30, 1989.

Popular name: Act 368

333.16273 Artificial insemination services on anonymous basis; use of frozen sperm; testing sperm donor for presence of HIV or antibody to HIV; violation; liability; definitions.

Sec. 16273. (1) A licensee, except a veterinarian licensed under this article, who provides artificial insemination services on an anonymous basis shall use only frozen sperm, and shall test each potential sperm donor for the presence in the donor of HIV or an antibody to HIV. The donated sperm shall be frozen, stored, and quarantined for not less than 6 months. Before frozen sperm is used for artificial insemination, and not less than 6 months after the date of the donation, the licensee shall take a second blood sample from the donor and have that blood sample tested for HIV or an antibody to HIV. If at any time the test results are positive, the licensee shall not use the sperm of the donor for artificial insemination purposes.

(2) A licensee who violates this section shall be liable in a civil action for damages for the loss or damage resulting from the violation.

(3) As used in this section:

(a) "Anonymous basis" means that the recipient of the sperm does not know the identity of the donor, but the licensee who provides the artificial insemination services or collects the sperm from the donor does know the identity of the donor.

(b) "HIV" means human immunodeficiency virus.

History: Add. 1988, Act 487, Eff. July 1, 1989.

Popular name: Act 368

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333.16274 Human cloning; prohibited acts; exception; violation of subsection (1); private right of action; definitions.

Sec. 16274. (1) A licensee or registrant shall not engage in or attempt to engage in human cloning.

(2) Subsection (1) does not prohibit scientific research or cell-based therapies not specifically prohibited by that subsection.

(3) A licensee or registrant who violates subsection (1) is subject to the administrative penalties prescribed in sections 16221 and 16226 and to the civil penalty prescribed in section 16275.

(4) This section does not give a person a private right of action.

(5) As used in this section:

(a) "Human cloning" means the use of human somatic cell nuclear transfer technology to produce a human embryo.

(b) "Human embryo" means a human egg cell with a full genetic composition capable of differentiating and maturing into a complete human being.

(c) "Human somatic cell" means a cell of a developing or fully developed human being that is not and will not become a sperm or egg cell.

(d) "Human somatic cell nuclear transfer" means transferring the nucleus of a human somatic cell into an egg cell from which the nucleus has been removed or rendered inert.

History: Add. 1998, Act 108, Eff. Mar. 23, 1999.

Popular name: Act 368

333.16275 Human cloning; prohibition; exception; violation; penalty; private right of action; "human cloning" defined.

Sec. 16275. (1) A licensee or registrant or other individual shall not engage in or attempt to engage in human cloning.

(2) Subsection (1) does not prohibit scientific research or cell-based therapies not specifically prohibited by that subsection.

(3) A licensee or registrant or other individual who violates subsection (1) is subject to a civil penalty of $10,000,000.00. A fine collected under this subsection shall be distributed in the same manner as penal fines are distributed in this state.

(4) This section does not give a person a private right of action.

(5) As used in this section, "human cloning" means that term as defined in section 16274.

History: Add. 1998, Act 109, Eff. Mar. 23, 1999.

Popular name: Act 368

333.16276 Use of laser for dermatological purposes; supervision of licensed physician required; exceptions; rules; definitions.

Sec. 16276. (1) A licensee, registrant, or other individual shall not perform any procedure using a laser for dermatological purposes unless the procedure is performed under the supervision of a licensed physician.

(2) A licensee, registrant, or other individual shall not perform any procedure using a laser for dermatological purposes unless the patient has knowledge and consents to the procedure being performed by that licensee, registrant, or individual.

(3) Subsection (1) does not apply to any of the following:

(a) A licensed physician.

(b) A licensed physician's assistant who performs such a procedure in a health care facility.

(c) A certified nurse practitioner who performs such a procedure in a health care facility.

(4) The department may promulgate rules to further prohibit or otherwise restrict the use of lasers for dermatological purposes.

(5) As used in this section:

(a) "Dermatological" means of or relating to the practice of dermatology.

(b) "Practice of dermatology" means the diagnosis and treatment of medically necessary and cosmetic conditions of the skin, hair, and nails by various surgical, reconstructive, cosmetic, and nonsurgical methods.

(c) "Supervision" means the overseeing of or participation in the work of another individual by a health professional licensed under this article in circumstances where at least all of the following conditions exist:

(*i*) The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional.

(*ii*) The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to

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further educate the supervised individual in the performance of the individual's functions.

(*iii*) The provision by the licensed supervising health professional of predetermined procedures and drug protocol.

History: Add. 2004, Act 144, Imd. Eff. June 15, 2004.

Popular name: Act 368

333.16276a Medical exfoliation procedures; supervision of licensed physician required; knowledge and consent required.

Sec. 16276a. (1) A licensee, registrant, or other individual shall not perform a medical exfoliation procedure unless the procedure is performed under the supervision of a licensed physician.

(2) A licensee, registrant, or other individual shall not perform a medical exfoliation procedure unless the patient has knowledge and consents to the procedure being performed by that licensee, registrant, or individual.

(3) Subsection (1) does not apply to a licensed physician.

(4) As used in this section, "medical exfoliation procedure" means a procedure exfoliating the skin cells of an individual in the layers of epidermis below the stratum corneum by dermaplaning or microdermabrasion.

History: Add. 2024, Act 159, Eff. Apr. 2, 2025.

Popular name: Act 368

333.16277 Nonemergency health care; limitation on liability; additional restrictions; exceptions; definitions.

Sec. 16277. (1) Subject to this section, a licensee or registrant who provides to a patient nonemergency health care that the licensee or registrant is licensed or registered under this article to provide, and who receives no compensation for providing the nonemergency health care, is not liable in a civil action for damages for acts or omissions in providing the nonemergency health care, unless the acts or omissions were the result of gross negligence or willful and wanton misconduct or were intended to injure the patient.

(2) The limitation on liability provided under subsection (1) applies only if the nonemergency health care is provided inside the premises of or as a result of a referral from either of the following:

(a) A health facility organized and operated for the sole purpose of delivering nonemergency health care without receiving compensation.

(b) An entity that is not a health facility and that provides or that coordinates or otherwise arranges for the provision of nonemergency health care to uninsured or underinsured individuals through the voluntary services of or through referrals for the voluntary services of licensees or registrants who receive no compensation for providing the nonemergency health care.

(3) In addition to the restrictions under subsection (2), the limitation on liability provided in subsection (1) does not apply in regard to the nonemergency health care of a patient unless, before the licensee or registrant provides that health care, both of the following occur:

(a) The licensee, registrant, or health facility or entity described in subsection (2) provides the patient with a written disclosure describing the limitation on liability and stating that the health care is free and compensation for the health care will not be requested from any source.

(b) The patient signs an acknowledgment of receipt of the written disclosure.

(4) A health facility, other than a health facility described in subsection (2), that provides financial, in-kind, or other support, not including health care services, to a health facility or entity described in subsection (2) is not liable in a civil action for damages based on nonemergency health care provided by the licensee, registrant, or health facility or entity described in subsection (2).

(5) An entity that is not a health facility, is exempt from taxation under section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, and is organized and operated for the sole purpose of coordinating and providing referrals for nonemergency health care to uninsured or underinsured individuals through licensees or registrants who do not receive compensation for providing the nonemergency health care is not liable in a civil action for damages that arise from the nonemergency health care provided by the licensee, registrant, or health facility or entity described in subsection (2).

(6) This section does not affect the liability of a health facility or entity described in subsection (2) as that liability existed before January 1, 2002.

(7) This section does not apply to a civil action for damages for acts or omissions if the nonemergency health care is surgery that customarily requires more than a local anesthetic.

(8) As used in this section:

(a) "Compensation" means, subject to subdivision (b), receipt of payment or expected receipt of payment from any source, including, but not limited to, receipt of payment or expected receipt of payment directly

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from a patient, from a patient's parent, guardian, or spouse, or from a public or private health care payment or benefits plan on behalf of the patient, or indirectly in the form of wages, salary, or other valuable consideration under an employment or service agreement.

(b) "Compensation" does not include the receipt by a licensee or registrant who is employed by a health facility other than a health facility described in subsection (2) of wages, salary, or other valuable consideration from the employing health facility, if all of the following apply:

(*i*) The employing health facility does not expect or require the licensee or registrant to provide health care as described in this section as a condition of employment.

(*ii*) The employing health facility does not expect or require the licensee or registrant to provide health care as described in this section at a specific health facility described in subsection (2) as a condition of employment.

(*iii*) The employing health facility does not receive compensation for the licensee's or registrant's provision of health care as described in this section.

(c) "Health facility" means a health facility or agency licensed under article 17.

History: Add. 2001, Act 172, Eff. Jan. 1, 2002;—Am. 2011, Act 94, Imd. Eff. July 15, 2011.

Compiler's note: Enacting section 1 of Act 172 of 2001 provides:

"Enacting section 1. Section 16277 of the public health code, 1978 PA 368, MCL 333.16277, as added by this amendatory act, takes effect January 1, 2002 and applies to a cause of action arising on or after that effective date."

Popular name: Act 368

333.16279 Medical treatment, procedure, or examination involving vaginal or anal penetration; requirements; written consent; exceptions; record retention violation; penalties.

Sec. 16279. (1) Except as otherwise provided in this section, a licensee or registrant shall not perform a medical treatment, procedure, or examination on a patient who is a minor that involves the vaginal or anal penetration of the minor unless all of the following are met:

(a) The medical treatment, procedure, or examination is within the scope of practice of the licensee's or registrant's health profession.

(b) A medical assistant or another licensee or registrant is in the room while the medical treatment, procedure, or examination is performed. The person providing consent under subdivision (c) may waive the requirement described in this subdivision.

(c) Before performing the medical treatment, procedure, or examination, the licensee or registrant obtains the written consent of a parent, guardian, or person in loco parentis of the minor or the consent of any person that is authorized by law to provide consent, on the form created in section 16279a or on another form that includes the same information as the form created in section 16279a. The written consent described in this subdivision may be obtained through electronic means.

(2) A licensee or registrant who obtains the consent required under subsection (1) for a medical treatment, procedure, or examination that requires subsequent visits to perform the same treatment, procedure, or examination on the minor may perform the subsequent treatment, procedure, or examination on the minor without obtaining the consent required under subsection (1) if the subsequent treatment, procedure, or examination is performed within 6 months from the date of obtaining the consent required under subsection (1).

(3) Subsection (1) does not apply in any of the following circumstances:

(a) If the medical treatment, procedure, or examination is necessary and is associated with or incident to a medical emergency. As used in this subdivision, "medical emergency" means a circumstance that, in the licensee's or registrant's good-faith medical judgment, creates an immediate threat of serious risk to the life or physical health of the patient.

(b) If the medical treatment, procedure, or examination primarily relates to the patient's urological, gastrointestinal, reproductive, gynecological, or sexual health.

(c) If the medical treatment, procedure, or examination is performed at a children's advocacy center. As used in this subdivision, "children's advocacy center" means that term as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(d) If the medical treatment, procedure, or examination is performed for purposes of a sexual assault medical forensic examination under section 21527.

(e) If the medical treatment, procedure, or examination is performed for the purpose of measuring the patient's temperature.

(f) If the medical treatment, procedure, or examination is performed for the purpose of rectally administering a drug or medicine.

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(4) The consent form required under subsection (1) must be maintained in a patient's medical record for not less than 15 years from the date on which the medical treatment, procedure, or examination was performed.

(5) A person that knowingly violates subsection (1) is guilty of a felony punishable as follows:

(a) For the first offense, by imprisonment for not more than 2 years or a fine of not more than $5,000.00, or both.

(b) For a second or subsequent offense, by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both.

(6) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law that is committed by that person while violating this section.

(7) A court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime, including any other violation of law arising out of the same transaction as the violation of this section.

History: Add. 2023, Act 60, Eff. Oct. 10, 2023.

Popular name: Act 368

333.16279a Standardized consent form for medical treatment, procedure, or examination involving vaginal or anal penetration of a minor under MCL 333.16279.

Sec. 16279a. (1) The department shall create and may periodically update a standardized consent form to be used by a licensee or registrant who provides a medical treatment, procedure, or examination to a minor under section 16279. The department shall use generally accepted standards of medical practice in determining the information to be included on the form. The form must include at least all of the following statements:

(a) That gloves are generally used for a medical treatment, procedure, or examination involving vaginal or anal penetration.

(b) That the person providing consent under section 16279 has the right to request information on whether there is a reasonable alternative to the treatment, procedure, or examination that does not consist of anal or vaginal penetration.

(c) That the person providing consent under section 16279 has the right to request a clear explanation of the nature of the treatment, procedure, or examination.

(d) That the person providing consent under section 16279 may request that gloves be used during the treatment, procedure, or examination.

(e) That a licensee or registrant generally cannot be alone in the room with the patient while the treatment, procedure, or examination is being performed.

(2) The department shall make the form publicly available on its website.

History: Add. 2023, Act 60, Eff. Oct. 10, 2023.

Popular name: Act 368

333.16281 Initiation of child abuse or neglect investigations; notice to licensee or registrant; request for child's medical records and information; release of medical records and information; inapplicable privileges; immunity from liability; exception; duties imposed by other statutes.

Sec. 16281. (1) If there is a compelling need for records or information to determine whether child abuse or child neglect has occurred or to take action to protect a child where there may be a substantial risk of harm, a family independence agency caseworker or administrator directly involved in the child abuse or neglect investigation shall notify a licensee or registrant that a child abuse or neglect investigation has been initiated regarding a child who has received services from the licensee or registrant and shall request in writing the child's medical records and information that are pertinent to that investigation. Upon receipt of this notification and request, the licensee or registrant shall review all of the child's medical records and information in the licensee's or registrant's possession to determine if there are medical records or information that is pertinent to that investigation. Within 14 days after receipt of a request made under this subsection, the licensee or registrant shall release those pertinent medical records and information to the caseworker or administrator directly involved in the child abuse or neglect investigation.

(2) The following privileges do not apply to medical records or information released or made available under subsection (1):

(a) The physician-patient privilege created in section 2157 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157.

(b) The dentist-patient privilege created in section 16648.

(c) The licensed professional counselor-client and limited licensed counselor-client privilege created in

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section 18117.

(d) The psychologist-patient privilege created in section 18237.

(e) Any other health professional-patient privilege created or recognized by law.

(3) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, an individual who in good faith provides access to medical records or information under this section is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

(4) This section does not apply to a report, record, datum, or information whose confidentiality and disclosure are governed by section 5131.

(5) A duty under this act relating to child abuse and neglect does not alter a duty imposed under another statute, including the child protection law, 1975 PA 238, MCL 722.621 to 722.638, regarding the reporting or investigation of child abuse or neglect.

History: Add. 1998, Act 496, Eff. Mar. 1, 1999.

Popular name: Act 368

333.16282 Patient treated for opioid-related overdose to be provided with information on substance use disorder services.

Sec. 16282. A licensee or registrant who treats a patient for an opioid-related overdose shall provide information to the patient on substance use disorder services. As used in this section, "substance use disorder services" means that term as defined in section 6230.

History: Add. 2017, Act 250, Eff. Mar. 27, 2018.

Popular name: Act 368

333.16283 Definitions.

Sec. 16283. As used in this section and sections 16284 to 16288:

(a) "Health professional" means an individual who is engaging in the practice of a health profession.

(b) "Prescriber" means that term as defined in section 17708.

(c) "Telehealth" means the use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and professional health-related education, public health, or health administration. Telehealth may include, but is not limited to, telemedicine. As used in this subdivision, "telemedicine" means that term as defined in section 3476 of the insurance code of 1956, 1956 PA 218, MCL 500.3476.

(d) "Telehealth service" means a health care service that is provided through telehealth.

History: Add. 2016, Act 359, Eff. Mar. 29, 2017.

Popular name: Act 368

333.16284 Telehealth service; consent required; exception.

Sec. 16284. Except as otherwise provided in this section, a health professional shall not provide a telehealth service without directly or indirectly obtaining consent for treatment. This section does not apply to a health professional who is providing a telehealth service to an inmate who is under the jurisdiction of the department of corrections and is housed in a correctional facility.

History: Add. 2016, Act 359, Eff. Mar. 29, 2017.

Popular name: Act 368

333.16285 Telehealth service; prescribing patient with drug; conditions; requirements.

Sec. 16285. (1) A health professional who is providing a telehealth service to a patient may prescribe the patient a drug if both of the following are met:

(a) The health professional is a prescriber who is acting within the scope of his or her practice in prescribing the drug.

(b) If the health professional is prescribing a drug that is a controlled substance, the health professional meets the requirements of this act applicable to that health professional for prescribing a controlled substance.

(2) A health professional who prescribes a drug under subsection (1) shall comply with both of the following:

(a) If the health professional considers it medically necessary, he or she shall provide the patient with a referral for other health care services that are geographically accessible to the patient, including, but not limited to, emergency services.

(b) After providing a telehealth service, the health professional, or a health professional who is acting under the delegation of the delegating health professional, shall make himself or herself available to provide

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follow-up health care services to the patient or refer the patient to another health professional for follow-up health care services.

History: Add. 2016, Act 359, Eff. Mar. 29, 2017;—Am. 2017, Act 22, Imd. Eff. Mar. 31, 2017.

Popular name: Act 368

333.16286 Telehealth service; restrictions or conditions; findings by disciplinary subcommittee.

Sec. 16286. In a manner consistent with this part and in addition to the provisions set forth in this part, a disciplinary subcommittee may place restrictions or conditions on a health professional's ability to provide a telehealth service if the disciplinary subcommittee finds that the health professional has violated section 16284 or 16285.

History: Add. 2016, Act 359, Eff. Mar. 29, 2017.

Popular name: Act 368

333.16287 Rules.

Sec. 16287. The department, in consultation with a board, shall promulgate rules to implement sections 16284 and 16285.

History: Add. 2016, Act 359, Eff. Mar. 29, 2017;—Am. 2017, Act 22, Imd. Eff. Mar. 31, 2017.

Popular name: Act 368

333.16288 MCL 333.16284 to 333.16287; limitations.

Sec. 16288. Sections 16284 to 16287 do not do any of the following:

(a) Require new or additional third party reimbursement for health care services rendered by a health professional through telehealth.

(b) Limit the provision of a health care service otherwise allowed by law.

(c) Authorize a health care service otherwise prohibited by law.

History: Add. 2016, Act 359, Eff. Mar. 29, 2017.

Popular name: Act 368

333.16291 Violation; injunctive relief; criminal proceeding; prosecution.

Sec. 16291. (1) Upon a violation of this article or of a rule or order of a board or task force, a disciplinary subcommittee, or the department, the circuit court for the county in which the violation occurs may restrain and enjoin a person from the violation. A board or task force, a disciplinary subcommittee, or the department shall seek injunctive relief through the attorney general or the prosecuting attorney of the county in which the violation occurs. This proceeding may be in addition to and is not in lieu of a criminal prosecution or proceeding as to a license or registration.

(2) The department, a board or task force, or a disciplinary subcommittee, may request the attorney general or prosecuting attorney to prosecute a person violating this article. The attorney general or the prosecuting attorney may prosecute a violation of this article.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16294 Unlawful conduct; felony.

Sec. 16294. Except as provided in section 16215, an individual who practices or holds himself or herself out as practicing a health profession regulated by this article without a license or registration or under a suspended, revoked, lapsed, void, or fraudulently obtained license or registration, or outside the provisions of a limited license or registration, or who uses as his or her own the license or registration of another person, is guilty of a felony.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16296 Unlawful conduct; misdemeanor; penalties.

Sec. 16296. A person who uses a title regulated by this article without a registration or under a suspended, revoked, or fraudulently obtained registration, or who uses as his or her own the registration of another person is guilty of a misdemeanor, punishable as follows:

(a) For the first offense, by imprisonment for not more than 90 days or a fine of $100.00, or both.

(b) For the second or subsequent offense, by imprisonment for not more than 1 year or a fine of not less than $300.00 nor more than $1,000.00, or both.

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2020, Act 375, Eff. Mar. 24, 2021.

Popular name: Act 368

333.16299 Violation as misdemeanor; penalties; exception.

Sec. 16299. (1) Except as otherwise provided in subsection (2), a person who violates or aids or abets another in a violation of this article, other than those matters described in sections 16294 and 16296, is guilty of a misdemeanor punishable as follows:

(a) For the first offense, by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

(b) For the second or subsequent offense, by imprisonment for not more than 6 months or a fine of not less than $200.00 nor more than $500.00, or both.

(2) Subsection (1) does not apply to a violation of section 17015, 17015a, or 17515 or to a violation of this article for which another criminal penalty is specifically prescribed.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 685, Eff. Mar. 31, 2003;—Am. 2012, Act 499, Eff. Mar. 31, 2013;—Am. 2020, Act 375, Eff. Mar. 24, 2021;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

Popular name: Act 368

333.16301 Fees generally.

Sec. 16301. (1) Fees for licenses and registrations issued and other services performed by the department shall be as prescribed in this article.

(2) This article does not prohibit a person who has a contract with the department or any other person providing direct services from collecting fees directly from an applicant, registrant, or licensee.

(3) If the department terminates a contract with a person who has been administering a licensing or registration examination to applicants for licensure or registration in a specific profession and the department itself begins to administer the examination, the department shall not charge an applicant a fee greater than the fee charged under the terminated contract unless the examination fee for that profession is increased under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979;—Am. 1979, Act 161, Imd. Eff. Dec. 10, 1979;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16303 Nonrefundable application processing fee; examination or inspection fee; fee for initial license or registration period; waiver of fee; definitions.

Sec. 16303. (1) Except as otherwise provided in this section, each application for a license or registration must be accompanied by a nonrefundable application processing fee, and the department may also require that the application be accompanied by a fee for a required examination or inspection or the fee for the initial license or registration period.

(2) The department shall waive the fee for an initial license or initial registration that is otherwise required under this article, or an application processing fee charged by the department for an initial license or initial registration, if the applicant meets 1 of the following requirements:

(a) Is actively serving in the armed forces or the uniformed services.

(b) Is an individual who served in the armed forces or uniformed services and he or she provides to the department a form DD214, form DD215, or any other form that is satisfactory to the department that demonstrates he or she was separated from that service with an honorable character of service or under honorable conditions (general) character of service.

(c) Provides proof acceptable to the department that he or she is a dependent of a member of the armed forces, a member of the uniformed services, or a veteran.

(3) As used in this section:

(a) "Dependent" means a spouse, surviving spouse, child who is under 26 years of age, or surviving child who is under 26 years of age.

(b) "Veteran" means that term as defined in section 1 of 1965 PA 190, MCL 35.61.

History: Add. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 2021, Act 25, Eff. Sept. 7, 2021.

Popular name: Act 368

333.16305 Examination fee; forfeiture; reexamination fee.

Sec. 16305. (1) An individual who is required to take an examination shall pay an examination fee.

(2) An individual who is scheduled for examination or reexamination and who fails to appear at the examination shall forfeit the examination fee.

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(3) An individual who fails all or part of an examination may be reexamined, if eligible, after paying for the complete examination or such parts of the examination as must be repeated.

History: Add. 1988, Act 462, Eff. Sept. 1, 1989.

Popular name: Act 368

333.16307 License and registration fees; completion of requirements for licensure or registration; forfeiture of fees; effect of void application.

Sec. 16307. (1) A person who has completed the requirements for a license or registration or who seeks to renew a license or registration shall not be issued a license or registration until the person has paid the license or registration fee.

(2) License and registration fees shall be prescribed on a per-year basis. If licenses and registrations are established on a biennial basis, the fee required shall be twice the per-year amount prescribed. If licenses or registrations are established on a triennial basis, the fee required shall be 3 times the per-year amount prescribed.

(3) Except as otherwise provided in this act or rules promulgated under this act, all requirements for licensure or registration shall be completed within 2 years after receipt of the application by the department. If the requirements are not completed within the 2-year period, the fees paid shall be forfeited to the department and the application shall be void. An individual whose application has been determined void under this subsection shall submit a new application and fees and shall meet the standards in effect on the date of receipt of the new application.

History: Add. 1988, Act 462, Eff. Sept. 1, 1989.

Popular name: Act 368

333.16311 Repealed. 1988, Act 462, Eff. Sept. 1, 1989.

Compiler's note: The repealed section pertained to delinquent charges.

Popular name: Act 368

333.16315 Health professions regulatory fund; nurse professional fund; pain management education and controlled substances electronic monitoring and antidiversion fund.

Sec. 16315. (1) The health professions regulatory fund is established in the state treasury. Except as otherwise provided in this section, the state treasurer shall credit the fees collected under sections 16319 to 16349 to the health professions regulatory fund. Except as otherwise provided in this section, the money in the health professions regulatory fund shall be expended only as provided in subsection (5).

(2) The state treasurer shall direct the investment of the health professions regulatory fund. Interest and earnings from health professions regulatory fund investment shall be credited to the health professions regulatory fund.

(3) The unencumbered balance in the health professions regulatory fund at the close of the fiscal year shall remain in the health professions regulatory fund and shall not revert to the general fund.

(4) The health professions regulatory fund may receive gifts and devises and other money as provided by law.

(5) The department shall use the health professions regulatory fund to carry out its powers and duties under this article, article 7, and article 8, including, but not limited to, reimbursing the department of attorney general for the reasonable cost of services provided to the department under this article, article 7, and article 8.

(6) The nurse professional fund is established in the state treasury. Of the money that is attributable to per-year license fees collected under section 16327, the state treasurer shall credit $8.00 of each individual annual license fee collected to the nurse professional fund. The money in the nurse professional fund shall be expended only as provided in subsection (9).

(7) The state treasurer shall direct the investment of the nurse professional fund, and shall credit interest and earnings from the investment to the nurse professional fund. The nurse professional fund may receive gifts and devises and other money as provided by law.

(8) The unencumbered balance in the nurse professional fund at the close of the fiscal year shall remain in the nurse professional fund and shall not revert to the general fund.

(9) The department of health and human services shall use the nurse professional fund each fiscal year only as follows:

(a) To promote safe patient care in all nursing practice environments.

(b) To advance the safe practice of the nursing profession.

(c) To ensure a continuous supply of high-quality direct care nurses, nursing faculty, and nursing education

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programs.

(d) To operate a nursing scholarship program.

(10) The pain management education and controlled substances electronic monitoring and antidiversion fund is established in the state treasury.

(11) The state treasurer shall direct the investment of the pain management education and controlled substances electronic monitoring and antidiversion fund. Interest and earnings from investment of the pain management education and controlled substances electronic monitoring and antidiversion fund shall be credited to the pain management education and controlled substances electronic monitoring and antidiversion fund.

(12) The unencumbered balance in the pain management education and controlled substances electronic monitoring and antidiversion fund at the close of the fiscal year shall remain in the pain management education and controlled substances electronic monitoring and antidiversion fund and shall not revert to the general fund. The pain management education and controlled substances electronic monitoring and antidiversion fund may receive gifts and devises and other money as provided by law. Twenty dollars of the license fee received by the department under section 16319 shall be deposited with the state treasurer to the credit of the pain management education and controlled substances electronic monitoring and antidiversion fund. The department shall use the pain management education and controlled substances electronic monitoring and antidiversion fund only in connection with programs relating to pain management education for health professionals, preventing the diversion of controlled substances, and development and maintenance of the electronic monitoring system for controlled substances data required by section 7333a.

(13) For the fiscal year ending September 30, 2020 only, $10,000,000.00 of the money in the health professions regulatory fund is transferred to and must be deposited into the general fund.

History: Add. 1993, Act 138, Eff. Apr. 1, 1994;—Am. 2001, Act 232, Imd. Eff. Jan. 3, 2002;—Am. 2007, Act 166, Imd. Eff. Dec. 21, 2007;—Am. 2009, Act 216, Imd. Eff. Jan. 4, 2010;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2020, Act 169, Imd. Eff. Oct. 1, 2020.

Compiler's note: Former MCL 333.16315, which pertained to health professions regulatory fund and nurse professional fund, was repealed by Acts 87 and 138 of 1993, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16317 Fees; limitation on increase; schedule.

Sec. 16317. (1) Except as otherwise provided in section 16343, at the beginning of each state fiscal year, the department may increase the fees collected under sections 16319 to 16349 by a percentage amount equal to not more than the average percentage wage and salary increase granted for that fiscal year to classified civil service employees employed by the department.

(2) If the department increases fees under subsection (1), the increase is effective for that fiscal year. The department shall use the increased fees as the basis for calculating fee increases in subsequent fiscal years.

(3) By August 1 of each year the department shall provide to the director of the department of management and budget and the chairpersons of the appropriations committees of the senate and house of representatives a complete schedule of fees to be collected under sections 16319 to 16349 for the following fiscal year.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2022, Act 254, Eff. Mar. 29, 2023.

Popular name: Act 368

333.16319 Fees.

Sec. 16319. Fees for a person licensed or seeking licensure to engage in manufacturing, distributing, prescribing, dispensing, or conducting research with controlled substances under part 73 are as follows:

(a) Application processing fee	$ 10.00
(b) License fee, per year	75.00.

History: Add. 1993, Act 138, Eff. Apr. 1, 1994.

Compiler's note: Former MCL 333.16319, which pertained to licensure and fees for manufacturing, distributing, prescribing, or dispensing controlled substances or conducting research, was repealed by Act 138 of 1993, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16321 Chiropractor; fees.

Sec. 16321. Fees for a person licensed or seeking licensure to engage in the practice of chiropractic under part 164 are as follows:

(a)	Application processing fee	$ 20.00
(b)	Examination fees:	

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(*i*)	Complete examination	100.00
(*ii*)	Per part	15.00
(*iii*)	Examination review	20.00
(c)	License fee, per year	90.00
(d)	Temporary license	25.00
(e)	Limited license, per year	25.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16322 Practice of acupuncture; license fees.

Sec. 16322. (1) Until the effective date of the rules promulgated under section 16525 regarding licensure, fees for an individual who is registered or seeking registration as an acupuncturist under part 165 are as follows:

(a) Application processing fee	$	75.00
(b) Registration fee, per year	$	200.00

(2) Beginning on the effective date of the rules promulgated under section 16525 regarding licensure, fees for an individual who is licensed or seeking licensure to engage in the practice of acupuncture under part 165 are as follows:

(a) Application processing fee	$	75.00
(b) License fee, per year	$	200.00
(c) Limited license, per year	$	200.00
(d) Temporary license fee	$	200.00

History: Add. 2006, Act 30, Imd. Eff. July 1, 2006;—Am. 2019, Act 140, Eff. Mar. 4, 2020;—Am. 2020, Act 136, Imd. Eff. July 8, 2020.

Popular name: Act 368

333.16323 Dentist, dental assistant, dental hygienist, dental therapist; fees.

Sec. 16323. Fees for an individual licensed or seeking licensure to practice as a dentist, dental assistant, dental hygienist, or dental therapist under part 166 are as follows:

(a)	Application processing fees:		
(*i*)	Dentist	$	20.00
(*ii*)	Dental assistant		10.00
(*iii*)	Dental hygienist		15.00
(*iv*)	Dental therapist		15.00
(*v*)	Health profession specialty field license for a dentist		20.00
(b)	Examination fees:		
(*i*)	Dental assistant's examination, complete		70.00
(*ii*)	Dental assistant's examination, per part		35.00
(*iii*)	Dental therapist		300.00
(*iv*)	Dentist's health profession specialty field license examination, complete		300.00
(*v*)	Dentist's health profession specialty field license examination, per part		100.00
(c)	License fees, per year:		
(*i*)	Dentist		90.00
(*ii*)	Dental assistant		10.00
(*iii*)	Dental hygienist		20.00
(*iv*)	Dental therapist		40.00
(*v*)	Dentist's health profession specialty field license		15.00
(d)	Temporary license fees:		
(*i*)	Dentist		20.00
(*ii*)	Dental assistant		5.00
(*iii*)	Dental hygienist		10.00

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(*iv*)	Dental therapist	15.00
(e)	Limited license fee, per year:	
(*i*)	Dentist	25.00
(*ii*)	Dental assistant	5.00
(*iii*)	Dental hygienist	10.00
(*iv*)	Dental therapist	15.00
(f)	Examination review fees:	
(*i*)	Dental preclinical or dentist's health profession specialty field license	50.00
(*ii*)	Dental assistant	20.00
(*iii*)	Dental therapist	50.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2014, Act 305, Eff. Jan. 9, 2015 ;—Am. 2018, Act 463, Eff. Mar. 27, 2019;—Am. 2021, Act 25, Eff. Sept. 7, 2021.

Popular name: Act 368

333.16323a Fees.

Sec. 16323a. Fees for a person licensed or seeking licensure as an audiologist under part 168 are as follows:

(a) Application processing fee	$ 120.00
(b) License fee, per year	150.00

History: Add. 2004, Act 97, Imd. Eff. May 7, 2004.

Popular name: Act 368

333.16324 Marriage and family therapy; license fees.

Sec. 16324. Fees for a person licensed or seeking licensure to engage in the practice of marriage and family therapy under part 169 are as follows:

(a) Application processing fee	$ 25.00
(b) License fee, per year	50.00

History: Add. 1995, Act 126, Eff. Jan. 1, 1996.

Popular name: Act 368

333.16325 Medicine; fees.

Sec. 16325. Fees for a person licensed or seeking licensure to engage in the practice of medicine under part 170 are as follows:

(a) Application processing fee	$ 50.00
(b) License fee, per year	90.00
(c) Temporary license fee	25.00
(d) Limited license fee, per year	30.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16326 Practice of midwifery; license fees.

Sec. 16326. (1) Fees for an individual who is licensed or seeking licensure to engage in the practice of midwifery under part 171 are as follows:

(a)	Subject to subsection (2) and section 17116(4), application processing fee	$ 450.00
(b)	License fee, per year	200.00
(c)	Temporary license fee, per year	200.00

(2) After the department receives more than a total of $23,000.00 in application processing fees from individuals who are licensed or seeking licensure to engage in the practice of midwifery under part 171, the application processing fee is reduced to $75.00.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.16327 Registered professional nurse, licensed practical nurse, or trained attendant; fees.

Sec. 16327. Fees for an individual who is licensed or seeking licensure to practice nursing as a registered

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professional nurse, a licensed practical nurse, or a trained attendant under part 172 are as follows:

(a)	Application processing fee	$ 75.00
(b)	License fee, per year	60.00
(c)	Temporary license	10.00
(d)	Limited license, per year	10.00
(e)	Specialty certification for registered nurse:	
(*i*)	Application processing fee	24.00
(*ii*)	Specialty certification, per year	14.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2009, Act 216, Imd. Eff. Jan. 4, 2010;—Am. 2016, Act 499, Eff. Apr. 9, 2017.

Popular name: Act 368

333.16328 Nursing home administrator; licensing fees.

Sec. 16328. Fees for a person licensed or seeking licensure as a nursing home administrator under part 173 are as follows:

(a) Application processing fee	$ 15.00
(b) Examination fees:	
(*i*) Complete examination	120.00
(*ii*) National examination	95.00
(*iii*) State supplemental examination	50.00
(c) Examination review	25.00
(d) License fee, per year	60.00
(e) Temporary license	25.00

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

Popular name: Act 368

333.16329 Optometry; fees.

Sec. 16329. Fees for a person licensed or seeking licensure to engage in the practice of optometry under part 174 are as follows:

(a) Application processing fee	$ 20.00
(b) Examination fees:	
(*i*) Complete examination	200.00
(*ii*) Examination, per part	50.00
(*iii*) Examination review	20.00
(c) License fee, per year	90.00
(d) Limited license, per year	25.00
(e) Temporary license	25.00
(f) Certification to administer diagnostic pharmaceutical agents or to administer and prescribe therapeutic pharmaceutical agents:	
(*i*) Application processing fee	$ 20.00
(*ii*) Until the expiration of 10 years after the effective date of the amendatory act that added section 17435, certification to administer diagnostic pharmaceutical agents	55.00
(*iii*) Certification to administer diagnostic pharmaceutical agents and to administer and prescribe therapeutic pharmaceutical agents	55.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 1994, Act 384, Eff. Mar 30, 1995.

Popular name: Act 368

333.16331 Osteopathic medicine and surgery; fees.

Sec. 16331. Fees for a person licensed or seeking licensure to engage in the practice of osteopathic medicine and surgery under part 175 are as follows:

(a) Application processing fee	$ 50.00
(b) License fee, per year	90.00
(c) Temporary license fee	25.00

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(d) Limited license fee, per year		30.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16333 Pharmacy or other practices regulated under part 177; fees.

Sec. 16333. Fees for a person licensed or seeking licensure to engage in the practice of pharmacy or other practices regulated under part 177 are as follows:

(a)	Application processing fees:	
(*i*)	Pharmacist	$ 75.00
(*ii*)	Pharmacy	75.00
(*iii*)	Drug control	75.00
(*iv*)	Manufacturer, wholesale distributor, or wholesale distributor-broker	75.00
(*v*)	Pharmacy technician	75.00
(b)	Examination fees:	
	Jurisprudence examination	30.00
(c)	License fees, per year:	
(*i*)	Pharmacist	30.00
(*ii*)	Pharmacy	50.00
(*iii*)	Drug control	15.00
(*iv*)	Manufacturer, wholesale distributor, or wholesale distributor-broker	25.00
(*v*)	Pharmacy technician	30.00
(d)	Temporary license for pharmacist	25.00
(e)	Limited license for pharmacist, per year	15.00
(f)	Temporary license for pharmacy technician	15.00
(g)	Limited license for pharmacy technician, per year	10.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2014, Act 285, Eff. Dec. 22, 2014;—Am. 2020, Act 142, Imd. Eff. July 14, 2020.

Popular name: Act 368

333.16334 Massage therapist; fees.

Sec. 16334. Fees for an individual licensed or seeking licensure as a massage therapist under part 179A are as follows:

(a)	Application processing fee	$ 20.00
(b)	License fee, per year	75.00

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009.

Popular name: Act 368

333.16335 Physical therapy; fees.

Sec. 16335. Fees for a person licensed or seeking licensure to engage in the practice of physical therapy or practice as a physical therapist assistant under part 178 are as follows:

(a) Application processing fee	$ 20.00
(b) Examination fees:	
Jurisprudence examination only	25.00
(c) License fee, per year	90.00
(d) Limited license, per year	25.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2009, Act 55, Imd. Eff. June 25, 2009.

Popular name: Act 368

333.16336 Athletic trainer; fees.

Sec. 16336. Fees for a person licensed or seeking licensure as an athletic trainer under part 179 are as follows:

(a)	Application processing fee	$ 75.00.
(b)	License fee, per year	$ 100.00.

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History: Add. 2006, Act 54, Eff. Dec. 1, 2006;—Am. 2015, Act 166, Eff. Jan. 26, 2016.

Compiler's note: Act 368

333.16337 Physician's assistant; fees.

Sec. 16337. Fees for a person licensed or seeking licensure to engage in practice as a physician's assistant under part 170, part 175, or part 180 are as follows:

(a)	Application processing fee	$ 30.00
(b)	License fee, per year	50.00
(c)	Temporary license	35.00
(d)	Limited license, per year	25.00

History: Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 161, Eff. Nov. 26, 2006.

Popular name: Act 368

333.16338 Genetic counselor; fees.

Sec. 16338. (1) Fees for an individual licensed or seeking licensure to engage in the practice of genetic counseling under part 170 are as follows:

(a) Subject to subsection (2), application processing fee	$ 230.00
(b) License fee, per year	54.00
(c) Temporary license fee, per year	50.00

(2) After the department determines that it has recouped its up-front costs from application processing fees from individuals who are licensed or seeking licensure to engage in the practice of genetic counseling under part 170, the application processing fee is reduced to $75.00.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019.

Popular name: Act 368

333.16339 Podiatric medicine; fees.

Sec. 16339. Fees for a person licensed or seeking licensure to engage in the practice of podiatric medicine and surgery under part 180 are as follows:

(a) Application processing fee	$ 20.00
(b) License fee, per year	90.00
(c) Temporary license	15.00
(d) Limited license, per year	25.00

History: Add. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16341 Counseling; fees.

Sec. 16341. Fees for a person licensed or seeking licensure to engage in the practice of counseling under part 181 are as follows:

(a) Application processing fee	$ 50.00
(b) Examination fee	100.00
(c) License fee, per year	55.00
(d) Limited license fee, per year	25.00

History: Add. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16342 Speech-language pathologist; fees.

Sec. 16342. Fees for an individual licensed or seeking licensure as a speech-language pathologist under part 176 are as follows:

(a) Application processing fee	$ 20.00
(b) License fee, per year	75.00.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

333.16343 Psychologist; fees; increase limitations.

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Sec. 16343. (1) Fees for a person licensed or seeking licensure to engage in the practice of psychology under part 182 are as follows:

(a)	Application processing fee	$ 50.00
(b)	License fee, per year:	
(*i*)	Full doctoral	90.00
(*ii*)	Limited doctoral	30.00
(*iii*)	Masters limited	60.00
(*iv*)	Temporary limited	15.00
(c)	Limited license, per year	40.00
(d)	Temporary license	15.00
(e)	Examination review fee	20.00

(2) At the beginning of each state fiscal year, the department may increase the fees collected under this section by an amount no greater than the psychology interjurisdictional compact renewal amount to reasonably enforce the psychology interjurisdictional compact, to implement the psychology interjurisdictional compact, to pay a fee imposed by the psychology interjurisdictional compact commission, or to implement a needed change to an information technology system because of this state's membership in the psychology interjurisdictional compact.

(3) If the department increases fees under subsection (2), the increase is effective for that fiscal year and the increase applies only to those participating in the psychology interjurisdictional compact. The department shall use the increased fees as a basis for calculating fee increases in subsequent fiscal years.

(4) As used in this section, "psychology interjurisdictional compact" means the psychology interjurisdictional compact as enacted in section 16190.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2022, Act 254, Eff. Mar. 29, 2023.

Popular name: Act 368

333.16343a Practice of applied behavior analysis or assistant behavior analyst; fees.

Sec. 16343a. Fees for an individual who is licensed or seeking licensure to engage in the practice of applied behavior analysis, or to engage in practice as an assistant behavior analyst, under part 182A are as follows:

(a) Application processing fee	$ 75.00
(b) License fee, per year	90.00

History: Add. 2016, Act 403, Eff. Apr. 3, 2017.

Popular name: Act 368

333.16344 Respiratory therapist; license fees.

Sec. 16344. Fees for an individual licensed or seeking licensure as a respiratory therapist under part 187 are as follows:

(a) Application processing fee	$ 20.00
(b) License fee, per year	75.00
(c) Temporary license	75.00

History: Add. 2004, Act 3, Eff. July 1, 2004.

Popular name: Act 368

333.16345 Occupational therapist or occupational therapist assistant; fees.

Sec. 16345. Fees for an individual licensed or seeking licensure to engage in the practice of occupational therapy, or to engage in practice as an occupational therapy assistant, under part 183 are as follows:

(a) Application processing fee	$ 20.00
(b) License fee, per year	75.00.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

333.16346 Dietitian nutritionist; fees.

Sec. 16346. Fees for an individual licensed or seeking licensure as a dietitian nutritionist under part 183A are as follows:

(a) Application processing fee	$ 75.00

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(b) License fee, per year	$	55.00
(c) Temporary license fee	$	55.00

History: Add. 2024, Act 39, Eff. Apr. 2, 2025.

Compiler's note: Former MCL 333.16346, which pertained to licensure fees for dietitian or nutritionist, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.

Popular name: Act 368

333.16347 Sanitarian; fees.

Sec. 16347. Fees for a person registered or seeking registration as a registered sanitarian under part 184 are as follows:

(a)	Application processing fee	$	20.00
(b)	Registration fee, per year		50.00
(c)	Limited registration, per year		10.00
(d)	Temporary registration		15.00

History: Add. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.16348 Licensed bachelor's social worker, licensed master's social worker, or registered social service technician; fees.

Sec. 16348. Fees for a person licensed or seeking licensure as a licensed bachelor's social worker or a licensed master's social worker or a person registered or seeking registration as a registered social service technician under part 185 are as follows:

(a)	Application processing fee	$	15.00
(b)	License fee, per year:		
(*i*)	Licensed bachelor's social worker		25.00
(*ii*)	Licensed master's social worker		25.00
(c)	Registration fee, per year, for a social service technician		25.00

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000;—Am. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

333.16349 Veterinary medicine or veterinary technician; fees.

Sec. 16349. Fees for a person licensed or seeking licensure to engage in the practice of veterinary medicine or licensed or seeking licensure to practice as a veterinary technician under part 188 are as follows:

(a)	Application processing fees:		
(*i*)	Veterinarian	$	25.00
(*ii*)	Veterinary technician		15.00
(b)	Examination fees:		
(*i*)	Veterinary technician, complete		130.00
(*ii*)	Veterinary technician, per part		65.00
(c)	License fees, per year:		
(*i*)	Veterinarian		70.00
(*ii*)	Veterinary technician		40.00
(d)	Temporary license fees:		
(*i*)	Veterinarian		25.00
(*ii*)	Veterinary technician		10.00
(e)	Limited licenses, per year:		
(*i*)	Veterinarian		25.00
(*ii*)	Veterinary technician		10.00
(f)	Examination review		20.00

History: Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2016, Act 49, Eff. June 13, 2016.

Compiler's note: Enacting section 1 of Act 49 of 2016 provides:

"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."

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Popular name: Act 368

PART 164
CHIROPRACTIC

333.16401 Definitions; scope; principles of construction.

Sec. 16401. (1) As used in this part:

(a) "Chiropractor", "chiropractic physician", "doctor of chiropractic", or "d.c." means an individual licensed under this article to engage in the practice of chiropractic.

(b) "Dislocation" means complete disruption in the normal relationship of 2 bones forming a joint resulting in no contact of the articular surfaces. A dislocation does not include a subluxation.

(c) "Joint dysfunction" means a joint that is impaired so that it does not function properly.

(d) "Musculoskeletal system" means the system of muscles, tendons, ligaments, bones, joints, and associated tissues that moves the body and maintains its form.

(e) "Practice of chiropractic" means that discipline within the healing arts that deals with the human nervous system and the musculoskeletal system and their interrelationship with other body systems. Practice of chiropractic includes the following:

(*i*) The diagnosis of human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions. These diagnoses shall be for the purpose of detecting and correcting those conditions and disorders or offering advice to seek treatment from other health professionals in order to restore and maintain health.

(*ii*) The evaluation of conditions or symptoms related to subluxations, misalignments, and joint dysfunction through any of the following:

(A) Physical examination.

(B) The taking and reviewing of patient health information.

(C) The performance, ordering, or use of tests. The performance, ordering, or use of tests in the practice of chiropractic is regulated by rules promulgated under section 16423.

(D) The performance, ordering, or use of x-ray.

(E) The performance, ordering, or use of tests that were allowed under section 16423 as of December 1, 2009.

(*iii*) The chiropractic adjustment of subluxations, misalignments, and joint dysfunction and the treatment of related bones and tissues for the establishment of neural integrity and structural stability.

(*iv*) The use of physical measures, analytical instruments, nutritional advice, rehabilitative exercise, and adjustment apparatus regulated by rules promulgated under section 16423.

(2) The practice of chiropractic does not include any of the following:

(a) The performance of any procedure that cuts or punctures the skin.

(b) The dispensing or prescribing of drugs or medicine.

(c) Except for diagnostic purposes only, the use of x-ray.

(d) The performance of an invasive procedure involving a body orifice or cavity unless allowed by rules promulgated under section 16423 and limited to examinations involving the ears, nose, and throat.

(e) The treatment of fractures or dislocations.

(f) The performance or ordering of non-x-ray diagnostic imaging tests that were not allowed under section 16423 as of December 1, 2009.

(3) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this act and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 734, Imd. Eff. Dec. 30, 2002;—Am. 2009, Act 223, Imd. Eff. Jan. 5, 2010.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.16411 Practice of chiropractic; license or authorization required; scope and effect of act; use of words, titles, or letters.

Sec. 16411. (1) An individual shall not engage in the practice of chiropractic, including, but not limited to, performing a chiropractic adjustment, chiropractic manipulation, or other chiropractic services or chiropractic opinion, unless licensed, or otherwise authorized by a chiropractor, under this article.

(2) 2002 PA 734 is intended to codify existing law and to clarify and cure any misinterpretation of the operation of sections 16261, 16401, and 16411 since December 30, 2002.

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(3) 2002 PA 734 is not intended to affect the authority of a veterinarian to delegate certain functions as provided by law.

(4) 2002 PA 734 does not affect the scope of practice of medicine or osteopathic medicine and surgery provided for in parts 170 and 175. 2002 PA 734 does not amend the scope of practice of physical therapy provided for in part 178.

(5) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the following terms and in a way prescribed in this part: "chiropractic", "doctor of chiropractic", "chiropractor", "d.c.", and "chiropractic physician".

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 734, Imd. Eff. Dec. 30, 2002;—Am. 2006, Act 396, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.16412 Limited license; qualifications; suspension; duration; nonrenewable.

Sec. 16412. (1) An individual shall not engage in the practice of chiropractic as part of his or her chiropractic education without a limited license to practice under this part.

(2) A limited license for practice as part of chiropractic education shall require that the individual has successfully completed 2 years of education in a college of arts and sciences and 2 years, 4 semesters, or 6 quarter terms in a chiropractic college approved by the board. An individual granted a limited license may engage in the practice of chiropractic only under the supervision of a licensed chiropractor.

(3) The limited license is valid for not more than 6 months and is nonrenewable.

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

Popular name: Act 368

333.16421 Michigan board of chiropractic; creation; membership; terms.

Sec. 16421. (1) The Michigan board of chiropractic is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 chiropractors and 4 public members.

(2) The terms of office of individual members of the board created under subsection (1), except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term will expire.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 396, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.16423 Performance and ordering of tests and approval of analytical instruments and adjustment apparatus; rules; criteria; standards.

Sec. 16423. (1) The department, in consultation with the board, shall promulgate rules to establish criteria for the performance and ordering of tests and the approval of analytical instruments and adjustment apparatus to be used for the purpose of examining and treating patients for subluxations and misalignments that produce nerve interference or joint dysfunction. The criteria established shall be substantially equivalent to nationally recognized standards in the profession for the performance and ordering of tests and the use and operation of the instruments and apparatus. The board may approve types and makes of analytical instruments and adjustment apparatus that meet these criteria.

(2) An individual shall not perform or order tests or use analytical instruments or adjustment apparatus that do not meet nationally recognized standards or that are not approved by the board.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2009, Act 221, Imd. Eff. Jan. 5, 2010.

Popular name: Act 368

Administrative rules: R 338.2201 et seq. and R 338.12001 et seq. of the Michigan Administrative Code.

333.16429 Standards of practice for services involving vaginal or anal penetration; promulgation of rules.

Sec. 16429. The department may promulgate rules that provide guidance to licensees on generally accepted standards of practice for services involving vaginal or anal penetration, including internal pelvic floor treatments. If the department promulgates rules under this section, the department shall consult with appropriate professional associations and other interested stakeholders.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023.

Popular name: Act 368

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333.16431 Renewal of license; educational conferences; completion of hours or courses in pain and symptom management; rules.

Sec. 16431. (1) Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 2 years immediately preceding the application for renewal the applicant has attended not less than two 2-day educational conferences approved by the board, in subjects related to the practice of chiropractic and designed to further educate licensees.

(2) As required under section 16204, the department, in consultation with the board, shall promulgate rules requiring each applicant for license renewal to complete as part of the educational conferences required under subsection (1) an appropriate number of hours or courses in pain and symptom management.

(3) The department, in consultation with the board, shall promulgate rules requiring each applicant for license renewal to complete as part of the educational conferences required under subsection (1) an appropriate number of hours or courses concerning the provisions of section 16401(1) that were added by the amendatory act that added this subsection.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986;—Am. 1994, Act 234, Imd. Eff. June 30, 1994;—Am. 2009, Act 221, Imd. Eff. Jan. 5, 2010.

Popular name: Act 368

PART 165.
Acupuncture

333.16501 Definitions.

Sec. 16501. (1) As used in this part:

(a) "Acupressure" means a form of manual therapy in which physical pressure is applied to various points on the body.

(b) "Acupuncture" means the insertion and manipulation of needles through the surface of the human body. Acupuncture includes, but is not limited to, laser acupuncture, electroacupuncture, pricking therapy, dry needling, and intramuscular stimulation.

(c) "Acupuncturist" means an individual who is licensed under this part to engage in the practice of acupuncture.

(d) "Cupping" means the placement of a specially designed cup on the body to create suction.

(e) "Dermal friction" means the use of repeated, closely timed, unidirectional press-stroking with a smooth-edged instrument over a lubricated area of the body.

(f) "Dietary counseling" means the process of advising a patient about healthy food choices and healthy eating habits in accordance with East Asian medical theory.

(g) "Dry needling" means a rehabilitative procedure using filiform needles to penetrate the skin or underlying tissues by targeting only myofascial trigger points and muscular and connective tissues to affect change in body structures and functions for the evaluation and management of neuromusculoskeletal pain and movement impairment. Dry needling does not include the stimulation of auricular points or other acupuncture points.

(h) "East Asian medicine techniques" includes, but is not limited to, acupuncture, manual therapy, moxibustion, heat therapy, dietary counseling, therapeutic exercise, acupressure, cupping, dermal friction, homeopathy, lifestyle coaching, and treatment with herbal medicines.

(i) "Heat therapy" means the use of heat in therapy, such as for pain relief and health.

(j) "Herbal medicine" means the internal and external use of a plant or a plant extract, a mineral, or an animal product, that is not a prescription drug as that term is defined in section 17708.

(k) "Homeopathy" means the use of a highly diluted natural remedy from the plant, mineral, and animal domain.

(*l*) "Lifestyle coaching" means the process of advising a patient about healthy lifestyle choices and habits in accordance with East Asian medical theory.

(m) "Manual therapy" means the application of an accurately determined and specifically directed manual force to the body, excluding a high-velocity, low-amplitude thrust to the spine.

(n) "Moxibustion" means burning the dried plant *Artemisia vulgaris* on or very near the surface of the skin as a form of therapy.

(o) "Practice of acupuncture", subject to subsection (2), means the use of traditional and contemporary East Asian medical theory to assess and diagnose a patient, to develop a plan to treat the patient, and to treat the patient through East Asian medicine techniques.

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(p) "Practice of chiropractic" means that term as defined in section 16401.

(q) "Practice of massage therapy" means that term as defined in section 17951.

(r) "Practice of medicine" means that term as defined in section 17001.

(s) "Practice of osteopathic medicine and surgery" means that term as defined in section 17501.

(t) "Practice of physical therapy" means that term as defined in section 17801.

(u) "Registered acupuncturist" means an individual who is registered or otherwise authorized under this part before the effective date of the rules promulgated under section 16525 regarding licensure.

(v) "Systematic acupuncture education" means a course of education that covers the foundation of acupuncture science and theory, channel and point location, needling techniques, approaches to diagnosis and therapy, and patient management.

(w) "Therapeutic exercise" means a range of physical activities that help restore and build physical strength, endurance, flexibility, balance, and stability.

(2) For purposes of this part, practice of acupuncture does not include the practice of medicine, the practice of osteopathic medicine and surgery, the practice of physical therapy, the practice of occupational therapy, the practice of podiatric medicine and podiatric surgery, the practice of nursing, the practice of dentistry, the practice of massage therapy, or the practice of chiropractic.

(3) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in the code and part 161 contains definitions applicable to this part.

History: Add. 2006, Act 30, Eff. July 1, 2006;—Am. 2019, Act 140, Eff. Mar. 4, 2020;—Am. 2020, Act 136, Imd. Eff. July 8, 2020.

Popular name: Act 368

333.16511 Use of words, titles, or letters; license required.

Sec. 16511. (1) Except as otherwise provided in this part, beginning on the effective date of rules promulgated under section 16525 regarding licensure, an individual shall not use the words, titles, or letters "acupuncturist", "certified acupuncturist", "registered acupuncturist", "licensed acupuncturist", "L.Ac.", or a similar word or initial that indicates that the individual is an acupuncturist, unless he or she is authorized under this part to use the terms and in a way prescribed in this part. However, for a period not to exceed 36 months from the effective date of the rules promulgated under section 16525 regarding licensure, a registered acupuncturist may, without a license under this part, continue to use the titles "acupuncturist", "registered acupuncturist", or "certified acupuncturist" and engage in the practice of acupuncture.

(2) Until the effective date of the rules promulgated under section 16525 regarding licensure, an individual shall not use the words, titles, or letters "acupuncturist", "certified acupuncturist", or "registered acupuncturist", or a combination of the words, titles, or letters, with or without qualifying words or phrases, unless he or she is registered under this part.

(3) Until the effective date of the rules promulgated under section 16525 regarding licensure, neither of the following is subject to this part:

(a) A physician who is licensed under part 170 or part 175.

(b) An individual who is certified by the National Acupuncture Detoxification Association.

History: Add. 2006, Act 30, Eff. July 1, 2006;—Am. 2006, Act 397, Imd. Eff. Sept. 27, 2006;—Am. 2019, Act 140, Eff. Mar. 4, 2020;—Am. 2020, Act 136, Imd. Eff. July 8, 2020.

Popular name: Act 368

333.16513 Practice of acupuncture; license required; use of titles; exemptions.

Sec. 16513. (1) Beginning on the effective date of rules promulgated under section 16525 regarding licensure, an individual shall not engage in the practice of acupuncture unless he or she is licensed under this part or is otherwise authorized under this article.

(2) In addition to the exemptions from licensure under section 16171, beginning on the effective date of the rules promulgated under section 16525 regarding licensure, this part does not apply to any of the following:

(a) Except as otherwise provided in subdivision (e), an individual licensed, registered, or otherwise authorized under any other part or act who is performing activities that are considered to be within the practice of acupuncture if those activities are within the individual's scope of practice and the individual does not use the words, titles, or letters protected under section 16511.

(b) A physician who is licensed under part 170 or part 175 if the physician has completed a total of not less than 300 hours of systematic acupuncture education that include not less than 100 hours of live lectures, demonstrations, and supervised clinical training specific to acupuncture.

(c) An individual who meets all of the following requirements:

(*i*) He or she meets the requirements for a certificate of training as an acupuncture detoxification specialist issued by the National Acupuncture Detoxification Association or an organization that the board determines is

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a successor organization.

(*ii*) He or she only uses the auricular protocol for substance use disorder prevention and treatment developed by the National Acupuncture Detoxification Association or an organization that the board determines is a successor organization.

(*iii*) When using the protocol described in subparagraph (*ii*), he or she is under the supervision of an acupuncturist or a physician licensed under part 170 or part 175.

(*iv*) He or she does not use the words, titles, or letters protected under section 16511.

(d) An individual performing acupressure, cupping, dermal friction, dietary counseling, heat therapy, herbal medicine, homeopathy, lifestyle coaching, manual therapy, or therapeutic exercise, while engaged in the practice of a profession with established standards and ethics and as long as those services are not designated as or implied to be the practice of acupuncture and the individual does not use the titles, words, or letters protected under section 16511.

(e) Dry needling by an individual licensed, registered, or otherwise authorized under any other part if dry needling is within the individual's scope of practice.

History: Add. 2019, Act 140, Eff. Mar. 4, 2020;—Am. 2020, Act 136, Imd. Eff. July 8, 2020.

Popular name: Act 368

333.16515 Requirements for licensure; limited license; issuance.

Sec. 16515. (1) Except as otherwise provided in subsections (2) and (3), the department shall issue a license to an applicant who meets the requirements of section 16174 and the requirements for licensure established in rules promulgated under section 16525.

(2) On or before the expiration of 36 months after the effective date of the rules promulgated under section 16525 regarding licensure, the department shall issue a license to an applicant who meets the requirements of section 16174 and 1 of the following:

(a) He or she is a registered acupuncturist.

(b) He or she has the education, training, and experience appropriate to the practice of acupuncture as established in rules promulgated under section 16525 regarding licensure. In determining whether an applicant has met the requirements for licensure under this subdivision, the department, in consultation with the board, shall promulgate rules establishing criteria for considering patient records, billing records, education records, training records, or other evidence of the applicant's education, training, and experience that is submitted to the department. An applicant shall ensure that any document that is submitted to the department under this subdivision ensures the confidentiality of a patient's identity.

(3) On or before the expiration of 36 months after the effective date of the rules promulgated under section 16525 regarding licensure, the department shall issue a limited license to an applicant who meets the requirements of section 16174, and who, at the time of the application, meets all of the following requirements:

(a) The applicant has been performing acupuncture under the supervision of a physician licensed under part 170 or part 175 for at least 2 years as of the effective date of the amendatory act that added this section. The applicant shall include the name of the physician under which he or she is engaging in the practice of acupuncture on the application for limited licensure.

(b) The applicant holds a license to engage in another health profession.

(4) An individual who is granted a limited license under subsection (3) shall comply with all of the following:

(a) He or she shall only engage in the practice of acupuncture while he or she is under the supervision of the physician named in the application for limited licensure and shall immediately notify the department if the physician named in the application is no longer willing or able to supervise the individual.

(b) He or she shall not collect payment from an insurer for performing a service that is within the practice of acupuncture. As used in this subdivision, "insurer" means that term as defined in section 106 of the insurance code of 1956, 1956 PA 218, MCL 500.106.

History: Add. 2019, Act 140, Eff. Mar. 4, 2020.

Popular name: Act 368

333.16517 Rules; license renewal; continuing education requirements.

Sec. 16517. (1) Notwithstanding the requirements of part 161, the department, in consultation with the board, shall promulgate rules requiring a licensee seeking renewal of a license to furnish the department with satisfactory evidence that during the license cycle immediately preceding the application for renewal the licensee has attended continuing education courses or programs approved by the board in subjects related to the practice of acupuncture and designed to further educate licensees. An individual is considered to have

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completed the continuing education requirements described in this subsection if the department determines that the individual has met the continuing education standards of the National Certification Commission for Acupuncture and Oriental Medicine or equivalent standards as determined by the board.

(2) As required under section 16204, the department, in consultation with the board, shall promulgate rules requiring each applicant for license renewal to complete as part of the educational courses or programs required under subsection (1) an appropriate number of hours or courses in pain and symptom management.

(3) In addition to the continuing education requirements of this section, the department shall require an applicant seeking renewal of a limited license granted under section 16515(3) to hold a license to engage in another health profession at the time of his or her application for renewal as a condition of renewal of his or her limited license.

History: Add. 2019, Act 140, Eff. Mar. 4, 2020.

Popular name: Act 368

333.16521 Michigan board of acupuncture; creation; membership; terms of office.

Sec. 16521. (1) The Michigan board of acupuncture is created in the department and consists of the following 13 voting members, each of whom must meet the requirements of part 161:

(a) Seven acupuncturists or, until 36 months after the effective date of the rules promulgated under section 16525, 7 registered acupuncturists. The members appointed under this subdivision must meet the requirements of section 16135.

(b) Three physicians licensed under part 170 or 175, at least 1 of whom has met the requirement in section 16513(2)(b).

(c) Three public members.

(2) The terms of office of individual members of the board created under this part, except those appointed to fill vacancies, expire on June 30 of the year in which the term expires pursuant to section 16122.

History: Add. 2006, Act 30, Eff. July 1, 2006;—Am. 2006, Act 397, Imd. Eff. Sept. 27, 2006;—Am. 2010, Act 79, Imd. Eff. May 20, 2010;—Am. 2019, Act 140, Eff. Mar. 4, 2020;—Am. 2020, Act 136, Imd. Eff. July 8, 2020.

Compiler's note: For the reduction of the membership of the Michigan board of acupuncture from 13 to 11 and revision of the membership qualifications, see E.R.O. No. 2024-2, compiled at MCL 16.735.

Popular name: Act 368

333.16525 Rules.

Sec. 16525. (1) By March 4, 2021, the department, in consultation with the board, shall promulgate rules that establish the minimum standards for licensure as an acupuncturist and implement the licensure program for the practice of acupuncture. In promulgating rules for purposes of section 16515(1), the department, in consultation with the board, may adopt by reference the professional standards issued by a certified program that is recognized by the National Commission for Certifying Agencies. In promulgating rules for purposes of section 16515(2)(b), the department, in consultation with the board, shall consider whether an applicant has completed systematic acupuncture education that includes live lectures, demonstrations, and supervised clinical training specific to acupuncture.

(2) The rules in effect on March 3, 2020 regarding the registration of acupuncturists remain in effect until the effective date of the rules promulgated under subsection (1).

History: Add. 2006, Act 30, Eff. July 1, 2006;—Am. 2019, Act 140, Eff. Mar. 4, 2020;—Am. 2020, Act 136, Imd. Eff. July 8, 2020.

Popular name: Act 368

333.16529 Third party reimbursement or worker's compensation benefits.

Sec. 16529. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services by an individual registered or licensed as an acupuncturist under this part.

History: Add. 2006, Act 30, Eff. July 1, 2006;—Am. 2019, Act 140, Eff. Mar. 4, 2020;—Am. 2020, Act 136, Imd. Eff. July 8, 2020.

Popular name: Act 368

PART 166
DENTISTRY

333.16601 Definitions; principles of construction.

Sec. 16601. (1) As used in this part:

(a) "Assignment" means that a dentist has designated a patient of record on whom services are to be performed and has described the procedures to be performed. The dentist need not be physically present in the office or in the treatment room at the time the procedures are being performed.

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(b) "Dental laboratory" means a dental workroom that is operated as a part of a dental office or otherwise, by a person, other than a dentist, who is engaged in, or holds himself, herself, or itself out as being directly or indirectly engaged in, constructing, repairing, or altering prosthetic dentures, bridges, orthodontic or other appliances, or structures to be used as substitutes for or as a part of human teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(c) "Dentist" means an individual who is licensed under this article to engage in the practice of dentistry.

(d) "Practice of dentistry" means the diagnosis, treatment, prescription, or operation for a disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaws, or their dependent tissues, or an offer, undertaking, attempt to do, or holding oneself out as able to do any of these acts.

(e) "Practice as a dental assistant" means assistance in the clinical practice of dentistry based on formal education, specialized knowledge, and skill at the assignment and under the supervision of a dentist.

(f) "Practice as a dental hygienist" means practice at the assignment of a dentist in that specific area of dentistry based on specialized knowledge, formal education, and skill with particular emphasis on preventive services and oral health education.

(g) "Practice as a dental therapist" means providing any of the care and services, and performing any of the duties, described in section 16656.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2018, Act 463, Eff. Mar. 27, 2019.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.16605 Use of words, titles, or letters.

Sec. 16605. The following words, titles, or letters, or a combination of any of those words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to those individuals who are authorized under this part to use the following terms and in a way prescribed in this part:

(a) "Dentist", "doctor of dental surgery", "oral and maxillofacial surgeon", "orthodontist", "prosthodontist", "periodontist", "endodontist", "oral pathologist", "pediatric dentist", "dental hygienist", "registered dental hygienist", "dental assistant", "registered dental assistant", "dental therapist", "r.d.a.", "d.d.s.", "d.m.d.", "r.d.h.", and "d.t.".

(b) Beginning September 1, 2022, "oral and maxillofacial radiologist", "dental anesthesiologist", "oral medicine doctor", "public health dentist", and "orofacial pain specialist".

History: Add. 2006, Act 429, Imd. Eff. Oct. 5, 2006;—Am. 2018, Act 463, Eff. Mar. 27, 2019;—Am. 2021, Act 12, Eff. Mar. 30, 2022.

Popular name: Act 368

333.16608 Health profession specialty field license; qualifications; renewal; reference as specialty certification.

Sec. 16608. (1) The board may issue a health profession specialty field license to a dentist who has advanced training beyond that required for initial licensure and who has demonstrated competency through examination or other evaluative processes in 1 or more of the following health profession specialty fields:

(a) Prosthodontics, endodontics, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics, or oral pathology.

(b) Beginning September 1, 2022, oral medicine, orofacial pain, dental public health, oral and maxillofacial radiology, or dental anesthesiology.

(2) A dentist who held a health profession specialty certification in 1 or more of the health profession specialty fields listed in subsection (1)(a) on December 23, 2002 is considered to hold a health profession specialty field license on that date in each of those health profession specialty fields and may obtain renewal of each health profession specialty field license on the expiration date of the specialty certification.

(3) A health profession specialty field license issued under this section must be renewed concurrently with the license to practice dentistry.

(4) This section does not prohibit a dentist who has not been issued a health profession specialty field license under this section from performing services in 1 or more of the health profession specialty fields listed in subsection (1).

(5) For purposes of the administration of the general rules of the board in the Michigan Administrative

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Code, a reference to specialty certification is a reference to a health profession specialty field license.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1987, Act 182, Imd. Eff. Nov. 30, 1987;—Am. 1990, Act 216, Imd. Eff. Oct. 8, 1990;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2021, Act 12, Eff. Mar. 30, 2022.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.16611 Dentist, dental hygienist, or dental assistant; license or authorization required; deep scaling, root planing, and removal of calcareous deposits; qualifications for dental hygienist licensure; administration of intraoral block and infiltration anesthesia by dental hygienist; administration of local anesthesia or nitrous oxide analgesia; requirements; additional delegation of procedures; third party reimbursement; practice guidelines; definitions.

Sec. 16611. (1) An individual shall not engage in the practice of dentistry, the practice as a dental hygienist, or the practice as a dental assistant unless he or she is licensed or otherwise authorized by this article.

(2) Deep scaling, root planing, and the removal of calcareous deposits may only be performed by an individual licensed or otherwise authorized by this article as a dental hygienist or a dentist.

(3) The department shall not issue a dental hygienist's license to an individual unless the individual has graduated from a school or college for dental hygienists whose dental hygiene program is accredited by the commission on dental accreditation of the American dental association and approved by the department. The school or college must be accredited by a regional accrediting agency for colleges, universities, or institutions of higher education that is recognized by the United States department of education and approved by the department and must conduct a curriculum consisting of not less than 2 academic years for dental hygiene graduation with courses at the appropriate level to enable matriculation into a more advanced academic degree program.

(4) Upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a dental hygienist may administer intraoral block and infiltration anesthesia or nitrous oxide analgesia, or both, to a patient 18 years of age or older, if the following criteria are met:

(a) The dental hygienist has successfully completed a course in the administration of local anesthesia or nitrous oxide analgesia, or both, as applicable, offered by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association and approved by the department. A course described in this subdivision involving local anesthesia administration must contain a minimum of 15 hours didactic instruction and 14 hours of clinical experience. A course described in this subdivision involving nitrous oxide analgesia administration must contain a minimum of 4 hours of didactic instruction and 4 hours of clinical experience. The courses of instruction shall include content in all of the following:

(*i*) In the case of local anesthesia, the following:

(A) Theory of pain control.

(B) Selection of pain control modalities.

(C) Anatomy.

(D) Neurophysiology.

(E) Pharmacology of local anesthetics.

(F) Pharmacology of vasoconstrictors.

(G) Psychological aspects of pain control.

(H) Systemic complications.

(I) Techniques of maxillary anesthesia.

(J) Techniques of mandibular anesthesia.

(K) Infection control.

(L) Local anesthesia medical emergencies.

(*ii*) In the case of nitrous oxide analgesia, the following:

(A) Nitrous oxide analgesia medical emergency techniques.

(B) Pharmacology of nitrous oxide.

(C) Nitrous oxide techniques.

(D) If such a course is available, selection of pain control modalities.

(b) The dental hygienist has successfully completed a state or regional board-administered written examination on either or both of the following within 18 months of completion of the course work required under subdivision (a):

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(*i*) Local anesthesia.

(*ii*) Nitrous oxide analgesia, if such an examination is available and approved by the department.

(c) The dental hygienist maintains and can show evidence of current certification in basic or advanced cardiac life support in compliance with R 338.11701 of the Michigan administrative code.

(5) Application for certification in the administration of local anesthesia and nitrous oxide under subsection (4) is at the discretion of each individual dental hygienist. The department or its designee shall issue a certificate to a dental hygienist who meets the criteria in subsection (4) following the initial completion of the requirements to administer local anesthesia or nitrous oxide, or both. The certificate is not subject to renewal but is part of the dental hygienist's permanent record and must be prominently displayed in the dental hygienist's principal place of employment. The fee for the person seeking certification for completion of the requirements of subsection (4) is $10.00.

(6) Monitoring and assisting the administration of nitrous oxide analgesia is at the discretion of each individual registered dental assistant who fulfills the applicable conditions imposed in subsection (7).

(7) In addition to the rules promulgated by the department under this part, upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a registered dental assistant may assist and monitor the administration of nitrous oxide analgesia by the dentist or dental hygienist if the registered dental assistant has successfully completed a course in the assisting and monitoring of the administration of nitrous oxide analgesia offered by a dental or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department. The course must contain a minimum of 5 hours of didactic instruction and include content in all of the following:

(a) Nitrous oxide analgesia medical emergencies techniques.

(b) Pharmacology of nitrous oxide.

(c) Nitrous oxide techniques.

(8) The ability of a dental hygienist to administer nitrous oxide analgesia under this section is limited to circumstances in which the dental hygienist may administer not more than 50% nitrous oxide.

(9) In the assisting by a registered dental assistant otherwise qualified under this section in the administration of nitrous oxide analgesia, the nitrous oxide levels must be preset by the dentist or dental hygienist and shall not be adjusted by the registered dental assistant except in the case of an emergency, in which circumstances the registered dental assistant may turn off the nitrous oxide and administer 100% oxygen.

(10) Upon assignment by a dentist, a dental hygienist may take an impression for orthodontic appliances, mouth guards, bite splints, and bleaching trays.

(11) In addition to the rules promulgated by the department under this part, upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a registered dental assistant may place, condense, and carve amalgam restorations and take final impressions for indirect restorations if the registered dental assistant has successfully completed a course offered by a dental or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department. For taking final impressions and placing, condensing, and carving amalgam restorations, the registered dental assistant shall have completed a course with a minimum of 20 hours' didactic instruction followed by a comprehensive clinical experience of sufficient duration that validates clinical competence through a criterion based assessment instrument.

(12) In addition to the rules promulgated by the department under this part, upon delegation by a dentist under section 16215 and under the general supervision of a dentist, a registered dental assistant may perform the following intraoral dental procedures if the registered dental assistant has successfully completed a course meeting the standards described in subsection (13) offered by a dental or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department:

(a) Performing pulp vitality testing.

(b) Placing and removing matrices and wedges.

(c) Applying cavity liners and bases.

(d) Placing and packing nonepinephrine retraction cords.

(e) Applying desensitizing agents.

(f) Taking an impression for orthodontic appliances, mouth guards, bite splints, and bleaching trays.

(g) Drying endodontic canals with absorbent points.

(h) Etching and placing adhesives prior to placement of orthodontic brackets.

(13) The course in subsection (12) that involves those intraoral procedures described in subsection (12) must contain a minimum of 10 hours of didactic and clinical instruction.

(14) This section does not require new or additional third party reimbursement or mandated worker's

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compensation benefits for services rendered by an individual licensed as a dental assistant or as a dental hygienist under this article.

(15) Within 30 days after the effective date of the amendatory act that added this subsection, the board shall develop patient safety and equipment practice guidelines for dentists delegating to dental hygienists and dental assistants the administration of nitrous oxide analgesia under this part. The practice guidelines shall be consistent with national recommendations.

(16) As used in this section:

(a) "Assisting" means setting up equipment and placing the face mask. Assisting does not include titrating and turning on or off equipment.

(b) "Direct supervision" means that a dentist complies with all of the following:

(*i*) Designates a patient of record upon whom the procedures are to be performed and describes the procedures to be performed.

(*ii*) Examines the patient before prescribing the procedures to be performed and upon completion of the procedures.

(*iii*) Is physically present in the office at the time the procedures are being performed.

(c) "General supervision" means that a dentist complies with all of the following:

(*i*) Designates a patient of record upon whom services are to be performed.

(*ii*) Is physically present in the office at the time the procedures are being performed.

(d) "Monitoring" means observing levels and reporting to the dentist or dental hygienist.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 423, Imd. Eff. June 5, 2002;—Am. 2003, Act 35, Imd. Eff. July 3, 2003;—Am. 2004, Act 30, Imd. Eff. Mar. 22, 2004.

Popular name: Act 368

333.16620 Terms of office.

Sec. 16620. The terms of office of individual members of the board and task force created under this part, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term will expire.

History: Add. 2006, Act 429, Imd. Eff. Oct. 5, 2006.

Popular name: Act 368

333.16621 Michigan board of dentistry; creation; appointment and qualifications of members; meetings; voting.

Sec. 16621. (1) The Michigan board of dentistry is created in the department. Subject to subsection (2), the board consists of the following 20 voting members, each of whom must meet the requirements of part 161:

(a) Nine dentists. Subject to subsection (4), 1 or more of the dentists appointed under this subdivision may have a health profession specialty certification issued under section 16608.

(b) Subject to subsection (4), 2 dentists who have been issued a health profession specialty certification under section 16608.

(c) Four dental hygienists.

(d) Two dental assistants.

(e) Three public members.

(2) Beginning 5 years after the effective date of the 2018 amendatory act that amended this subsection, the board must include 1 dental therapist, bringing the total number of voting members on the board to 21. The dental therapists appointed under this subsection must each meet the requirements of part 161.

(3) The board meeting dates and times must be concurred in by a vote of not less than 13 board members.

(4) One member of the board shall be a dentist who is a dental school faculty member.

(5) A board member who is licensed to practice as a dental hygienist, a dental assistant, or a dental therapist votes as an equal member of the board in all matters except those designated in section 16148(1) or (2) that apply only to dentists and not to dental hygienists, dental assistants, or dental therapists.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1998, Act 436, Imd. Eff. Dec. 30, 1998;—Am. 2000, Act 160, Imd. Eff. June 14, 2000;—Am. 2002, Act 590, Imd. Eff. Oct. 17, 2002;—Am. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

333.16624 Task force; creation; purpose; membership.

Sec. 16624. A task force to advise the board is created for health profession specialty fields certified under this part. The task force shall consist of the following 9 members, who shall meet the requirements of part 161; 1 dentist who is not a specialist, 1 prosthodontist, 1 endodontist, 1 oral and maxillofacial surgeon, 1 orthodontist, 1 pediatric dentist, 1 periodontist, 1 oral pathologist, and 1 public member. The oral pathologist

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shall be certified as a dentist specializing in oral pathology by the board not later than 1 year after the effective date of the amendatory act that added an oral pathologist to the task force. If the oral pathologist is not so certified, his or her term shall terminate at the end of that year.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1987, Act 182, Imd. Eff. Nov. 30, 1987;—Am. 1990, Act 216, Imd. Eff. Oct. 8, 1990.

Compiler's note: For transfer of powers and duties of the dental specialty task force from the department of commerce to the director of the department of consumer and industry services, and the abolishment of the dental specialty task force, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

Popular name: Act 368

333.16625 Rules as to dental hygienist or dental assistant; dental hygiene services performed under supervision of dentist as part of program for dentally underserved program; designation of grantee health agency; requirements; notification; advisory committee; definitions.

Sec. 16625. (1) The board may promulgate rules to prohibit or otherwise restrict the assignment of procedures to a dental hygienist or a dental assistant if the board determines that the assignment constitutes or may constitute a danger to the health, safety, or welfare of the patient or the public.

(2) Notwithstanding section 16601(1)(f) or the rules promulgated under subsection (1), a dental hygienist may perform dental hygiene services under the supervision of a dentist as part of a program for dentally underserved populations in this state conducted by a local, state, or federal grantee health agency for patients who are not assigned by a dentist. The director of community health shall designate a person as a grantee health agency for a 2-year period if the person applies to the department of community health on a form provided by the department of community health and meets all of the following requirements:

(a) Is a public or nonprofit entity, or a school or nursing home, that administers a program of dental care to a dentally underserved population.

(b) Employs or contracts with at least 1 dentist or 1 dental hygienist.

(c) Submits a program overview indicating the approximate population to be served, the method by which the service is to be provided, the procedures for program oversight and direction, and the name and license number of the dentist and dental hygienist, if applicable, who are performing services under the program.

(3) Within 10 business days after the department approves an application and designates a grantee health agency under subsection (2), the department shall notify the board of the designation in writing or make the information electronically available.

(4) The director of community health may appoint an advisory committee to assist the director of community health in designating grantee health agencies under subsection (2). If the director of community health does appoint an advisory committee under this subsection, the director of community health shall include on the advisory committee, at a minimum, a representative from the Michigan dental hygienist association or its successor organization and a representative from the Michigan dental association or its successor organization.

(5) As used in this section:

(a) "Nursing home" means that term as defined under section 20109.

(b) "School" means a public or private elementary or secondary institution of learning for any grade from kindergarten to 12.

(c) "Supervision" means the overseeing of or participation in the work of any other individual by a health professional licensed under this article in circumstances in which 1 or more of the following exist:

(*i*) The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional.

(*ii*) The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual's functions.

(*iii*) The provision by the licensed supervising health professional of predetermined procedures and drug protocol.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1991, Act 58, Imd. Eff. June 27, 1991;—Am. 2005, Act 161, Imd. Eff. Oct. 4, 2005.

Compiler's note: For transfer of the grantee health agency advisory committee to the department of community health, and abolishment of the committee, see E.R.O. No. 2009-7, compiled at MCL 333.26330.

Popular name: Act 368

333.16626 Dental assistant as second pair of hands.

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Sec. 16626. (1) Subject to subsection (2), and notwithstanding section 16601(1)(f) or the rules promulgated under section 16625(1), a dental hygienist or dental therapist may utilize a dental assistant to act as his or her second pair of hands.

(2) Notwithstanding section 16601(1)(e) or the rules promulgated under section 16625(1), a dental assistant may function as a second pair of hands for a dentist, dental hygienist, or dental therapist if all of the following are met:

(a) The dentist, dental hygienist, or dental therapist is actively performing services in the mouth of a patient at the time the dental assistant is assisting him or her.

(b) If the dental assistant is assisting a dental hygienist, a supervising dentist has assigned the dental assistant to act as the dental hygienist's second pair of hands.

(3) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual who is licensed as a dental assistant, dental hygienist, or dental therapist under this article.

(4) As used in this section, "second pair of hands" means that term as defined in R 338.11101 of the Michigan Administrative Code.

History: Add. 2012, Act 289, Imd. Eff. Aug. 1, 2012;—Am. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

333.16627 Establishment of dental clinic by nonprofit corporation.

Sec. 16627. The board shall not by rule or other action prohibit the establishment of a dental clinic by a nonprofit corporation organized for this purpose or by trustees of a health and welfare fund if:

(a) The clinic is created, financed, and operated from trust funds derived from payments and contributions under the terms of collective bargaining agreements between employers and representatives of employees and which are subject to the terms, conditions, and regulations of the labor-management relations act of 1947, 29 U.S.C. 141 to 187.

(b) The clinic is established and operated for the benefit of employees represented or employed by the labor organization, their dependents, and retirees.

(c) The individuals employed by the clinic to practice dentistry are licensed under this article.

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

Popular name: Act 368

333.16631 Applicability of section to dentist who uses dental amalgam and who removes dental amalgam; exceptions; procedures; rules; violations; preemption.

Sec. 16631. (1) Except as otherwise provided, this section applies to a dentist who uses dental amalgam and to a dentist who removes dental amalgam. This section does not apply to any of the following:

(a) Oral and maxillofacial surgeons.

(b) Oral and maxillofacial radiologists.

(c) Oral pathologists.

(d) Orthodontists.

(e) Periodontists.

(f) Dentists while providing services in a dental school, in a hospital, or through a local health department.

(2) On or before December 31, 2013, a dentist described in subsection (1) shall install or have installed and use on each wastewater drain in the dentist's office that is used to discharge dental amalgam a separator that has an efficiency of 95% or more as determined through testing in accordance with standards published by the international organization for standardization in ISO 11143:2008 "Dental equipment — Amalgam separators".

(3) On or before the expiration of 90 days after the effective date of this section, the department, in consultation with the department of environmental quality, shall promulgate rules regarding best management practice for dental amalgam collection, disposal, and recycling and the retention and inspection of dental office records regarding the following:

(a) The make, model, and type of dental amalgam separator installed and in use in the office.

(b) The method used to dispose of or recycle the dental amalgam waste collected.

(c) The shipping or other delivery records documenting the transfer of the dental amalgam waste collected to licensed recyclers or disposers.

(d) The proper operation of the dental amalgam separator, including scheduled maintenance as specified in the manufacturer's owner's manual for that separator.

(e) Compliance with dental amalgam best management practices.

(4) A violation of subsection (1) or (2) or a rule promulgated under subsection (3) is a violation of section 16221(h).

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(5) Beginning on the effective date of this section and subject to this subsection, this section preempts and supersedes any local ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on dentists than those contained in this section or rules promulgated by the board under this section. A local unit of government may enact, adopt, maintain, amend, or enforce an ordinance, regulation, or resolution that requires implementation of the requirement in subsections (2) and (3) before the date required in subsection (2). A local unit of government shall not enact, adopt, maintain, or enforce an ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on dentists than those contained in this section or rules promulgated by the board under this section, including, but not limited to, the requirement to obtain a permit that limits the discharge of mercury into wastewater with a limitation greater than that capable of being achieved by full compliance with this section.

History: Add. 2008, Act 503, Imd. Eff. Jan. 13, 2009.

333.16641 Work authorization for dental laboratory services required; retention and inspection of work authorizations and copies.

Sec. 16641. (1) A dentist shall not use the services of a dental laboratory without furnishing a written work authorization to the dental laboratory and a carbon copy to the patient for constructing, repairing, or altering prosthetic dentures, bridges, orthodontic or other appliances, or structures to be used as substitutes for or as a part of human teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(2) A dentist shall retain a written work authorization furnished to a dental laboratory or a copy of the authorization for not less than 3 years and allow the board, its agents, or employees to inspect the file of written work authorizations or copies.

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

Popular name: Act 368

333.16642 Work authorization for dental laboratory work; form; contents; name or number of work authorization to accompany invoice; prohibition.

Sec. 16642. (1) A written authorization for dental laboratory work shall be in a form prescribed by the board and shall contain the following:

(a) The name and address of the laboratory.

(b) An identification of the patient by name or number.

(c) The date on which the authorization was written.

(d) The description of the work to be done, with diagrams if necessary.

(e) A specification of the type and quality of materials to be used.

(f) The dentist's signature, complete business address, and license number.

(2) A dental laboratory shall return completed prescribed work to the prescribing dentist or the dentist's office with the name or number of the written work authorization accompanying the invoice.

(3) A dental laboratory shall not have in its possession a prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities, completed or being fabricated without having in its possession a written work authorization therefor.

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

Popular name: Act 368

333.16643 Dental laboratory; prohibited conduct.

Sec. 16643. A dental laboratory shall not advertise, solicit, represent, or hold itself out to the general public that it will sell, supply, furnish, construct, repair, or alter a prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities.

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

Popular name: Act 368

333.16644 Record of dental treatment required; retention; rules prescribing form and content; using record for identification purposes.

Sec. 16644. (1) A dentist shall make a record of all dental treatment which has been performed upon a patient, and shall retain that treatment record for a period of not less than 10 years after the performance of the last service upon the patient.

(2) The board shall promulgate rules to prescribe the form and content of the record required by subsection (1), so that the record may be used for identification purposes.

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History: Add. 1982, Act 482, Eff. Mar. 30, 1983.

Popular name: Act 368

333.16645 Marking identification on denture or orthodontic appliance.

Sec. 16645. (1) Unless the patient specifically declines, a dentist or dental laboratory that sells, supplies, furnishes, constructs, or repairs a full denture, partial denture with acrylic saddle, or removable orthodontic appliance with acrylic saddle for a specific patient shall permanently mark the patient's name or social security number, whichever the patient chooses, on the denture or orthodontic appliance.

(2) A dentist shall notify a patient who is to receive a denture or orthodontic appliance described in subsection (1) that the patient has the right to decline to have identification marked on the denture or orthodontic appliance, shall ask the patient to choose the information to be marked on the denture or orthodontic appliance, and shall indicate the patient's choices on the work order to the dental laboratory.

History: Add. 1989, Act 262, Imd. Eff. Dec. 26, 1989.

Popular name: Act 368

333.16647 Dental laboratory; inspection; compliance; violation as misdemeanor.

Sec. 16647. (1) The board or an agent or employee of the board may inspect a dental laboratory to determine the laboratory's compliance with this part.

(2) A dental laboratory which violates this part or refuses to allow the board or an agent or employee of the board to inspect a work authorization, prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities in its possession is guilty of a misdemeanor.

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

Popular name: Act 368

333.16648 Information relative to care and treatment of dental patient; confidentiality; privilege; disclosure; consent; instances not prohibiting disclosure.

Sec. 16648. (1) Information relative to the care and treatment of a dental patient acquired as a result of providing professional dental services is confidential and privileged. Except as otherwise permitted or required under the health insurance portability and accountability act of 1996, Public Law 104-191, and regulations promulgated under that act, 45 CFR parts 160 and 164, or as otherwise provided in subsection (2), a dentist or a person employed by the dentist shall not disclose or be required to disclose that information.

(2) This section does not prohibit disclosure of the information described in subsection (1) in the following instances:

(a) Disclosure as part of the defense to a claim in a court or administrative agency challenging the dentist's professional competence.

(b) Disclosure pursuant to 1967 PA 270, MCL 331.531 to 331.533.

(c) Disclosure in relation to a claim for payment of fees.

(d) Disclosure to a third party payer of information relating to fees for services in the course of a good faith examination of the dentist's records to determine the amount and correctness of fees or the type and volume of services furnished pursuant to provisions for payment established by a third party payer, or information required for a third party payer's predeterminations, post treatment reviews, or audits. For purposes of this subdivision, "third party payer" includes, but is not limited to, a nonprofit dental care corporation, nonprofit health care corporation, insurer, benefit fund, health maintenance organization, and dental capitation plan.

(e) Disclosure, pursuant to a court order, to a police agency as part of a criminal investigation.

(f) Disclosure as provided in section 2844a.

(g) Disclosure made pursuant to section 16222 if the licensee reasonably believes it is necessary to disclose the information to comply with section 16222.

(h) Disclosure under section 16281.

History: Add. 1983, Act 89, Imd. Eff. June 16, 1983;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1998, Act 496, Eff. Mar. 1, 1999;—Am. 2004, Act 401, Imd. Eff. Oct. 20, 2004.

Popular name: Act 368

333.16651 Dental therapist; requirements for licensure.

Sec. 16651. (1) An individual who is granted a license under this part as a dental therapist may engage in practice as a dental therapist to the extent permitted under this section and sections 16652 to 16658.

(2) To qualify for licensure under this part as a dental therapist, an individual shall apply to the department on forms provided by the department, pay the application fee under section 16323, and demonstrate to the

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department that he or she meets all of the following:

(a) Has graduated from a dental therapy education program that satisfies all of the following:

(*i*) Meets the standards established under section 16148 for accreditation of a degree-granting program in dental therapy education at an approved postsecondary education institution.

(*ii*) As determined by the department in consultation with the board, meets the accreditation standards for dental therapy education programs established by the Commission on Dental Accreditation.

(*iii*) Is accredited under section 16148.

(*iv*) Meets any other requirements for dental therapy education programs adopted by the board.

(b) Has passed a comprehensive, competency-based clinical examination approved by the department that includes an examination of the applicant's knowledge of the laws of this state under this part and rules promulgated under this part.

(c) Has completed 500 hours of clinical practice in this state or another state under the direct supervision of a dentist, or an individual authorized under the laws of another state to engage in the practice of dentistry, and in conformity with rules adopted by the board. As used in this subdivision, "direct supervision" means that the dentist or individual described in this subdivision complies with all of the following:

(*i*) Designates a patient of record upon whom the procedures are to be performed and describes the procedures to be performed.

(*ii*) Examines the patient before prescribing the procedures to be performed and upon completion of the procedures.

(*iii*) Is physically present in the office at the time the procedures are being performed.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019;—Am. 2020, Act 298, Eff. Mar. 24, 2021.

Popular name: Act 368

333.16652 Board; granting license; payment of fees.

Sec. 16652. (1) The board shall grant a license to practice as a dental therapist to an applicant for licensure under sections 16651 to 16658 who meets the requirements of sections 16651 to 16658 and rules adopted under those sections for licensure and pays the application fee under section 16323.

(2) A dental therapist shall pay to the board the license fee under section 16323.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

333.16653 License renewal; continuing education.

Sec. 16653. As a condition of renewal of a license to practice under sections 16651 to 16658, a dental therapist shall certify that he or she has successfully completed 35 hours of continuing education in the 2 years before renewal. Continuing education under this section must conform with the requirements of part 161 concerning continuing education courses and must include board-approved courses, including, but not limited to, a course in cardiopulmonary resuscitation.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

333.16654 Dental therapist; scope of practice; within certain health settings.

Sec. 16654. A dental therapist may provide services described in section 16656 included within the scope of practice as a dental therapist and under the supervision of a dentist in any of the following health settings:

(a) A hospital that is licensed under article 17.

(b) A health facility or agency, other than a hospital, that is licensed under article 17 and is reimbursed as a federally qualified health center as defined in 42 USC 1395x(aa)(4) or that has been determined by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to meet the requirements for funding under section 330 of the public health service act, 42 USC 254b.

(c) A federally qualified health center, as defined in 42 USC 1395x(aa)(4), that is licensed as a health facility or agency under article 17.

(d) An outpatient health program or facility operated by a tribe or tribal organization under the Indian self-determination act, 25 USC 5321 to 5332, or by an urban Indian organization receiving funds under title V of the Indian health care improvement act, 25 USC 1651 to 1660h.

(e) A correctional facility. As used in this subdivision, "correctional facility" means a facility or institution that houses a prisoner population under the jurisdiction of the department of corrections.

(f) A health setting in a geographic area that is designated as a dental shortage area by the United States Department of Health and Human Services.

(g) A school-based health center, as that term is defined in 42 USC 280h-5.

(h) A local health department.

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(i) Any other clinic or practice setting, including a mobile dental unit, in which at least 50% of the annual total patient base of the dental therapist will consist of patients who meet any of the following:

(*i*) Are enrolled in a health care program administered by the department of health and human services.

(*ii*) Have a medical disability or chronic condition that creates a significant barrier to receiving dental care.

(*iii*) Do not have dental health coverage, either through a public health care program or private insurance, and have an annual gross family income equal to or less than 200% of the federal poverty level. As used in this subparagraph and subparagraph (*iv*), "federal poverty level" means the poverty guidelines published annually in the federal register by the United States Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902.

(*iv*) Do not have dental health coverage, either through a state public health care program or private insurance, and whose family gross income is equal to or less than 200% of the federal poverty level.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

333.16655 Restricted practice; written practice agreement; requirements; supervising dentist limitations; "written practice agreement" defined.

Sec. 16655. (1) A dental therapist may practice only under the supervision of a dentist and through a written practice agreement signed by the dental therapist and the dentist. A dental therapist may provide only the services that are within his or her scope of practice, are authorized by a supervising dentist, and are provided according to written protocols or orders established by the supervising dentist.

(2) A dental therapist may perform an oral evaluation and assessment of dental disease and develop an individualized treatment plan if the supervising dentist has given the dental therapist written authorization to provide the services and reviews the patient records as provided in the written practice agreement. The written practice agreement may require the supervising dentist to personally examine patients either face-to-face or by the use of electronic means.

(3) A written practice agreement between a supervising dentist and a dental therapist must include all of the following elements:

(a) The services and procedures and the practice settings for those services and procedures that the dental therapist may provide, together with any limitations on those services and procedures.

(b) Any age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency.

(c) Procedures to be used with patients treated by the dental therapist for obtaining informed consent and for creating and maintaining dental records.

(d) A plan for review of patient records by the supervising dentist and the dental therapist.

(e) A plan for managing medical emergencies in each practice setting in which the dental therapist provides care.

(f) A quality assurance plan for monitoring care, including patient care review, referral follow-up, and a quality assurance chart review.

(g) Protocols for administering and dispensing medications, including the specific circumstances under which medications may be administered and dispensed.

(h) Criteria for providing care to patients with specific medical conditions or complex medical histories, including requirements for consultation before initiating care.

(i) Specific written protocols, including a plan for providing clinical resources and referrals, governing situations in which the patient requires treatment that exceeds the dental therapist's capabilities or the scope of practice as a dental therapist.

(4) A dental therapist who provides services or procedures beyond those authorized in the written practice agreement engages in unprofessional conduct for the purposes of section 16221.

(5) A supervising dentist shall not supervise more than 4 dental therapists.

(6) A supervising dentist shall actively participate in drafting a written practice agreement with a dental therapist. Any revision to the written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental therapist.

(7) A written practice agreement is valid for 3 years. A supervising dentist and dental therapist shall each review the practice agreement before renewing the practice agreement.

(8) A supervising dentist and a dental therapist who sign a written practice agreement shall keep a copy for the dentist's or dental therapist's own records and make a copy available to patients of the dental therapist, or to the department, on request.

(9) As used in this section and sections 16656 and 16657, "written practice agreement" means a document that is signed by a dentist and a dental therapist and that, in conformity with the legal scope of practice as a

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dental therapist, outlines the functions that the dental therapist is authorized to perform.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

333.16656 Scope of practice; services included; prohibition on prescribing a controlled substance; "health care professional" defined.

Sec. 16656. (1) Under the supervision of a dentist, a licensed dental therapist may provide any of the following care or services:

(a) Identifying oral and systemic conditions that require evaluation or treatment by dentists, physicians, or other health care professionals and managing referrals.

(b) Comprehensive charting of the oral cavity.

(c) Providing oral health instruction and disease prevention education, including nutritional counseling and dietary analysis.

(d) Administering and exposing radiographic images.

(e) Dental prophylaxis including subgingival scaling or polishing procedures.

(f) Dispensing and administering via the oral or topical route nonnarcotic analgesics and anti-inflammatory and antibiotic medications as prescribed by a health care professional.

(g) Applying topical preventative or prophylactic agents, including fluoride varnish, silver diamine fluoride and other fluoride treatments, antimicrobial agents, and pit and fissure sealants.

(h) Pulp vitality testing.

(i) Applying desensitizing medication or resin.

(j) Fabricating athletic mouth guards.

(k) Changing periodontal dressings.

(*l*) Administering local anesthetic and nitrous oxide analgesia.

(m) Simple extraction of erupted primary teeth.

(n) Emergency palliative treatment of dental pain related to a care or service described in this subsection.

(o) Preparation and placement of direct restoration in primary and permanent teeth.

(p) Fabrication and placement of single-tooth temporary crowns.

(q) Preparation and placement of preformed crowns on primary teeth.

(r) Indirect and direct pulp capping on permanent teeth.

(s) Indirect pulp capping on primary teeth.

(t) Suturing and suture removal.

(u) Minor adjustments and repairs on removable prostheses.

(v) Placement and removal of space maintainers.

(w) Nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility +3. However, a dental therapist shall not extract a tooth for any patient if the tooth is unerupted, impacted, or fractured or needs to be sectioned for removal.

(x) Performing other related services and functions authorized by the supervising dentist and for which the dental therapist is trained.

(y) Performing any other duties of a dental therapist that are authorized by the board by rule.

(2) A dental therapist may supervise dental assistants and dental hygienists to the extent permitted in a written practice agreement. However, a dental therapist shall not supervise more than 3 dental assistants and 2 dental hygienists in any 1 practice setting.

(3) A dental therapist shall not prescribe a controlled substance that is included in schedules 2 to 5 of part 72.

(4) As used in this section and section 16657, "health care professional" means an individual who is authorized to practice a health profession under this article.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

333.16657 Referrals; beyond scope of practice.

Sec. 16657. (1) A supervising dentist shall arrange for another dentist or specialist to provide any services needed by a patient of a dental therapist who is supervised by that dentist that are beyond the scope of practice of the dental therapist and that the supervising dentist is unable to provide.

(2) A dental therapist, in accordance with a written practice agreement entered into under section 16655, shall refer patients to another qualified dental professional or health care professional to receive needed services that exceed the scope of practice of the dental therapist.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

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Popular name: Act 368

333.16658 Rules; study on licensing dental therapists; written report.

Sec. 16658. (1) Within 12 months after the effective date of the amendatory act that added this section, the department, in consultation with the board, shall promulgate any rules that the department considers necessary to implement this section and sections 16651 to 16657.

(2) Within 7 years after the effective date of the amendatory act that added this section, the department of health and human services, in consultation with the department, shall conduct and complete a study concerning the impact of licensing dental therapists on patient safety, cost-effectiveness, and access to dental services in this state. The study shall focus on the following outcome measures:

(a) Number of new patients served.

(b) Reduction in waiting time for needed services.

(c) Decreased travel time for patients.

(d) Impact on emergency room usage for dental care.

(e) Costs to the health care system.

(3) Within 30 days after the completion of the study described in subsection (2), the department of health and human services shall provide a written report concerning the results of the study to the director of the department and the chairs of the standing committees of the senate and house of representatives responsible for health policy.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Compiler's note: Act 368

333.16659 Third party reimbursement or mandated worker's compensation benefits.

Sec. 16659. Sections 16651 to 16658 do not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual who is licensed as a dental therapist under this article.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

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PART 168.
AUDIOLOGY

333.16801 Definitions; scope of practice; limitation.

Sec. 16801. (1) As used in this part:

(a) "Audiologist" means an individual licensed under this article to engage in the practice of audiology.

(b) "Practice of audiology" means the nonmedical and nonsurgical application of principles, methods, and procedures related to disorders of hearing, including all of the following:

(*i*) Facilitating the conservation of auditory system function.

(*ii*) Developing and implementing hearing conservation programs.

(*iii*) Preventing, identifying, and assessing hearing disorders of the peripheral and central auditory system.

(*iv*) Selecting, fitting, and dispensing of amplification systems, including hearing aids and related devices, and providing training for their use.

(*v*) Providing auditory training, consulting, education, and speech reading to individuals with hearing disorders.

(*vi*) Administering and interpreting tests of vestibular function and tinnitus in compliance with section 16809 and in adherence to the mandate of subsection (2).

(*vii*) Routine cerumen removal from the cartilaginous portion of the external ear in otherwise healthy ears except that if the audiologist, while engaged in routine cerumen removal, discovers any trauma, including, but not limited to, continuous uncontrolled bleeding, lacerations, or other traumatic injuries, he or she shall, as soon as practically possible, refer the patient to a person licensed in the practice of medicine or osteopathic medicine and surgery.

(*viii*) Speech and language screening limited to a pass-fail determination for the purpose of identification of individuals with disorders of communication.

(2) Practice of audiology does not include the practice of medicine or osteopathic medicine and surgery or medical diagnosis or treatment.

(3) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: Add. 2004, Act 97, Imd. Eff. May 7, 2004.

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Popular name: Act 368

333.16803 Practice of audiology; license required; use of words, titles, or letters.

Sec. 16803. (1) Beginning September 4, 2004 and except as otherwise provided in section 16807, an individual shall not engage in the practice of audiology unless licensed or otherwise authorized by this article.

(2) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those individuals authorized under this part to use the following terms and in a way prescribed in this part: "audiometrist", "audiologist", "hearing therapist", "hearing aid audiologist", "educational audiologist", "industrial audiologist", and "clinical audiologist".

History: Add. 2004, Act 97, Imd. Eff. May 7, 2004;—Am. 2006, Act 411, Imd. Eff. Sept. 29, 2006.

Popular name: Act 368

333.16805 Michigan board of audiology; creation; membership; terms of office.

Sec. 16805. (1) The Michigan board of audiology is created within the department. The board consists of the following 9 voting members who meet the requirements of part 161:

(a) Five audiologists. The members initially appointed under this subdivision shall meet the requirements of section 16135.

(b) Two members shall be persons licensed to practice medicine or osteopathic medicine and surgery who hold a certificate of qualification from the American board of otolaryngology.

(c) Two public members, neither of whom is an audiologist or physician or has family or financial ties to an audiologist or physician.

(2) The terms of office of individual members of the board created under subsection (1), except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term will expire.

History: Add. 2004, Act 97, Imd. Eff. May 7, 2004;—Am. 2006, Act 411, Imd. Eff. Sept. 29, 2006.

Popular name: Act 368

333.16807 Limitations; exceptions.

Sec. 16807. This part does not limit any of the following:

(a) An individual employed by a regionally accredited college or university and involved with research or the teaching of communication disorders from performing those duties for which he or she is employed by that institution, as long as the individual does not engage in the practice of audiology or hold himself or herself out as licensed or otherwise authorized under this article as an audiologist.

(b) An individual who is employed by the department of community health in 1 of its approved hearing screening training programs from conducting screening of hearing sensitivity.

(c) An individual certified by an agency acceptable to the occupational health standards commission from engaging in hearing screening as part of a hearing conservation program in compliance with standards adopted under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(d) A certified, licensed, registered, or otherwise statutorily recognized member of another profession, including a person licensed in the practice of medicine or osteopathic medicine and surgery and an unlicensed or licensed person to whom tasks have been delegated under his or her supervision, and including a person licensed under article 13 of the occupational code, 1980 PA 299, MCL 339.1301 to 339.1309, from practicing his or her profession as authorized by law, so long as the individual does not hold himself or herself out to the public as possessing a license issued or title protected under this article.

History: Add. 2004, Act 97, Imd. Eff. May 7, 2004.

Popular name: Act 368

333.16809 Administration of tests; compliance with federal guidelines for fitting and dispensing hearing instruments; sale of hearing instrument to person under 18 years of age.

Sec. 16809. (1) An audiologist shall administer tests of vestibular function only to patients who have been referred to him or her by a person licensed to practice medicine or osteopathic medicine and surgery.

(2) If an audiologist administers an audiometric test for tinnitus and his or her examination of the patient reflects the presence of otologic or systemic diseases, the audiologist shall promptly refer the patient to a person licensed to practice medicine or osteopathic medicine and surgery.

(3) An audiologist shall comply with the federal food and drug administration medical referral guidelines for fitting and dispensing hearing instruments, 21 CFR 801.621, incorporated by reference.

(4) A licensed audiologist may not sell a hearing instrument to a person under 18 years of age unless the

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person or the parent or guardian of the person presents to the audiologist a written statement signed by a licensed physician who specializes in diseases of the ear stating that both of the following exist:

(a) The person's hearing loss has been medically evaluated during the 6-month period preceding the date the statement is presented.

(b) The person may be considered a candidate for a hearing instrument.

History: Add. 2004, Act 97, Imd. Eff. May 7, 2004.

Popular name: Act 368

333.16811 Requirements for licensure.

Sec. 16811. (1) The department shall require an individual granted a license under this article as an audiologist to meet either of the following requirements:

(a) Possess a master's degree in audiology from a regionally accredited college or university approved by the board; have completed at least 9 months of supervised clinical experience in audiology; and have successfully completed an examination in audiology as described in subsection (2) or (3).

(b) Possess a doctoral degree in audiology from a regionally accredited college or university approved by the board; have completed at least 9 months of supervised clinical experience in audiology; and have successfully completed an examination in audiology as described in subsection (2) or (3).

(2) The department, in consultation with the board, shall provide that applicants pass an examination dealing with all aspects of the practice of audiology before issuance of a license under this part. The department, in consultation with the board, may develop its own examination and may promulgate rules to establish standards for that examination or for the adoption by reference of an examination, or parts of an examination, developed by an outside entity that it determines offers an appropriate examination. If the department adopts all or part of an examination developed by an outside entity, the department may promulgate rules to adopt by reference any supplement or update to the examination.

(3) Beginning on the effective date of this part and until 1 or more examinations are developed or adopted under subsection (2), the PRAXIS examination in audiology, developed by educational testing services, in existence on the effective date of this part is adopted by reference and considered acceptable for qualification of applicants under this part. Not later than June 30, 2005, the department, in consultation with the board, shall make a recommendation on whether to develop its own exam, adopt an examination developed by an outside entity, or continue to accept the PRAXIS examination and any update pursuant to rule as further described in subsection (2). The department shall notify the house and senate standing committees on health policy matters of its recommendation.

(4) Notwithstanding subsections (2) and (3), the department shall grant a license to a person who, on the effective date of this part, has been engaged in the practice of audiology, who meets the requirements of subsection (1), who applies for licensure under this part, and who presents to the department proof of passing any past or present version of the PRAXIS examination in audiology or any past or present version of its predecessor, the national teachers examination on speech and language pathology and audiology, both of which were developed by educational testing services. Passage of those examinations is considered fulfillment of the examination requirement of this subsection. The past and present versions of the PRAXIS examination in audiology and all versions of its predecessor, the national teachers examination on speech and language pathology and audiology, both of which were developed by educational testing services, are adopted by reference for purposes of this subsection.

(5) Beginning the license year after the effective date of the rules promulgated under this subsection, an individual shall meet the continuing education requirements of this subsection. The department, in consultation with the board, shall promulgate rules to require licensees seeking renewal to furnish evidence acceptable to the department and board of the successful completion, during the preceding license year, of at least 10 clock hours of continuing education courses or programs related to the practice of audiology and designed to further educate licensees.

(6) The department shall ensure that all approved continuing education courses described in subsection (5) include defined measurements of preknowledge and postknowledge or skill improvements, or both, as a result of the continuing education program.

History: Add. 2004, Act 97, Imd Eff. May 7, 2004.

Popular name: Act 368

PART 169
MARRIAGE AND FAMILY THERAPY

333.16901 Definitions; principles of construction.

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Sec. 16901. (1) As used in this part:

(a) "Advertise" means issuing or ordering the printing or distribution of a card, sign, or device or causing, permitting, or allowing a sign or marking on or in a building or structure, or placing material in a newspaper, magazine, or directory, or on radio or television.

(b) "Marriage and family therapist" means an individual licensed under this article to engage in the practice of marriage and family therapy.

(c) "Practice of marriage and family therapy" means the providing of guidance, testing, discussions, therapy, instruction, or advice that is intended to avoid, eliminate, relieve, manage, or resolve marital or family conflict or discord, to create, improve, or restore marital or family harmony, or to prepare couples for marriage. Practice of marriage and family therapy does not include the administration and interpretation of psychological tests except for those tests that are consistent with the individual's education and training and with the code of ethics for licensed marriage and family therapists.

(2) In addition to the definitions of this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996.

Popular name: Act 368

333.16903 Restricted use of title; advertising; limited license; use of title during training period; use of words, titles, or letters.

Sec. 16903. (1) An individual licensed under this part as a marriage and family therapist shall use only the title "licensed marriage and family therapist" or "licensed marriage counselor" or the abbreviation "l.m.f.t." in representing his or her services in the practice of marriage and family therapy to the public.

(2) Unless exempt under section 16905(3), only an individual licensed under this part may advertise that he or she offers marriage and family therapy; marriage or family counseling service or advice; marriage or family guidance service or advice; marriage or family relations service or advice; marriage or family problems service or advice; marriage or family relations advice or assistance; service in the alleviation of a marital or family problem; or service of similar import or effect that is included in the practice of marriage and family therapy.

(3) The board may grant a limited license to an individual who has met the requirements of section 16909(a) and (b) in order to permit that individual to obtain the experience required under section 16909(c). The board shall not renew a limited license for more than 6 years. A limited licensee shall do all of the following:

(a) Use only the title "limited licensed marriage and family therapist" or "limited licensed marriage counselor".

(b) Not represent that he or she is engaged in the independent practice of marriage and family therapy.

(c) Practice only under the supervision of a fully licensed marriage and family therapist.

(d) Confine his or her practice to an organized health care setting or other arrangement approved by the board.

(4) An individual engaged in obtaining experience required under section 16909(b) may use the title "marriage and family therapist intern" or "marriage and family therapist trainee" during the training period. The board shall not require an individual obtaining experience required under section 16909(b) to hold a limited license.

(5) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those individuals authorized under this part to use the terms and in a way prescribed by this part: "marriage advisor" or "marriage consultant"; "family counselor", "family advisor", "family therapist", or "family consultant"; "family guidance counselor", "family guidance advisor", or "family guidance consultant"; "marriage guidance counselor", "marriage guidance advisor", or "marriage guidance consultant"; "family relations counselor"; "marriage relations counselor", "marriage relations advisor", or "marriage relations consultant"; or "marital counselor" or "marital therapist".

History: Add. 1995, Act 126, Eff. Jan. 1, 1996;—Am. 2006, Act 388, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.16905 Exceptions.

Sec. 16905. (1) This part does not apply to an individual engaged in the practice of social work as defined in part 185, in the course of employment with a governmental agency or a reputable social service agency regularly providing social work services as an agency.

(2) This part does not apply to an ordained cleric or other religious practitioner who is employed by or working under the authority of an organization exempt from taxation under section 501(c)(3) of the internal

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revenue code of 1986, 26 USC 501, if the advice or counsel given by the cleric or other religious practitioner is incidental to his or her duties as a cleric or other religious practitioner, and if the cleric or other religious practitioner does not hold himself or herself out to the public as a marriage and family therapist licensed under this article or use 1 or more of the titles listed in section 16903 and if no fee or donation is exacted for the service.

(3) This part does not apply to a physician licensed under this article who has completed an accredited psychiatric residency program approved by the Michigan board of medicine or to a psychologist fully licensed under this article, if both of the following circumstances exist:

(a) The individual is practicing his or her profession in a manner consistent with his or her education and training and is practicing in a manner consistent with the code of ethics of that profession.

(b) The individual does not hold himself or herself out to the public as a marriage and family therapist licensed under this article or use any of the titles listed in section 16903 for advertising purposes. However, this subdivision does not prohibit the individual from advertising under a telephone or other business directory listing that uses those titles if the individual discloses in the listing, in an unabbreviated fashion, the profession in which he or she is licensed.

(4) This part does not limit an individual in, or prevent an individual from, the practice of a statutorily regulated profession or occupation if services to families, couples, or subsystems of families are part of the services provided by that profession or occupation, and if the individual does not hold himself or herself out to the public as a marriage and family therapist licensed under this article or use 1 or more of the titles listed in section 16903. As used in this subsection, "statutorily regulated profession or occupation" means an occupation or profession regulated by statute that includes, but is not limited to, all of the following: a physician, attorney, social worker, social service technician, fully licensed psychologist, limited licensed psychologist, temporary limited licensed psychologist, licensed professional counselor, limited licensed counselor, or school counselor.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996;—Am. 2006, Act 388, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.16907 Board of marriage and family therapy; creation; membership; terms.

Sec. 16907. (1) Subject to section 16913(2), the Michigan board of marriage and family therapy is created in the department. The board consists of the following 9 voting members who shall meet the requirements of part 161: six licensed marriage and family therapists and 3 public members.

(2) Subject to section 16913(2), the terms of office of individual members of the board created under subsection (1), except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term will expire.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996;—Am. 2006, Act 388, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.16909 Marriage and family therapist; licensure requirements.

Sec. 16909. (1) The board shall grant a license as a marriage and family therapist to an individual who meets all of the following requirements:

(a) Provides satisfactory evidence to the board of meeting either of the following educational qualifications:

(*i*) Has a master's or higher graduate degree from an accredited training program in marriage and family therapy approved by the board.

(*ii*) Has a master's or higher graduate degree from an accredited college or university approved by the board and has completed all of the following graduate-level courses at an accredited college or university approved by the board:

(A) Three courses in family studies that total at least 6 semester or 9 quarter hours.

(B) Three courses in family therapy methodology that total at least 6 semester or 9 quarter hours.

(C) Three courses in human development, personality theory, or psychopathology that total at least 6 semester or 9 quarter hours.

(D) At least 2 semester or 3 quarter hours in ethics, law, and standards of professional practice.

(E) At least 2 semester or 3 quarter hours in research.

(b) Except as otherwise provided in subsection (2), provides satisfactory evidence to the board of having completed supervised clinical marriage and family therapy experience in conjunction with the applicant's educational program. The clinical marriage and family therapy experience described in this subdivision shall meet all of the following requirements:

(*i*) Be obtained either in a clinical practicum during graduate education or in a postgraduate marriage and

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family institute training program acceptable to the board.

(*ii*) Be obtained over not less than 8 consecutive months.

(*iii*) Be verified by a supervisor who has a master's or higher graduate degree from an accredited college or university approved by the board and meets 1 of the following:

(A) Is a marriage and family therapist.

(B) Is a certified social worker or a social worker registered under article 16 of the occupational code, 1980 PA 299, MCL 339.1601 to 339.1610.

(C) Is a licensed professional counselor as defined in section 18101.

(D) Is a physician as defined in section 17001 or 17501 and practicing in a mental health setting.

(E) Is a fully licensed psychologist as defined in section 18201.

(F) Is an approved supervisor or supervisor-in-training through a program conducted by the American association for marriage and family therapy and approved by the board.

(*iv*) Include not less than 300 direct client contact hours in supervised clinical marriage and family therapy experience, at least 1/2 of which were completed in a setting in which families, couples, or subsystems of families were physically present in the therapy room.

(*v*) Be supervised in a ratio of at least 1 hour of supervision for each 5 hours of direct client contact, for a total of not less than 60 hours of supervision concurrent with the 300 hours of supervised direct client contact.

(c) Except as otherwise provided in subsection (2), provides satisfactory evidence to the board of having completed a minimum of 1,000 direct client contact hours in supervised marriage and family therapy experience, at least 1/2 of which was completed with families, couples, or subsystems of families physically present in the therapy room, that meets all of the following conditions:

(*i*) Is verified by the supervising licensed marriage and family therapist.

(*ii*) Is obtained following the completion of the degree required by subdivision (a)(*i*), is obtained following the completion of the degree required by subdivision (a)(*ii*) and concurrent with or following the course work specified in subdivision (a)(*ii*)(A), (B), (C), (D), and (E), or is obtained as part of a doctoral program in marriage and family therapy from an accredited college or university approved by the board, which experience may include experience obtained under subdivision (b)(*i*).

(*iii*) Is supervised in a ratio of at least 1 hour of supervision for each 5 hours of experience, for a total of not less than 200 hours of supervision concurrent with the 1,000 hours of supervised experience. Not less than 100 hours of supervision under this subparagraph shall be individual supervision with no more than 1 other supervisee present. The remaining supervision under this subparagraph may be group supervision involving no more than 6 supervisees with 1 supervisor. The supervision shall be given in face-to-face contact with the individual obtaining marriage and family therapy experience.

(2) The board shall waive the requirements of subsection (1)(b) and (c) for an applicant who provides satisfactory evidence to the board of having obtained a doctoral degree from an accredited doctoral training program in marriage and family therapy approved by the board.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996;—Am. 1996, Act 536, Imd. Eff. Jan. 13, 1997;—Am. 1997, Act 188, Imd. Eff. Dec. 30, 1997.

Popular name: Act 368

333.16911 Privileged information; waiver.

Sec. 16911. (1) Except as provided in subsection (3), information regarding an individual to whom a licensee provided marriage and family therapy is privileged information and not subject to waiver, regardless of any of the following:

(a) Whether the information was obtained directly from the individual, from another person involved in the therapy, from a test or other evaluation mechanism, or from other sources.

(b) Whether the information was obtained before, during, or following therapy.

(c) Whether the individual involved is a present client or a former client.

(2) Except as provided in subsection (3), referrals made by a circuit court or its counseling service, as provided in the circuit court family counseling services act, Act No. 155 of the Public Acts of 1964, being sections 551.331 to 551.344 of the Michigan Compiled Laws, is privileged information not subject to waiver.

(3) The privilege established in this section is waived only under 1 of the following circumstances:

(a) If disclosure is required by law or necessary to protect the health or safety of an individual.

(b) If the licensee is a party defendant to a civil, criminal, or administrative action arising from services performed as a licensee, in which case the waiver is limited only to that action.

(c) If a waiver specifying the terms of disclosure is obtained in writing from each individual over 18 years of age involved in the marriage and family therapy and then only in accordance with the terms of the written waiver. If more than 1 individual is or was involved in the marriage and family therapy performed by a

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licensee, the privilege is not waived for any individual unless all individuals over 18 years of age involved in the marriage and family therapy have executed the written waiver.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996.

Popular name: Act 368

333.16913 Licenses issued under former article; terms of board members appointed under former section; effect of rules promulgated under former article.

Sec. 16913. (1) An individual who holds a license issued under former article 15 of Act No. 299 of the Public Acts of 1980 on the effective date of the amendatory act that added this part is licensed under this part until that license expires and may renew his or her license pursuant to part 161.

(2) The members of the board of marriage and family therapy created under former section 1502 of Act No. 299 of the Public Acts of 1980 shall serve as the initial members of the Michigan board of marriage and family therapy until their successors are appointed under this article or until the expiration of their respective terms, whichever occurs first. However, if the term of a member of the board of marriage and family therapy created under former section 1502 of Act No. 299 of the Public Acts of 1980 has not expired on the effective date of the amendatory act that added this part, that term expires on June 30 of the year in which the term will expire.

(3) Rules promulgated by the board of marriage and family therapy under former article 15 of Act No. 299 of the Public Acts of 1980 and under section 308 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.308 of the Michigan Compiled Laws, and in effect on the effective date of the amendatory act that added this part continue in effect to the extent that they do not conflict with this article. The rules shall be enforced by and may be amended or rescinded by the Michigan board of marriage and family therapy.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996.

Popular name: Act 368

333.16915 Additional health care payments or benefits not mandated by part.

Sec. 16915. The addition of this part to the code does not mandate additional coverage, payments, or benefits by a health care payment or benefits provider including, but not limited to, a health insurer, nonprofit health care corporation, or health maintenance organization.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996.

Popular name: Act 368

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PART 170
MEDICINE

333.17001 Definitions; principles of construction.

Sec. 17001. (1) As used in this part:

(a) "Academic institution" means either of the following:

(*i*) A medical school approved by the board.

(*ii*) A hospital licensed under article 17 that meets all of the following requirements:

(A) Was the sole sponsor or a co-sponsor, if each other co-sponsor is either a medical school approved by the board or a hospital owned by the federal government and directly operated by the United States Department of Veterans Affairs, of not less than 4 postgraduate education residency programs approved by the board under section 17031(1) for not less than the 3 years immediately preceding the date of an application for a limited license under section 16182(2)(c) or an application for a full license under section 17031(2), if at least 1 of the residency programs is in the specialty area of medical practice, or in a specialty area that includes the subspecialty of medical practice, in which the applicant for a limited license proposes to practice or in which the applicant for a full license has practiced for the hospital.

(B) Has spent not less than $2,000,000.00 for medical education during each of the 3 years immediately preceding the date of an application for a limited license under section 16182(2)(c) or an application for a full license under section 17031(2). As used in this sub-subparagraph, "medical education" means the education of physicians and candidates for degrees or licenses to become physicians, including, but not limited to, physician staff, residents, interns, and medical students.

(b) "Electrodiagnostic studies" means the testing of neuromuscular functions utilizing nerve conduction tests and needle electromyography. It does not include the use of surface electromyography.

(c) "Genetic counselor" means an individual who is licensed under this part to engage in the practice of genetic counseling.

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(d) "Medical care services" means those services within the scope of practice of physicians who are licensed or authorized by the board, except those services that the board prohibits or otherwise restricts within a practice agreement or determines shall not be delegated by a physician because a delegation would endanger the health and safety of patients as provided for in section 17048(1).

(e) "Participating physician" means a physician, a physician designated by a group of physicians under section 17049 to represent that group, or a physician designated by a health facility or agency under section 20174 to represent that health facility or agency.

(f) "Physician" means an individual who is licensed or authorized under this article to engage in the practice of medicine.

(g) "Podiatrist" means an individual who is licensed under this article to engage in the practice of podiatric medicine and surgery.

(h) "Practice agreement" means an agreement described in section 17047.

(i) "Practice of genetic counseling" means provision of any of the following services:

(*i*) Obtaining and evaluating individual, family, and medical histories to determine the genetic risk for genetic or medical conditions or diseases in a client, the client's descendants, or other family members of the client.

(*ii*) Discussing with a client the features, natural history, means of diagnosis, genetic and environmental factors, and management of the genetic risks of genetic or medical conditions or diseases.

(*iii*) Identifying and coordinating appropriate genetic laboratory tests and other diagnostic studies for genetic assessment of a client.

(*iv*) Integrating genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate a client's risk factors for genetic or medical conditions or diseases.

(*v*) Explaining to a client the clinical implications of genetic laboratory tests and other diagnostic studies and their results.

(*vi*) Evaluating the responses of a client and the client's family to a genetic or medical condition or disease or to the risk of recurrence of that condition or disease and providing client-centered counseling and anticipatory guidance.

(*vii*) Identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy to a client.

(*viii*) Providing written documentation of medical, genetic, and counseling information for families of and health care professionals of a client.

(j) "Practice of medicine" means the diagnosis, treatment, prevention, cure, or relieving of a human disease, ailment, defect, complaint, or other physical or mental condition, by attendance, advice, device, diagnostic test, or other means, or offering, undertaking, attempting to do, or holding oneself out as able to do, any of these acts.

(k) "Practice as a physician's assistant" means the practice of medicine with a participating physician under a practice agreement.

(*l*) "Qualified supervisor" means an individual who is a genetic counselor and who holds a license under this part other than a temporary or limited license.

(m) "Task force" means the joint task force created in section 17025.

(n) "Temporary licensed genetic counselor" means a genetic counselor who has been issued a temporary license under this article.

(2) In addition to the definitions in this part, article 1 contains definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 1990, Act 248, Imd. Eff. Oct. 12, 1990;—Am. 2005, Act 264, Eff. Mar. 30, 2006;—Am. 2006, Act 161, Eff. Nov. 26, 2006;—Am. 2016, Act 379, Eff. Mar. 22, 2017;—Am. 2018, Act 524, Eff. Mar. 28, 2019;—Am. 2018, Act 624, Eff. Mar. 28, 2019.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.17008 Physician's assistant; health profession subfield.

Sec. 17008. Practice as a physician's assistant is a health profession subfield of the practice of medicine, osteopathic medicine and surgery, and podiatric medicine and surgery.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 161, Eff. Nov. 26, 2006.

Popular name: Act 368

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333.17011 License or authorization required; granting license to individuals meeting certain requirements; prohibition; conditions for granting license; use of words, titles, or letters.

Sec. 17011. (1) An individual shall not engage in the practice of medicine or practice as a physician's assistant unless licensed or otherwise authorized by this article. An individual shall not engage in teaching or research that requires the practice of medicine unless the individual is licensed or otherwise authorized by this article.

(2) Notwithstanding section 16145 or rules promulgated under that section, the board may grant a license to an individual who meets the requirements of section 16186 or 17031(2) after reviewing the applicant's record of practice, experience, and credentials and determining that the applicant is competent to practice medicine.

(3) For individuals applying for licensure under section 16186, the board shall not impose requirements on graduates of medical schools located outside the United States or Canada that exceed the requirements imposed on graduates of medical schools located in the United States or Canada.

(4) Notwithstanding section 16145 or rules promulgated under that section, the board may grant a license in accordance with section 16186 after determining that each of the following conditions is satisfied:

(a) The applicant has disclosed that a sanction is in force against him or her as described in section 16174(2)(b) and considering the reasons for the sanction and the applicant's record of practice, experience, credentials, and competence to engage in the practice of medicine, that sanction should not prevent the applicant from being granted a license in this state.

(b) The sanction imposed by the other state is not permanent.

(c) The sanction imposed by the other state was not the result of a patient safety violation.

(d) If the applicant was required by the state that imposed the sanction to participate in and complete a probationary period or treatment plan as a condition of the continuation of his or her licensure, the applicant did not complete the probationary period or treatment plan because the applicant ceased engaging in the practice of medicine in that state.

(e) As a condition of licensure under this subsection, the applicant voluntarily agrees to complete a probationary period or treatment plan, the terms of which are no less stringent than those imposed by the state that imposed the sanction.

(5) Except as otherwise provided in this subsection, the following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those individuals authorized under this part to use the terms and in a way prescribed in this part: "doctor of medicine", "m.d.", "physician's assistant", and "p.a.". Notwithstanding section 16261, an individual who was specially trained at an institution of higher education in this state to assist a physician in the field of orthopedics and, upon completion of training, received a 2-year associate of science degree as an orthopedic physician's assistant before January 1, 1977 may use the title "orthopedic physician's assistant" whether or not the individual is licensed under this part.

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 2, Imd. Eff. Feb. 6, 1980;—Am. 1990, Act 248, Imd. Eff. Oct. 12, 1990;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 385, Imd. Eff. Sept. 27, 2006;—Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.17011a Expedited license under the interstate medical licensure compact; authorization to engage in practice of medicine; "interstate medical licensure compact" defined.

Sec. 17011a. (1) An allopathic physician who holds an expedited license under the interstate medical licensure compact is authorized to engage in the practice of medicine under this article.

(2) For purposes of this article, including the obligations of an individual who is licensed as a physician under this part, an allopathic physician who holds an expedited license under the interstate medical licensure compact is considered a physician who is licensed under this part.

(3) As used in this section, "interstate medical licensure compact" means the interstate medical licensure compact as enacted in section 16189.

History: Add. 2018, Act 524, Eff. Mar. 28, 2019.

Popular name: Act 368

333.17012 Postgraduate medical study requiring practice of medicine; full or limited license required; requirements of limited license; training; renewing limited license.

Sec. 17012. (1) An individual shall not engage in postgraduate medical study which requires the practice of medicine by that individual without a full or limited license to practice under this part.

(2) A limited license for a postgraduate shall require that the individual confine his or her practice and

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training to a hospital or institution approved by the board for the training. The hospital or institution is responsible for the training. A limited license for a postgraduate is renewable for not more than 5 years.

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

Popular name: Act 368

333.17013 Alternative methods of treatment of breast cancer; duty of physician to inform patient; standardized written summary or brochure; form; civil action.

Sec. 17013. (1) Beginning November 6, 1986, a physician who is administering the primary treatment for breast cancer to a patient who has been diagnosed as having breast cancer shall inform the patient, orally and in writing, about alternative methods of treatment of the cancer, including surgical, radiological, or chemotherapeutic treatments, or any other generally accepted medical treatment. The physician also shall inform the patient about the advantages, disadvantages, and risks of each method of treatment and about the procedures involved in each method of treatment.

(2) If a patient receives a standardized written summary or brochure, as described in this subsection or subsection (3), the physician shall be in full compliance with this section, including both the written and oral requirements. The standardized written summary:

(a) Shall be developed by the department of public health in cooperation with the chronic disease advisory committee.

(b) Shall be drafted in nontechnical terms that the patient can understand.

(c) Shall inform the patient about alternative methods of treatment of breast cancer, including surgical, radiological, or chemotherapeutic treatments, or any other generally accepted medical treatment.

(d) Shall inform the patient about the advantages, disadvantages, and risks of each method of treatment and about the procedures involved in each method of treatment.

(e) The standardized written summary or a brochure described in subsection (3), or both, shall be made available to physicians through the Michigan board of medicine and the Michigan board of osteopathic medicine and surgery. The Michigan board of medicine and the Michigan board of osteopathic medicine and surgery shall notify in writing all physicians subject to this section of the requirements of this section and the availability of the standardized written summary by October 16, 1986.

(3) For purposes of subsection (2), a physician may use a brochure which contains information substantially similar to that contained in the standardized written summary developed by the department of public health and which is approved by the department of public health.

(4) The department of public health, after consultation with appropriate professional organizations, shall develop the standardized written summary required by subsection (2) by October 6, 1986.

(5) A form, signed by the patient, indicating that the patient has been given a copy of the brochure or the standardized written summary shall be included in the patient's medical record.

(6) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would know.

(7) A patient who signs a form pursuant to subsection (5) shall be barred from subsequently bringing a civil action against the physician providing the summary or brochure described in subsection (2) and (3) based on failure to obtain informed consent, but only in regard to information pertaining to alternative forms of treatment of breast cancer, and the advantages, disadvantages, and risks of each method.

History: Add. 1986, Act 195, Imd. Eff. July 8, 1986;—Am. 1989, Act 15, Imd. Eff. May 15, 1989.

Popular name: Act 368

333.17014 Repealed. 2023, Act 209, Eff. Feb. 13, 2024.

Compiler's note: The repealed section pertained to legislative findings regarding the enactment of measures favoring childbirth over abortion.

Popular name: Act 368

Popular name: Informed Consent

333.17015 Informed consent; definitions; duties of physician or assistant; location; disclosure of information; view of ultrasound; medical emergency necessitating abortion; duties of department; physician's duty to inform patient; validity of consent or certification form; right to abortion not created; prohibition; portion of act found invalid; duties of local health department; confidentiality.

Sec. 17015. (1) Subject to subsection (10), a physician shall not perform an abortion otherwise permitted by law without the patient's informed written consent, given freely and without coercion to abort.

(2) For purposes of this section and section 17015a:

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(a) "Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a fetus that has died as a result of natural causes, accidental trauma, or a criminal assault on the pregnant woman. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.

(b) "Coercion to abort" means an act committed with the intent to coerce an individual to have an abortion, which act is prohibited by section 213a of the Michigan penal code, 1931 PA 328, MCL 750.213a.

(c) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(d) "Fetus" means an individual organism of the species Homo sapiens in utero.

(e) "Local health department representative" means an individual who meets 1 or more of the licensing requirements listed in subdivision (h) and who is employed by, or under contract to provide services on behalf of, a local health department.

(f) "Medical emergency" means a condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant individual as to necessitate the immediate abortion of the individual's pregnancy to avert the individual's death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

(g) "Medical service" means the provision of a treatment, procedure, medication, examination, diagnostic test, assessment, or counseling, including, but not limited to, a pregnancy test, ultrasound, pelvic examination, or an abortion.

(h) "Qualified person assisting the physician" means another physician or a physician's assistant licensed under this part or part 175, a fully licensed or limited licensed psychologist licensed under part 182, a professional counselor licensed under part 181, a registered professional nurse or a licensed practical nurse licensed under part 172, or a social worker licensed under part 185.

(i) "Probable gestational age of the fetus" means the gestational age of the fetus at the time an abortion is planned to be performed.

(j) "Provide the patient with a physical copy" means confirming that the patient accessed the internet website described in subsection (5) and received a printed valid confirmation form from the website and including that form in the patient's medical record or giving a patient a copy of a required document by 1 or more of the following means:

(*i*) In person.

(*ii*) By registered mail, return receipt requested.

(*iii*) By parcel delivery service that requires the recipient to provide a signature in order to receive delivery of a parcel.

(*iv*) By facsimile transmission.

(3) Subject to subsection (10), a physician or a qualified person assisting the physician shall do all of the following not less than 24 hours before that physician performs an abortion upon a patient who is pregnant:

(a) Confirm that, according to the best medical judgment of a physician, the patient is pregnant, and determine the probable gestational age of the fetus.

(b) Orally describe, in language designed to be understood by the patient, taking into account the patient's age, level of maturity, and intellectual capability, each of the following:

(*i*) The probable gestational age of the fetus the patient is carrying.

(*ii*) Information about what to do and whom to contact should medical complications arise from the abortion.

(*iii*) Information about how to obtain pregnancy prevention information through the department of health and human services.

(c) Provide the patient with a physical copy of the written standardized summary described in subsection (11)(b) that corresponds to the procedure the patient will undergo and is provided by the department of health and human services. If the procedure has not been recognized by the department of health and human services, but is otherwise allowed under Michigan law, and the department of health and human services has not provided a written standardized summary for that procedure, the physician shall develop and provide a written summary that describes the procedure, any known risks or complications of the procedure, and risks associated with live birth and meets the requirements of subsection (11)(b)(*iii*) through (*vii*).

(d) Provide the patient with a physical copy of a medically accurate depiction, illustration, or photograph and description of a fetus supplied by the department of health and human services pursuant to subsection (11)(a) at the gestational age nearest the probable gestational age of the patient's fetus.

(e) Provide the patient with a physical copy of the prenatal care and parenting information pamphlet distributed by the department of health and human services under section 9161.

(f) Provide the patient with a physical copy of the prescreening summary on prevention of coercion to

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abort described in subsection (11)(i).

(4) The requirements of subsection (3) may be fulfilled by the physician or a qualified person assisting the physician at a location other than the health facility where the abortion is to be performed. The requirement of subsection (3)(a) that a patient's pregnancy be confirmed may be fulfilled by a local health department under subsection (18). The requirements of subsection (3) cannot be fulfilled by the patient accessing an internet website other than the internet website that is maintained and operated by the department of health and human services under subsection (11)(g).

(5) The requirements of subsection (3)(c) through (f) may be fulfilled by a patient accessing the internet website that is maintained and operated by the department of health and human services under subsection (11)(g) and receiving a printed, valid confirmation form from the website that the patient has reviewed the information required in subsection (3)(c) through (f) at least 24 hours before an abortion being performed on the patient. The website must not require any information be supplied by the patient. The department of health and human services shall not track, compile, or otherwise keep a record of information that would identify a patient who accesses this website. The patient shall supply the valid confirmation form to the physician or qualified person assisting the physician to be included in the patient's medical record to comply with this subsection.

(6) Subject to subsection (10), before obtaining the patient's signature on the acknowledgment and consent form, a physician personally and in the presence of the patient shall do all of the following:

(a) Provide the patient with the physician's name, confirm with the patient that the coercion to abort screening required under section 17015a was performed, and inform the patient of the right to withhold or withdraw consent to the abortion at any time before performance of the abortion.

(b) Orally describe, in language designed to be understood by the patient, taking into account the patient's age, level of maturity, and intellectual capability, each of the following:

(*i*) The specific risk, if any, to the patient of the complications that have been associated with the procedure the patient will undergo, based on the patient's particular medical condition and history as determined by the physician.

(*ii*) The specific risk of complications, if any, to the patient if the patient chooses to continue the pregnancy based on the patient's particular medical condition and history as determined by a physician.

(7) To protect a patient's privacy, the information set forth in subsection (3) and subsection (6) must not be disclosed to the patient in the presence of another patient.

(8) If at any time before the performance of an abortion, a patient undergoes an ultrasound examination, or a physician determines that ultrasound imaging will be used during the course of a patient's abortion, the physician or qualified person assisting the physician shall provide the patient with the opportunity to view or decline to view an active ultrasound image of the fetus, and offer to provide the patient with a physical picture of the ultrasound image of the fetus before the performance of the abortion. After the expiration of the 24-hour period prescribed under subsection (3) but before performing an abortion on a patient who is pregnant, a physician or a qualified person assisting the physician shall do all of the following:

(a) Obtain the patient's signature on the acknowledgment and consent form described in subsection (11)(c) confirming that the patient has received the information required under subsection (3).

(b) Provide the patient with a physical copy of the signed acknowledgment and consent form described in subsection (11)(c).

(c) Retain a copy of the signed acknowledgment and consent form described in subsection (11)(c) and, if applicable, a copy of the pregnancy certification form completed under subsection (18)(b), in the patient's medical record.

(9) This subsection does not prohibit notifying the patient that payment for medical services will be required or that collection of payment in full for all medical services provided or planned may be demanded after the 24-hour period described in this subsection has expired. A physician or an agent of the physician shall not collect payment, in whole or in part, for a medical service provided to or planned for a patient before the expiration of 24 hours from the time the patient has done either or both of the following, except in the case of a physician or an agent of a physician receiving capitated payments or under a salary arrangement for providing those medical services:

(a) Inquired about obtaining an abortion after the patient's pregnancy is confirmed and the patient has received from that physician or a qualified person assisting the physician the information required under subsection (3)(c) and (d).

(b) Scheduled an abortion to be performed by that physician.

(10) If the attending physician, utilizing the physician's experience, judgment, and professional competence, determines that a medical emergency exists and necessitates performance of an abortion before the requirements of subsections (1), (3), and (6) can be met, the physician is exempt from the requirements of

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subsections (1), (3), and (6), may perform the abortion, and shall maintain a written record identifying with specificity the medical factors upon which the determination of the medical emergency is based.

(11) The department of health and human services shall do each of the following:

(a) Produce medically accurate depictions, illustrations, or photographs of the development of a human fetus that indicate by scale the actual size of the fetus at 2-week intervals from the fourth week through the twenty-eighth week of gestation. Each depiction, illustration, or photograph must be accompanied by a printed description, in nontechnical English, Arabic, and Spanish, of the probable anatomical and physiological characteristics of the fetus at that particular state of gestational development.

(b) Subject to subdivision (e), develop, draft, and print, in nontechnical English, Arabic, and Spanish, written standardized summaries, based upon the various medical procedures used to abort pregnancies, that do each of the following:

(*i*) Describe, individually and on separate documents, those medical procedures used to perform abortions in this state that are recognized by the department of health and human services.

(*ii*) Identify the physical complications that have been associated with each procedure described in subparagraph (*i*) and with live birth, as determined by the department. In identifying these complications, the department shall consider studies concerning complications that have been published in a peer review medical journal, with particular attention paid to the design of the study, and shall consult with the Centers for Disease Control and Prevention, the American Congress of Obstetricians and Gynecologists, the Michigan State Medical Society, or any other source that the department of health and human services determines appropriate for the purpose.

(*iii*) State that as the result of an abortion, some individuals may experience depression, feelings of guilt, sleep disturbance, loss of interest in work or sex, or anger, and that if these symptoms occur and are intense or persistent, professional help is recommended.

(*iv*) State that not all of the complications listed in subparagraph (*ii*) may pertain to that particular patient and refer the patient to the patient's physician for more personalized information.

(*v*) Identify services available through public agencies to assist the patient during the patient's pregnancy and after the birth of the child, should the patient choose to give birth and maintain custody of the child.

(*vi*) Identify services available through public agencies to assist the patient in placing the child in an adoptive or foster home, should the patient choose to give birth but not maintain custody of the child.

(*vii*) Identify services available through public agencies to assist the patient and provide counseling should the patient experience subsequent adverse psychological effects from the abortion.

(c) Develop, draft, and print, in nontechnical English, Arabic, and Spanish, an acknowledgment and consent form that includes only the following language above a signature line for the patient:

"I, _____ , voluntarily and willfully hereby authorize Dr. _____ ("the physician") and any assistant designated by the physician to perform upon me the following operation(s) or procedure(s):

_____

(Name of operation(s) or procedure(s))

_____

A. I understand that I am approximately _____ weeks pregnant. I consent to an abortion procedure to terminate my pregnancy. I understand that I have the right to withdraw my consent to the abortion procedure at any time before performance of that procedure.

B. I understand that it is illegal for anyone to coerce me into seeking an abortion.

C. I acknowledge that at least 24 hours before the scheduled abortion I have received a physical copy of each of the following:

1. A medically accurate depiction, illustration, or photograph of a fetus at the probable gestational age of the fetus I am carrying.

2. A written description of the medical procedure that will be used to perform the abortion.

3. A prenatal care and parenting information pamphlet.

D. If any of the documents listed in paragraph C were transmitted by facsimile, I certify that the documents were clear and legible.

E. I acknowledge that the physician who will perform the abortion has orally described all of the following to me:

1. The specific risk to me, if any, of the complications that have been associated with the procedure I am scheduled to undergo.

2. The specific risk to me, if any, of the complications if I choose to continue the pregnancy.

F. I acknowledge that I have received all of the following information:

1. Information about what to do and whom to contact in the event that complications arise from the

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abortion.

2. Information pertaining to available pregnancy related services.

G. I have been given an opportunity to ask questions about the operation(s) or procedure(s).

H. I certify that I have not been required to make any payments for an abortion or any medical service before the expiration of 24 hours after I received the written materials listed in paragraph C, or 24 hours after the time and date listed on the confirmation form if the information described in paragraph C was viewed from the state of Michigan internet website.".

(d) Make available to physicians through the board and the Michigan board of osteopathic medicine and surgery, and to any person upon request, the copies of medically accurate depictions, illustrations, or photographs described in subdivision (a), the written standardized summaries described in subdivision (b), the acknowledgment and consent form described in subdivision (c), the prenatal care and parenting information pamphlet described in section 9161, the pregnancy certification form described in subdivision (f), and the materials regarding coercion to abort described in subdivision (i).

(e) In developing the written standardized summaries for abortion procedures under subdivision (b), include in the summaries only medication that has been approved by the United States Food and Drug Administration for use in performing an abortion.

(f) Develop, draft, and print a certification form to be signed by a local health department representative at the time and place a patient has a pregnancy confirmed, as requested by the patient, verifying the date and time the pregnancy is confirmed.

(g) Develop, operate, and maintain an internet website that allows a patient considering an abortion to review the information required in subsection (3)(c) through (f). After the patient reviews the required information, the department of health and human services shall ensure that a confirmation form can be printed by the patient from the internet website that will verify the time and date the information was reviewed. A confirmation form printed under this subdivision becomes invalid 14 days after the date and time printed on the confirmation form.

(h) Include on the informed consent internet website operated under subdivision (g) a list of health care providers, facilities, and clinics that offer to perform ultrasounds free of charge. The list must be organized geographically and include the name, address, and telephone number of each health care provider, facility, and clinic.

(i) After considering the standards and recommendations of the Joint Commission on Accreditation of Healthcare Organizations, the Michigan Domestic and Sexual Violence Prevention and Treatment Board, the Michigan Coalition to End Domestic and Sexual Violence or successor organization, and the American Medical Association, do all of the following:

(*i*) Develop, draft, and print or make available in printable format, in nontechnical English, Arabic, and Spanish, a notice that is required to be posted in facilities and clinics under section 17015a. The notice must be at least 8-1/2 inches by 14 inches, be printed in at least 44-point type, and contain at a minimum all of the following:

(A) A statement that it is illegal under Michigan law to coerce an individual to have an abortion.

(B) A statement that help is available if an individual is being threatened or intimidated; is being physically, emotionally, or sexually harmed; or feels afraid for any reason.

(C) The telephone number of at least 1 domestic violence hotline and 1 sexual assault hotline.

(*ii*) Develop, draft, and print or make available in printable format, in nontechnical English, Arabic, and Spanish, a prescreening summary on prevention of coercion to abort that, at a minimum, contains the information required under subparagraph (*i*) and notifies the patient that an oral screening for coercion to abort will be conducted before giving written consent to obtain an abortion.

(*iii*) Develop, draft, and print screening and training tools and accompanying training materials to be utilized by a physician or qualified person assisting the physician while performing the coercion to abort screening required under section 17015a. The screening tools must instruct the physician or qualified person assisting the physician to orally communicate information to the patient regarding coercion to abort and to document the findings from the coercion to abort screening in the patient's medical record.

(*iv*) Develop, draft, and print protocols and accompanying training materials to be utilized by a physician or a qualified person assisting the physician if a patient discloses coercion to abort or that domestic violence is occurring, or both, during the coercion to abort screening. The protocols must instruct the physician or qualified person assisting the physician to do, at a minimum, all of the following:

(A) Follow the requirements of section 17015a as applicable.

(B) Assess the patient's current level of danger.

(C) Explore safety options with the patient.

(D) Provide referral information to the patient regarding law enforcement and domestic violence and

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sexual assault support organizations.

(E) Document any referrals in the patient's medical record.

(12) A physician's duty to inform the patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would possess.

(13) A written consent form meeting the requirements set forth in this section and signed by the patient is presumed valid. The presumption created by this subsection may be rebutted by evidence that establishes, by a preponderance of the evidence, that consent was obtained through fraud, negligence, deception, misrepresentation, coercion, or duress.

(14) A completed certification form described in subsection (11)(f) that is signed by a local health department representative is presumed valid. The presumption created by this subsection may be rebutted by evidence that establishes, by a preponderance of the evidence, that the physician who relied upon the certification had actual knowledge that the certificate contained a false or misleading statement or signature.

(15) This section does not create a right to abortion.

(16) Notwithstanding any other provision of this section, a person shall not perform an abortion that is prohibited by law.

(17) If any portion of this act or the application of this act to any person or circumstances is found invalid by a court, that invalidity does not affect the remaining portions or applications of the act that can be given effect without the invalid portion or application, if those remaining portions are not determined by the court to be inoperable.

(18) Upon a patient's request, a local health department shall comply with the following:

(a) Provide a pregnancy test for that patient to confirm the pregnancy as required under subsection (3)(a) and determine the probable gestational stage of the fetus. The local health department need not comply with this subdivision if the requirements of subsection (3)(a) have already been met.

(b) If a pregnancy is confirmed, ensure that the patient is provided with a completed pregnancy certification form described in subsection (11)(f) at the time the information is provided.

(19) The identity and address of a patient who is provided information or who consents to an abortion pursuant to this section is confidential and is subject to disclosure only with the consent of the patient or by judicial process.

(20) A local health department with a file containing the identity and address of a patient described in subsection (19) who has been assisted by the local health department under this section shall do both of the following:

(a) Only release the identity and address of the patient to a physician or qualified person assisting the physician in order to verify the receipt of the information required under this section.

(b) Destroy the information containing the identity and address of the patient within 30 days after assisting the patient under this section.

History: Add. 1993, Act 133, Eff. Apr. 1, 1994;—Am. 2000, Act 345, Eff. Mar. 28, 2001;—Am. 2002, Act 685, Eff. Mar. 31, 2003;—Am. 2006, Act 77, Imd. Eff. Mar. 24, 2006;—Am. 2012, Act 499, Eff. Mar. 31, 2013;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

Popular name: Act 368

Popular name: Informed Consent

333.17015a Coercion; screening; protocols; report; availability of publications about violence against women; right to abortion not created.

Sec. 17015a. (1) At the time a patient first presents at a private office, freestanding surgical outpatient facility, or other facility or clinic in which abortions are performed for the purpose of obtaining an abortion, whether before or after the expiration of the 24-hour period described in section 17015(3), the physician or qualified person assisting the physician shall orally screen the patient for coercion to abort using the screening tools developed by the department under section 17015(11). The oral screening required under this subsection may occur before the requirements of section 17015(3) have been met with regard to that patient.

(2) If a patient discloses that she is the victim of domestic violence that does not include coercion to abort, the physician or qualified person assisting the physician shall follow the protocols developed by the department under section 17015(11).

(3) If a patient discloses coercion to abort, the physician or qualified person assisting the physician shall follow the protocols developed by the department under section 17015(11).

(4) If a patient who is under the age of 18 discloses domestic violence or coercion to abort by an individual responsible for the health or welfare of the minor patient, the physician or qualified person assisting the physician shall report that fact to a local child protective services office.

(5) A private office, freestanding surgical outpatient facility, or other facility or clinic in which abortions

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are performed shall post in a conspicuous place in an area of its facility that is accessible to patients, employees, and visitors the notice described in section 17015(11)(i). A private office, freestanding surgical outpatient facility, or other facility or clinic in which abortions are performed shall make available in an area of its facility that is accessible to patients, employees, and visitors publications that contain information about violence against women.

(6) This section does not create a right to abortion. Notwithstanding any other provision of this section, a person shall not perform an abortion that is prohibited by law.

History: Add. 2012, Act 499, Eff. Mar. 31, 2013.

Popular name: Act 368

333.17016-333.17017 Repealed. 2023, Act 209, Eff. Feb. 13, 2024.

Compiler's note: The repealed sections pertained to a prohibition on partial-birth abortions and physical examination and informed consent requirements before performing a medical abortion.

Popular name: Act 368

333.17018 Needle electromyography; performance by licensed physician; delegation; nerve conduction tests; performance of electrodiagnostic studies by physical therapist, podiatrist, or chiropractor; payment.

Sec. 17018. (1) Except as otherwise provided under this section, only an individual who is licensed as a physician shall perform needle electromyography or interpret nerve conduction tests. A physician shall not delegate the interpretation of nerve conduction tests to another individual unless that individual is licensed under this article to engage in the practice of medicine or osteopathic medicine and surgery. A physician shall not delegate the performance of needle electromyography to another individual unless that individual is licensed under this article to engage in the practice of medicine or osteopathic medicine and surgery or that individual is otherwise authorized under this section.

(2) In accordance with section 16215, a physician may delegate the performance of nerve conduction tests to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience if those tests are conducted under the direct supervision of a physician.

(3) A physical therapist who is licensed under this article and certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist on the effective date of this section may perform electrodiagnostic studies that are to be interpreted by a physician if he or she has been performing electrodiagnostic studies in this state on a consistent basis within the 5 years immediately preceding the effective date of this section. A physical therapist who is licensed under this article but is not certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist on the effective date of this section and who has been performing electrodiagnostic studies in this state on a consistent basis since before May 1, 2001 may continue to perform electrodiagnostic studies that are to be interpreted by a physician as long as he or she becomes certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist by December 31, 2007. As used in this subsection, "consistent basis" means at a minimum an annual average of 10 electrodiagnostic studies each month.

(4) A podiatrist who is licensed under this article and has successfully completed additional training in the performance and interpretation of electrodiagnostic studies that is satisfactory to his or her respective board may conduct electrodiagnostic studies that are within his or her scope of practice.

(5) A chiropractor who is licensed under this article and has successfully completed additional training in the performance and interpretation of electrodiagnostic studies that is satisfactory to his or her respective board may conduct nerve conduction tests that are within his or her scope of practice.

(6) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual authorized to conduct electrodiagnostic studies under this section.

History: Add. 2005, Act 264, Eff. Mar. 30, 2006.

Popular name: Act 368

333.17020 Genetic test; informed consent.

Sec. 17020. (1) Except as otherwise provided for a test performed under section 5431 and except as otherwise provided by law, beginning upon the expiration of 6 months after the effective date of the amendatory act that added this section, a physician or an individual to whom the physician has delegated authority to perform a selected act, task, or function under section 16215 shall not order a presymptomatic or predictive genetic test without first obtaining the written, informed consent of the test subject, pursuant to this section.

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(2) For purposes of subsection (1), written, informed consent consists of a signed writing executed by the test subject or the legally authorized representative of the test subject that confirms that the physician or the individual acting under the delegatory authority of the physician has explained, and the test subject or the legally authorized representative of the test subject understands, at a minimum, all of the following:

(a) The nature and purpose of the presymptomatic or predictive genetic test.

(b) The effectiveness and limitations of the presymptomatic or predictive genetic test.

(c) The implications of taking the presymptomatic or predictive genetic test, including, but not limited to, the medical risks and benefits.

(d) The future uses of the sample taken from the test subject in order to conduct the presymptomatic or predictive genetic test and the information obtained from the presymptomatic or predictive genetic test.

(e) The meaning of the presymptomatic or predictive genetic test results and the procedure for providing notice of the results to the test subject.

(f) Who will have access to the sample taken from the test subject in order to conduct the presymptomatic or predictive genetic test and the information obtained from the presymptomatic or predictive genetic test, and the test subject's right to confidential treatment of the sample and the information.

(3) Within 6 months after the effective date of the amendatory act that added this section, the department of community health, in consultation with the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, at least 1 physician who is board certified by the American board of medical genetics, and appropriate professional organizations, shall develop and distribute a model informed consent form for purposes of this section that practitioners may adopt. The department of community health shall include in the model form at least all of the information required under subsection (2). The department of community health shall distribute the model form to physicians and other individuals subject to this section upon request and at no charge. The department of community health shall review the model form at least annually for 5 years after the first model form is distributed, and shall revise the model form if necessary to make the form reflect the latest developments in medical genetics.

(4) The department of community health, in consultation with the entities described in subsection (3), may also develop and distribute a pamphlet that provides further explanation of the information included in the model informed consent form.

(5) If a test subject or his or her legally authorized representative signs a copy of the model informed consent form developed and distributed under subsection (3), the physician or individual acting under the delegatory authority of the physician shall give the test subject a copy of the signed informed consent form and shall include the original signed informed consent form in the test subject's medical record.

(6) If a test subject or his or her legally authorized representative signs a copy of the model informed consent form developed and distributed under subsection (3), the test subject is barred from subsequently bringing a civil action for damages against the physician, or an individual to whom the physician delegated the authority to perform a selected act, task, or function under section 16215, who ordered the presymptomatic or predictive genetic test, based on failure to obtain informed consent for the presymptomatic or predictive genetic test.

(7) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would know.

(8) Except as otherwise provided in subsection (9), as used in this section:

(a) "Genetic information" means information about a gene, gene product, or inherited characteristic which information is derived from a genetic test.

(b) "Genetic test" means the analysis of human DNA, RNA, chromosomes, and those proteins and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. A genetic test must be generally accepted in the scientific and medical communities as being specifically determinative for the presence, absence, or mutation of a gene or chromosome in order to qualify under this definition. Genetic test does not include a routine physical examination or a routine analysis, including, but not limited to, a chemical analysis, of body fluids, unless conducted specifically to determine the presence, absence, or mutation of a gene or chromosome.

(c) "Predictive genetic test" means a genetic test performed for the purpose of predicting the future probability that the test subject will develop a genetically related disease or disability.

(d) "Presymptomatic genetic test" means a genetic test performed before the onset of clinical symptoms or indications of disease.

(9) For purposes of subsection (8)(b), the term "genetic test" does not include a procedure performed as a component of biomedical research that is conducted pursuant to federal common rule under 21 C.F.R. parts 50 and 56 and 45 C.F.R. part 46.

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History: Add. 2000, Act 29, Imd. Eff. Mar. 15, 2000.

Popular name: Act 368

333.17021 Michigan board of medicine; creation; membership; limitation on powers and duties.

Sec. 17021. (1) The Michigan board of medicine is created in the department and consists of the following 19 voting members who meet the requirements of part 161:

(a) Ten physicians.

(b) One physician's assistant.

(c) One genetic counselor. However, the governor shall not appoint a genetic counselor member to the board until there are only 7 public members of the board under subdivision (d).

(d) Seven public members. However, if there are 8 public members of the board on the effective date of the amendatory act that added this sentence, each public member of the board may continue in office until he or she resigns or otherwise vacates the office or until the expiration of his or her term.

(2) Except as otherwise provided in this article, the board of medicine does not have the powers and duties vested in the task force by sections 17060 to 17084.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2016, Act 379, Eff. Mar. 22, 2017;—Am. 2018, Act 624, Eff. Mar. 28, 2019.

Popular name: Act 368

333.17025 Joint task force; creation; membership.

Sec. 17025. A joint task force is created for the health profession subfields licensed under this part. The task force shall consist of the following members, who shall meet the requirements of part 161:

(a) One member each from the board of medicine, the board of osteopathic medicine and surgery, and the board of podiatric medicine and surgery holding a license other than a health profession subfield license.

(b) Until June 30, 2010, 5 physician's assistants. Beginning July 1, 2010, 7 physician's assistants.

(c) Three public members.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 146, Imd. Eff. June 5, 1980;—Am. 2006, Act 161, Eff. Nov. 26, 2006;—Am. 2010, Act 79, Imd. Eff. May 20, 2010.

Popular name: Act 368

333.17026 Terms of office.

Sec. 17026. The terms of office of individual members of the board and task force created under this part, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: Add. 2006, Act 385, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.17029 Standards of medical practice for medical services involving vaginal or anal penetration; promulgation of rules.

Sec. 17029. The department may promulgate rules that provide guidance to licensees on generally accepted standards of medical practice for medical services involving vaginal or anal penetration, including internal pelvic floor treatments but excluding medical services that primarily relate to a patient's urological, gastrointestinal, reproductive, gynecological, or sexual health, that are performed to measure a patient's temperature, or that are performed for the purpose of rectally administering a drug or medicine. If the department promulgates rules under this section, the department shall consult with appropriate professional associations and other interested stakeholders.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023.

Popular name: Act 368

333.17030 Clinical academic limited license; requirements; annual renewal; duration of practice.

Sec. 17030. (1) A clinical academic limited license granted by the board under section 16182(2)(c) for the practice of medicine shall require that the individual practice only for an academic institution and under the supervision of 1 or more physicians fully licensed under this part.

(2) A clinical academic limited license granted by the board under section 16182(2)(c) for the practice of medicine is renewable annually, but an individual shall not engage in the practice of medicine under 1 or more clinical academic limited licenses for more than 5 years.

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History: Add. 1990, Act 248, Imd. Eff. Oct. 12, 1990.

Popular name: Act 368

333.17031 Condition for more than limited licensure; requirements for full license to practice medicine; filing and contents of written statement; civil or criminal liability; rebuttable presumption; applicability to clinical academic limited license.

Sec. 17031. (1) Except as provided in subsection (2), an applicant, in addition to completing the requirements for the degree in medicine, shall complete a period of postgraduate education to attain proficiency in the practice of the profession, as prescribed by the board in rules, as a condition for more than limited licensure.

(2) The board may grant a full license to practice medicine to an applicant who has completed the requirements for a degree in medicine at a medical school located outside the United States or Canada if, except as provided in subsection (4), the applicant demonstrates to the board all of the following:

(a) That the applicant has engaged in the practice of medicine for not less than 10 years after completing the requirements for a degree in medicine.

(b) That the applicant has completed not less than 3 years of postgraduate clinical training in an institution that has an affiliation with a medical school that is listed in a directory of medical schools published by the World Health Organization as approved by the board.

(c) That the applicant has achieved a score determined by the board to be a passing score on an initial medical licensure examination approved by the board.

(d) That the applicant has safely and competently practiced medicine under a clinical academic limited license granted by the board under this article for 1 or more academic institutions located in this state for not less than the 2 years immediately preceding the date of application for a license under this subsection, during which time the applicant functioned not less than 800 hours per year in the observation and treatment of patients.

(3) An applicant who is required to meet the requirements of subsection (2)(d) shall file with the board a written statement from each academic institution upon which the applicant relies to satisfy that subsection. The statement shall indicate, at a minimum, that the applicant functioned for the academic institution in the observation and treatment of patients not less than 800 hours per year and that in so doing the applicant practiced medicine safely and competently. A person who in good faith makes a written statement that is filed under this subsection is not civilly or criminally liable for that statement. There is a rebuttable presumption that a person who makes a written statement that is filed under this subsection has done so in good faith.

(4) Subsection (2)(c) and (d) do not apply to an applicant who was granted a clinical academic limited license after January 1, 2011 but before January 1, 2017 and who has continuously held a license to practice medicine from the effective date of the amendatory act that added this subsection through the date of application for a full license under subsection (2).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 248, Imd. Eff. Oct. 12, 1990;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2018, Act 463, Eff. Mar. 27, 2019.

Popular name: Act 368

333.17033 Renewal of license; evidence required; completion of hours or courses in pain and symptom management as continuing education; rules.

Sec. 17033. (1) Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 3 years immediately preceding application for renewal the licensee has attended continuing education courses or programs approved by the board totaling not less than 150 hours in subjects related to the practice of medicine including, but not limited to, medical ethics and designed to further educate licensees.

(2) As required under section 16204, the board shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education requirement of subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986;—Am. 1994, Act 234, Imd. Eff. June 30, 1994.

Popular name: Act 368

333.17040-333.17047 Repealed. 1990, Act 247, Imd. Eff. Oct. 12, 1990.

Compiler's note: The repealed sections pertained to supervision or employment of physician's assistants.

Popular name: Act 368

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333.17047 Practice as physician's assistant; practice agreement.

Sec. 17047. (1) A physician's assistant shall not engage in the practice as a physician's assistant except under the terms of a practice agreement that meets the requirements of this section.

(2) A practice agreement must include all of the following:

(a) A process between the physician's assistant and participating physician for communication, availability, and decision making when providing medical treatment to a patient. The process must utilize the knowledge and skills of the physician's assistant and participating physician based on their education, training, and experience.

(b) A protocol for designating an alternative physician for consultation in situations in which the participating physician is not available for consultation.

(c) The signature of the physician's assistant and the participating physician.

(d) A termination provision that allows the physician's assistant or participating physician to terminate the practice agreement by providing written notice at least 30 days before the date of termination.

(e) Subject to section 17048, the duties and responsibilities of the physician's assistant and participating physician. The practice agreement shall not include as a duty or responsibility of the physician's assistant or participating physician an act, task, or function that the physician's assistant or participating physician is not qualified to perform by education, training, or experience and that is not within the scope of the license held by the physician's assistant or participating physician.

(f) A requirement that the participating physician verify the physician's assistant's credentials.

(3) The number of physician's assistants in a practice agreement with a participating physician and the number of individuals to whom a physician has delegated the authority to perform acts, tasks, or functions are subject to section 16221.

History: Add. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.17048 Prohibiting or restricting delegation of medical care service or requiring higher levels of supervision; rules concerning prescribing of drugs; organization as professional service corporation or professional limited liability company; shareholders.

Sec. 17048. (1) Except for a medical care service within a practice agreement, to the extent that a particular selected medical care service requires extensive medical training, education, or ability or poses serious risks to the health and safety of patients, the board may prohibit or otherwise restrict the delegation of that medical care service or may require higher levels of supervision. To the extent that a particular medical care service requires extensive training, education, or ability or poses serious risks to the health or safety of patients, the board may prohibit or otherwise restrict that medical care service within a practice agreement.

(2) For purposes of section 17076(2) and (3), the department, in consultation with the board, may promulgate rules concerning the prescribing of drugs by a physician's assistant. Subject to section 17076, the rules may define the drugs or classes of drugs that a physician's assistant may not prescribe and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws.

(3) Beginning on July 19, 2010, if 1 or more individuals licensed under part 170 to engage in the practice of medicine, licensed under part 175 to engage in the practice of osteopathic medicine and surgery, or licensed under part 180 to engage in the practice of podiatric medicine and surgery, and 1 or more physician's assistants organize a professional service corporation under section 4 of former 1962 PA 192, a professional corporation under section 284 of the business corporation act, 1972 PA 284, MCL 450.1284, or a professional limited liability company under section 904 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4904, the physicians who are parties to a practice agreement with the physician's assistants shall be shareholders in the same professional service corporation or professional corporation or members in the same professional limited liability company as the physician's assistants and shall meet all of the applicable requirements of part 170, 175, or 180. If 1 or more physician's assistants organized a professional service corporation under section 4 of former 1962 PA 192, a professional corporation under section 284 of the business corporation act, 1972 PA 284, MCL 450.1284, or a professional limited liability company under section 904 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4904, before July 19, 2010 that has only physician's assistants as shareholders or members, the physicians who are parties to a practice agreement with the physician's assistants shall meet all of the applicable requirements of part 170, 175, or 180.

(4) In addition to the requirements of section 17068 and beginning on July 19, 2010, the department shall include on the form used for renewal of licensure a space for a physician's assistant to disclose whether he or

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she is a shareholder in a professional service corporation under section 4 of former 1962 PA 192, or a member in a professional limited liability company under section 904 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4904, that was organized before July 19, 2010. A physician's assistant who is a shareholder in a professional service corporation or a member in a professional limited liability company described in this subsection shall disclose all of the following in the form used for renewal of licensure provided by the department:

(a) Whether any individuals licensed under part 170 to engage in the practice of medicine, licensed under part 175 to engage in the practice of osteopathic medicine and surgery, or licensed under part 180 to engage in the practice of podiatric medicine and surgery are shareholders in the professional service corporation or members in the professional limited liability company.

(b) The name and license number of the individual licensed under part 170 to engage in the practice of medicine, licensed under part 175 to engage in the practice of osteopathic medicine and surgery, or licensed under part 180 to engage in the practice of podiatric medicine and surgery who is a party to a practice agreement with the physician's assistant.

(c) Whether the individual licensed under part 170 to engage in the practice of medicine, licensed under part 175 to engage in the practice of osteopathic medicine and surgery, or licensed under part 180 to engage in the practice of podiatric medicine and surgery disclosed in subdivision (b) is a shareholder in the same professional service corporation or member in a professional limited liability company as the physician's assistant.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 1996, Act 355, Imd. Eff. July 1, 1996;—Am. 2010, Act 124, Imd. Eff. July 19, 2010;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2012, Act 618, Imd. Eff. Jan. 9, 2013;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

Administrative rules: R 338.6101 et seq. of the Michigan Administrative Code.

333.17049 Practice agreement; designation of physician; countersigning order or signing official form not required.

Sec. 17049. (1) A group of physicians practicing other than as sole practitioners may designate 1 or more physicians in the group to enter into a practice agreement under section 17047.

(2) Notwithstanding any law or rule to the contrary, a physician is not required to countersign orders written in a patient's clinical record by a physician's assistant with whom the physician has a practice agreement. Notwithstanding any law or rule to the contrary, a physician is not required to sign an official form that lists the physician's signature as the required signatory if that official form is signed by a physician's assistant with whom the physician has a practice agreement.

History: Add. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 2004, Act 512, Imd. Eff. Jan. 3, 2005;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.17050 Prohibiting physician or physician's assistant from entering into practice agreement; grounds.

Sec. 17050. In addition to its other powers and duties under this article, the board may prohibit a physician or a physician's assistant from entering into a practice agreement for any of the grounds set forth in section 16221.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

Administrative rules: R 338.6101 et seq. of the Michigan Administrative Code.

333.17054 Criteria for licensure of physician's assistants and for evaluation of training programs; recommendations.

Sec. 17054. The board shall make written recommendations on criteria for the licensure of physician's assistants and on criteria for the evaluation of physician's assistants' training programs to the task force on physician's assistants.

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

Popular name: Act 368

333.17056 Exception.

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Sec. 17056. This part does not apply to a student in training to become a physician's assistant while performing duties assigned as part of the training.

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

Popular name: Act 368

333.17058 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's note: The repealed section pertained to powers and duties of task force.

Popular name: Act 368

333.17060 Duties of department.

Sec. 17060. The department, in consultation with the task force, shall do all of the following:

(a) Promulgate rules necessary for the implementation of its powers and duties under this part and may perform the acts and make the determinations necessary for the proper implementations of those powers and duties.

(b) Promulgate rules to establish the requirements for the education, training, or experience of physician's assistants for licensure in this state. The requirements must take into account nationally recognized standards for education, training, and experience and the desired utilization of physician's assistants. By January 14, 2017, the rules must include training standards for identifying victims of human trafficking. The training standards for identifying victims of human trafficking must apply for a physician's assistant license or registration renewal beginning with the first renewal cycle after the rules are promulgated and for an initial license or registration issued 5 or more years after the rules are promulgated.

(c) Grant licenses to applicants who meet the requirements of this part and the rules promulgated under this part for practice and use of the title of physician's assistant.

(d) Promulgate rules to establish criteria for the evaluation of programs for the education and training of physician's assistants for the purpose of determining whether graduates of the programs have the knowledge and skills requisite for practice and use of the title physician's assistant in this state as defined by this part and the rules promulgated under this part. The criteria established must be substantially consistent with nationally recognized standards for the education and training of physician's assistants. Until the criteria are established, the criteria developed by the advisory commission on physician's assistants shall remain in effect. The department shall consider and may use where appropriate the criteria established by professional associations, education accrediting bodies, or governmental agencies. In establishing criteria for the evaluation of education and training programs, the department may seek the advice of the boards and the department of education.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 59, Imd. Eff. Apr. 1, 1980;—Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 2014, Act 343, Eff. Jan. 14, 2015;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

Administrative rules: R 338.6101 et seq. of the Michigan Administrative Code.

333.17062 Applicant for licensure as physician's assistant; qualifications.

Sec. 17062. An applicant for licensure as a physician's assistant shall meet the requirements of section 16174(a), (b), and (d) and be a graduate of a program for the training of physician's assistants approved by the task force or be a licensed, certified, registered, approved, or other legally recognized physician's assistant in another state with qualifications substantially equivalent to those established by the task force.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 146, Imd. Eff. June 5, 1980;—Am. 1986, Act 174, Imd. Eff. July 7, 1986.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.17064 Applicant for licensure as physician's assistant; examination required; waiver; nature of examination; use of national examination; discrimination prohibited; reciprocity; investigation; additional documentation or information.

Sec. 17064. (1) To determine whether an applicant for initial licensure has the appropriate level of skill and knowledge as required by this part, the task force shall require the applicant to submit to an examination which shall include those subjects the general knowledge of which is commonly and generally required of a graduate of an accredited physician's assistants' program in the United States. The task force may waive the examination requirement for a graduate of an approved program if the applicant has taken a national examination and achieved a score acceptable to the task force as demonstrating the level of skill and knowledge required by this part. The task force may waive the examination for an applicant who is licensed,

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certified, registered, approved, or otherwise legally recognized as a physician's assistant in another state, when the task force determines that the other state has qualifications, including completion of a national or state approved examination for physician's assistants, that are substantially equivalent to those established by this part.

(2) The nature of an examination shall be determined by the task force and may include the use and acceptance of national examinations where appropriate. The use of examinations or the requirements for successful completion shall not permit discriminatory treatment of applicants.

(3) The task force shall provide for the recognition of the certification or experience consistent with this part acquired by physician's assistants in other states who wish to practice in this state.

(4) The task force may cause an investigation to be conducted when necessary to determine the qualifications of an applicant for licensure. An applicant may be required to furnish additional documentation and information upon a determination by the task force that the documentation or information is necessary to evaluate the applicant's qualifications.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.17066 Repealed. 2016, Act 379, Eff. Mar. 22, 2017.

Compiler's note: The repealed section pertained to design of standards and decisions regarding qualifications of physician's assistants.

Popular name: Act 368

333.17068 Application by physician's assistant for licensure or renewal of licensure; form; requirements for relicensing; standards; temporary license.

Sec. 17068. (1) A physician's assistant shall apply for licensure or renewal of licensure on a form provided by the department.

(2) A physician's assistant who has failed to renew a license may be relicensed upon showing that he or she meets the current requirements for licensure set forth in this part and rules promulgated under this part. In relicensing an individual under this section, the task force may establish standards for training, education, or experience equivalent to current educational and practice requirements. A temporary license under section 17072 may be issued pending the results of action taken under this subsection.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 462, Eff. Sept. 1, 1989.

Popular name: Act 368

Administrative rules: R 388.6101 et seq. of the Michigan Administrative Code.

333.17070 Granting renewal; notice of denial; right to hearing.

Sec. 17070. (1) If the applicant meets the requirements for renewal as set forth in this part or rules promulgated under this part, the task force shall direct the board to grant a renewal.

(2) If an applicant is determined by the task force not to have met the requirements for renewal, the applicant shall be notified in writing of the reasons for denial and shall have the right to a hearing.

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

Popular name: Act 368

333.17072 Certificate of licensure, temporary licensure, or renewal; issuance; contents; interim licensure; nonrenewable temporary license; display; pocket card; identification.

Sec. 17072. (1) A certificate of licensure, temporary licensure, or renewal shall be issued by the department to an applicant who is granted licensure, temporary licensure, or renewal. A certificate issued under this part shall contain the full name of the individual licensed, a permanent individual number, and the date of expiration.

(2) The task force shall direct the board to grant interim licensure to an unlicensed individual who was employed as a physician's assistant on December 29, 1977, to be effective until the task force formally issues or denies a license to the physician's assistant pursuant to this part and the rules promulgated under this part. During this period the task force may direct the board to grant interim licensure to a new applicant who has graduated from a program training physician's assistants.

(3) The task force may direct the board to grant a nonrenewable temporary license to an applicant who meets all requirements for licensure except examination, if required. The task force shall make its decision within 30 days after submission of a complete application or the conclusion of a department investigation,

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whichever is later. The temporary license shall be valid for a period determined by the task force, but not to exceed 1 year, or until the results of a required examination are made available, whichever is sooner. The department shall issue a certificate of temporary licensure within 15 days after the board grants the license.

(4) A physician's assistant licensed under this part shall publicly display the current certificate of licensure, temporary license, or renewal permanently in that individual's place of practice, if feasible, and shall have available for inspection a pocket card issued by the department containing the essential information of the license. While working, the individual shall wear appropriate identification, clearly indicating that the individual is a physician's assistant.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979.

Popular name: Act 368

333.17074 Prohibited undertakings, representations, and services by physician's assistant; permissible services.

Sec. 17074. (1) A physician's assistant shall not undertake or represent that he or she is qualified to undertake provision of a medical care service that he or she knows or reasonably should know to be outside his or her competence or is prohibited by law.

(2) A physician's assistant shall not:

(a) Perform acts, tasks, or functions to determine the refractive state of a human eye or to treat refractive anomalies of the human eye, or both.

(b) Determine the spectacle or contact lens prescription specifications required to treat refractive anomalies of the human eye, or determine modification of spectacle or contact lens prescription specifications, or both.

(3) A physician's assistant may perform routine visual screening or testing, postoperative care, or assistance in the care of medical diseases of the eye under a practice agreement.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 2006, Act 161, Eff. Nov. 26, 2006;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.17076 Physician's assistant; making calls or going on rounds in accordance with practice agreement; prescribing drugs; ordering, receiving, and dispensing complimentary starter dose drugs.

Sec. 17076. (1) A physician's assistant may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities in accordance with a practice agreement. Notwithstanding any law or rule to the contrary, a physician's assistant may make calls or go on rounds as provided in this subsection without restrictions on the time or frequency of visits by a physician or the physician's assistant.

(2) A physician's assistant who is a party to a practice agreement may prescribe a drug in accordance with procedures and protocols for the prescription established by rule of the department in consultation with the appropriate board. A physician's assistant may prescribe a drug, including a controlled substance that is included in schedules 2 to 5 of part 72. If a physician's assistant prescribes a drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that prescription. If a physician's assistant prescribes a drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that prescription.

(3) A physician's assistant may order, receive, and dispense complimentary starter dose drugs, including controlled substances that are included in schedules 2 to 5 of part 72. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. As used in this subsection, "complimentary starter dose" means that term as defined in section 17745. It is the intent of the legislature in enacting this subsection to allow a pharmaceutical manufacturer or wholesale distributor, as those terms are defined in part 177, to distribute complimentary starter dose drugs to a physician's assistant, as described in this subsection, in compliance with section 503(d) of the federal food, drug, and cosmetic act, 21 USC 353.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 1996, Act 355, Imd. Eff. July 1,

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1996;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

Administrative rules: R 338.6101 et seq. of the Michigan Administrative Code.

333.17078 Physician's assistant; conformance to minimal standards of practice.

Sec. 17078. A physician's assistant shall conform to minimal standards of acceptable and prevailing practice under this part, part 175, or part 180, as applicable.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 2006, Act 161, Eff. Nov. 26, 2006;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.17082 Investigations and evaluations by task force; purpose; revision of criteria for education and training; continuation of program approval and criteria.

Sec. 17082. (1) The task force may conduct or cause to be conducted, investigations and evaluations necessary to determine whether a program meets the criteria established by this part and rules promulgated under this part.

(2) At times the task force determines appropriate, the task force may revise the criteria for the education and training of graduates to determine whether the graduates meet the requirements for practice and use of the title physician's assistant in this state.

(3) A program approval of the director of public health and the criteria developed or recommended by the physician's assistant's advisory commission permitted under section 20 of former Act No. 420 of the Public Acts of 1976 shall be continued for the duration of its initial approval, unless disapproved by the task force.

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

Compiler's note: Act 420 of 1976, referred to in this section, was repealed by Act 368 of 1978 .

Popular name: Act 368

333.17084 Register of programs; contents; public inspection.

Sec. 17084. The department shall keep a register of programs meeting the criteria established by the task force. The register of programs shall include the full title of the program, the institution of which it is a part, and its address. A copy of the register or the information contained in the register shall be available for public inspection.

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

Popular name: Act 368

333.17086-333.17088 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's note: The repealed sections pertained to procedures for maintaining disciplinary action; denying, suspending, limiting, or revoking a license or renewal; examinations; hearings; and application for reinstatement.

Popular name: Act 368

333.17091 Rules.

Sec. 17091. (1) The department, in consultation with the board, shall promulgate rules that specify the minimum standards for licensure, temporary licensure, and license renewal of genetic counselors.

(2) In addition to any other requirements of this article, the board shall perform other functions and duties as necessary to carry out the regulation of genetic counselors under this part.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019.

Popular name: Act 368

333.17092 Genetic counselor; licensure requirements.

Sec. 17092. To be licensed as a genetic counselor under this part, an individual shall do all of the following:

(a) Submit an application prescribed by the board.

(b) Pay the fee prescribed in section 16338.

(c) Provide satisfactory evidence of having current certification through a nationally recognized certifying agency for genetic counselors or medical geneticists approved by the board.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019.

Popular name: Act 368

333.17093 Practice of genetic counseling; license required.

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Sec. 17093. Beginning 1 year after the effective date of the rules promulgated under section 17091, an individual shall not engage in the practice of genetic counseling unless he or she is licensed as a genetic counselor under this part.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019.

Popular name: Act 368

333.17094 Genetic counselor; temporary license; interim requirements.

Sec. 17094. A temporary licensed genetic counselor shall work under the supervision of a qualified supervisor at all times during which the temporary licensed genetic counselor engages in the practice of genetic counseling.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019.

Popular name: Act 368

333.17095 Use of titles, words, or initials; applicability of sections 17091 to 17096.

Sec. 17095. (1) Except as otherwise provided in subsection (2), an individual who is not licensed as a genetic counselor under this part shall not use in connection with his or her name or place of business, the title "genetic counselor", "licensed genetic counselor", "gene counselor", "genetic consultant", "genetic associate" or any words, letters, abbreviations, or insignia indicating or implying that an individual holds a license to engage in the practice of genetic counseling under this part.

(2) Sections 17091 to 17096 do not apply to the following individuals:

(a) An individual who is certified by the American Board of Medical Genetics and Genomics as a doctor of philosophy medical geneticist, or holds an equivalent certification as determined by the board.

(b) An individual who is licensed by this state to engage in the practice of a health profession other than the practice of genetic counseling when acting within the scope of the individual's health profession and doing work of a nature consistent with the individual's education and training.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019.

Popular name: Act 368

333.17096 Renewal of license; evidence required.

Sec. 17096. To obtain a license renewal as a genetic counselor under this part, a licensee shall present satisfactory evidence to the board that in the period since the license was issued or last renewed the licensee has maintained certification through a nationally recognized certifying agency for genetic counselors or medical geneticists approved by the board.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019.

Popular name: Act 368

333.17097 Third party reimbursement or mandated worker's compensation benefits.

Sec. 17097. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual who is licensed as a genetic counselor under this part.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019.

Popular name: Act 368

PART 171.
MIDWIFERY

333.17101 Definitions; principles of construction.

Sec. 17101. (1) As used in this part:

(a) "Appropriate health professional", for the purposes of referral, consultation, or collaboration with a midwife under this part, means any of the following:

(*i*) A physician.

(*ii*) A certified nurse midwife.

(*iii*) As identified in rules promulgated under section 17117, another appropriate health professional licensed, registered, or otherwise authorized to engage in a health profession under this article.

(b) "Certified nurse midwife" means a registered professional nurse licensed under part 172 who has been granted a specialty certification in the health profession specialty field of nurse midwifery by the Michigan board of nursing under section 17210.

(c) "Health care provider" means an individual who is licensed or registered under this article.

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(d) "Midwife" means an individual licensed under this part to engage in the practice of midwifery.

(e) "Physician" means an individual licensed to engage in the practice of medicine under part 170 or the practice of osteopathic medicine and surgery under part 175.

(f) "Practice of midwifery", subject to subsection (2), means providing perinatal care that is consistent with a midwife's training, education, and experience, to individuals and neonates during the antepartum, intrapartum, and postpartum periods.

(2) For purposes of this part, practice of midwifery does not include either of the following:

(a) The practice of medicine or osteopathic medicine and surgery.

(b) The practice of nursing, including the practice of nursing with a specialty certification in the health profession specialty field of nurse midwifery under part 172.

(3) In addition to the definitions of this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017;—Am. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.17103 Use of titles, words, or initials.

Sec. 17103. Beginning on the effective date of rules promulgated under section 17117, an individual shall not use the titles "licensed midwife" or "l.m.", or similar words or initials that indicate that the individual is licensed as a midwife, unless the individual is licensed under this part.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.17105 Practice of midwifery; license required; additional exemptions.

Sec. 17105. (1) Beginning on the effective date of rules promulgated under section 17117, an individual shall not engage in the practice of midwifery unless licensed under this part or otherwise authorized by this article.

(2) A midwife shall not perform an act, task, or function within the practice of midwifery unless he or she is trained to perform the act, task, or function and the performance of that act, task, or function is consistent with the rules promulgated under section 17117.

(3) In addition to the exemptions from licensure under section 16171, subsection (1) does not prevent any of the following:

(a) An individual licensed, registered, or certified under any other part or act from performing activities that are considered to be within the practice of midwifery if those activities are within the individual's scope of practice and if the individual does not use the titles protected under section 17103.

(b) Subject to section 16215, an employee or other individual who is assisting a midwife and who is under the midwife's supervision from performing activities or functions that are delegated by the midwife, that are nondiscretionary, that do not require the exercise of professional judgment for their performance, and that are within the midwife's authority to perform.

(c) An individual from performing activities that are within the practice of midwifery if those activities are performed under the direct and immediate supervision of an appropriate health professional while engaged in any of the following:

(*i*) Completing a portfolio evaluation process of the North American Registry of Midwives or an organization that the board determines is a successor organization.

(*ii*) Participating as a student attending a midwifery education program that is accredited by the Midwifery Education and Accreditation Council or another accrediting organization approved by the board.

(d) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a midwife.

(e) Services provided by a religious practitioner if that religious practitioner does not hold himself or herself out to the public as a midwife who is licensed to engage in the practice of midwifery in this state and does not use any of the titles protected under section 17103.

(f) Services provided by a member of a bona fide church or religious denomination if all of the following are met:

(*i*) The services are provided to another member of that church or denomination and that other member is an adherent of the established tenets or teachings of that church or denomination and relies on treatment by prayer or spiritual means only, in accordance with the creed or tenets of that church or denomination.

(*ii*) The individual providing the services does not receive a fee for those services. For purposes of this subparagraph, a voluntary contribution is not considered a fee for the services provided by that individual.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

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Popular name: Act 368

333.17107 Transfer of care to physician or hospital; protocol.

Sec. 17107. (1) At the inception of care, a midwife shall establish a protocol for transfer of care to a physician or to a hospital that is specific to that patient.

(2) For purposes of subsection (1), the board shall identify or create a standard form, and recommend use of the standard form, to collect information on a patient whose care is transferred, either temporarily or permanently, to a hospital or a physician.

(3) The board shall promulgate rules that require a midwife to report a patient's data to the MANA Statistical Registry maintained by the Midwives Alliance of North America, or a similar registry maintained by a successor organization approved by the board, unless the patient refuses to consent to the reporting of his or her data.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.17109 Informed consent.

Sec. 17109. A midwife shall obtain informed consent from a patient at the inception of care and continuing throughout the patient's care.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.17110 Liability of health care worker for act or omission of midwife.

Sec. 17110. A health care provider who provides care to a patient of a midwife who is licensed under this part is not liable in a civil action for personal injury or death resulting from an act or omission by the midwife, unless the professional negligence or malpractice of the health care provider was a proximate cause of the injury or death.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.17111 Midwife; prohibited acts; administration of prescription drugs or medications; rules.

Sec. 17111. (1) A midwife shall not do any of the following:

(a) Except as provided in subsection (2), administer prescription drugs or medications.

(b) Use vacuum extractors or forceps.

(c) Prescribe medications.

(d) Perform surgical procedures other than episiotomies or repairs of perineal lacerations.

(e) Any other act, task, or function prohibited in rules promulgated under this part.

(2) Beginning on the effective date of the rules promulgated under subsection (3), a midwife who has appropriate pharmacology training as established by rule by the board, and who holds a standing prescription from a health care provider with prescriptive authority, may administer any of the following in accordance with the rules promulgated under subsection (3):

(a) Prophylactic vitamin K to a newborn, either orally or through intramuscular injection.

(b) Antihemorrhagic agents to a postpartum mother after the birth of the baby.

(c) Local anesthetic for the repair of lacerations to a mother.

(d) Oxygen to a mother or newborn.

(e) Prophylactic eye agent to a newborn.

(f) Prophylactic Rho(D) immunoglobulin to a mother.

(g) Agents for group B streptococcus prophylaxis, recommended by the federal centers for disease control and prevention, to a mother.

(h) Intravenous fluids, excluding blood products, to a mother.

(i) Any other drug or medication prescribed by a health care provider with prescriptive authority that is consistent with the scope of practice of midwifery and is authorized by the board by rule.

(3) The department, in consultation with the board, shall promulgate rules concerning the administration of prescription drugs or medications described in subsection (2) by midwives.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.17112 Obtaining supplies and devices, ordering and obtaining screening tests, and

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receiving reports of test results; classification as normal pregnancy, labor, delivery, postpartum period, or newborn period; rules; findings.

Sec. 17112. (1) Beginning on the effective date of, and subject to, the rules described in section 17117, and if necessary to the practice of midwifery and consistent with the scope of practice of midwifery, a midwife may directly obtain supplies and devices, order and obtain screening tests including ultrasound tests, and receive verbal and written reports of the results of those tests.

(2) The department shall promulgate rules that include standards for the delineation of findings that preclude a woman or a newborn from being classified as having a normal pregnancy, labor, delivery, postpartum period, or newborn period. In promulgating the rules described in this subsection, the department shall consider any data, views, questions, and arguments submitted by the Michigan board of licensed midwifery, the Michigan board of medicine, and the Michigan board of osteopathic medicine and surgery.

(3) The finding described in subsection (2) shall form the basis for any requirements or restrictions imposed by the board on the practice of midwifery when providing care to women or newborns whose condition is classified as outside of normal.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.17113 Michigan board of licensed midwifery; creation; membership; terms.

Sec. 17113. (1) The Michigan board of licensed midwifery is created in the department. The board consists of the following 12 members, each of whom must meet the requirements of part 161:

(a) Seven midwives.

(b) One certified nurse midwife.

(c) One physician who is board certified as an obstetrician-gynecologist.

(d) One physician who is board certified as a pediatrician.

(e) Two members of the general public, 1 of whom is a consumer of midwifery care.

(2) Except as otherwise provided in this article, the term of office of a member of the board is 4 years and expires on December 31 of the year in which the term expires. For members first appointed under this section, 5 members shall serve for 2 years, 4 members shall serve for 3 years, and 3 members shall serve for 4 years.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.17115 Licensure; requirements; credential.

Sec. 17115. (1) If the department receives a complete application and payment of the fee prescribed in section 16326, the board shall grant a license under this part to the applicant if the applicant meets all of the following:

(a) Except as provided in subsection (2), he or she has completed an educational program or pathway accredited by the Midwifery Education and Accreditation Council or another accrediting organization approved by the board.

(b) He or she holds the credential of certified professional midwife from the North American Registry of Midwives or holds an equivalent credential from another midwifery credentialing program that is approved by the board under section 16148 and accredited by the National Commission for Certifying Agencies or another accrediting organization approved by the board.

(c) He or she successfully passes an examination approved by the department, in consultation with the board. If the education program described in subdivision (a) includes an examination that meets the requirements of section 16178(1), the board may accept passing of that examination as meeting the requirements of this subdivision.

(2) An applicant who holds the credential described in subsection (1)(b) before January 1, 2020, and has not completed the educational program or pathway described in subsection (1)(a), meets the requirement of subsection (1)(a) if he or she provides evidence that he or she holds a midwifery bridge certificate awarded by the North American Registry of Midwives, or an equivalent credential from another midwifery credentialing program that is approved by the board under section 16148 and accredited by the National Commission for Certifying Agencies or another accrediting organization approved by the board.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.17116 Nonrenewable temporary license; term; failure to comply with requirements; application fee for initial license.

Sec. 17116. (1) If the department receives a completed application and an application fee and temporary

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license fee described in section 16326, the board shall grant a nonrenewable temporary license under this part to an individual who holds a credential of certified professional midwife from a midwifery education program that does not meet the requirements of section 17115(1)(a). An individual who holds a temporary license under this section must hold a midwifery bridge certificate awarded by the North American Registry of Midwives, or an equivalent credential approved by the board, to qualify for a license when his or her temporary license expires.

(2) The term of a temporary license under this section is 24 months.

(3) An applicant who is granted a temporary license under this section is subject to all other requirements of this part and rules promulgated under this part, and the department may automatically void the temporary license if the applicant fails to comply with those requirements.

(4) An individual who paid an application fee under section 16326 in connection with an application for a temporary license under this section is not required to pay an application fee in connection with an application for an initial license under this part if the department receives the application within 60 days after the expiration of the temporary license.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.17117 Rules.

Sec. 17117. (1) Within 24 months after the effective date of this part, the department, in consultation with the board, shall promulgate rules to do all of the following:

(a) Establish and implement the licensure program for the practice of midwifery under this part.

(b) Require the completion of continuing education for the practice of midwifery as a condition for license renewal. However, the rule shall allow the board to accept proof of a current credential under section 17115(1)(b) as meeting the requirements of this subdivision.

(c) Describe and regulate, limit, or prohibit the performance of acts, tasks, or functions by midwives. The department shall include rules that recognize and incorporate the requirements under section 17107 regarding the referral to and consultation with appropriate health professionals and ensure that those rules conform to national standards for the practice of midwifery as defined in section 17101.

(d) For purposes of section 17109, establish the process by which informed consent is obtained and ensure that the process conforms to national standards for the practice of midwifery as defined in section 17101. The process established for obtaining informed consent shall include at least all of the following:

(*i*) A requirement that at the inception of care for a client, the midwife must provide a copy of the rules promulgated by the department under this section.

(*ii*) A requirement that at the inception of care for a client, the midwife must orally and in writing disclose whether the midwife has malpractice liability insurance coverage and, if so, the policy limitations of that coverage.

(e) For purposes of establishing protocols for transfer of care under section 17107, establish the duties a midwife must perform if an emergency transfer to a hospital is necessary. Rules promulgated under this subdivision shall conform to nationally recognized guidelines on safe transfers.

(2) In addition to the authority to promulgate rules under section 16145 and subject to this section and section 16175, the department, in consultation with the board, may promulgate rules to supplement the requirements for licensure under this part, including the adoption of updated standards applicable to the practice of midwifery established by the North American Registry of Midwives or an organization that the board determines is a successor organization.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.17119 Individual licensed in another state; requirements.

Sec. 17119. (1) The board may grant a license under this part to an individual who is licensed as a midwife in another state at the time of application if the applicant provides evidence satisfactory to the board and the department that all of the following are met:

(a) Subject to subsection (2), the applicant meets the requirements described in section 17115(1) and (2).

(b) There are no pending disciplinary proceedings against the applicant before a similar licensing agency of this or any other state or country.

(c) If sanctions have been imposed against the applicant by a similar licensing agency of this or any other state or country based upon grounds that are substantially similar to those under this article, as determined by the board, the sanctions are not in force at the time of the application.

(2) If an applicant is licensed as a midwife in a state that does not require completion of an educational

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program or pathway equivalent to section 17115(1)(a) for licensure, the department may determine that the applicant has met the requirements of subsection (1)(a) if he or she meets all of the following:

(a) The requirements of this part and rules promulgated under this part for licensure, except section 17115(1)(a).

(b) The requirements of section 17115(2), regardless of the date he or she obtained the credential of certified professional midwife described in section 17115(1)(b).

(3) The board may make an independent inquiry to determine whether an applicant meets the requirements described in subsection (1)(b) and (c).

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.17121 Initial or renewal licenses; term.

Sec. 17121. (1) Except as provided in subsection (2) and section 17116, the department shall determine the term of initial or renewal licenses granted under this part.

(2) Until the application processing fee for a license under this part is reduced to $75.00 under section 16326, the term of an initial license under part 171 is 1 year. This subsection does not limit the department's authority under this section to establish a renewal cycle for licenses under this part regardless of the amount of the application fee under section 16326.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

333.17123 Third party reimbursement or worker's compensation benefits.

Sec. 17123. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed under this part.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017.

Popular name: Act 368

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PART 172
NURSING

333.17201 Definitions; principles of construction.

Sec. 17201. (1) As used in this part:

(a) "Advanced practice registered nurse" or "a.p.r.n." means a registered professional nurse who has been granted a specialty certification under section 17210 in 1 of the following health profession specialty fields:

(*i*) Nurse midwifery.

(*ii*) Nurse practitioner.

(*iii*) Clinical nurse specialist.

(b) "Physician" means a physician who is licensed under part 170 or part 175.

(c) "Practice of nursing" means the systematic application of substantial specialized knowledge and skill, derived from the biological, physical, and behavioral sciences, to the care, treatment, counsel, and health teaching of individuals who are experiencing changes in the normal health processes or who require assistance in the maintenance of health and the prevention or management of illness, injury, or disability.

(d) "Practice of nursing as a licensed practical nurse" or "l.p.n." means the practice of nursing based on less comprehensive knowledge and skill than that required of a registered professional nurse and performed under the supervision of a registered professional nurse, physician, or dentist.

(e) "Registered professional nurse" or "r.n." means an individual who is licensed under this part to engage in the practice of nursing which scope of practice includes the teaching, direction, and supervision of less skilled personnel in the performance of delegated nursing activities.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in the code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2016, Act 499, Eff. Apr. 9, 2017.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.17208 Licensed practical nurse; health profession subfield.

Sec. 17208. The practice of nursing as a licensed practical nurse is a health profession subfield of the

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practice of nursing.

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

Popular name: Act 368

333.17209 Renewal of license to practice as trained attendant; eligibility; "practice as a trained attendant" defined; original license prohibited; licensed psychiatric attendant nurse considered licensed practical nurse.

Sec. 17209. (1) After the effective date of this part, an individual licensed to practice as a trained attendant is eligible to apply to the board for a renewal of licensure pursuant to this article. For purposes of this section, "practice as a trained attendant" means the practice of nursing based on less comprehensive knowledge and skill than that required of a registered professional nurse or a licensed practical nurse and performed under supervision of a registered professional nurse or licensed physician or dentist. After the effective date of this part, the board shall not grant an original license to an applicant for licensure to practice as a trained attendant.

(2) After the effective date of this part, licensed psychiatric attendant nurse licenses shall be considered licensed practical nurse licenses. A licensed psychiatric attendant nurse shall have the same rights and duties as a licensed practical nurse under this part as consistent with the licensee's education and training.

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

Popular name: Act 368

333.17210 Registered professional nurse; issuance of specialty certification; qualifications; rules; scope of practice for nurse anesthetist; malpractice insurance required; definitions.

Sec. 17210. (1) The Michigan board of nursing may grant a specialty certification to a registered professional nurse who has advanced training beyond that required for initial licensure, who has demonstrated competency through examination or other evaluative processes, and who practices in 1 of the following health profession specialty fields:

(a) Nurse midwifery.

(b) Nurse anesthetist.

(c) Nurse practitioner.

(d) Subject to subsection (2), clinical nurse specialist.

(2) The Michigan board of nursing shall promulgate rules establishing the qualifications for the training and competency of the health profession specialty field of clinical nurse specialist. The Michigan board of nursing shall not grant a specialty certification as a clinical nurse specialist under subsection (1) until after the effective date of the rules promulgated under this subsection.

(3) All of the following apply to a registered professional nurse who holds a specialty certification as a nurse anesthetist:

(a) In addition to performing duties within the scope of the practice of nursing, his or her scope of practice includes any of the following anesthesia and analgesia services if the services are performed in accordance with the American Association of Nurse Anesthetists Standards for Nurse Anesthesia Practice:

(*i*) Development of a plan of care.

(*ii*) Performance of all patient assessments, procedures, and monitoring to implement the plan of care or to address patient emergencies that arise during implementation of the plan of care.

(*iii*) Selection, ordering, or prescribing and the administration of anesthesia and analgesic agents, including pharmacological agents that are prescription drugs as defined in section 17708 or controlled substances. For purposes of this subparagraph, the authority of a registered professional nurse who holds a specialty certification as a nurse anesthetist to prescribe pharmacological agents is limited to pharmacological agents for administration to patients as described in subdivision (b), (c), or (d), and his or her authority does not include any activity that would permit a patient to self-administer, obtain, or receive pharmacological agents, including prescription drugs or controlled substances, outside of the facility in which the anesthetic or analgesic service is performed or beyond the perioperative, periobstetrical, or periprocedural period.

(b) If he or she meets both of the following requirements, he or she may provide the anesthesia and analgesia services described in subdivision (a) without supervision:

(*i*) He or she meets either of the following:

(A) He or she has practiced in the health profession specialty field of nurse anesthetist for 3 years or more and has practiced in that health profession specialty field in a health care facility for a minimum of 4,000 hours.

(B) He or she has a doctor of nurse anesthesia practice degree or doctor of nursing practice degree.

(*ii*) He or she is collaboratively participating in a patient-centered care team.

(c) He or she may provide the anesthesia and analgesia services described in subdivision (a) in a health

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care facility if the health care facility has a policy in place under subsection (4) allowing for the provision of the anesthesia and analgesia services and ensuring that a qualified health care professional is immediately available in person or through telemedicine to address any urgent or emergent clinical concerns.

(d) The anesthesia and analgesia services described in subdivision (a) may be performed for and during the perioperative, periobstetrical, or periprocedural period.

(e) If he or she is practicing pain management in a freestanding pain clinic, he or she must be under the supervision of a physician.

(4) A health care facility may adopt policies relating to the provision of anesthesia and analgesia services. If a health care facility uses a registered professional nurse who holds a specialty certification as a nurse anesthetist to perform the anesthesia and analgesia services described in subsection (3) who is not employed by the health care facility, the health care facility shall ensure that the registered professional nurse or the person employing the registered professional nurse maintains malpractice insurance.

(5) Subsection (3) does not require new or additional third party reimbursement or mandated worker's compensation benefits for anesthesia and analgesia services provided under that subsection by a registered professional nurse who holds a specialty certification as a nurse anesthetist under this part.

(6) As used in this section:

(a) "Collaboratively participating" means practicing and communicating with health care professionals involved in the patient-centered care team to optimize the overall care delivered to the patient.

(b) "Health care facility" means any of the following:

(*i*) A hospital inpatient or outpatient facility.

(*ii*) A freestanding surgical outpatient facility.

(*iii*) An office of a physician, podiatrist, or dentist.

(*iv*) Any other office or facility in which diagnostic or therapeutic procedures are provided to a patient, including, but not limited to, imaging, endoscopy, or cystoscopy services.

(c) "Health care professional" means an individual who is licensed or registered to perform a health profession under this article.

(d) "Patient-centered care team" means a group of health care professionals, which must include, but is not limited to, a qualified health care professional, who directly or indirectly care for a patient by each contributing his or her specialized knowledge, skill, and experience to the care of the patient.

(e) "Qualified health care professional" means any of the following health care professionals who has completed the necessary education, training, and experience in anesthesia care or pharmacology, or has experience with procedures requiring anesthesia:

(*i*) A physician.

(*ii*) A dentist licensed under part 166.

(*iii*) A podiatric physician licensed under part 180.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2016, Act 499, Eff. Apr. 9, 2017;—Am. 2017, Act 22, Imd. Eff. Mar. 31, 2017;—Am. 2021, Act 53, Eff. Oct. 11, 2021.

Popular name: Act 368

333.17211 Practice of nursing or as licensed practical nurse; license or authorization required; use of words, titles, or letters.

Sec. 17211. (1) An individual shall not engage in the practice of nursing or the practice of nursing as a licensed practical nurse unless he or she is licensed or is otherwise authorized by this article.

(2) The following words, titles, or letters or a combination of the words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part:

(a) "Registered professional nurse", "registered nurse", "r.n.", "licensed practical nurse", "l.p.n.", "nurse midwife", "certified nurse midwife", "c.n.m.", "advanced practice registered nurse", "a.p.r.n.", "nurse anesthetist", "nurse practitioner", "n.p.", "certified nurse practitioner", and "c.n.p.".

(b) Beginning 12 months after the effective date of the rules promulgated under section 17210(2), "clinical nurse specialist", "c.n.s.", "clinical nurse specialist-certified", and "c.n.s.-c.".

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 409, Imd. Eff. Sept. 29, 2006;—Am. 2016, Act 499, Eff. Apr. 9, 2017;—Am. 2017, Act 22, Imd. Eff. Mar. 31, 2017.

Popular name: Act 368

333.17211a Advanced practice registered nurse; authority to prescribe nonscheduled prescription drug or controlled substance.

Sec. 17211a. (1) An advanced practice registered nurse may prescribe any of the following:

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(a) A nonscheduled prescription drug.

(b) Subject to subsection (2), a controlled substance included in schedules 2 to 5 of part 72, as a delegated act of a physician.

(2) If an advanced practice registered nurse prescribes a controlled substance under subsection (1)(b), both the advanced practice registered nurse's name and the physician's name shall be used, recorded, or otherwise indicated in connection with that prescription. If an advanced practice registered nurse prescribes a controlled substance under subsection (1)(b), both the advanced practice registered nurse's and the physician's DEA registration numbers shall be used, recorded, or otherwise indicated in connection with that prescription.

(3) The amendatory act that added this section does not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered by an advanced practice registered nurse who is authorized to prescribe nonscheduled prescription drugs and controlled substances included in schedules 2 to 5 of part 72 under this section.

History: Add. 2016, Act 499, Eff. Apr. 9, 2017.

Popular name: Act 368

333.17212 Registered professional nurse or advanced practice registered nurse; ordering, receiving, or dispensing complimentary starter dose drugs; delegation; "complimentary starter dose" defined.

Sec. 17212. (1) Subject to subsections (2) and (3), in addition to acts, tasks, and functions delegated under section 16215, 17211a(1)(b), 17745, 17745a, or 17745b, a supervising physician may delegate in writing to a registered professional nurse the ordering, receipt, and dispensing of complimentary starter dose drugs other than controlled substances as defined in article 7 or federal law. If a delegated ordering, receipt, or dispensing of complimentary starter dose drugs described in this subsection occurs, both the registered professional nurse's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each order, receipt, or dispensing.

(2) Subject to subsection (3), an advanced practice registered nurse may order, receive, and dispense a complimentary starter dose drug without delegation from a physician. Only the name of the advanced practice registered nurse shall be used, recorded, or otherwise indicated in connection with an order, receipt, or dispensing of a complimentary starter dose drug under this subsection.

(3) An advanced practice registered nurse may order, receive, and dispense complimentary starter doses of controlled substances included in schedules 2 to 5 of part 72 as a delegated act of a physician. If a delegated ordering, receipt, or dispensing of complimentary starter dose drugs described in this subsection occurs, the advanced practice registered nurse's name and the delegating physician's name shall be used, recorded, or otherwise indicated in connection with each order, receipt, or dispensing and both the advanced practice registered nurse's and the delegating physician's DEA registration number shall be used, recorded, or otherwise indicated in connection with each order, receipt, or dispensing.

(4) It is the intent of the legislature in enacting this section to allow a pharmaceutical manufacturer or wholesale distributor, as those terms are defined in part 177, to distribute complimentary starter dose drugs to an advanced practice registered nurse described in subsections (2) and (3), or to a registered professional nurse described in subsection (1), in compliance with section 503(d) of the federal food, drug, and cosmetic act, 21 USC 353.

(5) As used in this section, "complimentary starter dose" means that term as defined in section 17745.

History: Add. 1996, Act 355, Imd. Eff. July 1, 1996;—Am. 2016, Act 499, Eff. Apr. 9, 2017.

Popular name: Act 368

333.17213 Licensure as registered professional nurse; graduate of nurse education program located outside of United States; requirements.

Sec. 17213. (1) Notwithstanding section 16145 or section 16174(1)(c) or rules promulgated pursuant to either of those sections, the board may grant a license to an applicant applying for initial licensure as a registered professional nurse who is a graduate of a nurse education program that is located outside of the United States if he or she meets the requirements of section 16174 and satisfies each of the following:

(a) Provides verification that the nurse education program from which he or she graduated is substantially equivalent to the nursing education programs in this state that are approved by the board.

(b) Has passed the requisite examination for licensure as a registered professional nurse, as approved by the board.

(2) Notwithstanding section 16145 or section 16174(1)(c) or rules promulgated pursuant to either of those sections, the board may grant a license to an applicant applying for licensure as a registered professional nurse

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who is licensed in another state or, until January 1, 2012, is licensed in a province of Canada and who is a graduate of a nurse education program located outside of the United States and Canada if he or she meets the requirements of subsection (1) and provides verification of licensure or registration in each state, country, jurisdiction, territory, and province in which he or she is currently licensed or registered or has been licensed or registered. If the applicant seeking licensure under this subsection has, for at least 5 years immediately preceding the application, maintained an active license or registration in another state with no disciplinary sanctions, then the applicant does not have to provide the verification required under subsection (1)(a).

History: Add. 2007, Act 19, Imd. Eff. June 14, 2007.

Popular name: Act 368

333.17214 Advanced practice registered nurse; calls or rounds.

Sec. 17214. An advanced practice registered nurse may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities. Notwithstanding any law or rule to the contrary, an advanced practice registered nurse may make calls or go on rounds as provided in this section without restrictions on the time or frequency of visits by a physician or the advanced practice registered nurse.

History: Add. 2016, Act 499, Eff. Apr. 9, 2017.

Popular name: Act 368

333.17221 Michigan board of nursing; creation; number and qualifications of members; terms.

Sec. 17221. (1) The Michigan board of nursing is created in the department.

(2) Except as otherwise provided in subsection (3), the Michigan board of nursing shall consist of the following 24 voting members who shall meet the requirements of part 161: 9 registered professional nurses, 1 nurse midwife, 1 nurse anesthetist, 1 nurse practitioner, 1 clinical nurse specialist, 3 licensed practical nurses, and 8 public members. Three of the registered professional nurse members shall be engaged in nursing education, 1 of whom shall be in less than a baccalaureate program, 1 in a baccalaureate or higher program and 1 in a licensed practical nurse program and each of whom shall have a master's degree from an accredited college with a major in nursing. Three of the registered professional nurse members shall be engaged in nursing practice or nursing administration, each of whom shall have a baccalaureate degree in nursing from an accredited college. Three of the registered professional nurse members shall be engaged in nursing practice or nursing administration, each of whom shall be a nonbaccalaureate registered nurse. The 3 licensed practical nurse members shall have graduated from a state approved program for the preparation of individuals to practice as licensed practical nurses. The nurse midwife, the nurse anesthetist, the nurse practitioner, and the clinical nurse specialist shall each have a specialty certification granted by the Michigan board of nursing in his or her respective specialty field.

(3) All of the following apply to the members of the board described in subsection (2):

(a) The individual who is a registered professional nurse who is certified by a national organization as a clinical nurse specialist shall continue as a member of the board under subsection (2) for the remainder of his or her respective term. When the term of the registered professional nurse described in this subdivision expires, subject to section 16121, the governor shall appoint a registered professional nurse who has been granted a specialty certification as a clinical nurse specialist by the Michigan board of nursing.

(b) The 8 public members on the board shall continue in office for the remainder of their respective terms. Until the term of office of 1 of those public members expires, the board shall continue with 24 members. When the term of office of 1 or more of the 8 public members first expires, the governor shall not appoint 1 public member, to reduce the total number of public members to 7 and the total number of board members to 23.

(4) The terms of office of individual members of the board created under this part, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979;—Am. 1989, Act 201, Imd. Eff. Oct. 23, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 409, Imd. Eff. Sept. 29, 2006;—Am. 2016, Act 499, Eff. Apr. 9, 2017.

Popular name: Act 368

333.17224, 333.17225 Repealed. 1989, Act 201, Imd. Eff. Oct. 23, 1989.

Compiler's note: The repealed sections pertained to task force for health professional subfields and health profession specialty fields.

Popular name: Act 368

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333.17231 Honorary license; "advanced illness" defined; name of section.

Sec. 17231. (1) The department, in consultation with the board, may issue an honorary license to an individual, living or deceased, who has met all of the requirements of this part to be eligible for a license except for passage of an examination and who is unable to take the examination due to advanced illness. An honorary license issued under this section does not confer any right to engage in the practice of nursing.

(2) As used in this section, "advanced illness" means that term as defined in section 5653.

(3) This section may be referred to as "Katie Viger's law".

History: Add. 2010, Act 15, Imd. Eff. Mar. 18, 2010.

333.17241 Nursing education program; application to conduct; evidence required; evaluation; inspection; report; approval; continuation of existing programs; accreditation by national board or organization; education program for psychiatric attendant nurses or trained attendants prohibited.

Sec. 17241. (1) An institution seeking to conduct a nursing education program to prepare individuals for licensing shall apply to the board and submit evidence that it is prepared:

(a) To carry out the minimum curriculum prescribed by the board in rules for the preparation of individuals for licensing.

(b) To meet other educational and training standards established by the board under this article and the rules promulgated under this article.

(2) The board shall evaluate and may inspect the institution and its nursing education program and prepare a written report of its findings. The board, upon determining that requirements for a nursing education program are met, shall approve the program. A nursing education program approved by the board and in operation on the effective date of this part may continue as approved pending further action by the board. The board may accept accreditation by a national board or organization as a basis for approval under this section.

(3) After September 30, 1978, the board shall not approve an educational program for psychiatric attendant nurses or trained attendants.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.17242 Inspection of approved nursing education program; report; notice of deficiency; removal from list of approved programs; hearing.

Sec. 17242. (1) The board may inspect an approved nursing education program in this state and prepare a written report of its findings. If the board determines that the standards required by this part and the board are not being met, written notice specifying the areas in which the board has found a program to be deficient shall be sent immediately to the institution conducting the program.

(2) A nursing education program which within a reasonable length of time, as determined by the board, fails to meet standards prescribed by the board shall be removed from the list of approved programs. An institution conducting a program which is removed from the approved list shall be granted an opportunity for a hearing.

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

Popular name: Act 368

PART 173

333.17301 Definitions; principles of construction.

Sec. 17301. (1) As used in this part:

(a) "Nursing home" means that term as defined in section 20109.

(b) "Nursing home administrator" means the individual licensed under this article to engage in the practice of nursing home administration.

(c) "Practice of nursing home administration" means planning, organizing, directing, and controlling the total operation of the nursing home on behalf of the governing board or owner of a nursing home.

(2) In addition to the definitions of this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

Popular name: Act 368

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333.17303 Representation as nursing home administrator.

Sec. 17303. A person shall not represent that he or she is a nursing home administrator or use a title including "nursing home administrator" or an abbreviation of that term or similar words that would indicate that he or she is licensed under this article unless the person is licensed under this article as a nursing home administrator.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

Popular name: Act 368

333.17305 Board of nursing home administrators; creation; membership; terms.

Sec. 17305. (1) Subject to section 17319(2), the Michigan board of nursing home administrators is created in the department and consists of the following 9 voting members who meet the requirements of part 161:

(a) Six nursing home administrators.

(b) Three public members.

(2) The terms of office of individual members of the board created under subsection (1), except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001;—Am. 2006, Act 389, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.17307 Operation of nursing home; practice of nursing home administrator.

Sec. 17307. (1) In addition to the requirements of section 21720, a nursing home shall not operate except under the direction of a nursing home administrator.

(2) A person shall not engage in the practice of nursing home administration unless the person is the holder of a valid nursing home administrator's license issued under this part.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

Popular name: Act 368

333.17309 License; issuance; requirements.

Sec. 17309. (1) The department shall issue a license as a nursing home administrator to a person who fulfills the requirements of this section or section 17315.

(2) An applicant for licensure as a nursing home administrator shall have satisfactorily completed a course of instruction and training approved by the department, which course shall be designed as to content and be administered as to present sufficient knowledge of the following:

(a) The needs properly to be served by a nursing home.

(b) The laws governing the operation of a nursing home and the protection of the interests of a patient in a nursing home.

(c) The elements of good nursing home administration.

(3) An applicant for licensure as a nursing home administrator shall present evidence satisfactory to the department of sufficient education and training in the fields of study described in subsection (2) or shall have been employed as a chief executive or administrative officer at a hospital licensed under article 17 for not less than 5 of the 7 years immediately preceding the date of application for a license under this part.

(4) Subject to section 16178, an applicant for licensure as a nursing home administrator shall also present evidence acceptable to the department of having passed an examination acceptable to the board and the department. The examination shall be designed to test for competence in the fields of study described in subsection (2).

(5) An applicant for licensure as a nursing home administrator shall be of good moral character and meet any additional qualifications as may be required by rule of the department and board.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

Popular name: Act 368

333.17311 Insufficient courses or training sessions; approval of course.

Sec. 17311. (1) If the department and board find that there are not a sufficient number of courses of instruction and training sufficient to meet the requirements of this part conducted within this state, the department may conduct 1 or more of those courses or training sessions, or both. The department shall ensure that a course or training session conducted under this subsection is reasonably accessible to a resident of this state.

(2) The department and board may approve a course of instruction or a training session conducted within or without this state if the department determines that it is sufficient to meet the education and training

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requirements of this part.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

Popular name: Act 368

333.17313 License renewal; continuing education required.

Sec. 17313. (1) Subject to sections 16201 and 16204, the department shall not issue a renewal license unless the licensee presents satisfactory evidence to the department that the licensee has participated in continuing education courses of not less than 18 clock hours' duration approved by the board and department, for each year subsequent to the expiration of the individual's last license.

(2) The continuing education courses required under subsection (1) shall contain subjects related to the practice of nursing home administration acceptable to the board and the department.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

Popular name: Act 368

333.17315 Nursing home administrator of Christian Science nursing home; limited license.

Sec. 17315. (1) Subject to section 16182, this part or a rule promulgated under this part shall not require an applicant for a limited license as a nursing home administrator of a Christian Science nursing home to meet a medical educational qualification or to pass an examination on medical subjects.

(2) A license issued under this section shall describe its limitation.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

Popular name: Act 368

333.17317 Out-of-state license; requirements.

Sec. 17317. Subject to section 16186, the department may issue a nursing home administrator's license, without examination, to an individual who holds a current license as a nursing home administrator from another state if the applicant passes an examination approved by the department and the board which tests the individual's knowledge of law relating to practice in Michigan.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

Popular name: Act 368

333.17319 Individual licensed under former article 19 of occupational code; members of nursing home administrators' board created under former section 1902 of occupational code; rules.

Sec. 17319. (1) An individual who holds a license issued under former article 19 of the occupational code, 1980 PA 299, on the effective date of the amendatory act that added this part is licensed under this part until that license expires and may renew his or her license pursuant to part 161.

(2) The members of the nursing home administrators' board created under former section 1902 of the occupational code, 1980 PA 299, shall serve as the initial members of the nursing home administrators' board created in section 17305 until their successors are appointed under this article or until the expiration of their respective terms, whichever occurs first. However, if the term of a member of the nursing home administrators' board has not expired on the effective date of the amendatory act that added this part, that term expires on June 30 of the year in which the term will expire.

(3) Rules promulgated by the nursing home administrators' board, the department, or the director under former article 19 of the occupational code, 1980 PA 299, and in effect on the effective date of the amendatory act that added this part continue in effect to the extent that they do not conflict with this article and shall continue to be enforced. The rules may be amended or rescinded by the director.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

Popular name: Act 368

PART 174
OPTOMETRY

333.17401 Definitions; principles of construction.

Sec. 17401. (1) As used in this part:

(a) "Optometrist" means an individual licensed under this article to engage in the practice of optometry.

(b) "Practice of optometry" means 1 or more of the following, but does not include the performance of invasive procedures:

(*i*) The examination of the human eye to ascertain the presence of defects or abnormal conditions that may

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be corrected, remedied, or relieved, or the effects of which may be corrected, remedied, or relieved by the use of lenses, prisms, or other mechanical devices.

(*ii*) The employment of objective or subjective physical means to determine the accommodative or refractive conditions or the range of powers of vision or muscular equilibrium of the human eye.

(*iii*) The adaptation or the adjustment of the lenses or prisms or the use of therapeutic pharmaceutical agents to correct, remedy, or relieve a defect or abnormal condition or to correct, remedy, or relieve the effect of a defect or abnormal condition of the human eye.

(*iv*) The examination of the human eye for contact lenses and the fitting or insertion of contact lenses to the human eye.

(*v*) The employment of objective or subjective means, including diagnostic pharmaceutical agents by an optometrist who meets the requirements of section 17412, for the examination of the human eye for the purpose of ascertaining a departure from the normal, measuring of powers of vision, and adapting lenses for the aid of those powers.

(c) "Diagnostic pharmaceutical agent" means a topically administered prescription drug or other topically administered drug used for the purpose of investigating, analyzing, and diagnosing a defect or abnormal condition of the human eye or ocular adnexa.

(d) "Therapeutic pharmaceutical agent" means 1 or more of the following:

(*i*) A topically administered prescription drug or other topically administered drug used for the purpose of investigating, analyzing, diagnosing, correcting, remedying, or relieving a defect or abnormal condition of the anterior segment of the human eye or for the purpose of correcting, remedying, or relieving the effects of a defect or abnormal condition of the anterior segment of the human eye.

(*ii*) A topically or orally administered antiglaucoma drug.

(*iii*) An orally administered prescription drug or other orally administered drug used for the purpose of investigating, analyzing, diagnosing, correcting, remedying, or relieving a defect or abnormal condition of the anterior segment of the human eye and adnexa or for the purpose of investigating, analyzing, diagnosing, correcting, remedying, or relieving the effects of a defect or abnormal condition of the anterior segment of the human eye and adnexa that is administered by an optometrist who has completed 50% of the continuing education hours required for renewal of a license in the category of pharmacological management of ocular conditions.

(e) "Drug" means that term as defined in section 17703, but does not include a controlled substance as defined in section 7104 and included in schedule 2 under section 7214, an oral cortical steroid, or a prescription drug. However, drug does include a controlled substance included in schedules 3, 4, and 5 under sections 7216, 7218, and 7220, respectively, and dihydrocodeinone combination drugs.

(f) "Prescription drug" means that term as defined in section 17708, but does not include a controlled substance as defined in section 7104 and included in schedule 2 under section 7214 or an oral cortical steroid. However, prescription drug does include a controlled substance included in schedules 3, 4, and 5 under sections 7216, 7218, and 7220, respectively, and dihydrocodeinone combination drugs.

(g) "Physician" means that term as defined in section 17001 or 17501.

(h) "Invasive procedures" means all of the following:

(*i*) The use of lasers other than for observation.

(*ii*) The use of ionizing radiation.

(*iii*) The use of therapeutic ultrasound.

(*iv*) The administration of medication by injection.

(*v*) Procedures that include an incision.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1984, Act 42, Eff. Apr. 12, 1984;—Am. 1994, Act 384, Eff. Mar 30, 1995;—Am. 1997, Act 151, Imd. Eff. Dec. 2, 1997;—Am. 2002, Act 599, Imd. Eff. Dec. 16, 2002.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.17411 Practice of optometry; authorization required; use of words, titles, or letters.

Sec. 17411. (1) A person shall not engage in the practice of optometry except as authorized by this article.

(2) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed by this part: "doctor of optometry", "optometrist", and "o.d.".

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 410, Imd. Eff. Sept. 29, 2006.

Popular name: Act 368

333.17412 Administration of diagnostic pharmaceutical agents; purposes; certification required; requirements for certification; completion of course of study and examination; exception.

Sec. 17412. (1) Subject to subsection (2), a licensee may administer a diagnostic pharmaceutical agent in the course of his or her practice solely for the purposes of determining the refractive, muscular, or functional origin of sources of visual discomfort or difficulty and detecting abnormalities which may be evidence of disease if the licensee is certified by the board as being qualified to administer diagnostic pharmaceutical agents pursuant to this section.

(2) The board shall certify a licensee as qualified to administer diagnostic pharmaceutical agents if the licensee meets all of the following requirements:

(a) Has successfully completed 60 classroom hours of study in general and clinical pharmacology as it relates to the practice of optometry, with particular emphasis on the use of diagnostic pharmaceutical agents for examination purposes. Not less than 30 of the 60 classroom hours shall be in ocular pharmacology and shall emphasize the systemic effects of and reactions to diagnostic pharmaceutical agents, including the emergency management and referral of any adverse reactions that may occur. The course of study shall be approved by the board, and shall be offered by a school or college of optometry that is recognized by the board as fully accredited. The course of study shall be completed before taking the examination required by this section.

(b) Has successfully completed an examination approved by the board on the subject of general and ocular pharmacology as it relates to the practice of optometry with particular emphasis on the use of diagnostic pharmaceutical agents, including emergency management and referral of any adverse reactions that may occur.

(c) Has successfully completed a course in cardiopulmonary resuscitation approved by the department of public health and offered or approved by the red cross, American heart association, an accredited hospital, or a comparable organization or institution.

(d) Has established an emergency plan for the management and referral to appropriate medical services of patients who experience adverse drug reactions resulting from the application of diagnostic pharmaceutical agents. The plan shall be approved by the board and shall, at a minimum, require the optometrist to do all of the following:

(*i*) Refer patients who notify the optometrist of an adverse drug reaction to appropriate medical specialists or facilities.

(*ii*) Routinely advise each patient to immediately contact the optometrist if the patient experiences an adverse drug reaction.

(*iii*) Place in the patient's permanent record information describing any adverse drug reaction experienced by the patient and the date and time that any referral was made.

(*iv*) Include in the plan the names of not less than 3 physicians, physician clinics, or hospitals to whom the optometrist will refer patients who experience an adverse drug reaction, at least 1 of which is skilled or specializes in the diagnosis and treatment of diseases of the eye. However, if a patient being treated by the optometrist has a primary care physician, the optometrist may substitute the patient's primary care physician for a physician named in the plan, but shall not substitute the patient's primary care physician for a physician named in the plan who specializes in the diagnosis and treatment of diseases of the eye.

(3) The course of study and examination required by subsection (2)(a) and (b) shall be completed before certification, except that the board may certify applicants who have graduated from a school of optometry recognized by the board as accredited within the 5 years immediately preceding April 12, 1984, if the school's curriculum includes a course of study and examination meeting the requirements of subsection (2)(a) and (b).

History: Add. 1984, Act 42, Eff. Apr. 12, 1984;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1994, Act 384, Eff. Mar 30, 1995.

Popular name: Act 368

333.17414 Permissible conduct; untruthful, misleading, or deceptive statements in advertisement or notice prohibited.

Sec. 17414. (1) This part does not prohibit:

(a) An optician from the adjusting, replacing, repairing, or reproducing of previously prepared eyeglasses or any part thereof.

(b) An unlicensed person from selling eyeglasses on prescription from an optometrist or physician.

(c) A person who does not hold himself or herself out as being a licensee under this part from selling

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eyeglasses as an article of merchandise.

(2) It shall be unlawful for any person licensed under this part, or any individual, firm or corporation engaged in the sale of merchandise of any description who maintains or operates, or who allows to be maintained or operated in connection with said merchandise business, an optometric department, or who rents or subleases to any person or persons for the purpose of engaging in the practice of optometry therein, any part of premises in which such person, persons, firm or corporation is engaged in mercantile business, to publish or circulate, or print or cause to be printed, by any means whatsoever, any advertisement or notice in which said advertisement or notice appears, any untruthful or misleading statement, or anything calculated or intended to mislead or deceive the public or any individual.

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

Popular name: Act 368

333.17421 Michigan board of optometry; creation; membership; terms.

Sec. 17421. (1) The Michigan board of optometry is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 optometrists and 4 public members.

(2) The terms of office of individual members of the board created under subsection (1), except those appointed to fill vacancies, expire 4 years after the appointment on June 30 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 410, Imd. Eff. Sept. 29, 2006.

Compiler's note: For the revision of the membership requirements of the Michigan board of optometry, see E.R.O. No. 2024-2, compiled at MCL 16.735.

Popular name: Act 368

333.17431 Renewal of license; evidence required; completion of hours or courses in pain and symptom management as continuing education; rules.

Sec. 17431. (1) Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 2 years immediately preceding the application for renewal the licensee has attended an education program approved by the board and totaling not less than 40 hours in subjects related to the practice of optometry and designed to further educate licensees.

(2) As required under section 16204, the board shall promulgate rules requiring each applicant for license renewal to complete as part of the education program required under subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986;—Am. 1994, Act 234, Imd. Eff. June 30, 1994;—Am. 2002, Act 599, Imd. Eff. Dec. 16, 2002.

Popular name: Act 368

333.17432 Duties of optometrist upon determining symptoms evidencing disease; conditions requiring consultation with physician for further diagnosis and treatment; diagnosis and treatment of glaucoma.

Sec. 17432. (1) Whether or not diagnostic pharmaceutical agents or therapeutic pharmaceutical agents have been used, if an optometrist determines from interviewing or examining a patient, using judgment and that degree of skill, care, knowledge, and attention ordinarily possessed and exercised by optometrists in good standing under like circumstances, that there are present in that patient signs or symptoms that may be evidence of disease that the optometrist is not authorized to treat under this part, then the optometrist shall do both of the following:

(a) Promptly advise that patient to seek evaluation by an appropriate physician for diagnosis and possible treatment.

(b) Not attempt to treat the condition by the use of diagnostic pharmaceutical agents, therapeutic pharmaceutical agents, or any other means.

(2) Subject to subsections (3) and (4), if an optometrist treats a patient for a condition or disease that the optometrist is authorized to treat under this part, and if that condition or disease may be related to a nonlocalized or systemic condition or disease or does not demonstrate adequate clinical progress as a result of the treatment, the optometrist shall consult an appropriate physician for further diagnosis and possible treatment and to determine if the condition or disease is related to a nonlocalized or systemic condition or disease.

(3) When a diagnosis of glaucoma is made and treatment has begun, the treating optometrist shall consult

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an appropriate physician for further diagnosis and possible treatment if the condition does not demonstrate adequate clinical progress as a result of the treatment.

(4) If an optometrist diagnoses that a patient has acute glaucoma, the optometrist shall, as soon as possible, consult a physician for further diagnosis and possible treatment.

History: Add. 1984, Act 42, Eff. Apr. 12, 1984;—Am. 1994, Act 384, Eff. Mar 30, 1995;—Am. 1997, Act 151, Imd. Eff. Dec. 2, 1997;—Am. 2002, Act 599, Imd. Eff. Dec. 16, 2002.

Popular name: Act 368

333.17433 Repealed. 1994, Act 384, Eff. Mar. 30, 1995.

Compiler's note: The repealed section pertained to reimbursement from public or private third-party payer.

Popular name: Act 368

333.17435 Administration and prescription of therapeutic pharmaceutical agents; certification requirements.

Sec. 17435. (1) A licensee may administer and prescribe therapeutic pharmaceutical agents in the course of his or her practice if the licensee is certified by the board as being qualified to administer and prescribe therapeutic pharmaceutical agents pursuant to this section.

(2) The board shall certify a licensee as qualified to administer and prescribe therapeutic pharmaceutical agents if the licensee meets all of the following requirements:

(a) Has met the certification requirements to administer diagnostic pharmaceutical agents under section 17412.

(b) Has successfully earned at least 10 quarter hours or 7 semester hours of credit or successfully completed 100 classroom hours of study in courses relating to the didactic and clinical use of therapeutic pharmaceutical agents from a school or college of optometry that is recognized by the board as fully accredited.

(c) Has established a management plan in the event a patient has an ocular condition or disease that may be related to a nonlocalized or systemic condition or disease or to an adverse drug reaction, or that does not demonstrate adequate clinical progress as a result of treatment. The plan shall meet the requirements of section 17412(2)(d). A licensee who has an emergency plan approved by the board under section 17412(2)(d) at the time he or she applies for certification to administer and prescribe therapeutic pharmaceutical agents is in compliance with this subdivision.

History: Add. 1994, Act 384, Eff. Mar. 30, 1995.

Popular name: Act 368

333.17437 Time of certification.

Sec. 17437. Except for a licensee from another state who is seeking licensure in this state, an optometrist licensed after the effective date of this section who intends to obtain certification to administer diagnostic pharmaceutical agents and to administer and prescribe therapeutic pharmaceutical agents shall obtain the certification at the time of initial licensure.

History: Add. 1994, Act 384, Eff. Mar. 30, 1995.

Popular name: Act 368

PART 175
OSTEOPATHIC MEDICINE AND SURGERY

333.17501 Definitions; principles of construction.

Sec. 17501. (1) As used in this part:

(a) "Electrodiagnostic studies" means the testing of neuromuscular functions utilizing nerve conduction tests and needle electromyography. It does not include the use of surface electromyography.

(b) "Medical care services" means those services within the scope of practice of physicians who are licensed or authorized by the board, except those services that the board prohibits or otherwise restricts within a practice agreement or determines shall not be delegated by a physician without endangering the health and safety of patients as provided for in section 17548(1).

(c) "Participating physician" means a physician, a physician designated by a group of physicians under section 17549 to represent that group, or a physician designated by a health facility or agency under section 20174 to represent that health facility or agency.

(d) "Physician" means an individual who is licensed or authorized under this article to engage in the practice of osteopathic medicine and surgery.

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(e) "Practice agreement" means an agreement described in section 17547.

(f) "Practice of osteopathic medicine and surgery" means a separate, complete, and independent school of medicine and surgery utilizing full methods of diagnosis and treatment in physical and mental health and disease, including the prescription and administration of drugs and biologicals, operative surgery, obstetrics, radiological and other electromagnetic emissions, and placing special emphasis on the interrelationship of the musculoskeletal system to other body systems.

(g) "Practice as a physician's assistant" means the practice of osteopathic medicine and surgery with a participating physician under a practice agreement.

(h) "Task force" means the joint task force created in section 17025.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in the code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 2005, Act 264, Eff. Mar. 30, 2006;—Am. 2006, Act 161, Eff. Nov. 26, 2006;—Am. 2016, Act 379, Eff. Mar. 22, 2017;—Am. 2018, Act 524, Eff. Mar. 28, 2019.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.17508 Physician's assistant; health profession subfield.

Sec. 17508. Practice as a physician's assistant is a health profession subfield of the practice of osteopathic medicine and surgery, the practice of medicine, and the practice of podiatric medicine and surgery.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 161, Eff. Nov. 26, 2006.

Popular name: Act 368

333.17511 Practice of osteopathic medicine and surgery and practice as physician's assistant; license or authorization required; conditions; use of words, titles, or letters.

Sec. 17511. (1) A person shall not engage in the practice of osteopathic medicine and surgery or practice as a physician's assistant unless licensed or otherwise authorized by this article.

(2) Notwithstanding section 16145 or rules promulgated under that section, the board may grant a license in accordance with section 16186 after determining that each of the following conditions is satisfied:

(a) The applicant has disclosed that a sanction is in force against him or her as described in section 16174(2)(b) and considering the reasons for the sanction and the applicant's record of practice, experience, credentials, and competence to engage in the practice of osteopathic medicine and surgery, that sanction should not prevent the applicant from being granted a license in this state.

(b) The sanction imposed by the other state is not permanent.

(c) The sanction imposed by the other state was not the result of a patient safety violation.

(d) If the applicant was required by the state that imposed the sanction to participate in and complete a probationary period or treatment plan as a condition of the continuation of his or her licensure, the applicant did not complete the probationary period or treatment plan because the applicant ceased engaging in the practice of osteopathic medicine and surgery in that state.

(e) As a condition of licensure under this subsection, the applicant voluntarily agrees to complete a probationary period or treatment plan, the terms of which are no less stringent than those imposed by the state that imposed the sanction.

(3) Except as otherwise provided in this subsection, the following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "osteopath", "osteopathy", "osteopathic practitioner", "doctor of osteopathy", "diplomate in osteopathy", "d.o.", "physician's assistant", and "p.a.". Notwithstanding section 16261, a person who was specially trained at an institution of higher education in this state to assist a physician in the field of orthopedics and, upon completion of training, received a 2-year associate of science degree as an orthopedic physician's assistant before January 1, 1977 may use the title "orthopedic physician's assistant" whether or not the individual is licensed under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 386, Imd. Eff. Sept. 27, 2006;—Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.17511a Expedited license under the interstate medical licensure compact; authorization to engage in practice of osteopathic medicine and surgery; "interstate medical licensure compact" defined.

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Sec. 17511a. (1) An osteopathic physician who holds an expedited license under the interstate medical licensure compact is authorized to engage in the practice of osteopathic medicine and surgery under this article.

(2) For purposes of this article, including the obligations of an individual who is licensed as a physician under this part, an osteopathic physician who holds an expedited license under the interstate medical licensure compact is considered a physician who is licensed under this part.

(3) As used in this section, "interstate medical licensure compact" means the interstate medical licensure compact as enacted in section 16189.

History: Add. 2018, Act 524, Eff. Mar. 28, 2019.

Popular name: Act 368

333.17512 Postgraduate study; full or limited license required; requirements of limited license; responsibility for training; limited license renewable.

Sec. 17512. (1) An individual shall not engage in postgraduate study before obtaining a full or limited license to practice under this part.

(2) A limited license for a postgraduate shall require that the individual confine his or her practice and training to a hospital or institution approved by the board for the training. The hospital or institution is responsible for the training. A limited license for a postgraduate is renewable for not more than 5 years.

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

Popular name: Act 368

333.17513 Alternative methods of treatment of breast cancer; duty of physician to inform patient; standardized written summary or brochure.

Sec. 17513. (1) Beginning November 6, 1986, a physician who is administering the primary treatment for breast cancer to a patient who has been diagnosed as having breast cancer shall inform the patient, orally and in writing, about alternative methods of treatment of the cancer, including surgical, radiological, or chemotherapeutic treatments, or any other generally accepted medical treatment. The physician also shall inform the patient about the advantages, disadvantages, and risks of each method of treatment and about the procedures involved in each method of treatment.

(2) If a patient receives a standardized written summary or brochure, as described in section 17013(2) or (3), the physician shall be in full compliance with this section, including both the written and oral requirements.

(3) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would know.

History: Add. 1986, Act 195, Imd. Eff. July 8, 1986;—Am. 1989, Act 15, Imd. Eff. May 15, 1989.

Popular name: Act 368

333.17515 Compliance with MCL 333.17015 and 333.17015a before performing abortion.

Sec. 17515. A physician, before performing an abortion on a patient, shall comply with sections 17015 and 17015a.

History: Add. 1993, Act 133, Eff. Apr. 1, 1994;—Am. 2012, Act 499, Eff. Mar. 31, 2013.

Popular name: Act 368

333.17516-333.17517 Repealed. 2023, Act 209, Eff. Feb. 13, 2024.

Compiler's note: The repealed sections pertained to a prohibition on partial-birth abortions and physical examination and informed consent requirements before performing a medical abortion.

Popular name: Act 368

333.17518 Needle electromyography; performance by licensed physician; delegation; nerve conduction tests; performance of electrodiagnostic studies by physical therapist, podiatrist, or chiropractor; payment.

Sec. 17518. (1) Except as otherwise provided in this section, only an individual who is licensed as a physician shall perform needle electromyography or interpret nerve conduction tests. A physician shall not delegate the interpretation of nerve conduction studies to another individual unless that individual is licensed under this article to engage in the practice of medicine or osteopathic medicine and surgery. A physician shall not delegate the performance of needle electromyography to another individual unless that individual is licensed under this article to engage in the practice of medicine or osteopathic medicine and surgery or that individual is otherwise authorized under this section.

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(2) In accordance with section 16215, a physician may delegate the performance of nerve conduction tests to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience if those tests are conducted under the direct supervision of a physician.

(3) A physical therapist who is licensed under this article and certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist on the effective date of this section may perform electrodiagnostic studies that are to be interpreted by a physician if he or she has been performing electrodiagnostic studies in this state on a consistent basis within the 5 years immediately preceding the effective date of this section. A physical therapist who is licensed under this article but is not certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist on the effective date of this section and who has been performing electrodiagnostic studies in this state on a consistent basis since before May 1, 2001 may continue to perform electrodiagnostic studies that are to be interpreted by a physician as long as he or she becomes certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist by December 31, 2007. As used in this subsection, "consistent basis" means at a minimum an annual average of 10 electrodiagnostic studies each month.

(4) A podiatrist who is licensed under this article and has successfully completed additional training in the performance and interpretation of electrodiagnostic studies that is satisfactory to his or her respective board may conduct electrodiagnostic studies that are within his or her scope of practice.

(5) A chiropractor who is licensed under this article and has successfully completed additional training in the performance and interpretation of electrodiagnostic studies that is satisfactory to his or her respective board may conduct nerve conduction tests that are within his or her scope of practice.

(6) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual authorized to conduct electrodiagnostic studies under this section.

History: Add. 2005, Act 264, Eff. Mar. 30, 2006.

333.17520 Genetic test; informed consent.

Sec. 17520. (1) Except as otherwise provided for a test performed under section 5431 and except as otherwise provided by law, beginning upon the expiration of 6 months after the effective date of the amendatory act that added this section, a physician or an individual to whom the physician has delegated authority to perform a selected act, task, or function under section 16215 shall not order a presymptomatic or predictive genetic test without first obtaining the written, informed consent of the test subject, pursuant to this section.

(2) For purposes of subsection (1), written, informed consent consists of a signed writing executed by the test subject or the legally authorized representative of the test subject that confirms that the physician or the individual acting under the delegatory authority of the physician has explained, and the test subject or the legally authorized representative of the test subject understands, at a minimum, all of the following:

(a) The nature and purpose of the presymptomatic or predictive genetic test.

(b) The effectiveness and limitations of the presymptomatic or predictive genetic test.

(c) The implications of taking the presymptomatic or predictive genetic test, including, but not limited to, the medical risks and benefits.

(d) The future uses of the sample taken from the test subject in order to conduct the presymptomatic or predictive genetic test and the information obtained from the presymptomatic or predictive genetic test.

(e) The meaning of the presymptomatic or predictive genetic test results and the procedure for providing notice of the results to the test subject.

(f) Who will have access to the sample taken from the test subject in order to conduct the presymptomatic or predictive genetic test and the information obtained from the presymptomatic or predictive genetic test, and the test subject's right to confidential treatment of the sample and the information.

(3) Within 6 months after the effective date of the amendatory act that added this section, the department of community health, in consultation with the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, at least 1 physician who is board certified by the American board of medical genetics, and appropriate professional organizations, shall develop and distribute a model informed consent form for purposes of this section that practitioners may adopt. The department of community health shall include in the model form at least all of the information required under subsection (2). The department of community health shall distribute the model form to physicians and other individuals subject to this section upon request and at no charge. The department of community health shall review the model form at least annually for 5 years after the first model form is distributed, and shall revise the model form if necessary to make the form reflect the latest developments in medical genetics.

(4) The department of community health, in consultation with the entities described in subsection (3), may

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also develop and distribute a pamphlet that provides further explanation of the information included in the model informed consent form.

(5) If a test subject or his or her legally authorized representative signs a copy of the model informed consent form developed and distributed under subsection (3), the physician or individual acting under the delegatory authority of the physician shall give the test subject a copy of the signed informed consent form and shall include the original signed informed consent form in the test subject's medical record.

(6) If a test subject or his or her legally authorized representative signs a copy of the model informed consent form developed and distributed under subsection (3), the test subject is barred from subsequently bringing a civil action for damages against the physician, or an individual to whom the physician delegated the authority to perform a selected act, task, or function under section 16215, who ordered the presymptomatic or predictive genetic test, based on failure to obtain informed consent for the presymptomatic or predictive genetic test.

(7) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would know.

(8) Except as otherwise provided in subsection (9), as used in this section:

(a) "Genetic information" means information about a gene, gene product, or inherited characteristic which information is derived from a genetic test.

(b) "Genetic test" means the analysis of human DNA, RNA, chromosomes, and those proteins and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. A genetic test must be generally accepted in the scientific and medical communities as being specifically determinative for the presence, absence, or mutation of a gene or chromosome in order to qualify under this definition. Genetic test does not include a routine physical examination or a routine analysis, including, but not limited to, a chemical analysis, of body fluids, unless conducted specifically to determine the presence, absence, or mutation of a gene or chromosome.

(c) "Predictive genetic test" means a genetic test performed for the purpose of predicting the future probability that the test subject will develop a genetically related disease or disability.

(d) "Presymptomatic genetic test" means a genetic test performed before the onset of clinical symptoms or indications of disease.

(9) For purposes of subsection (8)(b), the term "genetic test" does not include a procedure performed as a component of biomedical research that is conducted pursuant to federal common rule under 21 C.F.R. parts 50 and 56 and 45 C.F.R. part 46.

History: Add. 2000, Act 29, Imd. Eff. Mar. 15, 2000.

Popular name: Act 368

333.17521 Michigan board of osteopathic medicine and surgery; creation; membership; waiver; certain powers and duties prohibited.

Sec. 17521. (1) The Michigan board of osteopathic medicine and surgery is created in the department and consists of the following 11 voting members who shall meet the requirements of part 161: 7 physicians, 1 physician's assistant, and 3 public members.

(2) The requirement of section 16135(1)(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived until September 30, 1980 for members of the board who are licensed in a health profession subfield created under this part.

(3) Except as otherwise provided in this article, the Michigan board of osteopathic medicine and surgery does not have the powers and duties vested in the task force by sections 17060 to 17084.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 138, Imd. Eff. Aug. 2, 1993;—Am. 2006, Act 582, Imd. Eff. Jan. 3, 2007;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.17523 Repealed. 1978, Act 625, Imd. Eff. Jan. 6, 1979.

Compiler's note: The repealed section pertained to rules establishing standards and criteria.

Popular name: Act 368

333.17525 Repealed. 2006, Act 161, Eff. Nov. 26, 2006.

Compiler's note: The repealed section pertained to creation of joint task force to advise boards on health profession subfields.

Popular name: Act 368

333.17526 Terms of office.

Sec. 17526. The terms of office of individual members of the board and task force created under this part,

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except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: Add. 2006, Act 386, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.17529 Standards of medical practice for medical services involving vaginal or anal penetration; promulgation of rules.

Sec. 17529. The department may promulgate rules that provide guidance to licensees on generally accepted standards of medical practice for medical services involving vaginal or anal penetration, including internal pelvic floor treatments but excluding medical services that primarily relate to a patient's urological, gastrointestinal, reproductive, gynecological, or sexual health, that are performed to measure a patient's temperature, or that are performed for the purpose of rectally administering a drug or medicine. If the department promulgates rules under this section, the department shall consult with appropriate professional associations and other interested stakeholders.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023.

Popular name: Act 368

333.17531 Postgraduate education as condition for more than limited licensure.

Sec. 17531. An applicant, in addition to completing the requirements for the degree in osteopathic medicine and surgery, shall complete a period of postgraduate education to attain proficiency in the practice of the profession as prescribed by the board in rules as a condition for more than limited licensure.

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

Popular name: Act 368

333.17533 Renewal of license; evidence required; completion of hours or courses in pain and symptom management as continuing education; rules.

Sec. 17533. (1) Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 3 years immediately preceding an application for renewal the licensee has attended continuing education courses or programs approved by the board and totaling not less than 150 hours in subjects related to the practice of osteopathic medicine and surgery and designed to further educate licensees.

(2) As required under section 16204, the board shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education requirement of subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986;—Am. 1994, Act 234, Imd. Eff. June 30, 1994.

Popular name: Act 368

333.17540-333.17547 Repealed. 1990, Act 247, Imd. Eff. Oct. 12, 1990.

Compiler's note: The repealed sections pertained to supervision of physician's assistants.

Popular name: Act 368

333.17547 Practice as physician's assistant; practice agreement; requirements.

Sec. 17547. (1) A physician's assistant shall not engage in the practice as a physician's assistant except under the terms of a practice agreement that meets the requirements of this section.

(2) A practice agreement must include all of the following:

(a) A process between the physician's assistant and participating physician for communication, availability, and decision making when providing medical treatment to a patient. The process must utilize the knowledge and skills of the physician's assistant and participating physician based on their education, training, and experience.

(b) A protocol for designating an alternative physician for consultation in situations in which the participating physician is not available for consultation.

(c) The signatures of the physician's assistant and the participating physician.

(d) A termination provision that allows the physician's assistant or participating physician to terminate the practice agreement by providing written notice at least 30 days before the date of termination.

(e) Subject to section 17548, the duties and responsibilities of the physician's assistant and participating physician. The practice agreement shall not include as a duty or responsibility of the physician's assistant or participating physician an act, task, or function that the physician's assistant or participating physician is not

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qualified to perform by education, training, or experience and that is not within the scope of the license held by the physician's assistant or participating physician.

(f) A requirement that the participating physician verify the physician's assistant's credentials.

(3) The number of physician's assistants in a practice agreement with a participating physician and the number of individuals to whom a physician has delegated the authority to perform acts, tasks, or functions are subject to section 16221.

History: Add. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.17548 Prohibiting or restricting delegation of medical care service or requiring higher levels of supervision; making calls or going on rounds; rules concerning prescribing of drugs; ordering, receiving, and dispensing complimentary starter dose drugs.

Sec. 17548. (1) Except for a medical care service within a practice agreement, to the extent that a particular selected medical care service requires extensive medical training, education, or ability or pose serious risks to the health and safety of patients, the board may prohibit or otherwise restrict the delegation of that medical care service or may require higher levels of supervision. To the extent that a particular medical care service requires extensive training, education, or ability or poses serious risks to the health or safety of patients, the board may prohibit or otherwise restrict that medical care service within a practice agreement.

(2) A physician's assistant may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities in accordance with a practice agreement. Notwithstanding any law or rule to the contrary, a physician's assistant may make calls or go on rounds as provided in this subsection without restrictions on the time or frequency of visits by a physician or the physician's assistant.

(3) For purposes of subsection (4), the department, in consultation with the board, may promulgate rules concerning the prescribing of drugs by a physician's assistant. Subject to subsection (4), the rules may define the drugs or classes of drugs that a physician's assistant may not prescribe and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws.

(4) A physician's assistant who is a party to a practice agreement may prescribe a drug in accordance with procedures and protocols for the prescription established by rule of the department in consultation with the appropriate board. A physician's assistant may prescribe a drug, including a controlled substance that is included in schedules 2 to 5 of part 72. If a physician's assistant prescribes a drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that prescription. If a physician's assistant prescribes a drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that prescription.

(5) A physician's assistant may order, receive, and dispense complimentary starter dose drugs including controlled substances that are included in schedules 2 to 5 of part 72. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. As used in this subsection, "complimentary starter dose" means that term as defined in section 17745. It is the intent of the legislature in enacting this subsection to allow a pharmaceutical manufacturer or wholesale distributor, as those terms are defined in part 177, to distribute complimentary starter dose drugs to a physician's assistant, as described in this subsection, in compliance with section 503(d) of the federal food, drug, and cosmetic act, 21 USC 353.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 1996, Act 355, Imd. Eff. July 1, 1996;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2012, Act 618, Imd. Eff. Jan. 9, 2013;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Compiler's note: In subsection (1), “pose” evidently should read “poses.”

Popular name: Act 368

Administrative rules: R 338.6101 et seq. of the Michigan Administrative Code.

333.17549 Practice agreement; designation of physician; countersigning order or signing official form not required.

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Sec. 17549. (1) A group of physicians practicing other than as sole practitioners may designate 1 or more physicians in the group to enter into a practice agreement under section 17547.

(2) Notwithstanding any law or rule to the contrary, a physician is not required to countersign orders written in a patient's clinical record by a physician's assistant with whom the physician has a practice agreement. Notwithstanding any law or rule to the contrary, a physician is not required to sign an official form that lists the physician's signature as the required signatory if that official form is signed by a physician's assistant with whom the physician has a practice agreement.

History: Add. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 2004, Act 512, Imd. Eff. Jan. 3, 2005;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.17550 Prohibiting physician or physician's assistant from entering into practice agreement; grounds.

Sec. 17550. In addition to its other powers and duties under this article, the board may prohibit a physician or a physician's assistant from entering into a practice agreement for any of the grounds set forth in section 16221.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

Administrative rules: R 338.6101 et seq. of the Michigan Administrative Code.

333.17554 Criteria for approval or evaluation; recommendations.

Sec. 17554. The board shall make written recommendations on criteria for the approval of physician's assistants and on criteria for the evaluation of physician's assistants' training programs to the task force on physician's assistants.

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

Popular name: Act 368

333.17556 Exemption.

Sec. 17556. This part does not apply to a student in training to become a physician's assistant while performing duties assigned as part of the training.

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

Popular name: Act 368

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PART 176.
SPEECH-LANGUAGE PATHOLOGY

333.17601 Definitions; limitation on scope of practice.

Sec. 17601. (1) As used in this part:

(a) "Practice of speech-language pathology", subject to subsection (2), means the application of principles, methods, and procedures related to the development of disorders of human communication including the following:

(*i*) Identifying by history or nonmedical physical examination, assessing, treating with therapy, rehabilitating, and preventing disorders of speech, voice, and language.

(*ii*) Identifying by history or nonmedical physical examination, assessing, treating with therapy, rehabilitating, and preventing disorders of oral-pharyngeal function and disorders related to swallowing dysfunction.

(*iii*) Identifying by history or nonmedical physical examination, assessing, treating with therapy, rehabilitating, and preventing cognitive-communicative disorders.

(*iv*) Assessing, selecting, and developing augmentative and alternative communication systems and providing training in their use.

(*v*) Providing speech-language treatment or therapy and related counseling services to deaf, deafblind, and hard of hearing persons and their families.

(*vi*) Enhancing speech-language proficiency and communication effectiveness.

(*vii*) Screening of hearing for the purpose of speech-language assessment provided that judgments and descriptive statements about results of that screening are limited to pass-fail determinations.

(b) "Speech-language pathologist" means an individual who is engaged in the practice of speech-language pathology.

(2) Practice of speech-language pathology does not include either of the following:

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(a) The practice of medicine or osteopathic medicine and surgery or medical diagnosis, medical management with medication, surgical interventions, ordering medical testing, or medical treatment.

(b) The fitting and dispensing of hearing aids under article 13 of the occupational code, 1980 PA 299, MCL 339.1301 to 339.1309.

(3) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this act and part 161 contains definitions applicable to this part.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009;—Am. 2016, Act 238, Eff. Sept. 22, 2016.

Popular name: Act 368

333.17603 Use of certain titles or words.

Sec. 17603. Beginning the effective date of this part, an individual shall not use the titles "speech-language pathologist", "speech pathologist", "speech therapist", "speech correctionist", "speech clinician", "language therapist", "language pathologist", "logopedist", "communicologist", "aphasiologist", "phoniatrist", "voice therapist", and "voice pathologist", or similar words that indicate that the individual is a speech-language pathologist, unless the individual is licensed under this part as a speech-language pathologist.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

333.17605 Michigan board of speech-language pathology; creation; membership; qualifications; terms.

Sec. 17605. (1) The Michigan board of speech-language pathology is created in the department and consists of the following 11 members who meet the requirements of part 161:

(a) Six individuals who meet the requirements of section 16135(2), at least 1 of whom represents each professional area described in section 17609.

(b) Three public members.

(c) Two physicians, 1 of whom is a board-certified otolaryngologist.

(2) The terms of office of individual members of the board created under this part, except those appointed to fill vacancies and as otherwise provided in this subsection, expire 4 years after appointment on December 31 of the year in which the term expires. However, for the members first appointed, 2 shall serve for 1 year, 3 shall serve for 2 years, 3 shall serve for 3 years, and 3 shall serve for 4 years.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009.

Compiler's note: For the reduction of the membership of the Michigan board of speech-language pathology from 11 to 9 and revision of the membership requirements, see E.R.O. No. 2024-2, compiled at MCL 16.735.

Popular name: Act 368

333.17607 Speech-language pathology; license required; restrictions.

Sec. 17607. (1) An individual shall not engage in the practice of speech-language pathology unless licensed under this part.

(2) A licensee shall not perform an act, task, or function within the practice of speech-language pathology unless he or she is trained to perform the act, task, or function and the performance of that act, task, or function is consistent with the rules promulgated under section 17610(3). A speech-language pathologist shall refer a patient to an individual licensed in the practice of medicine or osteopathic medicine and surgery if signs or symptoms identified during the practice of speech-language pathology cause the speech-language pathologist to suspect that the patient has an underlying medical condition.

(3) A licensee shall perform assessment, treatment or therapy, and procedures related to swallowing disorders and medically related communication disorders only on patients who have been referred to him or her by an individual licensed in the practice of medicine or osteopathic medicine and surgery or by an advanced practice registered nurse as that term is defined in section 17201.

(4) A licensee shall only perform diagnostic testing, such as endoscopic videolaryngostroboscopy, in collaboration with or under the supervision of an individual licensed in the practice of medicine or osteopathic medicine and surgery.

(5) A licensee shall follow procedures in which collaboration among the licensee and an individual licensed in the practice of medicine or osteopathic medicine and surgery and other licensed health care professionals is regarded to be in the best interests of the patient.

(6) Subsection (1) does not prevent any of the following:

(a) An individual licensed or registered under any other part or act from performing activities that are considered speech-language pathology services if those activities are within the individual's scope of practice and if the individual does not use the titles protected under section 17603.

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(b) The practice of speech-language pathology that is an integral part of a program of study by students enrolled in an accredited speech-language pathology educational program approved by the board, if those individuals are identified as students and provide speech-language pathology services only while under the supervision of a licensed speech-language pathologist.

(c) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a licensed speech-language pathologist.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009;—Am. 2016, Act 499, Eff. Apr. 9, 2017.

Popular name: Act 368

333.17609 License; issuance requirements; eligibility of certified teacher endorsed in speech and language impairment or individual credentialed by American Speech-Language-Hearing Association; temporary license.

Sec. 17609. (1) The department shall, upon submission of a completed application and payment of the appropriate application processing and license fee, issue a license under this part to the following:

(a) An individual who meets the requirements of subsection (2) or (3).

(b) An individual who possesses a master's or doctor of science or doctor of philosophy degree in speech-language pathology acceptable to the board, who has successfully completed an accredited speech-language pathology training program approved by the department and the board that has at least 9 months, or the equivalent, of full-time supervised postgraduate clinical experience in speech-language pathology, and who passes an examination acceptable to the board.

(2) A certified teacher who, on January 12, 2009, was endorsed in the area of speech and language impairment for the sole purpose of providing services as a part of employment or contract with a school district, intermediate school district, nonpublic school, or state department that provides educational services is eligible for a license under this part. An individual who meets the requirements of this subsection shall first apply for a license on or before the expiration of 2 years after the effective date of the rules promulgated under this part. An individual who obtains a license under this subsection is eligible for renewal of that license under this part if he or she continues to meet the requirements of this subsection.

(3) An individual who, on January 12, 2009, has the credential conferred by the American Speech-Language-Hearing Association as a certified speech-language pathologist is eligible for a license under this part. An individual who meets the requirements of this subsection and who maintains the credential conferred by the American Speech-Language-Hearing Association or a successor credential conferred by its successor organization shall first apply for a license on or before the expiration of 2 years after the effective date of the rules promulgated under this part. An individual who obtains a license under this subsection is eligible for renewal of that license under this part if he or she continues to meet the requirements of this subsection.

(4) An individual may apply for a temporary license under this subsection for the purpose of completing a supervised postgraduate clinical experience. The department shall issue a temporary license under this subsection for a period not to exceed 24 months. A temporary license issued under this subsection may be renewed for 1 additional 12-month term if the applicant continues to meet the requirements of this subsection. An individual seeking a temporary license under this subsection shall obtain a temporary license before beginning the supervised postgraduate clinical experience. At the conclusion of the postgraduate clinical experience, the individual's supervisor shall sign and submit to the department a report that documents the individual's satisfactory completion of the supervised postgraduate clinical experience. To be eligible for a temporary license under this subsection, an applicant must meet all of the following requirements:

(a) Possess a master's or doctor of science or doctor of philosophy degree in speech-language pathology acceptable to the board. An applicant shall have his or her academic transcripts provided directly to the department by the academic institution.

(b) Submit a plan for supervised postgraduate clinical experience on a form approved by the board and signed by a licensed professional who will provide supervision.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009;—Am. 2010, Act 304, Imd. Eff. Dec. 17, 2010;—Am. 2024, Act 57, Eff. Apr. 2, 2025.

Popular name: Act 368

333.17610 Rules.

Sec. 17610. (1) The department, in consultation with the board, may promulgate rules under section 16145 as necessary or appropriate to fulfill its functions under this article and to supplement the requirements for licensure under this part, including adopting updated standards of that organization or standards of any successor organization of the American speech-language-hearing association.

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(2) Subject to section 16204, the department shall by rule prescribe continuous professional development as a condition for licensure renewal.

(3) The department, in consultation with the board, shall promulgate rules regarding the performance of speech-language pathology that includes, but is not limited to, the performance of procedures described in section 17601(1)(a)(*ii*). The rules shall recognize and incorporate the requirements described in section 17607(3) and (4) and the need for collaboration among a speech-language pathologist and a person licensed in the practice of medicine or osteopathic medicine and surgery and other licensed health care professionals.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

333.17611 Applicant from another state.

Sec. 17611. The department may issue a license by endorsement to an applicant from another state that has licensure requirements substantially equivalent to this part, as determined by the board.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

333.17613 Third-party endorsement or mandated worker's compensation benefits.

Sec. 17613. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed under this part.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

PART 177
PHARMACY PRACTICE AND DRUG CONTROL

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333.17701 Meanings of words and phrases; general definitions and principles of construction.

Sec. 17701. (1) For purposes of this part the words and phrases defined in sections 17702 to 17709 have the meanings ascribed to them in those sections.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

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

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.17702 Definitions; A to C.

Sec. 17702. (1) "Agent" means an individual designated by a prescriber to act on behalf of or at the discretion of that prescriber as provided in section 17744.

(2) "Automated device" means a mechanical system that performs an operation or activity, other than compounding or administration, relating to the storage, packaging, dispensing, or delivery of a drug and that collects, controls, and maintains transaction information.

(3) "Biological drug product" means a biological product as that term is defined in 42 USC 262.

(4) "Brand name" means the registered trademark name given to a drug product by its manufacturer.

(5) Except as otherwise provided in subsection (6), "compounding" means the preparation, mixing, assembling, packaging, and labeling of a drug or device by a pharmacist under the following circumstances:

(a) Upon the receipt of a prescription for a specific patient.

(b) Upon the receipt of a medical or dental order from a prescriber or agent for use in the treatment of patients within the course of the prescriber's professional practice.

(c) In anticipation of the receipt of a prescription or medical or dental order based on routine, regularly observed prescription or medical or dental order patterns.

(d) For the purpose of or incidental to research, teaching, or chemical analysis and not for the purpose of sale or dispensing.

(6) "Compounding" does not include any of the following:

(a) Except as provided in section 17748c, the compounding of a drug product that is essentially a copy of a commercially available product.

(b) The reconstitution, mixing, or other similar act that is performed pursuant to the directions contained in

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approved labeling provided by the manufacturer of a commercially available product.

(c) The compounding of allergenic extracts or biologic products.

(7) "Compounding pharmacy" means a pharmacy that is licensed under this part and is authorized to offer compounding services under sections 17748, 17748a, and 17748b.

(8) "Current selling price" means the retail price for a prescription drug that is available for sale from a pharmacy.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 304, Eff. Mar. 31, 1987;—Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007;—Am. 2012, Act 209, Imd. Eff. June 27, 2012;—Am. 2014, Act 280, Eff. Sept. 30, 2014;—Am. 2016, Act 528, Eff. Apr. 9, 2017;—Am. 2018, Act 41, Eff. May 29, 2018.

Popular name: Act 368

333.17703 Definitions; D, E.

Sec. 17703. (1) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a drug or device from 1 person to another.

(2) "Device" means an instrument, apparatus, or contrivance, including its components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or to affect the structure or function of the body of human beings or other animals.

(3) "Dispense" means the preparation, compounding, packaging, or labeling of a drug pursuant to any of the following:

(a) A prescription.

(b) An authorization issued by a prescriber.

(c) Section 17724a or 17744f.

(4) "Dispensing prescriber" means a prescriber, other than a veterinarian, who dispenses prescription drugs.

(5) Except as otherwise provided in section 17780, "distribute" or "distribution" means to sell, offer for sale, deliver, offer to deliver, broker, give away, or transfer a drug, whether by passage of title or physical movement. The term does not include any of the following:

(a) Dispensing or administering a drug.

(b) The delivery of a drug, or offering to deliver a drug, by a common carrier in the usual course of business as a common carrier.

(c) The delivery of a drug via an automated device under section 17760.

(6) "Drug" means any of the following:

(a) A substance recognized or for which the standards or specifications are prescribed in the official compendium.

(b) A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals.

(c) A substance, other than food, intended to affect the structure or a function of the body of human beings or other animals.

(d) A substance intended for use as a component of a substance specified in subdivision (a), (b), or (c), but not including a device or its components, parts, or accessories.

(7) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(8) "Electronically transmitted prescription" means the communication of an original prescription or refill authorization by electronic means including computer to computer, computer to facsimile machine, or email transmission that contains the same information it contained when the prescriber or the prescriber's agent transmitted the prescription. Electronically transmitted prescription does not include a prescription or refill authorization transmitted by telephone or facsimile machine.

(9) "Emergency contraceptive" means a drug approved by the FDA to prevent pregnancy as soon as possible following unprotected sexual intercourse or a known or suspected contraceptive failure.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 431, Eff. Mar. 31, 1981;—Am. 1992, Act 281, Imd. Eff. Dec. 18, 1992;—Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007;—Am. 2012, Act 209, Imd. Eff. June 27, 2012;—Am. 2014, Act 285, Eff. Dec. 22, 2014;—Am. 2016, Act 528, Eff. Apr. 9, 2017;—Am. 2021, Act 36, Imd. Eff. July 1, 2021;—Am. 2023, Act 97, Imd. Eff. July 19, 2023;—Am. 2024, Act 242, Eff. Apr. 2, 2025.

Popular name: Act 368

333.17704 Definitions; F to I.

Sec. 17704. (1) "Federal act" means the federal food, drug, and cosmetic act, 21 USC 301 to 399i.

(2) "Food and Drug Administration" or "FDA" means the United States Food and Drug Administration.

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(3) "Generic name" means the established or official name of a drug or drug product.

(4) "Harmful drug" means a drug intended for use by human beings that is harmful because of its toxicity, habit-forming nature, or other potential adverse effect; the method of its use; or the collateral measures necessary to its safe and effective use and that is designated as harmful by a rule promulgated under this part.

(5) "Hormonal contraceptive patch" means a transdermal patch applied to the skin of an individual that releases a drug composed of a combination of hormones that is approved by the FDA to prevent pregnancy.

(6) "Interchangeable biological drug product" means either of the following, as applicable:

(a) A biological drug product that is licensed by the FDA and that the FDA has determined meets the standards for interchangeability under 42 USC 262(k)(4).

(b) Until March 23, 2021, a biological drug product that the FDA has determined to be therapeutically equivalent as set forth in "Approved Drug Products with Therapeutic Equivalence Evaluations", an FDA publication that is commonly referred to as the "Orange Book".

(7) "Internship" means an educational program of professional and practical experience for an intern.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2014, Act 280, Eff. Sept. 30, 2014;—Am. 2018, Act 41, Eff. May 29, 2018;—Am. 2024, Act 242, Eff. Apr. 2, 2025.

Popular name: Act 368

333.17705 Definitions; L.

Sec. 17705. (1) "Label" means a display of written, printed, or graphic matter on the immediate container of a drug or device, but does not include package liners. A requirement made by or under authority of this part that a word, statement, or other information appear on the label is not complied with unless the word, statement, or other information appears on the outside container or wrapper of the retail package of the drug or device as displayed for sale or is easily legible through an outside container or wrapper.

(2) "Labeling" means the labels and other written, printed, or graphic matter on a drug or device or its container or wrapper, or accompanying the drug or device.

(3) "License" in addition to the definition in section 16106 means a pharmacy license, drug control license, or a manufacturer, wholesale distributor, or wholesale distributor-broker of drugs or devices license.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 304, Eff. Mar. 31, 1987;—Am. 2020, Act 142, Imd. Eff. July 14, 2020.

Popular name: Act 368

333.17706 Definitions; M, O.

Sec. 17706. (1) "Manufacturer" means a person that prepares, produces, derives, propagates, compounds, processes, packages, or repackages a drug or device salable on prescription only, or otherwise changes the container or the labeling of a drug or device salable on prescription only, and that supplies, distributes, sells, offers for sale, barters, or otherwise disposes of that drug or device and any other drug or device salable on prescription only, to another person for resale, compounding, or dispensing. Manufacturer does not include a pharmacy unless the pharmacy meets the requirements described in section 17748f.

(2) "Official compendium" means the United States Pharmacopoeia and the National Formulary, or the Homeopathic Pharmacopoeia of the United States, as applicable. If an official compendium is revised after September 30, 2014, the department shall officially take notice of the revision. Within 30 days after taking notice of the revision, the department, in consultation with the board, shall decide whether the revision continues to protect the public health as it relates to the manner that the official compendium is used in this act. If the department, in consultation with the board, decides that the revision continues to protect the public health, the department may issue an order to incorporate the revision by reference. If the department issues an order under this subsection to incorporate the revision by reference, the department shall not make any changes to the revision.

(3) "Outsourcing facility" means that term as defined in 21 USC 353b.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 304, Eff. Mar. 31, 1987;—Am. 2014, Act 280, Eff. Sept. 30, 2014;—Am. 2020, Act 142, Imd. Eff. July 14, 2020.

Popular name: Act 368

333.17707 Definitions; P.

Sec. 17707. (1) "Parent pharmacy" means a pharmacy that operates a remote pharmacy through a telepharmacy system.

(2) "Personal charge" means the immediate physical presence of a pharmacist or dispensing prescriber.

(3) "Pharmacist" means an individual who is licensed under this article to engage in the practice of pharmacy.

(4) "Pharmacist in charge" or "PIC" means the pharmacist who is designated by a pharmacy, manufacturer,

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wholesale distributor, or wholesale distributor-broker as its pharmacist in charge under section 17748(2).

(5) "Pharmacist intern" or "intern" means an individual who satisfactorily completes the requirements set forth in rules promulgated by the department in consultation with the board and is licensed by the board for the purpose of obtaining instruction in the practice of pharmacy from a preceptor approved by the board.

(6) "Pharmacy" means a facility or part of a facility that is licensed under this part to dispense prescription drugs or prepare prescription drugs for delivery or distribution. Pharmacy does not include the office of a dispensing prescriber or an automated device. For the purpose of a duty placed on a pharmacy under this part, "pharmacy" means the person to which the pharmacy license is issued, unless otherwise specifically provided.

(7) "Pharmacy technician" means an individual who is required to hold a health profession subfield license under this part to serve as a pharmacy technician.

(8) "Practice of pharmacy" means a health service, the clinical application of which includes the encouragement of safety and efficacy in the prescribing, dispensing, administering, and use of drugs and related articles for the prevention of illness, and the maintenance and management of health. Practice of pharmacy includes the direct or indirect provision of professional functions and services associated with the practice of pharmacy. Professional functions associated with the practice of pharmacy include the following:

(a) The interpretation and evaluation of the prescription.

(b) Drug product selection.

(c) The compounding, dispensing, safe storage, and distribution of drugs and devices.

(d) The maintenance of legally required records.

(e) Advising the prescriber and the patient as required as to contents, therapeutic action, utilization, and possible adverse reactions or interactions of drugs.

(f) Ordering and administering qualified immunizing agents in accordance with section 17724.

(g) Ordering and administering qualified laboratory tests in accordance with section 17724a.

(h) Issuing prescriptions for hormonal contraceptive patches, self-administered hormonal contraceptives, emergency contraceptives, and vaginal ring hormonal contraceptives in accordance with section 17744g.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 333, Eff. Mar. 28, 1991;—Am. 2014, Act 280, Eff. Sept. 30, 2014;—Am. 2014, Act 285, Eff. Dec. 22, 2014;—Am. 2016, Act 528, Eff. Apr. 9, 2017;—Am. 2020, Act 4, Eff. Apr. 26, 2020;—Am. 2020, Act 142, Imd. Eff. July 14, 2020;—Am. 2023, Act 97, Imd. Eff. July 19, 2023;—Am. 2024, Act 242, Eff. Apr. 2, 2025.

Popular name: Act 368

333.17708 Definitions; P to R; limitation on prescription of pharmacological agents.

Sec. 17708. (1) "Preceptor" means a pharmacist approved by the board to direct the training of an intern in an approved pharmacy.

(2) "Prescriber" means a licensed dentist; a licensed doctor of medicine; a licensed doctor of osteopathic medicine and surgery; a licensed doctor of podiatric medicine and surgery; a licensed physician's assistant; subject to part 174, a licensed optometrist; subject to section 17211a, an advanced practice registered nurse; a licensed veterinarian; subject to subsection (7), a registered professional nurse who holds a specialty certification as a nurse anesthetist under section 17210 when engaging in the practice of nursing and providing the anesthesia and analgesia services described in section 17210(3); or any other licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery. As used in this subsection:

(a) "Advanced practice registered nurse" means that term as defined in section 17201 and includes a licensed advanced practice registered nurse.

(b) "License" means that term as defined in section 16106 and includes an authorization issued under the laws of another state or province of Canada to practice a profession described in this subsection in that state or province of Canada where practice would otherwise be unlawful.

(3) "Prescription" means an order by a prescriber to fill, compound, or dispense a drug or device written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication. An order transmitted in other than written or hard-copy form must be electronically recorded, printed, or written and immediately dated by the pharmacist, and that record is considered the original prescription. In a health facility or agency licensed under article 17 or other medical institution, an order for a drug or device in the patient's chart is considered for the purposes of this definition the original prescription. For purposes of this part, prescription also includes a standing order issued under section 17744e and an order to dispense a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive issued by a pharmacist under section 17744g. Subject to section 17751(2) and (5), prescription includes, but is not limited to, an order for a drug, not including a controlled substance except under circumstances described in section

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17763(e), written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a prescriber in another state or province of Canada.

(4) Subject to subsection (5), "prescription drug" means a drug to which 1 or more of the following apply:

(a) The drug is dispensed pursuant to a prescription.

(b) The drug bears the federal legend "CAUTION: federal law prohibits dispensing without prescription" or "Rx only".

(c) The drug is designated by the board as a drug that may only be dispensed pursuant to a prescription.

(5) For purposes of this part, prescription drug also includes a drug dispensed pursuant to section 17724a or 17744f.

(6) "Remote pharmacy" means a pharmacy described in sections 17742a and 17742b.

(7) The authority of a registered professional nurse who holds a specialty certification as a nurse anesthetist under section 17210 to prescribe pharmacological agents is limited to pharmacological agents for administration to patients as described in section 17210(3)(b), (c), or (d). Subsection (2) does not require new or additional third party reimbursement or mandated worker's compensation benefits for anesthesia and analgesia services provided under section 17210(3) by a registered professional nurse who holds a specialty certification as a nurse anesthetist under section 17210.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1994, Act 384, Eff. Mar 30, 1995;—Am. 1997, Act 153, Eff. Mar. 31, 1998;—Am. 2005, Act 85, Imd. Eff. July 19, 2005;—Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007;—Am. 2009, Act 150, Imd. Eff. Nov. 19, 2009;—Am. 2011, Act 155, Imd. Eff. Sept. 27, 2011;—Am. 2012, Act 209, Imd. Eff. June 27, 2012;—Am. 2016, Act 49, Eff. June 13, 2016;—Am. 2016, Act 379, Eff. Mar. 22, 2017;—Am. 2016, Act 383, Eff. Mar. 28, 2017;—Am. 2016, Act 499, Eff. Apr. 9, 2017;—Am. 2020, Act 4, Eff. Apr. 26, 2020;—Am. 2021, Act 36, Imd. Eff. July 1, 2021;—Am. 2021, Act 53, Eff. Oct. 11, 2021;—Am. 2022, Act 80, Eff. Mar. 29, 2023;—Am. 2023, Act 97, Imd. Eff. July 19, 2023;—Am. 2024, Act 242, Eff. Apr. 2, 2025.

Compiler's note: Enacting section 1 of Act 49 of 2016 provides:

"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."

Popular name: Act 368

333.17709 Definitions; S to W.

Sec. 17709. (1) "Self-administered hormonal contraceptive" means a drug composed of a single hormone or combination of hormones that is approved by the FDA to prevent pregnancy and that the individual to whom the drug is prescribed may take orally, inject, or otherwise self-administer.

(2) "Sign" means to affix one's signature manually to a document or to use an electronic signature when transmitting a prescription electronically.

(3) "Sterile pharmaceutical" means a dosage form of a drug that is essentially free from living microbes and chemical or physical contamination to the point at which it poses no present risk to the patient, in accordance with USP standards. As used in this subsection, "dosage form" includes, but is not limited to, parenteral, injectable, and ophthalmic dosage forms.

(4) "Substitute" means to dispense, without the prescriber's authorization, a different drug in place of the drug prescribed.

(5) "Surveillance system" means a real-time, continuous audio and visual camera system that connects a pharmacist at a parent pharmacy with a remote pharmacy for the purposes of providing oversight and security surveillance.

(6) "Telepharmacy system" means an interoperable computer system that meets all of the following requirements:

(a) Shares real-time data and uses a real-time audio and video link to connect a pharmacist at a parent pharmacy with a remote pharmacy operated by the parent pharmacy.

(b) Uses a camera that is of sufficient quality and resolution to allow a pharmacist at a parent pharmacy who is reviewing a prescription to visually identify the markings on tablets and capsules at the remote pharmacy.

(7) "USP standards" means the pharmacopeial standards for drug substances, dosage forms, and compounded preparations based on designated levels of risk as published in the official compendium.

(8) "Wholesale distributor" means a person, other than a manufacturer or wholesale distributor-broker, that supplies, distributes, sells, offers for sale, barters, or otherwise disposes of, to other persons for resale, compounding, or dispensing, a drug or device salable on prescription only that the distributor has not prepared, produced, derived, propagated, compounded, processed, packaged, or repackaged, or otherwise changed the container or the labeling of the drug or device. A wholesale distributor does not include a pharmacy unless the pharmacy meets the requirements of section 17748f.

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(9) "Wholesale distributor-broker" means a person that meets both of the following:

(a) The person facilitates the delivery or trade of a drug or device salable on prescription only, other than a controlled substance, between pharmacies, or between a pharmacy and a qualified pharmacy as that term is defined in section 17748e, for the purpose of filling a prescription for an identified patient.

(b) The person does not take possession or ownership of a drug or device salable on prescription only or coordinate warehousing of the drug or device.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007;—Am. 2014, Act 280, Eff. Sept. 30, 2014;—Am. 2020, Act 4, Eff. Apr. 26, 2020;—Am. 2020, Act 142, Imd. Eff. July 14, 2020;—Am. 2024, Act 242, Eff. Apr. 2, 2025.

Popular name: Act 368

333.17711 Practice of pharmacy or pharmacy technician; license or authorization required; use of words, titles, or letters.

Sec. 17711. (1) An individual shall not engage in the practice of pharmacy unless licensed or otherwise authorized by this article. Beginning October 1, 2015, an individual shall not serve as a pharmacy technician unless licensed or otherwise authorized by this article.

(2) The following words, titles, or letters or a combination of words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "pharmacy", "pharmacist", "Pharm.D", "doctor of pharmacy", "pharmacy intern", "pharmacy technician", "licensed pharmacy technician", "certified pharmacy technician", "CPhT", "apothecary", "dispensary", "drugstore", "druggist", "medicine store", "prescriptions", and "r.ph.".

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 390, Imd. Eff. Sept. 27, 2006;—Am. 2014, Act 285, Eff. Dec. 22, 2014;—Am. 2014, Act 413, Eff. Mar. 30, 2015;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.17713 Temporary regulations of pharmacists and prescriptions during qualified order or declaration; definitions.

Sec. 17713. (1) Notwithstanding any provision of this article or rule promulgated under this article to the contrary, beginning on December 29, 2020, all of the following apply while a qualified order or declaration is in effect:

(a) A pharmacist may temporarily operate a pharmacy in a location that is not designated on a pharmacy license. However, the pharmacy described in this subdivision may not prepare a sterile drug product beyond a low-risk preparation, as defined by USP standards, for immediate inpatient administration.

(b) A pharmacist may substitute a therapeutically equivalent drug for a drug that is the subject of a critical shortage. A pharmacist substituting a drug under this subdivision shall inform the patient of the substitution and notify the prescriber of the substitution within a reasonable period of time. A prescriber is not subject to criminal prosecution, civil liability, or administrative sanction as a result of a pharmacist's substitution under this subdivision.

(c) A preceptor may supervise a student pharmacist remotely to fulfill eligibility requirements for licensure and to avoid a delay in graduation.

(d) A pharmacist may oversee a pharmacy technician and other pharmacy staff remotely through the use of a real-time, continuous audiovisual camera system that is capable of allowing the pharmacist to visually identify the markings on tablets and capsules. The pharmacist must have access to all relevant patient information to accomplish remote oversight and must be available at all times during the oversight to provide real-time patient consultation. A pharmacy technician shall not perform sterile or nonsterile compounding without a pharmacist on the premises.

(e) An out-of-state pharmacy that is in good standing is considered licensed to do business in this state. An out-of-state pharmacy shall not deliver a controlled substance into this state, except that, notwithstanding article 7 or any rule promulgated under that article, an out-of-state pharmacy may deliver a controlled substance that is compounded for a drug shortage, as determined by the FDA. An out-of-state pharmacy shall comply with this part and the rules promulgated by this part, except that an out-of-state pharmacy is not required to designate a pharmacist in charge for the out-of-state pharmacy. To provide sterile compounding services to a patient in this state, an out-of-state pharmacy shall hold a current accreditation from a national organization approved by the board.

(f) A manufacturer or wholesale distributor that is licensed in another state is considered to be licensed to do business in this state. Notwithstanding article 7 or any rule promogulated under that article, a manufacturer or wholesale distributor that holds a license in good standing in another state may temporarily distribute a controlled substance in this state to a hospital or to a manufacturer or wholesale distributor that is licensed under this part. An out-of-state license described in this subdivision is not considered to be in good standing

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for purposes of this subdivision if it has been suspended or revoked or is the subject of pending disciplinary action in another state. If an out-of-state license described in this subdivision contains restrictions or conditions, those restrictions or conditions apply in this state for purposes of this subdivision.

(g) A pharmacy may confirm the delivery of a prescription drug, excluding a controlled substance, to a patient by any reasonable means, including, but not limited to, a telephone call, a text message, or email.

(2) As used in this section:

(a) "Out-of-state pharmacy" means a facility or part of a facility that is located outside of this state and that is licensed in another state to dispense prescription drugs or prepare prescription drugs for delivery or distribution.

(b) "Qualified epidemic" means an epidemic involving a respiratory disease that can easily spread between individuals and may result in serious illness or death.

(c) "Qualified order or declaration" means 1 of the following issued in response to a qualified epidemic:

(*i*) An emergency order under section 2253.

(*ii*) A state of disaster or state of emergency declared under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

History: Add. 2020, Act 324, Imd. Eff. Dec. 29, 2020;—Am. 2023, Act 97, Imd. Eff. July 19, 2023.

Popular name: Act 368

333.17721 Michigan board of pharmacy; creation; membership; terms.

Sec. 17721. (1) The Michigan board of pharmacy is created in the department and consists of the following 11 voting members who meet the requirements of part 161:

(a) Six pharmacists.

(b) One pharmacy technician.

(c) Four public members.

(2) The terms of office of the individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 390, Imd. Eff. Sept. 27, 2006;—Am. 2014, Act 285, Eff. Dec. 22, 2014.

Popular name: Act 368

333.17722 Michigan board of pharmacy; duties generally.

Sec. 17722. In addition to the functions set forth in part 161, except as otherwise provided in this part, the board shall do the following:

(a) Regulate, control, and inspect the character and standard of pharmacy practice and of drugs and devices manufactured, distributed, prescribed, dispensed, administered, or issued in this state and procure samples and limit or prevent the sale of drugs and devices that do not comply with this part.

(b) Prescribe minimum criteria for the use of professional and technical equipment and references in the compounding and dispensing of drugs and devices.

(c) Grant a pharmacy license for each separate place of practice in which the compounding or dispensing of prescription drugs or devices, or both, or the receiving of prescription orders in this state is to be conducted.

(d) Grant a drug control license for the place of practice of a dispensing prescriber who meets the requirements for the license.

(e) Grant a license to a manufacturer, wholesale distributor, or wholesale distributor-broker that meets the requirements for the license.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2020, Act 4, Eff. Apr. 26, 2020;—Am. 2020, Act 142, Imd. Eff. July 14, 2020.

Popular name: Act 368

Administrative rules: R 338.3971 et seq. of the Michigan Administrative Code.

333.17723 Pilot project to maintain or improve patient care in delivery of pharmacy services and improving patient outcomes.

Sec. 17723. (1) Subject to this section, the board may approve a pilot project that is designed to utilize new or expanded technology or processes and to provide patients with better pharmacy products or provide pharmacy services in a more efficient manner. The board shall ensure that a pilot project it approves under this section is focused on maintaining or improving patient care in the delivery of pharmacy services and improving patient outcomes. The department may charge petitioners a filing fee sufficient to cover the department's costs incurred while administering and monitoring the pilot project under this section.

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(2) The department shall do all of the following:

(a) Establish and administer a process to receive, review, and accept or deny petitions for proposed pilot projects.

(b) Establish time frames for the receipt, review, and approval or denial of petitions for proposed pilot projects.

(c) Designate the individuals who will review and evaluate petitions for proposed pilot projects.

(3) The board shall not approve more than 10 pilot projects under this section. If it determines necessary, the board or department may further limit the number of approved pilot projects based on the scope and type of petitions for proposed pilot projects received.

(4) The board shall not approve a pilot project that does any of the following:

(a) Expands the definition of the practice of pharmacy.

(b) Provides for the therapeutic substitution or substitution of medical devices used in patient care.

(c) Allows a pharmacy or pharmacist to be involved with a pilot project if the pharmacy's or pharmacist's license is not current or is under investigation for or subject to a sanction for a violation of this act.

(5) The department, in consultation with the board, may grant to a petitioner conducting an approved pilot project under this section an exception to a rule promulgated under this part. The department shall not grant an exception under this subsection from any law relating to the practice of pharmacy. The department shall grant an exception under this subsection for a specified period of time, which period must not exceed 18 months unless extended under subsection (12).

(6) A petitioner who wishes the board to consider a pilot project for approval under this section shall submit to the department a petition that contains all of the following information:

(a) The name, address, telephone number, electronic mail address, and Michigan license number of the pharmacist responsible for overseeing the proposed pilot project.

(b) The specific location where the proposed pilot project will be conducted. The petitioner shall include the Michigan license number of the pharmacy and a statement that the Michigan license of the pharmacy and any pharmacist involved with the pilot project is current, is not under investigation for or subject to a sanction for a violation of this act, and will remain in good standing for the duration of the pilot project.

(c) A detailed summary of the proposed pilot project that includes all of the following:

(*i*) The goals, hypothesis, and objectives, as applicable, of the proposed pilot project.

(*ii*) A full explanation of the proposed pilot project and how the project will be conducted.

(*iii*) The initial time frame for the pilot project, including the proposed start date and length of the project, which initial time frame must not exceed 18 months.

(*iv*) All background information and literature review, as applicable, to support the proposed pilot project.

(*v*) If applicable, identification of the rules promulgated under this part from which the petitioner is requesting an exception as provided in subsection (5) in order to complete the proposed pilot project and a request for that exception.

(*vi*) If applicable, procedures the petitioner will use during the proposed pilot project to ensure that the public's health and safety are not compromised as a result of an exception to a rule being granted under subsection (5).

(*vii*) The procedures the petitioner will use to protect the identity and privacy of patients in accordance with existing federal and state law and consistent with regulations promulgated under the health insurance portability and accountability act of 1996, Public Law 104-191.

(7) Upon approval of a petition for a pilot project, the department shall specify a time period for the operation of that pilot project, which period must not exceed 18 months unless extended under subsection (11). The department, in consultation with the board, may include appropriate conditions or qualifications on the approval of a pilot project. The department or board may suspend the operation of a pilot project if it determines that the petitioner or any person involved with the pilot project has deviated the operation of the pilot project from the plan of operation that was approved.

(8) If determined appropriate for the pilot project approved under this section, the board or department may require the petitioner to notify patients that pharmacy services are being provided as part of a pilot project. If required under this subsection, the petitioner shall notify patients in the manner required by the board or department.

(9) The petitioner shall allow the department to inspect and review pilot project documentation and the pilot project site at any time during the review process and after the pilot project is approved. The pharmacist responsible for overseeing an approved pilot project shall forward all of the following to the department:

(a) Progress reports at intervals specified by the department.

(b) A summary of the results of the project and conclusions drawn from the results of the project within 3 months after completion of the pilot project.

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(10) The individuals designated to review and evaluate petitions under subsection (2)(c) shall review the progress reports and the summary of the results of the pilot project submitted under subsection (9). Within 90 days after receipt of the summary of the results of the pilot project under subsection (9), the individuals designated to review and evaluate petitions under subsection (2)(c) shall submit a written report to the department regarding the results of the pilot project. The department shall provide a copy of the written report submitted under this subsection to the board. The individuals designated to review and evaluate petitions under subsection (2)(c) shall submit a copy of the written report to the petitioner at least 2 weeks before the board meeting at which the report will be considered by the board. Upon the request of the petitioner, the board shall allow the petitioner to make a presentation to the board.

(11) If determined appropriate by the board at the meeting at which the written report is considered under subsection (10), and if approved by the department, the specified period of time for conducting a pilot project under subsection (7) may be extended for an additional period of up to 18 months. The board or department shall not grant an extension that would result in a specified period of time for conducting a pilot project under this section to exceed 36 months.

(12) If the department, in consultation with the board, determines that a pilot project for which an exception to a rule has been granted under subsection (5) should be extended so that rules may be promulgated in order to allow the pilot project to be conducted on a permanent basis, the department may extend the exception to the rule for an additional period of up to 18 months.

History: Add. 2013, Act 267, Eff. Mar. 30, 2014.

Popular name: Act 368

333.17724 Ordering and administration of qualified immunizing agent by pharmacist; requirements and duties; promulgation of rules; exception emergency order; definitions.

Sec. 17724. (1) Subject to this section, a pharmacist may, without acting under the direction of a physician, order and administer a qualified immunizing agent to an individual who is 3 years of age or older.

(2) Before ordering or administering a qualified immunizing agent under this section, a pharmacist shall comply with all of the following:

(a) Successfully complete a training program approved under subsection (4).

(b) If the pharmacist is ordering a qualified immunizing agent for or administering a qualified immunizing agent to an individual who is less than 19 years of age and the pharmacy does not participate in the Vaccines for Children Program administered by the Centers for Disease Control and Prevention, inform the individual that the individual may qualify for the Vaccines for Children Program and notify the individual of local providers that participate in the program. This subdivision does not apply if a public or private third-party payer provides coverage for the cost of ordering or administering the qualified immunizing agent to the individual.

(3) A pharmacist who administers a qualified immunizing agent under this section shall do all of the following:

(a) Comply with rules promulgated under this section in addition to any other requirement established by law.

(b) If the qualified immunizing agent is administered to an individual who is 20 years of age or older, report the administration of the qualified immunizing agent to the Michigan care improvement registry within 72 hours after administering the qualified immunizing agent in the same manner as required under section 9206 for a health care provider who is administering an immunizing agent to a child.

(4) The department, in consultation with the board, shall promulgate rules to implement this section. The rules must require the training program required under this section to include a course on the administration of vaccines that is provided by an entity accredited by the Accreditation Council for Pharmacy Education.

(5) This section does not prohibit a pharmacist from ordering or administering an immunizing agent pursuant to federal law or an emergency order.

(6) As used in this section:

(a) "Immunizing agent" means that term as defined in section 9201.

(b) "Michigan care improvement registry" means the Michigan care improvement registry established under section 9207.

(c) "Qualified immunizing agent" means an immunizing agent that meets all of the following requirements:

(*i*) Is a vaccine that is recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(*ii*) Is a vaccine that is approved or authorized for use by the Food and Drug Administration or has been authorized for emergency use by the Food and Drug Administration.

History: Add. 2023, Act 97, Imd. Eff. July 19, 2023.

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Popular name: Act 368

333.17724a Ordering and administration of qualified laboratory tests by pharmacist; requirements and duties; promulgation of rules; exceptions; "qualified laboratory test" defined.

Sec. 17724a. (1) Subject to this section, a pharmacist may order a qualified laboratory test for and administer the qualified laboratory test to an individual if the qualified laboratory test meets all of the following requirements:

(a) The qualified laboratory test is classified as waived by the Food and Drug Administration.

(b) The qualified laboratory test requires only the use of a specimen collected by a nasal or throat swab or a finger prick.

(c) The qualified laboratory test is used to detect or screen for any of the following:

(*i*) COVID-19.

(*ii*) Influenza.

(*iii*) A respiratory infection.

(2) Before ordering or administering a qualified laboratory test under this section, a pharmacist shall successfully complete the training program approved under subsection (5).

(3) A pharmacist who orders a qualified laboratory test for or administers a qualified laboratory test to an individual under this section shall advise the individual of the test result and refer the individual to a physician, or another health professional, designated by the individual.

(4) A pharmacist who orders a qualified laboratory test for and administers that qualified laboratory test to an individual under this section for purposes of detecting or screening for COVID-19 or influenza may, without a prescription, dispense a drug to the individual if all of the following are met:

(a) The pharmacist determines that the drug is needed to treat the individual for COVID-19 or influenza based on the individual's test result.

(b) The drug is an antiviral drug and is available at the pharmacy.

(c) The drug is provided pursuant to protocols established by the Centers for Disease Control and Prevention or public health guidelines established by the department of health and human services.

(d) The pharmacist complies with subsection (3) and any other requirement established by rule under this section.

(5) The department, in consultation with the board, shall promulgate rules to implement this section. The rules must require the training program required under this section to require a pharmacist to demonstrate sufficient knowledge of how to administer and interpret each laboratory test that the pharmacist may order or administer under this section and to demonstrate sufficient knowledge of each illness, condition, or disease described in subsection (1) for which the pharmacist provides treatment based on the results of a qualified laboratory test.

(6) This section does not prohibit a pharmacist from doing any of the following:

(a) Ordering or administering a laboratory test as a delegated act of a physician or another health professional under section 16215.

(b) Ordering or administering a laboratory test pursuant to federal law or an emergency order.

(c) Dispensing a drug to a patient without a prescription pursuant to federal law or an emergency order.

(7) As used in this section, "qualified laboratory test" means a laboratory test meeting the requirements described in subsection (1).

History: Add. 2023, Act 97, Imd. Eff. July 19, 2023.

Popular name: Act 368

333.17726 Certificate of licensure; issuance.

Sec. 17726. The department shall issue a certificate of licensure to an applicant who is granted a license under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2020, Act 4, Eff. Apr. 26, 2020.

Popular name: Act 368

333.17731 Renewal of pharmacist or pharmacy technician license; continuing education; rules.

Sec. 17731. (1) Notwithstanding the requirements of part 161, the board may require either of the following:

(a) That a licensee seeking renewal of a pharmacist's license furnish the department with satisfactory evidence that during the 2 years immediately preceding application for renewal, he or she attended continuing

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education courses or programs, approved by the board, totaling not less than 30 hours or satisfactorily completed a proficiency examination according to rules promulgated by the department in consultation with the board.

(b) That a licensee seeking renewal of a pharmacy technician's license furnish the department with satisfactory evidence that during the 2 years immediately preceding application for renewal, he or she has attended at least 20 hours of continuing education courses or programs, approved by the board, or satisfactorily completed a proficiency examination according to rules promulgated by the department in consultation with the board.

(2) The department in consultation with the board shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education or proficiency examination requirement of subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986;—Am. 1994, Act 234, Imd. Eff. June 30, 1994;—Am. 2014, Act 285, Eff. Dec. 22, 2014.

Popular name: Act 368

Administrative rules: R 338.3041 et seq. of the Michigan Administrative Code.

333.17733 Relicensure of pharmacist; requirements.

Sec. 17733. A pharmacist who has not actively engaged in the practice of pharmacy for more than 3 consecutive years may be granted relicensure upon application and completion of a program of practical pharmacy experience of at least 200 hours, as determined by the board.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1981, Act 215, Imd. Eff. Jan. 5, 1982;—Am. 1988, Act 462, Eff. Sept. 1, 1989.

Popular name: Act 368

333.17737 Rules establishing standards for internship program; limited license required.

Sec. 17737. (1) The board shall promulgate rules to establish standards for an internship program and participation therein by interns and preceptors.

(2) An individual shall not engage in an internship program which includes the practice of pharmacy without a limited license under this part.

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

Popular name: Act 368

333.17739 Pharmacy technician; functions; licensure.

Sec. 17739. (1) An individual who performs any of the following functions is considered to be serving as a pharmacy technician and, except as otherwise provided in this part, is required to be licensed under this part as a pharmacy technician:

(a) Assisting in the dispensing process.

(b) Handling transfer of prescriptions, except controlled substances prescriptions.

(c) Compounding drugs.

(d) Preparing or mixing intravenous drugs for injection into a human patient.

(e) Contacting prescribers concerning prescription drug order clarification, which does not include drug regimen review or clinical or therapeutic interpretation.

(f) Receiving verbal orders for prescription drugs, except orders for controlled substances.

(g) Subject to section 16215, performing any other functions authorized under rules promulgated by the department in consultation with the board.

(2) A pharmacy or dispensing prescriber that utilizes the services of a pharmacy technician shall ensure that all of the following requirements, as applicable, are met:

(a) The pharmacy technician is licensed or otherwise authorized to serve as a pharmacy technician under this part.

(b) The pharmacy technician only performs the activities or functions that he or she is licensed or otherwise authorized to perform under this part or rules promulgated under this part.

(c) Except for a remote pharmacy or as otherwise provided by rule promulgated by the department in consultation with the board, the pharmacy technician only performs the activities or functions described in subdivision (b) under the supervision and personal charge of the pharmacist or dispensing prescriber.

History: Add. 2014, Act 285, Eff. Dec. 22, 2014;—Am. 2020, Act 4, Eff. Apr. 26, 2020.

Popular name: Act 368

333.17739a Pharmacy technician; licensure; requirements; exemption from certain requirements.

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Sec. 17739a. (1) Subject to subsection (2), the department may license an individual who meets all of the following requirements as a pharmacy technician under this part:

(a) Submits a completed application to the department on a form prescribed by the department.

(b) Except as otherwise provided in subsection (4), graduated from an accredited high school or comparable school or educational institution or passed the general educational development test or other graduate equivalency examination.

(c) Satisfies the requirements of section 16174.

(d) Except as otherwise provided in subsection (4), passes and submits proof to the department of passage of any of the following:

(*i*) The certified pharmacy technician examination given by the Pharmacy Technician Certification Board.

(*ii*) The certified pharmacy technician examination given by the National Healthcareer Association.

(*iii*) Any other nationally recognized and administered certification examination approved by the board.

(*iv*) An employer-based training program examination that is approved by the board and covers job descriptions, pharmacy security, commonly used medical abbreviations, routes of administration, product selection, final check by pharmacists, guidelines for the use of pharmacy technicians, pharmacy terminology, basic drug information, basic calculations, quality control procedures, state and federal laws and regulations regarding pharmacy technician duties, pharmacist duties, pharmacy intern duties, prescription or drug order processing procedures, drug record-keeping requirements, patient confidentiality, and pharmacy security and drug storage.

(2) An individual who is not a pharmacist, pharmacist intern, or pharmacy technician shall not perform any of the functions described in section 17739(1) for a pharmacy.

(3) A pharmacist shall not allow any individual employed or otherwise under the personal charge of the pharmacist to violate subsection (2). A person that owns, manages, operates, or conducts a pharmacy shall not allow any individual employed or otherwise under the control of that person to violate subsection (2).

(4) An individual who meets any of the following is not required to meet the requirements of subsection (1)(b) and (d) to be eligible for a license under subsection (1):

(a) As provided in section 16171(a), is a student in a pharmacy technician program approved by the board.

(b) Is applying for a temporary license under section 17739b.

(c) Is applying for a limited license under section 17739c.

History: Add. 2014, Act 285, Eff. Dec. 22, 2014;—Am. 2015, Act 133, Imd. Eff. Sept. 30, 2015.

Popular name: Act 368

333.17739b Pharmacy technician; temporary license.

Sec. 17739b. (1) Subject to section 17739a(4), the department may issue a temporary license as a pharmacy technician to an individual who is preparing for the examination under section 17739a(1)(d). Notwithstanding section 16181, the term of a temporary license issued under this section expires 1 year after the date the temporary license is issued.

(2) An individual requesting a temporary license under this section shall submit a completed application, on a form prescribed by the department, to the department and pay the applicable fee under section 16333.

(3) An individual who holds a temporary license as a pharmacy technician issued under subsection (1) is subject to all of the requirements of this part, and rules promulgated by the department in consultation with the board, applicable to pharmacy technicians except the examination requirement under section 17739a(1)(d).

History: Add. 2014, Act 285, Eff. Dec. 22, 2014;—Am. 2015, Act 133, Imd. Eff. Sept. 30, 2015.

Popular name: Act 368

333.17739c Pharmacy technician; limited license.

Sec. 17739c. (1) In addition to the requirement of section 16182 and subject to section 17739a(4), the department may issue a limited license as a pharmacy technician to an individual if all of the following are met:

(a) The individual was employed as a pharmacy technician by a pharmacy on December 22, 2014 and has been continuously employed by that pharmacy since that date.

(b) The individual submits a completed application to the department on a form prescribed by the department and meets the requirements of section 16174.

(c) The individual provides documentation of satisfactory employment as a pharmacy technician for a minimum of 1,000 hours during the 2-year period immediately preceding the date of his or her application under subdivision (b).

(d) The applicable fee under section 16333 is paid.

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(2) Except as otherwise provided in subsection (5), an individual who holds a limited license under this section may only act as a pharmacy technician for the pharmacy described in subsection (1)(a) and only until 1 of the following occurs:

(a) He or she is no longer employed by that pharmacy to perform those functions.

(b) He or she performs any of those functions for another pharmacy.

(3) The term of a limited pharmacy technician license issued by the department under this section is the same as a pharmacy technician license issued by the department under section 17739a.

(4) An individual who holds a limited pharmacy technician license issued under this section is subject to all of the requirements of this part, and the rules promulgated by the department in consultation with the board, except the examination requirement under section 17739a(1)(d).

(5) An individual who is employed as a pharmacy technician by an employer that operates multiple licensed pharmacy locations may work as a limited license pharmacy technician at any of the employer's licensed pharmacy locations in this state.

History: Add. 2014, Act 285, Eff. Dec. 22, 2014;—Am. 2015, Act 133, Imd. Eff. Sept. 30, 2015.

Popular name: Act 368

333.17741 Pharmacy license required; personal charge of pharmacy by pharmacist; responsibility for compliance with laws; control and personal charge of pharmacy services; remote pharmacy exception; effect of violation on pharmacy license.

Sec. 17741. (1) A pharmacy must not be operated unless licensed under this part.

(2) Except for a remote pharmacy, a pharmacy open for business must be under the personal charge of a pharmacist. A pharmacist shall not simultaneously have personal charge of more than 1 pharmacy.

(3) The person to whom a pharmacy license is issued and the pharmacists on duty are responsible for compliance with federal and state laws regulating the distribution of drugs and the practice of pharmacy. Except for a remote pharmacy, pharmacy services must be conducted under the control and personal charge of a pharmacist.

(4) A sanction for a violation of this part only affects the pharmacy license of the place of business where the violation occurred.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2020, Act 4, Eff. Apr. 26, 2020.

Popular name: Act 368

333.17742 Disclosure; "applicant" defined.

Sec. 17742. (1) The board may require an applicant or the holder of a pharmacy, manufacturer's, wholesale distributor's, or wholesale distributor-broker's license to fully disclose the identity of each partner, stockholder, officer, or member of the board of directors of the pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker, as applicable.

(2) As used in this section and sections 17742a, 17748, 17748a, 17748e, and 17768, "applicant" means a person applying for a pharmacy, manufacturer's, wholesale distributor's, or wholesale distributor-broker's license under this article. Applicant includes only 1 or more of the following:

(a) An individual, if the person applying is an individual.

(b) All partners, including limited partners, if the person applying is a partnership.

(c) All stockholders, officers, and members of the board of directors, if the person applying is a privately held corporation.

History: Add. 1987, Act 250, Imd. Eff. Dec. 28, 1987;—Am. 2014, Act 280, Eff. Sept. 30, 2014;—Am. 2020, Act 4, Eff. Apr. 26, 2020;—Am. 2020, Act 142, Imd. Eff. July 14, 2020.

Popular name: Act 368

333.17742a Remote pharmacy; operation; licensure requirements; location waiver; exception.

Sec. 17742a. (1) A parent pharmacy shall not operate a remote pharmacy in this state unless the parent pharmacy and the remote pharmacy are each located in this state and licensed as a pharmacy under this part.

(2) The department shall grant a pharmacy license to an applicant seeking to operate a remote pharmacy if the applicant meets all of the following:

(a) Submits a completed application and pays the applicable fee under section 16333.

(b) Demonstrates to the satisfaction of the department that the parent pharmacy and the proposed remote pharmacy share common ownership.

(c) Subject to subsection (3), demonstrates to the satisfaction of the department that, at the time of the

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application, the location of the proposed remote pharmacy is not within 10 miles of another pharmacy. This subdivision does not apply if the remote pharmacy is located at a hospital or mental health facility.

(d) Meets any other requirement for licensure as a pharmacy as established by the department, in consultation with the board, by rule.

(3) An applicant seeking a pharmacy license under subsection (2) may apply to the board for a waiver of the mileage requirement described in subsection (2)(c). The board shall only grant a request for a waiver if the applicant demonstrates to the satisfaction of the board that the location of the proposed remote pharmacy is in an area where there is limited access to pharmacy services and that there are compelling circumstances that justify waiving the requirement.

(4) If a pharmacy license is granted to a pharmacy that is located within 10 miles of a remote pharmacy after the remote pharmacy's license is granted or renewed, the remote pharmacy may continue to operate.

History: Add. 2020, Act 4, Eff. Apr. 26, 2020.

Popular name: Act 368

333.17742b Staffing of remote pharmacy; requirements; written policy and procedure manual; public notice display; operation requirements and limitations; "qualified pharmacy technician" defined.

Sec. 17742b. (1) If a remote pharmacy open for business is not under the personal charge of a pharmacist, the pharmacist in charge of the parent pharmacy shall ensure that the remote pharmacy is staffed by a qualified pharmacy technician who, while assisting in the dispensing process, is overseen through the use of a surveillance system and a telepharmacy system by a pharmacist who meets the requirements described in subsection (2).

(2) Subject to subsection (10), a pharmacist who is located at a parent pharmacy may only oversee the activities at a remote pharmacy if the pharmacist has access to all relevant patient information that is maintained by the parent pharmacy and he or she is employed by or under contract with the parent pharmacy or a pharmacy that has contracted with the parent pharmacy.

(3) For purposes of this code, a prescription dispensed under this section, including a prescription for a controlled substance, is considered dispensed at the remote pharmacy by the pharmacist described in subsection (2).

(4) The pharmacist in charge of the parent pharmacy shall establish and maintain a written policy and procedure manual that must be made available to the department for inspection upon request and that contains each of the following, subject to this section:

(a) A description of how the remote pharmacy will comply with federal and state laws, rules, and regulations.

(b) The procedure by which a pharmacist described in subsection (2) oversees a qualified pharmacy technician at the remote pharmacy who is assisting in the dispensing process and the procedure by which the pharmacist provides counseling to patients at the remote pharmacy.

(c) The procedure for reviewing each of the following:

(*i*) Subject to section 7321, prescription drug inventory at the remote pharmacy.

(*ii*) Prescriptions or equivalent records approved by the board that are on file at the remote pharmacy.

(d) The policy and procedure for providing adequate security to protect the confidentiality and integrity of a patient's protected health information.

(e) The procedure for recovering from an event that interrupts or prevents a pharmacist described in subsection (2) from overseeing the operations of the remote pharmacy through the surveillance system or telepharmacy system. The procedure must require that the remote pharmacy be closed to the public during a time period in which any component of the surveillance system or telepharmacy system is malfunctioning, unless a pharmacist is present at the remote pharmacy during that time period.

(f) The procedure for ensuring that a pharmacist described in subsection (2) complies with the electronic system for monitoring schedule 2, 3, 4, and 5 controlled substances established under section 7333a before a controlled substance is dispensed under this section.

(g) The specific acts, tasks, and functions that a qualified pharmacy technician may perform at the remote pharmacy. However, a qualified pharmacy technician shall not do any of the following at the remote pharmacy:

(*i*) Provide consultation regarding a prescription or regarding medical information contained in a patient medication record or patient chart.

(*ii*) Perform compounding of sterile or nonsterile drugs, except for the reconstitution of prepackaged prescription drugs.

(h) A requirement that a pharmacist described in subsection (2) complete a monthly, in-person inspection

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of the remote pharmacy that includes, at a minimum, conducting inventory reconciliation for controlled substances and reviewing any video recording from the surveillance system that the pharmacist considers necessary.

(i) A policy that requires the pharmacist described in subsection (2) to retain audio and video recordings from the surveillance system for at least 45 calendar days.

(5) The pharmacist in charge of the parent pharmacy shall display at the remote pharmacy in a conspicuous location, visible to the public, a notice that provides all of the following information:

(a) That the pharmacy services are being provided at a remote pharmacy.

(b) That if patient counseling is provided, it may be provided by a pharmacist using audio and video communication.

(c) The address of the parent pharmacy.

(6) A pharmacist described in subsection (2) shall review a prescription as required by state and federal law, rules, and regulations before the drug or device that is the subject of the prescription is dispensed under this section. The pharmacist shall ensure that the pharmacist's and the qualified pharmacy technician's initials or other means of identifying the pharmacist and the qualified pharmacy technician involved in the dispensing process are recorded on the prescription and that the specific acts, tasks, or functions performed by the pharmacist or qualified pharmacy technician during the dispensing process are recorded in the pharmacy management system. When submitting a claim or otherwise seeking reimbursement for a public or private third party payer for a drug or device that is dispensed under this section, the pharmacist shall identify the remote pharmacy as the pharmacy from which the drug or device was dispensed.

(7) If a remote pharmacy open for business is not under the personal charge of a pharmacist, any patient counseling that is required by rule must be provided before the drug or device is dispensed at the remote pharmacy and must be provided by a pharmacist described in subsection (2) through the telepharmacy system in a manner that complies with the health insurance portability and accountability act of 1996, Public Law 101-191, or regulations promulgated under that act, 45 CFR parts 160 and 164.

(8) If a pharmacist described in subsection (2) is not present at the parent pharmacy, the remote pharmacy must be closed for business unless a pharmacist is present at the remote pharmacy.

(9) A remote pharmacy shall not dispense more than an average of 150 prescriptions per day during a 90-day period.

(10) A pharmacist described in subsection (2) shall not simultaneously oversee the activities of 3 or more remote pharmacies.

(11) As used in this section, "qualified pharmacy technician" means a pharmacy technician who meets all of the following requirements:

(a) He or she holds a pharmacy technician license other than a temporary license under section 17739b or limited license under section 17739c.

(b) He or she has accumulated at least 1,000 hours of experience working in a pharmacy after he or she was granted a temporary pharmacy technician license under section 17739b, a limited pharmacy technician license under section 17739c, or a pharmacy technician license under section 17739a.

(c) He or she holds a national certification as a pharmacy technician from an organization approved by the board.

History: Add. 2020, Act 4, Eff. Apr. 26, 2020.

Popular name: Act 368

333.17743 Pharmacy license; contents; duration.

Sec. 17743. (1) A pharmacy license shall contain the name of the licensee, the address of the place of practice, a description of the pharmacy and the premises thereof, and other information the board requires.

(2) A pharmacy license is valid for 2 years, commencing on the date of issue and terminating on the date prescribed for pharmacists in section 16194.

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

Popular name: Act 368

333.17744 Designation of agent by prescriber; issuance of prescription; limitation; transmission of prescription to pharmacy.

Sec. 17744. (1) A prescriber may designate an agent to act on behalf of or at the discretion of that prescriber. A designation of an agent by a prescriber under this section is not required to be in writing to be a valid designation. If a designation of an agent by a prescriber under this section is contained in a written document, the prescriber or the agent may transmit that document to a pharmacy that will dispense a prescription issued by that prescriber.

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(2) Except as otherwise provided in this part, only a prescriber who is acting within the scope of the prescriber's practice may issue a prescription. An agent may prepare and transmit a prescription that has been signed by the prescriber, including a signature that meets the requirements of section 17754 or 17754a. The prescriber issuing a prescription and the pharmacist issuing a prescription in accordance with this part or dispensing a drug or device under a prescription is responsible for all of the requirements of state and federal law, rules, and regulations regarding the issuance of prescriptions and dispensing of drugs or devices under prescriptions.

(3) A prescriber or the prescriber's agent may transmit to a pharmacy a prescription that is contained within a patient's chart in a health facility or agency licensed under article 17 or other medical institution. A prescription that is contained within a patient's chart in a health facility or agency licensed under article 17 or other medical institution and that is created in an electronic format may contain more than 6 prescriptions and may contain prescriptions for schedule 3 to 5 controlled substances and noncontrolled substances on the same form.

History: Add. 2012, Act 209, Imd. Eff. June 27, 2012;—Am. 2020, Act 136, Imd. Eff. July 8, 2020;—Am. 2024, Act 242, Eff. Apr. 2, 2025.

Popular name: Act 368

333.17744a Auto-injectable epinephrine; prescribing or issuing to authorizing entity.

Sec. 17744a. (1) Notwithstanding any provision of this act to the contrary, a prescriber may issue a prescription for and a dispensing prescriber or pharmacist may dispense auto-injectable epinephrine to an authorized entity. When issuing a prescription for or dispensing auto-injectable epinephrine to an authorized entity as authorized under this section, the prescriber, dispensing prescriber, or pharmacist, as appropriate, shall insert the name of the authorized entity as the name of the patient.

(2) A school employee who is a licensed registered professional nurse or who is trained in the administration of an epinephrine auto-injector under section 1179a of the revised school code, 1976 PA 451, MCL 380.1179a, may possess and administer an epinephrine auto-injector dispensed to a school board under this section.

(3) An authorized entity as defined in subsection (6)(b) may acquire and stock a supply of auto-injectable epinephrine under a prescription as authorized in this section. An authorized entity as defined in subsection (6)(b) that acquires and stocks a supply of auto-injectable epinephrine is subject to section 17744d.

(4) A law enforcement officer or firefighter of an authorized entity as defined in subsection (6)(c) may, subject to section 2 of the law enforcement and firefighter access to epinephrine act, possess and administer auto-injectable epinephrine dispensed to the entity under this section.

(5) A prescriber who issues a prescription for or a dispensing prescriber or pharmacist who dispenses auto-injectable epinephrine to an authorized entity as authorized under this section is not liable in a civil action for a properly stored and dispensed epinephrine auto-injector that was a proximate cause of injury or death to an individual due to the administration of or failure to administer the epinephrine auto-injector.

(6) As used in this section, "authorized entity" means any of the following:

(a) A school board for the purpose of meeting the requirements of section 1179a of the revised school code, 1976 PA 451, MCL 380.1179a.

(b) A person or governmental entity that operates or conducts a business or activity at which allergens capable of causing anaphylaxis may be present, including, but not limited to, a recreation camp, youth sports league, amusement park, nonpublic school, religious institution, or sports arena.

(c) An eligible entity authorized to purchase, possess, and distribute auto-injectable epinephrine under the law enforcement and firefighter access to epinephrine act.

History: Add. 2013, Act 186, Eff. Mar. 14, 2014;—Am. 2015, Act 221, Eff. Mar. 16, 2016;—Am. 2020, Act 311, Imd. Eff. Dec. 29, 2020.

Popular name: Act 368

333.17744b Prescribing, possessing, or dispensing opioid antagonist; liability.

Sec. 17744b. (1) Notwithstanding any provision of this act to the contrary, a prescriber may issue a prescription for and a dispensing prescriber or pharmacist may dispense an opioid antagonist to any of the following:

(a) An individual patient at risk of experiencing an opioid-related overdose.

(b) A family member, friend, or other individual in a position to assist an individual at risk of experiencing an opioid-related overdose.

(c) A person other than an individual that meets all of the following requirements:

(*i*) Acts at the direction of the prescriber or dispensing prescriber.

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(*ii*) Upon receipt of an opioid antagonist, stores the opioid antagonist in compliance with this part.

(*iii*) Dispenses or administers an opioid antagonist under a valid prescription issued to an individual or a patient.

(*iv*) Performs the requirements under this subsection without charge or compensation.

(d) An agency authorized to purchase or otherwise obtain, possess, and distribute an opioid antagonist under the administration of opioid antagonists act, 2019 PA 39, MCL 15.671 to 15.677.

(2) When issuing a prescription for or dispensing an opioid antagonist as authorized under this section to an agency described in subsection (1)(d) or a person other than a patient, the prescriber, dispensing prescriber, or pharmacist, as appropriate, shall insert the name of the agency or the person as the name of the patient.

(3) Notwithstanding any provision of this act to the contrary, a person that is acting in good faith and with reasonable care may possess and dispense an opioid antagonist.

(4) Notwithstanding any provision of this act to the contrary, an agency described in subsection (1)(d) or an employee or agent of an agency described in subsection (1)(d) may, subject to the administration of opioid antagonists act, 2019 PA 39, MCL 15.671 to 15.677, possess, administer, and distribute an opioid antagonist dispensed to the agency under this section.

(5) A prescriber who issues a prescription for or a dispensing prescriber or pharmacist who dispenses an opioid antagonist as authorized under this section is not liable in a civil action for a properly stored and dispensed opioid antagonist that was a proximate cause of injury or death to an individual due to the administration of or failure to administer the opioid antagonist.

History: Add. 2014, Act 311, Imd. Eff. Oct. 14, 2014;—Am. 2016, Act 384, Eff. Mar. 29, 2017;—Am. 2019, Act 36, Eff. Sept. 24, 2019;—Am. 2024, Act 232, Eff. Apr. 2, 2025.

Popular name: Act 368

333.17744c Person administering opioid antagonist under certain conditions; immunity from criminal prosecution or sanction.

Sec. 17744c. A person that administers an opioid antagonist to an individual who he or she believes is suffering an opioid-related overdose and that acts in good faith and with reasonable care is immune from criminal prosecution or sanction under any professional licensing act for that act.

History: Add. 2014, Act 313, Imd. Eff. Oct. 14, 2014.

Popular name: Act 368

333.17744d Auto-injectable epinephrine; storage, maintenance, general oversight, and use by designated employee or agent; training program; certificate; liability; report; administration by person other than employee, agent, or individual described in subsection (2); "authorized health care provider" defined.

Sec. 17744d. (1) This section only applies to an authorized entity as defined in section 17744a(6)(b) that acquires and stocks a supply of auto-injectable epinephrine as authorized in section 17744a. An authorized entity shall store auto-injectable epinephrine in a location readily accessible in an emergency and in accordance with the auto-injectable epinephrine's instructions for use and any additional requirements that are established by the department. An authorized entity shall designate an employee or agent who has completed the training required under this section to be responsible for the storage, maintenance, and general oversight of the auto-injectable epinephrine acquired by the authorized entity.

(2) An employee or agent of an authorized entity or other individual, which employee, agent, or individual has completed the training required under this section, may, on the premises of or in connection with the conduct of the business or activity of the authorized entity, use auto-injectable epinephrine prescribed under section 17744a to do any of the following:

(a) Provide auto-injectable epinephrine to an individual who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis for immediate self-administration, regardless of whether the individual has a prescription for auto-injectable epinephrine or has previously been diagnosed with an allergy.

(b) Administer auto-injectable epinephrine to an individual who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a prescription for auto-injectable epinephrine or has previously been diagnosed with an allergy.

(3) Before providing or administering auto-injectable epinephrine made available by an authorized entity, an employee, agent, or other individual described in subsection (2) must complete an initial anaphylaxis training program and a subsequent anaphylaxis training program at least every 2 years following completion of the most recently completed anaphylaxis training program that meets all of the following requirements:

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(a) Is conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment or by a person, entity, or class of individuals approved by the department.

(b) Is conducted online or in person.

(c) At a minimum, covers all of the following:

(*i*) Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis.

(*ii*) Standards and procedures for the storage and administration of auto-injectable epinephrine.

(*iii*) Emergency follow-up procedures.

(4) An organization, person, entity, or class of individuals that conducts an anaphylaxis training program described in subsection (3) shall issue a certificate, on a form developed or approved by the department, to each individual who successfully completes the anaphylaxis training program.

(5) Except as otherwise provided in this section, an authorized entity and its employees, agents, and other trained individuals that have acted in accordance with the requirements of subsections (1) to (4); an individual who uses auto-injectable epinephrine obtained in accordance with the requirements of subsections (1) to (4) and made available under subsection (10); or an organization, person, entity, or class of individuals that conducts an anaphylaxis training program described in and conducted in accordance with subsection (3), is not subject to any of the following:

(a) For an authorized entity or person other than an individual described in this subsection, civil liability for injury, death, or damages that result from the administration or self-administration of auto-injectable epinephrine, the failure to administer auto-injectable epinephrine, or any other act or omission taken pursuant to this section, if the conduct does not constitute gross negligence as that term is defined in section 7 of 1964 PA 170, MCL 691.1407, that is the proximate cause of the injury, death, or damages.

(b) For an individual described in this subsection, civil liability for injury, death, or damages that result from the administration or self-administration of auto-injectable epinephrine, the failure to administer auto-injectable epinephrine, or any other act or omission taken pursuant to this section, if the conduct does not constitute willful or wanton misconduct that is the proximate cause of the injury, death, or damages.

(c) For an authorized entity or person including an individual described in this subsection, criminal prosecution for purchasing, possessing, or distributing auto-injectable epinephrine, the administration or self-administration of auto-injectable epinephrine, the failure to administer auto-injectable epinephrine, or any other act or omission taken pursuant to this section.

(6) The administration of auto-injectable epinephrine as authorized in this section is not the practice of medicine.

(7) This section does not eliminate, limit, or reduce any other immunity or defense that may be available under the laws of this state.

(8) An authorized entity located in this state is not civilly liable for any injuries or related damages that result from providing or administering auto-injectable epinephrine by its employees or agents outside of this state if either of the following requirements is met:

(a) The authorized entity or its employee or agent would not have been civilly liable for the injuries or related damages had the provision or administration occurred in this state.

(b) The authorized entity or its employee or agent is not civilly liable for the injuries or related damages under the law of the state in which the provision or administration occurred.

(9) An authorized entity shall submit to the department, on a form prescribed by the department, a report of each incident on the premises of or in connection with the conduct of the business or activity of the authorized entity that involves the administration of auto-injectable epinephrine. The department shall annually publish a report that summarizes and analyzes all reports submitted to it under this subsection.

(10) An authorized entity may make auto-injectable epinephrine available to an individual other than an employee, agent, or individual described in subsection (2), and the other individual may administer auto-injectable epinephrine to any individual he or she believes in good faith to be experiencing anaphylaxis, if the auto-injectable epinephrine is stored in a locked, secure container and is made available only upon remote authorization by an authorized health care provider after consultation with the authorized health care provider by audio, televideo, or other similar means of electronic communication. Consultation with an authorized health care provider for the purpose of this subsection is not the practice of telemedicine and does not violate any law or rule regulating the authorized health care provider's scope of practice. As used in this subsection, "authorized health care provider" means a prescriber as that term is defined in section 17708 other than a licensed dentist, licensed optometrist, or licensed veterinarian.

History: Add. 2015, Act 221, Eff. Mar. 16, 2016;—Am. 2020, Act 311, Imd. Eff. Dec. 29, 2020.

Popular name: Act 368

333.17744e Dispensing opioid antagonist to individual pursuant to standing order issued by

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chief medical executive; "community-based organization" defined.

Sec. 17744e. (1) Notwithstanding any provision of this act to the contrary, the chief medical executive in the office of chief medical executive created within the department of health and human services may issue a standing order that does not identify particular patients at the time it is issued for any of the following purposes:

(a) A pharmacist dispensing opioid antagonists to individuals under this section.

(b) A community-based organization or a staff member of the community-based organization distributing opioid antagonists to individuals under this section.

(2) Notwithstanding any provision of this act to the contrary, a pharmacist may dispense or a community-based organization or a staff member of the community-based organization may distribute an opioid antagonist to any individual pursuant to a standing order issued by the chief medical executive under subsection (1) and the rules promulgated under this section.

(3) The following are not liable in a civil action for damages resulting from the dispensing of an opioid antagonist or the administration of or failure to administer the opioid antagonist:

(a) The chief medical executive who issues a standing order for the opioid antagonist under this section.

(b) A pharmacist who dispenses the opioid antagonist as authorized under this section.

(c) A community-based organization that, or a staff member of the community-based organization who, distributes the opioid antagonist as authorized under this section.

(4) The department, in consultation with the department of health and human services and local health departments, may promulgate rules regarding dispensing, training, distribution, and referral to implement this section.

(5) As used in this section, "community-based organization" means a public or private organization that provides health or human services to meet the needs of a community, including, but not limited to, a nonprofit organization, a social service provider, or an organization providing substance use disorder prevention, treatment, recovery, or harm reduction services. A community-based organization does not include an agency as that term is defined in section 101 of the administration of opioid antagonists act, 2019 PA 39, MCL 15.671.

History: Add. 2016, Act 383, Eff. Mar. 28, 2017;—Am. 2022, Act 176, Imd. Eff. July 21, 2022.

Compiler's note: 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

333.17744f Dispensing emergency supply of insulin; requirements; limitation; liability; rules; definitions.

Sec. 17744f. (1) Subject to subsection (2), a pharmacist may dispense an emergency supply of insulin to an individual if the individual has a qualified prescription for insulin in the individual's name with no remaining authorized refills, the individual has previously had a prescription for insulin dispensed at the pharmacy, and, in the pharmacist's professional judgment, a failure to dispense the emergency supply of insulin might interrupt the individual's ongoing care and have a significant adverse effect on the individual's well-being. A pharmacist who dispenses an emergency supply of insulin under this section shall comply with all of the following:

(a) Before dispensing the emergency supply of insulin, make a reasonable effort to communicate with the prescriber who issued the qualified prescription for insulin regarding dispensing the emergency supply of insulin and document the efforts made.

(b) Document all of the following:

(*i*) The name of the individual receiving the emergency supply of insulin and the date of the dispensing.

(*ii*) The reason for dispensing the emergency supply of insulin.

(*iii*) Evidence of the individual's qualified prescription for insulin.

(*iv*) Information on the individual's diabetes management.

(*v*) Any other information required by the board by rule.

(c) Within 5 business days after dispensing the emergency supply of insulin, inform the prescriber who issued the qualified prescription for insulin, in writing, that an emergency supply of insulin was dispensed under this section.

(d) Inform the individual receiving the emergency supply of insulin that the insulin was dispensed under this section.

(2) An individual shall not receive more than 3 emergency supplies of insulin under this section in 1 calendar year. After an emergency supply of insulin is dispensed to an individual under this section, a

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pharmacist shall not dispense a subsequent emergency supply of insulin under this section within the same calendar year to that individual unless the individual has since obtained a new qualified prescription for insulin with no remaining authorized refills.

(3) A prescriber or pharmacist is not subject to criminal prosecution, civil liability, or administrative sanction as a result of the pharmacist dispensing an emergency supply of insulin under this section.

(4) The board shall promulgate rules to implement this section.

(5) As used in this section:

(a) "Emergency supply" means up to a 30-day supply.

(b) "Qualified prescription for insulin" means a prescription for insulin that was issued within the 12-month period immediately preceding the date the individual requests an emergency supply of insulin under this section.

History: Add. 2021, Act 36, Imd. Eff. July 1, 2021.

Popular name: Act 368

333.17744g Prescribing and dispensing certain hormonal contraceptives; promulgation of rules; self-screening risk assessment tool.

Sec. 17744g. (1) Subject to the rules promulgated under this section, a pharmacist may issue a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive to an individual, regardless of the individual's age and regardless of whether the individual has evidence of a previous prescription from a prescriber for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive.

(2) By 18 months after the effective date of the amendatory act that added this section, the department, in consultation with the board, shall promulgate rules to implement this section. The rules must establish a standard procedure for issuing a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, and a vaginal ring hormonal contraceptive under this section. The rules must also prohibit a pharmacist from issuing a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive to an individual described in subsection (1) if the individual has not completed the self-screening risk assessment tool developed under subsection (3) and must require that a pharmacist comply with all of the following:

(a) Complete a training program that is approved by the board for issuing a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive.

(b) Provide the self-screening risk assessment tool that is developed under subsection (3) to an individual described in subsection (1) before issuing a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive to the individual.

(c) Upon issuing a prescription for the hormonal contraceptive patch, self-administered hormonal contraceptive, emergency contraceptive, or vaginal ring hormonal contraceptive to an individual described in subsection (1), refer the individual to the individual's primary care physician, or if the individual does not have a primary care physician, to another licensed health professional that the pharmacist considers appropriate.

(d) Provide an individual described in subsection (1) with a written record of the hormonal contraceptive patch, self-administered hormonal contraceptive, emergency contraceptive, or vaginal ring hormonal contraceptive for which the individual is issued the prescription and advise the individual to consult with a physician or other licensed health professional.

(e) If an individual described in subsection (1) has not had a physical examination in the previous 12 months, refer the individual to the individual's primary care provider for a physical examination after issuing a prescription for the hormonal contraceptive patch, self-administered hormonal contraceptive, emergency contraceptive, or vaginal ring hormonal contraceptive to the individual.

(f) Dispense the hormonal contraceptive patch, self-administered hormonal contraceptive, emergency contraceptive, or vaginal ring hormonal contraceptive to an individual described in subsection (1) as soon as practicable after issuing the prescription for the hormonal contraceptive patch, self-administered hormonal contraceptive, emergency contraceptive, or vaginal ring hormonal contraceptive to the individual, or transmit the prescription to another pharmacy of the individual's choice if authorized pursuant to rules promulgated by the department.

(3) The department, in consultation with the board, shall by rule develop a self-screening risk assessment

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tool to be used by an individual who is seeking a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive under this section.

History: Add. 2024, Act 242, Eff. Apr. 2, 2025.

Popular name: Act 368

333.17745 Drug control license; patient's chart or clinical record to include record of drugs dispensed; delegating authority to dispense drugs; storage of drugs; container; label; complimentary starter dose drug; information; compliance with MCL 333.7303a; inspection of locations; limitation on delegation; receipt of complimentary starter dose drugs by pharmacist; "complimentary starter dose" defined.

Sec. 17745. (1) Except as otherwise provided in this subsection, a prescriber who wishes to dispense prescription drugs shall obtain from the board a drug control license for each location in which the storage and dispensing of prescription drugs occur. A drug control license is not necessary if the dispensing occurs in the emergency department, emergency room, or trauma center of a hospital licensed under article 17 or if the dispensing involves only the issuance of complimentary starter dose drugs.

(2) Except as otherwise authorized for expedited partner therapy in section 5110 or as provided in section 17744a or 17744b, a dispensing prescriber shall dispense prescription drugs only to his or her own patients.

(3) A dispensing prescriber shall include in a patient's chart or clinical record a complete record, including prescription drug names, dosages, and quantities, of all prescription drugs dispensed directly by the dispensing prescriber or indirectly under his or her delegatory authority. If prescription drugs are dispensed under the prescriber's delegatory authority, the delegatee who dispenses the prescription drugs shall initial the patient's chart, clinical record, or log of prescription drugs dispensed. In a patient's chart or clinical record, a dispensing prescriber shall distinguish between prescription drugs dispensed to the patient, prescription drugs prescribed for the patient, prescription drugs dispensed or prescribed for expedited partner therapy as authorized in section 5110, and prescription drugs dispensed or prescribed as authorized under section 17744a or 17744b. A dispensing prescriber shall retain information required under this subsection for not less than 5 years after the information is entered in the patient's chart or clinical record.

(4) A dispensing prescriber shall store prescription drugs under conditions that will maintain their stability, integrity, and effectiveness and will ensure that the prescription drugs are free of contamination, deterioration, and adulteration.

(5) A dispensing prescriber shall store prescription drugs in a substantially constructed, securely lockable cabinet. Access to the cabinet must be limited to individuals authorized to dispense prescription drugs in compliance with this part and article 7.

(6) Unless otherwise requested by a patient, a dispensing prescriber shall dispense a prescription drug in a safety closure container that complies with the poison prevention packaging act of 1970, 15 USC 1471 to 1477.

(7) A dispensing prescriber shall dispense a drug in a container that bears a label containing all of the following information:

(a) The name and address of the location from which the prescription drug is dispensed.

(b) Except as otherwise authorized under section 5110, 17744a, or 17744b, the patient's name and record number.

(c) The date the prescription drug was dispensed.

(d) The prescriber's name or, if dispensed under the prescriber's delegatory authority, the name of the delegatee.

(e) The directions for use.

(f) The name and strength of the prescription drug.

(g) The quantity dispensed.

(h) The expiration date of the prescription drug or the statement required under section 17756.

(8) A dispensing prescriber who dispenses a complimentary starter dose drug to a patient, or an advanced practice registered nurse as that term is defined in section 17201 who dispenses a complimentary starter dose drug to a patient under section 17212, shall give the patient the information required in this subsection, by dispensing the complimentary starter dose drug to the patient in a container that bears a label containing the required information or by giving the patient a written document that may include, but is not limited to, a preprinted insert that comes with the complimentary starter dose drug and that contains the required information. The information required to be given to the patient under this subsection includes all of the following:

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(a) The name and strength of the complimentary starter dose drug.

(b) Directions for the patient's use of the complimentary starter dose drug.

(c) The expiration date of the complimentary starter dose drug or the statement required under section 17756.

(9) The information required under subsection (8) is in addition to, and does not supersede or modify, other state or federal law regulating the labeling of prescription drugs.

(10) In addition to meeting the requirements of this part, a dispensing prescriber who dispenses controlled substances shall comply with section 7303a.

(11) The board may periodically inspect locations from which prescription drugs are dispensed.

(12) The act, task, or function of dispensing prescription drugs shall be delegated only as provided in this part and sections 16215, 17048, 17211a, 17212, and 17548.

(13) A supervising physician may delegate in writing to a pharmacist practicing in a hospital pharmacy within a hospital licensed under article 17 the receipt of complimentary starter dose drugs other than controlled substances as defined in article 7 or federal law. When the delegated receipt of complimentary starter dose drugs occurs, both the pharmacist's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each receipt. A pharmacist described in this subsection may dispense a prescription for complimentary starter dose drugs written or transmitted by facsimile, electronic transmission, or other means of communication by a prescriber.

(14) As used in this section, "complimentary starter dose" means a prescription drug packaged, dispensed, and distributed in accordance with state and federal law that is provided to a dispensing prescriber free of charge by a manufacturer or distributor and dispensed free of charge by the dispensing prescriber to his or her patients.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 431, Eff. Mar. 31, 1981;—Am. 1986, Act 304, Eff. Mar. 31, 1987;—Am. 1990, Act 333, Eff. Mar. 28, 1991;—Am. 1992, Act 281, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 305, Imd. Eff. Dec. 28, 1993;—Am. 1996, Act 355, Imd. Eff. July 1, 1996;—Am. 1997, Act 186, Eff. Mar. 31, 1998;—Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2013, Act 186, Eff. Mar. 14, 2014;—Am. 2014, Act 311, Imd. Eff. Oct. 14, 2014;—Am. 2014, Act 525, Imd. Eff. Jan. 14, 2015;—Am. 2016, Act 379, Eff. Mar. 22, 2017;—Am. 2016, Act 499, Eff. Apr. 9, 2017.

Popular name: Act 368

333.17745a Definitions; public health program without on-site pharmacy; individuals delegated authority to dispense prescriptions; delegating delivery of certain oral contraceptives; circumstances; delegating delivery of methadone.

Sec. 17745a. (1) As used in this section:

(a) "Medicaid" means the program of medical assistance established under title XIX of the social security act, 42 USC 1396 to 1396w-5.

(b) "Medicare" means the federal Medicare program established under title XVIII of the social security act, 42 USC 1395 to 1395*lll*.

(c) "Public health program" means 1 of the following:

(*i*) A local health department.

(*ii*) A migrant health center or a community health center as defined under 42 USC 254b and 254c.

(*iii*) A family planning program designated by the department of health and human services as a provider type 23 under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, and verified by the department of health and human services.

(*iv*) A methadone treatment program licensed under article 6.

(*v*) A rural health clinic.

(*vi*) A hospice rendering emergency care services in a patient's home as described in section 17746.

(d) "Rural health clinic" means a rural health clinic as defined in section 42 USC 1395x that is certified to participate in Medicaid and Medicare.

(2) Except as otherwise provided in subsections (3) and (4), in a public health program without an on-site pharmacy, a dispensing prescriber may delegate the dispensing of prescription drugs only to a registered professional nurse licensed under part 172.

(3) In a public health program without an on-site pharmacy, a dispensing prescriber may delegate the delivery of prescription drugs consisting only of prelabeled, prepackaged oral contraceptives under the following circumstances:

(a) The delivery is delegated to an appropriately trained individual.

(b) The delivery is performed pursuant to specific, written protocols.

(4) In a methadone treatment program licensed under article 6 without an on-site pharmacy, a dispensing prescriber may delegate the delivery of a prescription drug consisting only of 1 or more single doses of

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methadone, up to the maximum number of single doses allowed by law, to a registered client of the methadone treatment program, if all of the following requirements are met:

(a) The delivery is delegated to a registered professional nurse or a licensed practical nurse licensed under part 172.

(b) The delivery is performed pursuant to specific, written protocols.

(c) The prescription drug described in this subsection is labeled in accordance with section 17745.

History: Add. 1993, Act 305, Imd. Eff. Dec. 28, 1993;—Am. 1999, Act 190, Imd. Eff. Nov. 24, 1999;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.17745b Industrial clinic or prescriber practice without on-site pharmacy; dispensing prescription drug.

Sec. 17745b. (1) Subject to subsection (3), in an industrial clinic or other prescriber practice location without an on-site pharmacy, a dispensing prescriber may delegate the dispensing of prescription drugs only to a registered professional nurse licensed under part 172.

(2) In an industrial clinic or other prescriber practice location without an on-site pharmacy, if a dispensing prescriber does not delegate the dispensing of a prescription drug, the dispensing prescriber shall do both of the following:

(a) Be physically present at the time the prescription drug is dispensed.

(b) Immediately before the prescription drug is dispensed, perform a final inspection of the type of prescription drug, labeling, dosage, and amount of the prescription drug dispensed.

(3) A dispensing prescriber who delegates the dispensing of a prescription drug to a patient in an industrial clinic or other prescriber practice location without an on-site pharmacy shall not delegate the dispensing of more than a 72-hour supply of the prescription drug.

(4) Before dispensing a prescription drug to a patient in an industrial clinic or other prescriber practice location without an on-site pharmacy, a dispensing prescriber who intends to charge for dispensing the drug shall give a written prescription to the patient and shall instruct the patient that he or she may elect to have the prescription filled by the dispensing prescriber or the patient's pharmacy of choice.

(5) If a dispensing prescriber intends to charge for dispensing a prescription drug to a patient in an industrial clinic or other prescriber practice location without an on-site pharmacy, the dispensing prescriber shall inform the patient of that fact before dispensing the prescription drug to the patient. The dispensing prescriber also shall list the charge for dispensing the prescription drug as a separate item on the patient's bill.

(6) This section does not apply to public health programs as defined in section 17745a.

History: Add. 1993, Act 306, Imd. Eff. Dec. 28, 1993;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.17746 Hospice emergency care services in patients' homes; medication box exchange program.

Sec. 17746. A pharmacy may establish a medication box exchange program for hospice emergency care services rendered in patients' homes, pursuant to this section and rules promulgated under this section. The pharmacist in charge of the pharmacy shall be responsible for developing, implementing, and coordinating the program in conjunction with the medical director of the hospice program. The pharmacist in charge of the pharmacy shall be responsible for obtaining prescriptions from the hospice medical director for the drugs dispensed from a medication box. The board may promulgate rules to implement this section.

History: Add. 1993, Act 305, Imd. Eff. Dec. 28, 1993.

Popular name: Act 368

Administrative rules: R 338.471 et seq. of the Michigan Administrative Code.

333.17747 Drug control license; contents; duration; renewal; conditions; license as automatically void.

Sec. 17747. (1) A drug control license shall contain the name and address of the dispensing prescriber and each location in which the storage and dispensing of drugs occur and other information the board requires.

(2) A drug control license is valid until the date on which the dispensing prescriber's professional license must be renewed, at which time the drug control license shall be renewed. The drug control license shall be renewed automatically, if both of the following conditions are met:

(a) The dispensing prescriber indicates that he or she dispenses drugs and desires to continue to do so.

(b) The dispensing prescriber renews his or her professional license.

(3) A dispensing prescriber whose drug control license is renewed pursuant to subsection (2) is subject to

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section 16226 and the other requirements of this article and article 7.

(4) A drug control license is automatically void if a board suspends or revokes the licensee's health professional license.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 431, Eff. Mar. 31, 1981;—Am. 1990, Act 333, Eff. Mar. 28, 1991;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.17748 Pharmacy, manufacturer, wholesale distributor; or wholesale distributor-broker, license required; compounding services; renewal; designation of pharmacist in charge; joint responsibility; exemption; report of change in ownership, management, location, or PIC or facility manager; duties of pharmacist in charge; submission of fingerprints; criminal history check; exception; investigation or inspection of out-of-state applicant or compounding pharmacy; reimbursement for expenses.

Sec. 17748. (1) Except for a qualified pharmacy as that term is defined in section 17748e, to do business in this state, a pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker, whether or not located in this state, must be licensed under this part. To do business in this state, a person that provides compounding services must be licensed as a pharmacy or manufacturer under this part and, if a pharmacy, authorized to provide compounding services under this section and sections 17748a and 17748b. To do business in this state, an outsourcing facility must be licensed as a pharmacy under this part. Licenses are renewable biennially.

(2) Except for a remote pharmacy, a pharmacy shall designate a pharmacist licensed in this state as the pharmacist in charge for the pharmacy. For a remote pharmacy, the pharmacist designated as the pharmacist in charge of the parent pharmacy shall also serve as the pharmacist in charge of the remote pharmacy. Except as otherwise provided in this subsection, a manufacturer shall designate a pharmacist licensed in or outside of this state as the pharmacist in charge for the manufacturer or, if the manufacturer does not hold a license as a pharmacy, shall designate an employee with the appropriate education or experience, or both, to assume responsibility for compliance with licensing requirements as facility manager for the manufacturer. Except as otherwise provided in this subsection, a wholesale distributor or wholesale distributor-broker shall designate a pharmacist licensed in or outside of this state as the pharmacist in charge for the wholesale distributor or wholesale distributor-broker or shall designate an employee with the appropriate education or experience, or both, to assume responsibility for compliance with licensing requirements as facility manager for the wholesale distributor or wholesale distributor-broker. The pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker and the individual designated as the PIC or facility manager under this subsection are jointly responsible for the pharmacy's, manufacturer's, wholesale distributor's, or wholesale distributor-broker's compliance with this part and rules promulgated under this part. A person that is a manufacturer, wholesale distributor, or wholesale distributor-broker with respect to a device salable on prescription only but not with respect to any drug salable on prescription only is exempt from this subsection.

(3) Subject to this subsection, a pharmacist may be designated as the PIC for not more than 3 pharmacies, including remote pharmacies. A PIC described in this subsection shall work an average of at least 8 hours per week at each pharmacy for which he or she is the PIC unless he or she is serving as the PIC of a remote pharmacy. The PIC of a remote pharmacy is not required to be physically present at the remote pharmacy to satisfy the hour requirement described in this subsection, but may satisfy the requirement through the use of a telepharmacy system. The pharmacy and the PIC shall maintain appropriate records and demonstrate compliance with this subsection on the request of the board or its designee.

(4) A pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker shall report to the department a change in ownership, management, location, or its PIC or facility manager designated under subsection (2) not later than 30 days after the change occurs.

(5) A pharmacist designated as the PIC for a pharmacy shall supervise the practice of pharmacy for the pharmacy. The duties of the PIC include, but are not limited to, the following:

(a) Supervision of all activities of pharmacy employees as they relate to the practice of pharmacy including the purchasing, storage, compounding, repackaging, dispensing, and distribution of drugs and devices to ensure that those activities are performed in compliance with this part and the rules promulgated under this part.

(b) Enforcement and oversight of policies and procedures applicable to the employees of the pharmacy for the procurement, storage, compounding, and dispensing of drugs and the communication of information to the patient in relation to drug therapy.

(c) Establishment and supervision of the method and manner for storage and safekeeping of

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pharmaceuticals, including maintenance of security provisions to be used when the pharmacy is closed.

(d) Establishment and supervision of the record-keeping system for the purchase, sale, delivery, possession, storage, and safekeeping of drugs and devices.

(e) Establishment of policies and procedures for individuals who are delegated responsibilities for any of the tasks described in this subsection by the PIC.

(6) Except as otherwise provided in subsection (8), fingerprints for the following individuals must be submitted with an application for a new pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker license in the same manner as required in section 16174 for the purpose of a criminal history check:

(a) If the application is from an individual, who is not a health professional licensed or otherwise authorized to engage in a health profession under this article or who is a health professional but was licensed or otherwise authorized to engage in his or her health profession under this article before October 1, 2008, fingerprints for that individual.

(b) If the application is from a partnership, fingerprints for all partners and any individual who will manage the day-to-day operations of the new pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker.

(c) If the application is from a privately held corporation, fingerprints for any individual who will manage the day-to-day operations of the new pharmacy, manufacturer, or wholesale distributor. This subdivision only applies to a privately held corporation that in the aggregate owns fewer than 75 pharmacies, manufacturers, wholesale distributors, or wholesale distributor-brokers on the date the corporation submits its license application.

(7) The board, department, and department of state police shall conduct the criminal history check on the individuals described in subsection (6) in the same manner as described in section 16174.

(8) Subsection (6) does not apply if a criminal history check that meets the requirements of section 16174 has been obtained for the individuals described in subsection (6) within the 2 years preceding the date of the application for a new pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker license under this part. To qualify for the exception under this subsection, an applicant shall submit proof of the previous criminal history check for each individual described in subsection (6), as applicable, with the application for a new pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker license under this part. If the department or board determines that a criminal history check for an individual described in subsection (6) does not meet the requirements of section 16174 or was not obtained within the time period prescribed, fingerprints must be submitted for the individual as required under subsection (6).

(9) If, as authorized or required under this article, the department inspects or investigates an applicant for a new pharmacy license for a pharmacy that will provide compounding services or a compounding pharmacy, and the applicant or compounding pharmacy is located outside of this state, the applicant or compounding pharmacy shall reimburse the department for its expenses incurred in carrying out its authority or duty to inspect or investigate the applicant or licensee under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 2014, Act 280, Eff. Sept. 30, 2014;—Am. 2014, Act 413, Eff. Mar. 30, 2015;—Am. 2015, Act 169, Eff. Dec. 3, 2015;—Am. 2020, Act 4, Eff. Apr. 26, 2020;—Am. 2020, Act 142, Imd. Eff. July 14, 2020.

Popular name: Act 368

333.17748a Compounding services for sterile pharmaceuticals; accreditation; notification of complaint; maintenance and retention of records; resale of excess compounded pharmaceuticals prohibited; distribution of samples or complimentary starter doses; advertisement or promotion of compounding services; compounding pharmaceutical that is unavailable in marketplace; compounding and manufacturing at same location; rules.

Sec. 17748a. (1) Beginning September 30, 2014, an applicant for a new pharmacy license for a pharmacy that will provide compounding services for sterile pharmaceuticals shall submit verification of current accreditation through a national accrediting organization approved by the board or verify the pharmacy is in the accreditation process. The department shall not issue a license to a pharmacy described in this subsection that is not accredited unless the applicant demonstrates compliance with USP standards in a manner determined by the board.

(2) By September 30, 2016, a pharmacy that is licensed on September 30, 2014 and that provides compounding services for sterile pharmaceuticals must be accredited by a national accrediting organization approved by the board, be verified by the board as being in the accreditation process, or be in compliance with USP standards in a manner determined by the board.

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(3) Notwithstanding any provision of part 161 to the contrary, a pharmacy that provides compounding services for sterile pharmaceuticals shall submit with a license renewal application verification of current accreditation or compliance with USP standards, as applicable.

(4) A person that provides services consistent with an outsourcing facility shall comply with requirements of the FDA applicable to compounding services for sterile pharmaceuticals.

(5) A pharmacy shall notify the department of a complaint filed by another state in which the pharmacy is licensed for violations of that state's pharmacy laws, an investigation by federal authorities regarding violations of federal law, or an investigation by any agency into violations of accreditation standards regarding compounding activities within 30 days of knowledge of the complaint or investigation.

(6) Except for distribution within a hospital or another health care entity under common control when regulated by federal law, a pharmacist shall maintain a record of a compounded sterile pharmaceutical in the same manner and for the same retention period as prescribed in rules for other prescription records. The pharmacist shall include, but is not limited to including, all of the following information in the record required under this subsection:

(a) The name, strength, quantity, and dosage form of the compounded pharmaceutical.

(b) The formula to compound that includes mixing instructions, all ingredients and their quantities, and any additional information needed to prepare the compounded pharmaceutical.

(c) The prescription number or assigned internal identification number.

(d) The date of preparation.

(e) The manufacturer and lot number of each ingredient.

(f) The expiration or beyond-use date.

(g) The name of the person who prepared the compounded pharmaceutical.

(h) The name of the pharmacist who approved the compounded pharmaceutical.

(7) A pharmacist shall not offer excess compounded pharmaceuticals to other pharmacies for resale. A compounding pharmacy shall not distribute samples or complimentary starter doses of a compounded pharmaceutical to a health professional.

(8) A compounding pharmacy may advertise or otherwise promote the fact that they provide compounding services.

(9) Based on the existence of a health professional/patient relationship and the presentation of a valid prescription, or in anticipation of the receipt of a prescription based on routine, regularly observed prescription patterns, a pharmacist may compound for a patient a nonsterile or sterile pharmaceutical that is not commercially available in the marketplace.

(10) Notwithstanding any provision of this act to the contrary, a person shall not compound and manufacture drug products or allow the compounding and manufacturing of drug products at the same location.

(11) The department, in consultation with the board, may promulgate rules regarding conditions and facilities for the compounding of nonsterile and sterile pharmaceuticals.

History: Add. 2014, Act 280, Eff. Sept. 30, 2014;—Am. 2015, Act 133, Imd. Eff. Sept. 30, 2015.

Popular name: Act 368

333.17748b Compounding nonsterile or sterile pharmaceuticals for prescriber or health facility or agency to administer to patients without prescription; authorization; report of adverse event; list of authorized pharmacies and pharmacists; selling or redispensing to prescriber or health facility or agency.

Sec. 17748b. (1) Except as otherwise provided in this subsection, a pharmacist or pharmacy shall not compound nonsterile or sterile pharmaceuticals for a prescriber or health facility or agency licensed under article 17 to administer to the prescriber's, facility's, or agency's patients without a prescription, unless the pharmaceutical compounded by the pharmacist or pharmacy complies with the most recent guidance on pharmacy compounding of human drug products under 21 USC 353a. Upon application by a pharmacist or compounding pharmacy, the department may authorize the pharmacist or compounding pharmacy to compound nonsterile or sterile pharmaceuticals for a prescriber or health facility or agency licensed under article 17 to administer to the prescriber's, facility's, or agency's patients in limited quantities without a prescription. This subsection does not apply to the compounding of topical nonsterile pharmaceuticals. The department shall prescribe the form of the application for use under this subsection, which application must include at least all of the following information:

(a) The name and license number of the pharmacist or pharmacy requesting authorization to compound under this subsection.

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(b) The name of the specific prescriber or health facility or agency that is requesting compounded pharmaceuticals and an affidavit from the prescriber or designated agent of the health facility or agency attesting to the need and that the compounded pharmaceuticals are only for patients located in this state or in states immediately adjacent to this state.

(c) The pharmaceuticals to be compounded and the reason for the need to compound the pharmaceuticals.

(d) The anticipated quantities of pharmaceuticals to be compounded each month and the frequency of the need to compound before receipt of a prescription or documentation supporting the anticipated quantities.

(e) The conditions of operation including practices consistent with USP standards and requirements for sterility testing.

(2) A pharmacist or compounding pharmacy that is authorized to compound nonsterile or sterile pharmaceuticals for a prescriber or health facility or agency under subsection (1) shall do all of the following:

(a) Maintain complete and accurate records on a monthly basis of requests from and pharmaceuticals compounded for each prescriber or health facility or agency.

(b) Provide the information described in subdivision (a) to the department as specified in rules or upon request.

(3) The authorization granted under subsection (1) is for a 2-year period consistent with the 2-year license cycle of the pharmacy. The department may, without prior notice to the pharmacist or pharmacy, physically inspect the facility where the compounding of nonsterile or sterile pharmaceuticals occurs.

(4) The department shall not authorize a pharmacist or compounding pharmacy to compound nonsterile or sterile pharmaceuticals without a prescription if the pharmacist or pharmacy is under investigation, is in the process of being disciplined, or is in a disciplinary status.

(5) Except as otherwise provided in this subsection, the department may immediately revoke the authorization granted under subsection (1) if there is a confirmed deviation or violation of the compounding process or if an adverse event directly related to sterility or integrity of the product and associated with a compounded nonsterile or sterile pharmaceutical is detected. If the health, safety, and welfare of the public are not in immediate jeopardy, the department shall provide at least 30 days' notice of the revocation of authorization under this subsection.

(6) A pharmacy or pharmacist authorized to compound pharmaceuticals under this section that becomes aware of an adverse event attributed to the integrity of the product of a compounded pharmaceutical shall report the adverse event to the department not later than 10 calendar days after becoming aware of the adverse event. For purposes of this subsection, an adverse event does not include an isolated allergic reaction to a substance included in the compound if the allergic reaction is treated and relieved with standard protocol.

(7) The department shall post and maintain a list of pharmacies and pharmacists who are authorized to compound pharmaceuticals under this section on its internet website. The department shall update the list required under this subsection at least quarterly.

(8) A prescriber or health facility or agency that obtains compounded pharmaceuticals under this section shall not redispense or sell the compounded pharmaceutical to a patient, a prescriber, or health facility or agency.

History: Add. 2014, Act 280, Eff. Sept. 30, 2014.

Popular name: Act 368

333.17748c Compounding pharmaceutical; commercial availability.

Sec. 17748c. Except for pharmaceuticals on the Michigan pharmaceutical product list maintained by the department of community health, a pharmacist shall not compound a pharmaceutical that is commercially available unless 1 of the following requirements is met:

(a) The commercially available pharmaceutical is modified to produce a significant difference, in the professional judgment of the prescriber, between the compounded pharmaceutical for the patient and the comparable commercially available pharmaceutical.

(b) The commercially available pharmaceutical is not available from normal distribution channels in a timely manner to meet the patient's needs and the dispensing of the compounded pharmaceutical has been approved by the prescriber and the patient. A pharmacist who compounds a commercially available pharmaceutical as provided in this subdivision shall maintain documentation of the reason for the compounding.

History: Add. 2014, Act 280, Eff. Sept. 30, 2014.

Popular name: Act 368

333.17748d Violation of MCL 333.17748a or 17748b; penality.

Sec. 17748d. (1) Except as otherwise provided in this section, a person that violates section 17748a or

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17748b is guilty of a misdemeanor.

(2) Except as otherwise provided in this section, a person that knowingly or willfully violates section 17748a or 17748b or a person that falsifies prescriptions in order to compound a pharmaceutical in bulk is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,000.00, or both.

(3) Except as otherwise provided in this section, a person that knowingly or willfully violates section 17748a or 17748b or a person that falsifies prescriptions in order to compound a pharmaceutical in bulk, which activity results in personal injury, is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $4,000.00, or both.

(4) A person that knowingly or willfully violates section 17748a or 17748b or a person that falsifies prescriptions in order to compound a pharmaceutical in bulk, which activity results in serious impairment of a body function, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both. As used in this subsection, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(5) A person that knowingly or willfully violates section 17748a or 17748b or a person that falsifies prescriptions in order to compound a pharmaceutical in bulk, which activity results in death, is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $20,000.00, or both.

(6) The state attorney general or county prosecutor may bring and prosecute criminal charges described in this section.

History: Add. 2014, Act 280, Eff. Sept. 30, 2014.

Popular name: Act 368

333.17748e Out-of-state pharmacy; facilitation of delivery or trade; use of wholesale distributor-broker; requirements; liability; license requirements; transaction records; notification; investigation; definitions.

Sec. 17748e. (1) An out-of-state pharmacy that is not licensed under this part as a pharmacy may deliver or trade a drug or device salable on prescription only to a person located in this state only if the out-of-state pharmacy meets both of the following requirements:

(a) The out-of-state pharmacy holds a license in good standing as a pharmacy from the state in which it is located.

(b) The out-of-state pharmacy uses a wholesale distributor-broker that is licensed in this state to facilitate the transaction.

(2) Except as otherwise provided in this part, a pharmacy that is using a wholesale distributor-broker shall only deliver or trade a drug or device salable on prescription only that it receives from 1 or more of the following:

(a) A manufacturer.

(b) A wholesale distributor.

(c) Subject to subsection (3), a pharmacy.

(d) Subject to subsection (3), a qualified pharmacy.

(3) A drug salable on prescription only must not be delivered or traded between pharmacies, or between a pharmacy and a qualified pharmacy that is using a wholesale distributor-broker, unless all of the following are met:

(a) The pharmacy or qualified pharmacy from which the drug is being obtained receives a request for the drug that identifies the drug's brand name or generic name, lot number, expiration date, quality, quantity, and size.

(b) The drug is approved by the United States Food and Drug Administration.

(c) The drug is not expired at the time of the delivery or trade.

(d) The drug is not a controlled substance.

(e) Before delivering or trading the drug, the pharmacy or qualified pharmacy from which the drug is being obtained confirms with the pharmacy or qualified pharmacy receiving the drug that the drug is available for delivery or trade.

(f) The pharmacy or qualified pharmacy from which the drug is being obtained includes with the drug a packaging checklist, confirming that the drug being delivered or traded matches the information identified on the request described in subdivision (a).

(g) The drug is delivered or traded in the original manufacturer's packaging, whether sealed or unsealed, with the drug's national drug code, lot number, and expiration date conspicuously identified on the packaging. If the original manufacturer's packaging is unsealed at the time of the delivery or trade, the delivery or trade may include a quantity of the drug that is less than the quantity contained in the original manufacturer's

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packaging. However, the pharmacies, or the pharmacy and qualified pharmacy, shall not trade or deliver more than 1 unsealed or partial quantity of the drug during any consecutive 90-day period.

(h) If 1 of the pharmacies involved in the delivery or trade is a qualified pharmacy, the delivery or trade is intended to fill a prescription for an identified patient.

(4) A wholesale distributor-broker is not liable in a civil action for personal injury or death resulting from a drug or device salable on prescription only that was delivered or traded by a pharmacy or qualified pharmacy under this section, regardless of whether the wholesale distributor-broker is subject to disciplinary action under this part, if the wholesale distributor-broker's conduct does not amount to gross negligence as that term is defined in section 7 of 1964 PA 170, MCL 691.1407.

(5) To receive a license as a wholesale distributor-broker under this part, an applicant shall meet the requirements for licensure established by the department in consultation with the board by rule. The rules must require the applicant to demonstrate to the satisfaction of the board that, at the time of the application for initial licensure, the applicant facilitates deliveries or trades for at least 50 qualified pharmacies that are each licensed in good standing in their state of licensure. If the number of qualified pharmacies described in this subsection with which a wholesale distributor-broker facilitates deliveries and trades falls below 50, the wholesale distributor-broker may continue to do business in this state. However, a wholesale distributor-broker seeking renewal of its license shall, in addition to meeting any requirements for renewal under section 16201, demonstrate to the satisfaction of the board that the wholesale distributor-broker facilitates deliveries and trades for at least 50 qualified pharmacies at the time of license renewal.

(6) A wholesale distributor-broker shall provide a transaction history, transaction statement, or transaction information to a pharmacy purchasing a drug or device from a pharmacy or qualified pharmacy through the wholesale distributor-broker under this section if any of the following are met:

(a) A transaction history, transaction statement, or transaction information is required under the drug supply chain security act, Public Law 113-54.

(b) The qualified pharmacy provided the transaction history, transaction statement, or transaction information to the wholesale distributor-broker, and the wholesale distributer-broker receives a request for the document from the purchasing pharmacy. A wholesale distributor-broker that receives a document described in this subdivision shall retain the document for at least 7 years.

(7) A wholesale distributor-broker that receives notification from a pharmacy or qualified pharmacy that a delivery or trade facilitated by the wholesale distributor-broker involved a drug or device salable on prescription only that is a suspect product or illegitimate product shall immediately notify each of the following:

(a) The department.

(b) The United States Food and Drug Administration.

(c) Each pharmacy that received the product from the pharmacy or qualified pharmacy.

(8) Before facilitating the delivery or trade of a drug or device salable on prescription only to a pharmacy, the wholesale distributor-broker shall notify the pharmacy, in writing, that the wholesale distributor-broker will not examine the drug or device for quality or accuracy before the pharmacy receives the drug or device.

(9) A wholesale distributor-broker shall not facilitate a delivery or trade of a drug or device salable on prescription only between a pharmacy and a qualified pharmacy unless both of the following are met:

(a) The pharmacy's or qualified pharmacy's license is in good standing in its state of licensure at the time of the delivery or trade and the wholesale distributor-broker has no knowledge of pending disciplinary action against the pharmacy or qualified pharmacy in its state of licensure.

(b) The wholesale distributor-broker has, for the quarter in which the delivery or trade will occur, received from the pharmacy and qualified pharmacy a signed attestation that the pharmacy or qualified pharmacy holds a license in good standing in its state of licensure and that the pharmacy or qualified pharmacy is in compliance with all applicable federal and state laws. The wholesale distributor-broker shall make an attestation received under this subdivision available to the department on the department's request.

(10) A wholesale distributor-broker shall cooperate with the department if the department is investigating a transaction involving the wholesale distributor-broker or a qualified pharmacy with which the wholesale distributor-broker facilitates transactions.

(11) As used in this section:

(a) "Illegitimate product" means that term as defined in 21 USC 360eee.

(b) "Out-of-state pharmacy" means a facility or part of a facility that is located outside of this state and that dispenses prescription drugs or prepares prescription drugs for delivery or distribution under the laws of the state in which it is located.

(c) "Qualified pharmacy" means an out-of-state pharmacy that meets the requirements described in subsection (1).

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(d) "Suspect product" means that term as defined in 21 USC 360eee.
(e) "Transaction history" means that term as defined in 21 USC 360eee.
(f) "Transaction information" means that term as defined in 21 USC 360eee.
(g) "Transaction statement" means that term as defined in 21 USC 360eee.

History: Add. 2020, Act 142, Imd. Eff. July 14, 2020.

Popular name: Act 368

333.17748f Licensure of a pharmacy as a wholesale distributor or manufacturer; requirements.

Sec. 17748f. (1) A pharmacy shall obtain a license as a wholesale distributor under this part if the total number of dosage units of all prescription drugs distributed by the pharmacy to a person during any consecutive 12-month period is more than 5% of the total number of dosage units of prescription drugs distributed and dispensed by the pharmacy during the same 12-month period. The calculation of the 5% threshold described in this subsection must not include a distribution of a prescription drug that is exempt from the definition of wholesale distribution under 21 USC 353(e)(4).

(2) A pharmacy shall obtain a license as a manufacturer under this part if, during any consecutive 12-month period, the total number of dosage units of all prescription drugs that are prepared or compounded by the pharmacy for the resale, compounding, or dispensing by another person is more than 5% of the total number of dosage units of prescription drugs prepared by the pharmacy during the same 12-month period.

History: Add. 2020, Act 142, Imd. Eff. July 14, 2020;—Am. 2021, Act 130, Imd. Eff. Dec. 17, 2021.

Popular name: Act 368

333.17749 Dispensing of diagnostic or therapeutic pharmaceutical agents by wholesale distributor or pharmacist to optometrist; condition; "therapeutic pharmaceutical agent" and "diagnostic pharmaceutical agent" defined.

Sec. 17749. (1) Notwithstanding any provision of this act or any rule promulgated under this act, a wholesale distributor or pharmacist may dispense a diagnostic pharmaceutical agent or a therapeutic pharmaceutical agent to a licensed optometrist for subsequent administration to optometric patients, if the optometrist provides the wholesale distributor or pharmacist with the number of the optometrist's certification of qualification to administer diagnostic pharmaceutical agents and the number of the optometrist's certification of qualification to administer and prescribe therapeutic pharmaceutical agents.

(2) As used in this section, "therapeutic pharmaceutical agent" and "diagnostic pharmaceutical agent" mean those terms as defined in section 17401.

History: Add. 1984, Act 42, Eff. Apr. 12, 1984;—Am. 1994, Act 384, Eff. Mar. 30, 1995.

Popular name: Act 368

333.17750 Person who distributes complimentary starter doses to prescribers; records; access by board; "complimentary starter dose" defined.

Sec. 17750. (1) A person who distributes complimentary starter doses to prescribers shall maintain records that include at least all of the following information:

(a) The name and address of the manufacturer distributing the complimentary starter doses.
(b) The name and address of each prescriber to whom complimentary starter doses were distributed.
(c) The type and amount of complimentary starter doses distributed to each prescriber.

(2) Upon request of the board, a person who distributes complimentary starter doses to prescribers shall provide the board access to the records required under subsection (1).

(3) As used in this section, "complimentary starter dose" means that term as defined in section 17745(1).

History: Add. 1990, Act 333, Eff. Mar. 28, 1991.

Popular name: Act 368

333.17750a Dispensing of prescription for therapeutic pharmaceutical agent by pharmacist.

Sec. 17750a. (1) A pharmacist may dispense a prescription for a therapeutic pharmaceutical agent issued by an optometrist certified by the Michigan board of optometry under part 174 as qualified to administer and prescribe therapeutic pharmaceutical agents.

(2) As used in this section, "therapeutic pharmaceutical agent" means that term as defined in section 17401.

History: Add. 1994, Act 384, Eff. Mar. 30, 1995.

Popular name: Act 368

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333.17751 Dispensing prescription drug or device requiring prescription; requirements; exceptions.

Sec. 17751. (1) Except as otherwise provided in sections 17724a and 17744f, a pharmacist shall not dispense a drug requiring a prescription under the federal act or a law of this state except under authority of an original prescription or an equivalent record of an original prescription approved by the board. A pharmacist described in section 17742b(2) may dispense a drug pursuant to an original prescription received at a remote pharmacy if the pharmacist receives, reviews, and verifies an exact digital image of the prescription received at the remote pharmacy before the drug is dispensed at the remote pharmacy.

(2) Subject to this subsection and subsections (1) and (5), a pharmacist may dispense a drug or device pursuant to a prescription written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a prescriber in another state or province of Canada, but not including a prescription for a controlled substance except under circumstances described in section 17763(e). Before dispensing a drug or device pursuant to a prescription under this subsection, the pharmacist, in the exercise of the pharmacist's professional judgment, must determine all of the following:

(a) Except as otherwise authorized under section 5110, 17744a, or 17744b, if the prescriber is not a veterinarian, that the prescription was issued pursuant to an existing prescriber-patient relationship.

(b) That the prescription is authentic.

(c) That the prescribed drug is appropriate and necessary for the treatment of an acute, chronic, or recurrent condition.

(3) A pharmacist or a prescriber shall dispense a drug or device pursuant to a prescription only if the prescription falls within the scope of practice of the prescriber or if the prescription was issued by a pharmacist in accordance with this part.

(4) A pharmacist shall not knowingly dispense a drug or device pursuant to a prescription after the death of the patient.

(5) A pharmacist shall not dispense a drug or device pursuant to a prescription transmitted by facsimile or created in electronic format and printed out for use by the patient unless the document is manually signed by the prescriber. This subsection does not apply to any of the following:

(a) A prescription that is transmitted by a computer to a facsimile machine if that prescription complies with section 17754 or 17754a.

(b) A prescription that is received by a remote pharmacy and made available to a pharmacist described in section 17742b(2) for review and verification in the manner required under subsection (1).

(6) After consultation with and agreement from the prescriber, a pharmacist may add or change a patient's address, a dosage form, a drug strength, a drug quantity, a direction for use, or an issue date with regard to a prescription. A pharmacist shall note the details of the consultation and agreement required under this subsection on the prescription or, if the drug is dispensed at a remote pharmacy, on the digital image of the prescription described in subsection (1), and shall maintain that documentation with the prescription as required in section 17752. A pharmacist shall not change the patient's name, controlled substance prescribed unless authorized to dispense a lower cost generically equivalent drug product under section 17755, or the prescriber's signature with regard to a prescription.

(7) A prescription that is contained within a patient's chart in a health facility or agency licensed under article 17 or other medical institution and that is transmitted to a pharmacy under section 17744 is the original prescription. If all other requirements of this part are met, a pharmacist shall dispense a drug or device pursuant to a prescription described in this subsection. A pharmacist may dispense a drug or device pursuant to a prescription described in this subsection even if the prescription does not contain the quantity ordered. If a prescription described in this subsection does not contain the quantity ordered, the pharmacist shall consult with the prescriber to determine an agreed-upon quantity. The pharmacist shall record the quantity dispensed on the prescription and shall maintain that documentation with the prescription as required in section 17752.

(8) If, after consulting with a patient, a pharmacist determines in the exercise of the pharmacist's professional judgment that dispensing additional quantities of a prescription drug is appropriate for the patient, the pharmacist may dispense, at one time, additional quantities of the prescription drug up to the total number of dosage units authorized by the prescriber on the original prescription for the patient and any refills of the prescription. Except for a controlled substance included in schedule 5 that does not contain an opioid, this subsection does not apply to a prescription for a controlled substance.

(9) Notwithstanding any provision of this section, a pharmacist who receives a prescription under subsection (2) from an advanced practice registered nurse prescriber or physician's assistant prescriber in another state or province of Canada may dispense the drug or device without determining whether the

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advanced practice registered nurse prescriber or physician's assistant prescriber is authorized under the laws of the other state or province of Canada to issue the prescription.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1997, Act 153, Eff. Mar. 31, 1998;—Am. 2005, Act 85, Imd. Eff. July 19, 2005;—Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007;—Am. 2011, Act 155, Imd. Eff. Sept. 27, 2011;—Am. 2012, Act 209, Imd. Eff. June 27, 2012;—Am. 2013, Act 186, Eff. Mar. 14, 2014;—Am. 2014, Act 311, Imd. Eff. Oct. 14, 2014;—Am. 2014, Act 525, Imd. Eff. Jan. 14, 2015;—Am. 2016, Act 49, Eff. June 13, 2016;—Am. 2017, Act 165, Eff. Feb. 11, 2018;—Am. 2020, Act 4, Eff. Apr. 26, 2020;—Am. 2020, Act 136, Imd. Eff. July 8, 2020;—Am. 2021, Act 36, Imd. Eff. July 1, 2021;—Am. 2022, Act 80, Eff. Mar. 29, 2023;—Am. 2023, Act 97, Imd. Eff. July 19, 2023;—Am. 2024, Act 242, Eff. Apr. 2, 2025.

Compiler's note: Enacting section 1 of Act 49 of 2016 provides:

"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."

Popular name: Act 368

333.17752 Prescription or equivalent record; preservation; disclosure; providing copies; refilling copy; applicability of subsection (3) to pharmacies sharing real-time, on-line database and remote pharmacies; "equivalent record" defined.

Sec. 17752. (1) A licensee or dispensing prescriber shall preserve a prescription, or an equivalent record of the prescription approved by the board, for not less than 5 years.

(2) A prescription or equivalent record on file in a pharmacy is not a public record. A person having custody of or access to prescriptions shall not disclose their contents or provide copies without the patient's authorization, to any person except to any of the following:

(a) The patient for whom the prescription was issued, or another pharmacist acting on behalf of the patient.

(b) The authorized prescriber who issued the prescription, or a licensed health professional who is currently treating the patient.

(c) An agency or agent of government responsible for the enforcement of laws relating to drugs and devices.

(d) A person authorized by a court order.

(e) A person engaged in research projects or studies with protocols approved by the board.

(3) A pharmacist may refill a copy of a prescription from another pharmacy if the original prescription has remaining authorized refills, and the copy is issued according to the following procedure:

(a) The pharmacist issuing a written or oral copy of a prescription shall cancel the original prescription and record the cancellation. The record of cancellation must include the date the copy was issued, to whom issued, and the identification of the pharmacist who issued the copy.

(b) The written or oral copy issued must be a duplicate of the original prescription except that it must also include the prescription number, the name of the pharmacy issuing the copy, the date the copy was issued, and the number of authorized refills remaining available to the patient.

(c) The pharmacist receiving a written or oral copy of the prescription shall exercise reasonable diligence to determine whether it is a valid copy, and having done so may treat the copy as an original prescription.

(d) Except as described in this part, all other copies furnished must be used for information purposes only and clearly marked "for informational or reference purposes only".

(4) Subsection (3) does not apply to any of the following:

(a) Pharmacies that share a real-time, on-line database or other equivalent means of communication.

(b) Pharmacies that transfer prescriptions pursuant to a written contract for centralized prescription processing services as provided under section 17753.

(c) A parent pharmacy if the parent pharmacy receives a copy of a prescription from a remote pharmacy that it operates.

(d) A remote pharmacy if the remote pharmacy receives a copy of a prescription from a parent pharmacy.

(5) For purposes of this section, "equivalent record of the prescription approved by the board" or "equivalent record" includes a digital image described in section 17751(1).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2005, Act 73, Imd. Eff. July 19, 2005;—Am. 2020, Act 4, Eff. Apr. 26, 2020.

Popular name: Act 368

333.17753 Centralized prescription processing; conditions for performing or contracting; maintenance of policy and procedures manual; definition.

Sec. 17753. (1) A pharmacy may perform centralized prescription processing services or outsource those services to another pharmacy if each of the following conditions is satisfied:

(a) The pharmacies have the same owner or have a written contract outlining the services to be provided and the responsibilities and accountabilities of each pharmacy in fulfilling the terms of the contract in

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compliance with federal and state laws and regulations.

(b) The pharmacies share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to prepare a prescription drug order.

(c) The pharmacies comply with federal and state laws and regulations.

(2) A pharmacy that performs, or contracts for, centralized prescription processing services shall maintain a policy and procedures manual, along with documentation that implementation is occurring, and each shall be made available to the board for inspection and review upon request and the manual shall include, but is not limited to, a detailed description of how the pharmacies will do all of the following:

(a) Maintain appropriate records to identify the responsible pharmacist, or pharmacists, in the various stages of the drug product preparation, dispensing, and counseling process.

(b) Track the prescription drug order during each step in the drug product preparation, dispensing, and counseling process.

(c) Identify on the prescription label each pharmacy involved in the preparation and dispensing of the prescription drug order.

(d) Provide adequate security to protect the confidentiality and integrity of a patient's protected health information.

(e) Implement and maintain a quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.

(3) As used in this section, "centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, performing drug utilization review, completing claims adjudication, obtaining refill authorizations, initiating therapeutic interventions, and other functions related to the practice of pharmacy.

History: Add. 2005, Act 72, Imd. Eff. July 19, 2005.

Popular name: Act 368

333.17754 Electronic transmission of prescription; conditions; information; confidentiality; professional judgment as to accuracy, validity, and authenticity; original prescription; inapplicable after October 1, 2021.

Sec. 17754. (1) Except as otherwise provided under article 7, article 8, and the federal act, a prescription may be transmitted electronically if the prescription is transmitted in compliance with the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, by a prescriber or his or her agent and the data are not altered or modified in the transmission process. The electronically transmitted prescription must include all of the following information:

(a) The name, address, and telephone number of the prescriber.

(b) Except as otherwise authorized under section 5110, 17744a, or 17744b, the full name of the patient for whom the prescription is issued.

(c) An electronic signature or other identifier that specifically identifies and authenticates the prescriber or his or her agent.

(d) The time and date of the transmission.

(e) The identity of the pharmacy intended to receive the transmission.

(f) Any other information required by the federal act or state law.

(2) The electronic equipment or system utilized in the transmission and communication of prescriptions must provide adequate confidentiality safeguards and be maintained to protect patient confidentiality as required under any applicable federal and state law and to ensure against unauthorized access. The electronic transmission of a prescription must be communicated in a retrievable, recognizable form acceptable to the intended recipient. The electronic form utilized in the transmission of a prescription must not include "dispense as written" or "d.a.w." as the default setting.

(3) Before dispensing a prescription that is electronically transmitted, the pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the transmitted prescription.

(4) An electronically transmitted prescription that meets the requirements of this section is the original prescription.

(5) This section does not apply beginning on the date on which section 17754a applies.

History: Add. 2006, Act 672, Imd. Eff. Jan. 10, 2007;—Am. 2012, Act 209, Imd. Eff. June 27, 2012;—Am. 2013, Act 186, Eff. Mar. 14, 2014;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 311, Imd. Eff. Oct. 14, 2014;—Am. 2014, Act 525, Imd. Eff. Jan. 14, 2015;—Am. 2020, Act 134, Imd. Eff. July 8, 2020.

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Popular name: Act 368

333.17754a Electronic transmission of prescription; conditions; information; confidentiality; professional judgment as to accuracy, validity, and authenticity; exceptions; waiver; rules; delayed implementation.

Sec. 17754a. (1) Except as otherwise provided under article 8, the federal act, or subsection (5), and subject to subsection (10), beginning October 1, 2021, a prescriber or his or her agent shall electronically transmit a prescription, including a prescription for a controlled substance, directly to a pharmacy of the patient's choice. A prescription that is transmitted electronically under this section must be in compliance with the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, and the data must not be altered or modified in the transmission process. The electronically transmitted prescription must include all of the following information:

(a) The name, address, and telephone number of the prescriber.

(b) Except as otherwise authorized under section 5110, 17744a, or 17744b, the full name of the patient for whom the prescription is issued.

(c) An electronic signature or other identifier that specifically identifies and authenticates the prescriber or his or her agent.

(d) The time and date of the transmission.

(e) The identity of the pharmacy intended to receive the transmission.

(f) Any other information required by the federal act or state law.

(2) The electronic equipment or system utilized in the transmission and communication of prescriptions under this section must provide adequate confidentiality safeguards and be maintained to protect patient confidentiality as required under any applicable federal and state law and to ensure against unauthorized access. The electronic transmission of a prescription under this section must be communicated in a retrievable, recognizable form acceptable to the intended recipient. The electronic form utilized in the transmission of a prescription must not include "dispense as written" or "d.a.w." as the default setting.

(3) Before dispensing a prescription that is electronically transmitted under this section, the pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the transmitted prescription.

(4) An electronically transmitted prescription that meets the requirements of this section is the original prescription.

(5) The requirement to transmit a prescription electronically under subsection (1) does not apply under any of the following circumstances:

(a) If the prescription is issued by a prescriber who is a veterinarian licensed under this article.

(b) If the prescription is issued under a circumstance in which electronic transmission is not available due to a temporary technological or electrical failure.

(c) If the prescription is issued by a prescriber who has received a waiver from the department under subsection (7).

(d) If the prescription is issued by a prescriber who reasonably believes that electronically transmitting the prescription would make it impractical for the patient who is the subject of the prescription to obtain the prescription drug in a timely manner and that the delay would adversely affect the patient's medical condition. A prescriber who does not electronically transmit a prescription under this subdivision shall document the specific reason for his or her belief that the delay would adversely affect the patient's medical condition.

(e) If the prescription is orally prescribed under section 7333(3) or (4).

(f) If the prescription is issued by a prescriber to be dispensed outside of this state.

(g) If the prescription is issued by a prescriber who is located outside of this state to be dispensed by a pharmacy located inside of this state.

(h) If the prescription is issued and dispensed in the same health care facility and the individual for whom the prescription is issued uses the drug exclusively in the health care facility. As used in this subdivision, "health care facility" includes, but is not limited to, any of the following:

(*i*) A hospital.

(*ii*) A hospice.

(*iii*) A dialysis treatment clinic.

(*iv*) A freestanding surgical outpatient facility.

(*v*) A skilled nursing facility.

(*vi*) A long-term care facility that provides rehabilitative, restorative, or ongoing skilled nursing care to an individual who is in need of assistance with activities of daily living.

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(i) If the prescription contains content that is not supported by the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard.

(j) If the prescription is for a drug for which the FDA requires the prescription to contain content that cannot be transmitted electronically.

(k) If the prescription is issued under circumstances in which the prescriber is not required to include on the prescription a name of a patient for whom the prescription is issued including, but not limited to, a prescription issued under section 5110.

(*l*) If the prescription is issued by a prescriber who is prescribing the drug under a research protocol.

(m) If the prescription is dispensed by a dispensing prescriber.

(n) If the prescription is for a dialysis-related drug that is administered as part of or incident to a home-based dialysis treatment.

(6) If a prescriber has not been granted a waiver from the department under subsection (7) and the prescriber does not electronically transmit a prescription under an exception described in subsection (5), the prescriber shall document the applicable exception and provide that documentation to the department on request.

(7) If a prescriber cannot meet the requirements of subsection (1) or (2), the prescriber may apply to the department for a waiver in a form and manner required by the department. The department shall establish by rule the requirements for obtaining a waiver under this subsection. The rules must not establish requirements that are more stringent than any requirements used by the federal Centers for Medicare and Medicaid Services for waiving the Medicare requirement for the electronic transmission of controlled substance prescriptions. If a prescriber provides evidence satisfactory to the department that the prescriber has received a waiver of the Medicare requirement for the electronic transmission of controlled substances prescriptions from the federal Centers for Medicare and Medicaid Services, the department shall grant a waiver to the prescriber under this subsection. A waiver that is granted by the department under this subsection is valid for a period not to exceed 2 years and is renewable.

(8) A pharmacist who receives a prescription that was not transmitted electronically to the pharmacy may dispense the prescription without determining whether an exception under subsection (5) applies.

(9) The department, in consultation with the board, shall promulgate rules to implement this section.

(10) If the federal Centers for Medicare and Medicaid Services delays the Medicare requirement for the electronic transmission of prescriptions for controlled substances beyond October 1, 2021, then the department shall delay the implementation date of subsection (1) to the date established by the federal Centers for Medicare and Medicaid Services for the Medicare requirement.

History: Add. 2020, Act 134, Imd. Eff. July 8, 2020;—Am. 2021, Act 94, Imd. Eff. Oct. 29, 2021.

Popular name: Act 368

333.17755 Dispensing lower cost generically equivalent drug product or interchangeable biological drug product; notice; contents of prescription label; limitation; restrictions; limitation on total charge; communication to be provided prescriber; exception; link on website to Purple Book; report; definitions.

Sec. 17755. (1) Except as provided in subsection (3), when a pharmacist receives a prescription for a brand name drug product or biological drug product, the pharmacist may, or when a purchaser requests a lower cost generically equivalent drug product or interchangeable biological drug product, the pharmacist shall dispense a lower cost but not higher cost generically equivalent drug product or interchangeable biological drug product if available in the pharmacy. If a drug or biological drug product is dispensed that is not the prescribed brand, the purchaser must be notified and the prescription label must indicate both the name of the brand prescribed and the name of the brand dispensed and designate each respectively. Except as otherwise provided in section 17756, if the dispensed drug or biological drug product does not have a brand name, the prescription label must indicate the generic name of the drug dispensed or the proprietary name of the biological drug product dispensed.

(2) If a pharmacist substitutes a lower cost generically equivalent drug product or interchangeable biological drug product to a purchaser who is not submitting a claim to a third-party payment source, the pharmacist shall charge the purchaser not more than the current selling price for the lower cost drug product.

(3) The pharmacist shall not dispense a generically equivalent drug product or interchangeable biological drug product under subsection (1) if any of the following apply:

(a) The prescriber, in the case of a prescription in writing signed by the prescriber, writes in his or her own handwriting "dispense as written" or "d.a.w." on the prescription.

(b) The prescriber, having preprinted on his or her prescription blanks the statement "another brand of a

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generically equivalent product, identical in dosage, form, and content of active ingredients, may be dispensed unless initialed d.a.w.", writes in his or her own handwriting the initials "d.a.w." in a space, box, or square adjacent to the statement.

(c) The prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates that the prescription is to be dispensed as communicated.

(4) A pharmacist may not dispense a drug product with a total charge that exceeds the total charge of the drug product originally prescribed, unless agreed to by the purchaser.

(5) Except as otherwise provided in subsection (6), within 5 days after dispensing an interchangeable biological drug product, the dispensing pharmacist or his or her designee shall communicate to the prescriber the specific interchangeable biological drug product provided to the patient, including the name of the interchangeable biological drug product and its manufacturer. The communication required under this subsection must be made as follows:

(a) By making an entry that is electronically accessible to the prescriber through an interoperable electronic medical records system, an electronic prescribing technology, a pharmacy benefit management system, a health information exchange, or a pharmacy record. An entry made as described in this subdivision is presumed to provide notice to the prescriber.

(b) If the methods described in subdivision (a) are not available, then by facsimile, telephone, electronic transmission, or other prevailing means.

(6) Subsection (5) does not apply if either of the following occurs:

(a) There is no FDA-licensed interchangeable biological drug product for the product prescribed.

(b) A refill authorization does not change the product that was dispensed on the prior filling of the prescription.

(7) The board shall maintain a link on its website to the current Purple Book.

(8) Beginning June 1, 2018 and annually thereafter, the department shall submit a report on all of the following to the house and senate standing committees on health policy, the speaker of the house of representatives, and the senate majority leader:

(a) A list of each biological drug product that the FDA had previously determined to be therapeutically equivalent as set forth in the Orange Book that is now included in the Purple Book.

(b) The anticipated date that every biological drug product that the FDA has determined to be therapeutically equivalent as set forth in the Orange Book will be included in the Purple Book.

(9) As used in this section:

(a) "Orange Book" means "Approved Drug Products with Therapeutic Equivalence Evaluations", an FDA publication that is commonly referred to as the "Orange Book".

(b) "Purple Book" means "Lists of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations", an FDA publication that is commonly referred to as the "Purple Book".

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2018, Act 41, Eff. May 29, 2018;—Am. 2018, Act 246, Eff. Sept. 26, 2018.

Popular name: Act 368

333.17756 Label on prescription; contents.

Sec. 17756. (1) A prescription dispensed by a pharmacist shall bear upon the label the name of the medication in the container, unless the prescriber writes "do not label" on the prescription. The prescription shall also bear upon the label the following statement: "Discard this medication 1 year after the date it is dispensed.", unless the medication expires on another date under applicable state or federal law or rules or regulations or other state or federal standards. If the medication expires on another date, the pharmacist dispensing the prescription shall strike or omit the statement required under this subsection and shall specify on the label the actual expiration date of the medication.

(2) A label on a prescription dispensed by a dispensing prescriber shall include the name of the medication in the container. The label shall also include the statement required under subsection (1) or the actual expiration date of the medication in the container in the same manner required under subsection (1) for a prescription dispensed by a pharmacist.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 73, Eff. Jan. 1, 1994.

Popular name: Act 368

333.17757 Price information; prohibited conduct; notice; receipt evidencing transactions; omission; retention of copy of receipt; rules.

Sec. 17757. (1) When a pharmacist engaged in the business of selling drugs receives a prescription, the pharmacist may, or, when the pharmacist receives a request made in person or by telephone, the pharmacist

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shall provide the current selling price of a drug dispensed by that pharmacy or comparative current selling prices of generic and brand name drugs or biosimilar drug products dispensed by that pharmacy. If information is provided under this subsection, it must be provided before a drug is dispensed. A person that makes a request for or receives price information under this subsection is not obligated to purchase the drug for which the price or comparative prices are requested or received. A pharmacy or a pharmacist described in this subsection shall not enter into a contract that prohibits the disclosure of the information described in this subsection.

(2) A pharmacist engaged in the business of selling drugs shall conspicuously display the notice described in subsection (3) at each counter over which prescription drugs are dispensed.

(3) The notice required under subsection (2) must be in substantially the following form:

NOTICE TO CONSUMERS
ABOUT PRESCRIPTION DRUGS

Under Michigan law, you have the right to find out the price of a prescription drug before the pharmacist fills the prescription. You are under no obligation to have the prescription filled here and may use this price information to shop around at other pharmacies. You may request price information in person or by telephone.

Every pharmacy has the current selling prices of both generic and brand name drugs dispensed by the pharmacy.

Ask your pharmacist if a lower-cost generic drug is available to fill your prescription. A generic drug contains the same medicine as a brand name drug and is a suitable substitute in most instances.

A generic drug may not be dispensed by your pharmacist if your doctor has written "dispense as written" or the initials "d.a.w." on the prescription.

If you have questions about the drugs that have been prescribed for you, ask your doctor or pharmacist for more information.

To avoid dangerous drug interactions, let your doctor and pharmacist know about any other medications you are taking. This is especially important if you have more than 1 doctor or have prescriptions filled at more than 1 pharmacy.

(4) The notice required under subsection (2) must also contain the address and phone number of the board and the department. The text of the notice must be in at least 32-point bold type and be printed on paper at least 11 inches by 17 inches in size. The notice may be printed on multiple pages.

(5) The department shall provide a copy of the notice required under subsection (2) to each licensee. The department shall provide additional copies if needed. A person may duplicate or reproduce the notice if the duplication or reproduction is a true copy of the notice as produced by the department, without any additions or deletions.

(6) The pharmacist shall furnish to the purchaser of a prescription drug at the time the drug is delivered to the purchaser a receipt evidencing the transactions that contains all of the following:

(a) The brand name of the drug, if applicable.

(b) The name of the manufacturer or the supplier of the drug, if the drug does not have a brand name.

(c) The strength of the drug, if significant.

(d) The quantity dispensed, if applicable.

(e) The name and address of the pharmacy.

(f) The serial number of the prescription, a reference to the standing order issued under section 17744e, or, if the prescription drug is dispensed pursuant to section 17724a or 17744f, a reference to the applicable section.

(g) The date the prescription was originally dispensed, if applicable.

(h) The name of the prescriber or, if prescribed under the prescriber's delegatory authority, the name of the delegatee. If the prescription drug is dispensed pursuant to section 17744f, the name of the original prescriber and the pharmacist dispensing the prescription drug. If the prescription drug is dispensed pursuant to section 17724a, the name of the pharmacist dispensing the prescription drug. If the prescription was issued under section 17744g, the name of the pharmacist issuing the prescription.

(i) Except as otherwise authorized under section 5110, 17744a, 17744b, or 17744e, the name of the patient for whom the drug was prescribed or dispensed.

(j) The price for which the drug was sold to the purchaser.

(7) The items required under subsection (6)(a), (b), and (c) may be omitted from a receipt by a pharmacist only if the omission is expressly required by the prescriber. The pharmacist shall retain a copy of each receipt furnished under subsection (6) for 90 days. Including the items required under subsection (6) on the prescription container label is a valid receipt to the purchaser. Including the items required under subsection (6) on the written prescription form and retaining the form constitutes retention of a copy of the receipt.

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(8) The department, in consultation with the board, may promulgate rules to implement this section.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 304, Eff. Mar. 31, 1987;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2013, Act 186, Eff. Mar. 14, 2014;—Am. 2014, Act 311, Imd. Eff. Oct. 14, 2014;—Am. 2014, Act 525, Imd. Eff. Jan. 14, 2015;—Am. 2016, Act 383, Eff. Mar. 28, 2017;—Am. 2021, Act 36, Imd. Eff. July 1, 2021;—Am. 2022, Act 13, Imd. Eff. Feb. 23, 2022;—Am. 2023, Act 97, Imd. Eff. July 19, 2023;—Am. 2024, Act 242, Eff. Apr. 2, 2025.

Popular name: Act 368

333.17757a Providing selling price of drugs dispensed upon request; notice to consumers about prescription drugs; contents; form; display; copies.

Sec. 17757a. (1) Upon a request made in person or by telephone, a dispensing prescriber engaged in the business of selling prescription drugs shall provide the current selling price of a drug dispensed by that dispensing prescriber or comparative current selling prices of generic and brand name drugs dispensed by that dispensing prescriber. The information shall be provided to the person making the request before a prescription drug is dispensed to the person. A person who makes a request for price information under this subsection is not obligated to purchase the prescription drug for which the price or comparative prices are requested.

(2) A dispensing prescriber engaged in the business of selling prescription drugs shall conspicuously display the notice described in subsection (3) in the location within the dispensing prescriber's practice where the dispensing occurs.

(3) The notice required under subsection (2) shall be in substantially the following form:

NOTICE TO CONSUMERS ABOUT PRESCRIPTION DRUGS

Under Michigan law, you have the right to find out the price of a prescription drug before the doctor provides a prescription drug directly to you. You are under no obligation to have the prescription filled here and may use this price information to shop around.

You may choose to have the prescription filled by your doctor or the pharmacy of your choice. Your doctor may not force you to have the prescription filled by the doctor. Your doctor cannot charge you for medications marked "sample." Ask your doctor or pharmacist if a lower-cost generic drug is available to fill your prescription. A generic drug contains the same medicine as a brand name drug and is a suitable substitute in most cases. If you have questions about the drugs which have been prescribed for you, ask your doctor or pharmacist for more information. To avoid dangerous drug interactions, let your doctor and pharmacist know about any other medications you are taking. This is especially important if you have more than 1 doctor or have prescriptions filled at more than 1 location.

(4) The notice required under subsection (2) shall also contain the address and phone number of the board and the department. The text of the notice shall be in at least 32-point bold type and shall be printed on paper at least 11 inches by 17 inches in size. The notice may be printed on multiple pages.

(5) A copy of the notice required under subsection (2) shall be provided to each dispensing prescriber by the department. Additional copies shall be available if needed from the department. A person may duplicate or reproduce the notice if the duplication or reproduction is a true copy of the notice as produced by the department, without any additions or deletions.

History: Add. 1990, Act 333, Eff. Mar. 28, 1991;—Am. 1993, Act 305, Imd. Eff. Dec. 28, 1993.

Popular name: Act 368

333.17757b Contracts with pharmacy benefit managers; prohibited terms.

Sec. 17757b. (1) A pharmacy or pharmacist engaged in the business of selling drugs shall not enter into a contract with a pharmacy benefit manager that violates section 26 of the third party administrator act, 1984 PA 218, MCL 550.926, or that prevents or interferes with in any manner a patient's choice to receive an eligible prescription drug from a 340b entity or a pharmacy when dispensing a 340b drug.

(2) As used in this section:

(a) "340b drug" means a covered drug as that term is defined in 42 USC 256b.

(b) "340b entity" means a covered entity as that term is defined in 42 USC 256b.

(c) "Pharmacy benefit manager" means that term as defined in section 2 of the third party administrator act, 1984 PA 218, MCL 550.902.

History: Add. 2022, Act 13, Imd. Eff. Feb. 23, 2022.

Popular name: Act 368

333.17758 Repealed. 1986, Act 304, Eff. Mar. 31, 1987.

Compiler's note: The repealed section pertained to changing current selling price of drug and adjusting posted price.

Popular name: Act 368

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333.17759 Dispensing harmful drug; requirements.

Sec. 17759. A harmful drug shall be dispensed only:

(a) As a prescription drug.

(b) Under the control of a licensed pharmacist or prescriber, who maintains records for the dispensing of these drugs which are the same as records required for the dispensing of prescriptions.

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

Popular name: Act 368

333.17760 Operation of automated device not located at same address as pharmacy; control and supervision by pharmacist; delegation of tasks.

Sec. 17760. (1) A pharmacy that is owned and operated by a hospital licensed under article 17 may operate an automated device at a location that is affiliated with the hospital but that is not located at the same physical address as the pharmacy. A pharmacy that operates an automated device under this section shall notify the department of the automated device's location.

(2) An automated device that is operated under this section must be under the control and supervision of the pharmacist in charge for the pharmacy described in subsection (1). The pharmacist in charge for the pharmacy described in subsection (1) may, in accordance with the requirements for delegation and supervision in this article, delegate the stocking of the automated device, the removal of medication from the automated device, the maintenance of the automated device, and other tasks related to the operation of the automated device, but he or she is not required to be immediately physically present to supervise a delegated task. The operation of the automated device is limited to licensed health professionals.

History: Add. 2016, Act 528, Eff. Apr. 9, 2017.

Popular name: Act 368

333.17761 Display of notice; dispensing prescription in safety closure container.

Sec. 17761. (1) A pharmacy, except for a pharmacy which only dispenses drugs for inpatient use at a health care facility, shall display the notice required under section 17757 in accordance with this part and the rules promulgated under this part.

(2) Unless otherwise requested by a patient, a prescription shall be dispensed in a safety closure container which complies with the definitions and the requirements of the poison prevention packaging act of 1970, 15 U.S.C. sections 1471 to 1476.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 431, Eff. Mar. 31, 1981;—Am. 1986, Act 304, Eff. Mar. 31, 1987.

Popular name: Act 368

333.17762 Misbranded prescription.

Sec. 17762. (1) A prescription drug is considered misbranded unless the manufacturer's label states the name and place of business of the manufacturer of the finished dosage form of a drug and, if different, the name and place of business of the packer or distributor.

(2) As used in this section, "finished dosage form of a drug" means that form of the drug which is or is intended to be dispensed or administered to the patient and does not require further manufacturing or processing other than packaging or labeling, or both.

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

Popular name: Act 368

333.17763 Grounds for fine, reprimand, or probation; grounds for denying, limiting, suspending, or revoking license.

Sec. 17763. In addition to the grounds set forth in part 161, the disciplinary subcommittee may fine, reprimand, or place a pharmacist licensee on probation, or deny, limit, suspend, or revoke the license of a pharmacist or order restitution or community service for a violation or abetting in a violation of this part or rules promulgated under this part, or for 1 or more of the following grounds:

(a) Permitting the dispensing of prescriptions by an individual who is not a pharmacist, pharmacist intern, or dispensing prescriber.

(b) Permitting the dispensing of prescriptions by a pharmacist intern, except in the presence and under the personal charge of a pharmacist.

(c) Selling at auction drugs in bulk or in open packages unless the sale has been approved in accordance with rules of the board.

(d) Promoting a prescription drug to the public in any manner.

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(e) In addition to the prohibition contained in section 7405(1)(e), dispensing a prescription for a controlled substance as defined in section 7104 that is written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a physician prescriber, dentist prescriber, or veterinarian prescriber in another state, unless the prescription is issued by a physician prescriber, dentist prescriber, or veterinarian prescriber who is authorized under the laws of that state to practice dentistry, medicine, osteopathic medicine and surgery, or veterinary medicine and to prescribe controlled substances.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1997, Act 153, Eff. Mar. 31, 1998;—Am. 2004, Act 214, Eff. Oct. 12, 2004;—Am. 2004, Act 536, Imd. Eff. Jan. 3, 2005;—Am. 2005, Act 85, Imd. Eff. July 19, 2005;—Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007;—Am. 2009, Act 150, Imd. Eff. Nov. 19, 2009;—Am. 2011, Act 155, Imd. Eff. Sept. 27, 2011;—Am. 2012, Act 209, Imd. Eff. June 27, 2012;—Am. 2016, Act 49, Eff. June 13, 2016.

Compiler's note: Enacting section 1 of Act 49 of 2016 provides:

"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."

Popular name: Act 368

333.17764 Conduct constituting misdemeanor; violation; penalty; other violations.

Sec. 17764. (1) A person shall not sell, offer for sale, possess for sale, or manufacture for sale a drug or device bearing or accompanied by a label that is misleading as to the contents, uses, or purposes of the drug or device. A person who violates this subsection is guilty of a misdemeanor. In determining whether a label is misleading, consideration shall be given to the representations made or suggested by the statement, word, design, device, sound, or any combination thereof, and the extent to which the label fails to reveal facts material in view of the representations made or material as to consequences that may result from use of the drug or device to which the label relates under conditions of use prescribed in the label or under customary or usual conditions of use.

(2) A person shall not knowingly or recklessly do either of the following:

(a) Adulterate, misbrand, remove, or substitute a drug or device knowing or intending that the drug or device shall be used.

(b) Sell, offer for sale, possess for sale, cause to be sold, or manufacture for sale an adulterated or misbranded drug.

(3) Except as otherwise provided in this section, a person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,000.00, or both.

(4) A person who violates subsection (2), which violation results in personal injury, is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $4,000.00, or both.

(5) A person who violates subsection (2), which violation results in serious impairment of a body function, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both. As used in this subsection, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(6) A person who violates subsection (2), which violation results in death, is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $20,000.00, or both.

(7) A person who violates subsection (2) with the intent to kill or to cause serious impairment of a body function of 2 or more individuals, which violation results in death, is guilty of a felony punishable by imprisonment for life without the possibility of parole or life without the possibility of parole and a fine of not more than $40,000.00. It is not a defense to a charge under this subsection that the person did not intend to kill a specific individual, or did not intend to cause serious impairment of a body function of 2 or more specific individuals.

(8) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 214, Eff. Oct. 12, 2004.

Popular name: Act 368

333.17765 Adulteration or misbranding; guaranty or undertaking as protection against penalties for violation; exception; notice to seller, manufacturer, or wholesale distributor.

Sec. 17765. A person is not subject to penalties for a violation of this part dealing with adulteration or misbranding, if the person establishes that a guaranty or undertaking was made in accordance with the federal act, or that a guaranty was signed by and contains the name and address of the person residing in this state from whom the former person received in good faith the drug or device, to the effect that the drug or device is not adulterated or misbranded within the meaning of this part. The guaranty does not protect the seller if the

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product is adulterated or misbranded under this part and the board has previously given written notice to the seller of that fact. The board shall not serve notice on the seller until the board has notified the manufacturer or wholesale distributor of the findings of the state analyst with reference to the product. The notice to the manufacturer or wholesale distributor shall be written and shall be mailed at least 10 days before a notice is given to a seller under this section.

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

Popular name: Act 368

333.17766 Additional conduct constituting misdemeanor.

Sec. 17766. Except as provided in sections 17766d, 17780, and 21418, a person that does any of the following is guilty of a misdemeanor:

(a) Obtains or attempts to obtain a prescription drug by giving a false name to a pharmacist or other authorized seller, prescriber, or dispenser.

(b) Obtains or attempts to obtain a prescription drug by falsely representing that he or she is a lawful prescriber, dispenser, or licensee, or acting on behalf of a lawful prescriber, dispenser, or licensee.

(c) Falsely makes, utters, publishes, passes, alters, or forges a prescription.

(d) Knowingly possesses a false, forged, or altered prescription.

(e) Knowingly attempts to obtain, obtains, or possesses a drug by means of a prescription for other than a legitimate therapeutic purpose, or as a result of a false, forged, or altered prescription.

(f) Possesses or controls for the purpose of resale, or sells, offers to sell, dispenses, or gives away, a drug, pharmaceutical preparation, or chemical that has been dispensed on prescription and has left the control of a pharmacist.

(g) Possesses or controls for the purpose of resale, or sells, offers to sell, dispenses, or gives away, a drug, pharmaceutical preparation, or chemical that has been damaged by heat, smoke, fire, water, or other cause and is unfit for human or animal use.

(h) Prepares or permits the preparation of a prescription drug, except as delegated by a pharmacist.

(i) Sells a drug in bulk or in an open package at auction, unless the sale has been approved in accordance with rules of the board.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 30, Eff. Mar. 28, 1991;—Am. 2004, Act 329, Imd. Eff. Sept. 23, 2004;—Am. 2006, Act 416, Imd. Eff. Sept. 29, 2006;—Am. 2018, Act 396, Eff. Mar. 19, 2019.

Popular name: Act 368

333.17766a Repealed. 2001, Act 236, Imd. Eff. Jan. 3, 2002.

Compiler's note: The repealed section pertained to use, possession, or delivery of androgenic anabolic steroid.

Popular name: Act 368

333.17766b Repealed. 2001, Act 231, Eff. Jan. 6, 2003.

Compiler's note: The repealed section pertained to recording prescription for androgenic anabolic steriod, methyltestosterone, testosterone, or fluoxymensterone.

Popular name: Act 368

333.17766c Purchase or possession of ephedrine or pseudoephedrine or mixture prohibited; violation; penalty; exceptions.

Sec. 17766c. (1) A person shall not do any of the following:

(a) Purchase more than 3.6 grams of ephedrine or pseudoephedrine alone or in a mixture within a single calendar day.

(b) Purchase more than 9 grams of ephedrine or pseudoephedrine alone or in a mixture within a 30-day period.

(c) Possess more than 12 grams of ephedrine or pseudoephedrine alone or in a mixture.

(d) Purchase or possess any amount of ephedrine or pseudoephedrine knowing or having reason to know that it is to be used to manufacture methamphetamine.

(2) A person who violates this section is guilty of a crime as follows:

(a) A person who violates subsection (1)(a) or (b) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) A person who violates subsection (1)(c) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(c) A person who violates subsection (1)(d) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both. This subdivision does not prohibit the person from

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being charged with, convicted of, and sentenced for any other violation of law arising out of the violation of subsection (1)(d).

(3) This section does not apply to any of the following:

(a) A person who possesses ephedrine or pseudoephedrine pursuant to a license issued by this state or the United States to manufacture, deliver, dispense, possess with intent to manufacture or deliver, or possess a controlled substance, prescription drug, or other drug.

(b) An individual who possesses ephedrine or pseudoephedrine pursuant to a prescription.

(c) A person who possesses ephedrine or pseudoephedrine for retail sale pursuant to a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78.

(d) A person who possesses ephedrine or pseudoephedrine in the course of his or her business of selling or transporting ephedrine or pseudoephedrine to a person described in subdivision (a) or (c).

(e) A person who, in the course of his or her business, stores ephedrine or pseudoephedrine for sale or distribution to a person described in subdivision (a), (c), or (d).

(f) Any product that the state board of pharmacy, upon application of a manufacturer, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(g) Possession of any pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

History: Add. 1994, Act 38, Eff. June 1, 1994;—Am. 2003, Act 308, Eff. Apr. 1, 2004;—Am. 2011, Act 86, Imd. Eff. July 15, 2011;—Am. 2014, Act 216, Eff. Jan. 1, 2015.

Popular name: Act 368

333.17766d Pharmacy operated by department of corrections or under contract with county jail; resale or redistribution of prescription drug; definitions.

Sec. 17766d. (1) Notwithstanding section 17766(f), a pharmacy operated by the department of corrections or under contract with the department of corrections or a county jail may accept for the purpose of resale or redispensing a prescription drug that has been dispensed and has left the control of the pharmacist if the prescription drug is being returned by a state correctional facility or a county jail that has a licensed physician's assistant, a registered professional nurse, or a licensed practical nurse, who is responsible for the security, handling, and administration of prescription drugs within that state correctional facility or county jail and if all of the following are met:

(a) The pharmacist is satisfied that the conditions under which the prescription drug has been delivered, stored, and handled before and during its return were such as to prevent damage, deterioration, or contamination that would adversely affect the identity, strength, quality, purity, stability, integrity, or effectiveness of the prescription drug.

(b) The pharmacist is satisfied that the prescription drug did not leave the control of the registered professional nurse or licensed practical nurse responsible for the security, handling, and administration of that prescription drug and that the prescription drug did not come into the physical possession of the individual for whom it was prescribed.

(c) The pharmacist is satisfied that the labeling and packaging of the prescription drug are accurate, have not been altered, defaced, or tampered with, and include the identity, strength, expiration date, and lot number of the prescription drug.

(d) The prescription drug was dispensed in a unit dose package or unit of issue package.

(2) A pharmacy operated by the department of corrections or under contract with the department of corrections or a county jail shall not accept for return prescription drugs as provided under this section until the pharmacist in charge develops a written set of protocols for accepting, returning to stock, repackaging, labeling, and redispensing prescription drugs. The written protocols shall be maintained on the premises and shall be readily accessible to each pharmacist on duty. The written protocols shall include, at a minimum, each of the following:

(a) Methods to ensure that damage, deterioration, or contamination has not occurred during the delivery, handling, storage, and return of the prescription drugs which would adversely affect the identity, strength, quality, purity, stability, integrity, or effectiveness of those prescription drugs or otherwise render those drugs unfit for distribution.

(b) Methods for accepting, returning to stock, repackaging, labeling, and redispensing the prescription drugs returned under this section.

(c) A uniform system of recording and tracking prescription drugs that are returned to stock, repackaged, labeled, and redistributed under this section.

(3) If the integrity of a prescription drug and its package is maintained, a prescription drug returned under

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this section shall be returned to stock and redistributed as follows:

(a) A prescription drug that was originally dispensed in the manufacturer's unit dose package or unit of issue package and is returned in that same package may be returned to stock, repackaged, and redispensed as needed.

(b) A prescription drug that is repackaged into a unit dose package or a unit of issue package by the pharmacy, dispensed, and returned to that pharmacy in that unit dose package or unit of issue package may be returned to stock, but it shall not be repackaged. A unit dose package or unit of issue package prepared by the pharmacist and returned to stock shall only be redispensed in that same unit dose package or unit of issue package and shall only be redispensed once. A pharmacist shall not add unit dose package drugs to a partially used unit of issue package.

(4) This section does not apply to any of the following:

(a) A controlled substance.

(b) A prescription drug that is dispensed as part of a customized patient medication package.

(c) A prescription drug that is not dispensed as a unit dose package or a unit of issue package.

(d) A prescription drug that is not properly labeled with the identity, strength, lot number, and expiration date.

(e) A prescription drug that is dispensed in a medical institution and returned to stock for redistribution in accordance with R 338.486 of the Michigan administrative code.

(5) As used in this section:

(a) "County jail" means a facility operated by a county for the physical detention and correction of persons charged with, or convicted of, criminal offenses or ordinance violations or persons found guilty of civil or criminal contempt.

(b) "Customized patient medication package" means a package that is prepared by a pharmacist for a specific patient that contains 2 or more prescribed solid oral dosage forms.

(c) "Repackage" means a process by which the pharmacy prepares a unit dose package, unit of issue package, or customized patient medication package for immediate dispensing pursuant to a current prescription.

(d) "State correctional facility" means a facility or institution that houses a prisoner population under the jurisdiction of the department of corrections.

(e) "Unit dose package" means a package that contains a single dose drug with the name, strength, control number, and expiration date of that drug on the label.

(f) "Unit of issue package" means a package that provides multiple doses of the same drug, but each drug is individually separated and includes the name, lot number, and expiration date.

History: Add. 2004, Act 329, Imd. Eff. Sept. 23, 2004.

Popular name: Act 368

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333.17766e Sale of ephedrine or pseudoephedrine; requirements of retail distributor; exceptions; violation; fine; report.

Sec. 17766e. (1) Except as otherwise provided under this section, a person who possesses ephedrine or pseudoephedrine for retail sale pursuant to a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, shall maintain all products that contain any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine in accordance with 1 of the following:

(a) Behind a counter where the public is not permitted.

(b) Within a locked case so that a customer wanting access to the product must ask a store employee for assistance.

(2) A person who sells a product described in subsection (1) shall do each of the following:

(a) Require the purchaser of a product described under subsection (1) to produce a valid government-issued photo identification that includes the individual's name and date of birth.

(b) Maintain a log or some type of record detailing the sale of a product described under subsection (1), including the date of the sale and the time of purchase, the name, address, and date of birth of the buyer, the amount and description of the product sold, and a description of the identification used to make the purchase, such as the state in which a driver license used for identification was issued and number of that license. The seller shall also require the purchaser to sign the log at the time of sale. Information entered into the national precursor log exchange (NPLEX) satisfies the requirement to maintain a log or some type of record detailing the sale under this subdivision. The log or other means of recording the sale as required under this subdivision shall be maintained for a minimum of 6 months and made available to only a law enforcement agency upon

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request. The log or other means of recording the sale is not a public record and is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. A person shall not sell or provide a copy of the log or other means of recording the sale to another for the purpose of surveys, marketing, or solicitations.

(3) This section does not apply to the following:

(a) A pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

(b) A product containing pseudoephedrine that is in a liquid form if pseudoephedrine is not the only active ingredient.

(c) A product that the state board of pharmacy, upon application of a manufacturer or certification by the United States drug enforcement administration as inconvertible, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(d) A product that is dispensed pursuant to a prescription.

(4) A person who violates this section is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $500.00 for each violation.

(5) By December 15, 2006, the department of state police shall submit a written report to the legislature regarding the impact and effectiveness of the amendatory act that added this section and section 17766f, including, but not limited to, the number of clandestine methamphetamine lab incidents before and after this legislation.

History: Add. 2005, Act 87, Eff. Dec. 15, 2005;—Am. 2011, Act 85, Imd. Eff. July 15, 2011;—Am. 2011, Act 86, Imd. Eff. July 15, 2011.

Popular name: Act 368

333.17766f Possession of products containing ephedrine or pseudoephedrine; prohibited conduct; exceptions; violation; penalty; affirmative defense; rebuttal; conflict of local requirements with section.

Sec. 17766f. (1) A person who possesses products that contain any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine for retail sale under a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, shall not knowingly do any of the following:

(a) Sell any product described under this subsection to an individual under 18 years of age.

(b) Sell more than 3.6 grams of ephedrine or pseudoephedrine alone or in a mixture to any individual on any single calendar day.

(c) Sell more than 9 grams of ephedrine or pseudoephedrine alone or in a mixture to any individual within a 30-day period.

(d) Sell in a single over-the-counter sale more than 2 personal convenience packages containing 2 tablets or capsules each of any product described under this subsection to any individual.

(e) Sell any product described under this subsection to an individual during the period in which a stop sale alert is generated for that individual based upon criminal history record information provided under the methamphetamine abuse reporting act. The NPLEx system shall contain an override function that may be used by a dispenser of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm if the dispenser does not complete a sale. Each instance in which the override function is utilized shall be logged by the system.

(2) This section does not apply to the following:

(a) A pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

(b) A product containing pseudoephedrine that is in a liquid form if pseudoephedrine is not the only active ingredient.

(c) A product that the state board of pharmacy, upon application of a manufacturer or certification by the United States drug enforcement administration as inconvertible, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(d) A product that is dispensed pursuant to a prescription.

(3) A person who violates this section is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $500.00 for each violation.

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(4) It is an affirmative defense to a citation issued under subsection (1)(a) that the defendant had in force at the time of the citation and continues to have in force a written policy for employees to prevent the sale of products that contain any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine to persons under 18 years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, upon the court and the prosecuting attorney. The notice shall be served not less than 14 days before the hearing date.

(5) A prosecuting attorney who proposes to offer testimony to rebut the affirmative defense described in subsection (4) shall file and serve a notice of rebuttal, in writing, upon the court and the defendant. The notice shall be served not less than 7 days before the hearing date and shall contain the name and address of each rebuttal witness.

(6) Notwithstanding any other provision of law, a city, township, village, county, other local unit of government, or political subdivision of this state shall not impose any new requirement or prohibition pertaining to the sale of a product described under subsection (1) that is contrary to, or in any way conflicting with, this section. This subsection does not invalidate or otherwise restrict a requirement or prohibition described in this subsection existing on December 15, 2005.

History: Add. 2005, Act 86, Imd. Eff. July 20, 2005;—Am. 2011, Act 86, Imd. Eff. July 15, 2011;—Am. 2014, Act 275, Eff. Jan. 1, 2015.

Popular name: Act 368

333.17766g Sale, trade, or purchase of dextromethorphan to minor; prohibition; exception for valid prescription; preemption; violation; civil infraction and fine.

Sec. 17766g. (1) Except as otherwise provided in subsection (4), a person shall not knowingly or willfully sell or trade a finished drug product containing any quantity of dextromethorphan to a minor.

(2) A person making a retail sale of a finished drug product containing any quantity of dextromethorphan must require and obtain proof of age from the purchaser before completing the sale, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be at least 25 years of age.

(3) Except as otherwise provided in subsection (4), a minor shall not purchase a finished drug product containing any quantity of dextromethorphan.

(4) This section does not apply to a medication containing dextromethorphan that is sold pursuant to a valid prescription.

(5) This section preempts any county, city, village, or township ordinance or resolution regulating the sale, distribution, receipt, or possession of dextromethorphan. A county, city, village, or township shall not enact, adopt, maintain, or enforce an ordinance or resolution that imposes conflicting, different, or additional standards or requirements than those provided in this section on the sale, distribution, receipt, or possession of dextromethorphan.

(6) A person that violates subsection (1) is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $100.00 for each violation.

(7) An individual who violates subsection (3) is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $50.00 for each violation.

(8) As used in this section:

(a) "Dextromethorphan" means the dextrorotatory isomer of 3-methoxy-N-methyl-morphinan and its salts.

(b) "Finished drug product" means that term as defined in 21 CFR 207.1.

(c) "Proof of age" means a valid government-issued photo identification that includes the purchaser's name and date of birth, including, but not limited to, a military identification card, passport, or driver license.

History: Add. 2019, Act 123, Eff. July 1, 2020.

Popular name: Act 368

333.17767 Rules and determinations as to licensing.

Sec. 17767. The board may promulgate rules and make determinations necessary or appropriate to the licensing of pharmacists, drugs, dispensers, manufacturers, wholesale distributors, and wholesale distributor-brokers under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2020, Act 142, Imd. Eff. July 14, 2020.

Popular name: Act 368

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Administrative rules: R 338.471 et seq. and R 338.3971 et seq. of the Michigan Administrative Code.

333.17768 Grounds for fine, reprimand, or probation, or for denying, limiting, suspending, or revoking license or ordering restitution or community service; applicability of subsection (2)(b).

Sec. 17768. (1) In a manner consistent with part 161, the disciplinary subcommittee may fine, reprimand, or place on probation a person licensed under this part, may deny, limit, suspend, or revoke a person's license, or may order restitution or community service for a violation of this part or rules promulgated under this part.

(2) In addition to the grounds set forth in subsection (1), and in a manner consistent with part 161, the board may fine, reprimand, or place on probation a person licensed under this part, may deny, limit, suspend, or revoke a license issued under this part, or may order restitution or community service if the board finds that any of the following apply to an applicant; a partner, officer, or member of the board of directors of a pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker licensed under this part; a stockholder of a pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker that is a privately held corporation licensed under this part; or a facility manager for a manufacturer, wholesale distributor, or wholesale distributor-broker designated under section 17748(2):

(a) The applicant or other person described in this subsection lacks good moral character.

(b) Subject to subsection (3), the applicant or other person described in this subsection has been convicted of a misdemeanor or a felony under a state or federal law relating to a controlled substance or the practice of pharmacy.

(c) The applicant or other person described in this subsection has furnished false or fraudulent material information or has knowingly omitted material information in an application filed under this part.

(d) The applicant or other person described in this subsection has maintained a financial interest in a pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker that has been denied a license or federal registration, has had its license or federal registration limited, suspended, or revoked, or has been subject to any other criminal, civil, or administrative penalty.

(e) The applicant or other person described in this subsection is not in compliance with article 7 or article 8 or the rules promulgated under article 7 or article 8.

(f) The applicant or other person described in this subsection has violated section 17748.

(3) Except for a conviction for a misdemeanor under section 7404(2)(d) or a local ordinance that is substantially similar to section 7404(2)(d), the reference to a misdemeanor in subsection (2)(b) applies only to a conviction for a misdemeanor that is directly related to the manufacture, delivery, possession, possession with intent to manufacture or deliver, use, distribution, prescription, or dispensing of a controlled substance. Subsection (2)(b) does not apply to a conviction for a misdemeanor based on an unintentional error or omission involving a clerical or record-keeping function.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1987, Act 250, Imd. Eff. Dec. 28, 1987;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 413, Eff. Mar. 30, 2015;—Am. 2020, Act 4, Eff. Apr. 26, 2020;—Am. 2020, Act 142, Imd. Eff. July 14, 2020.

Popular name: Act 368

333.17770 Exceptions.

Sec. 17770. Except as to the labeling of poisonous or deleterious drugs and to adulterating, misbranding, and substituting, this part shall not apply:

(a) To the sale of paris green, white hellebore, and other insecticides.

(b) To the sale of any substance for use in the arts.

(c) To the retailing of non-narcotic, or nonprescription medicine or drug which is prepackaged, fully prepared by the manufacturer or producer for use by the consumer, and labeled in accordance with the requirements of the state and federal act.

(d) To the sale by merchants of ammonia, sulphur, any nonpoisonous flavoring essences or extracts, salt, bicarbonate of soda, or other prepackaged common household remedies or any food or food product which may also be found in any of the official compendiums and is not also considered as a poisonous, deleterious, or habit forming drug.

(e) To surgical or dental instruments and accessories, hearing aids, gases, oxygen tents, gas pressure reducing regulators, x-ray apparatus, therapeutic lamps, splints, and stethoscopes, and their component parts and accessories, or to equipment, instruments, apparatus, and contrivances used to render the articles effective in medical, surgical, or dental treatment; or to articles intended for external use.

(f) To articles or substances intended for generally recognized mechanical, agricultural, horticultural, or industrial consumption or use or photographic chemicals for home use.

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

Popular name: Act 368

333.17775 "Program for utilization of unused prescription drugs"; definitions; unused prescription drug repository and distribution program; rules; standards and procedures.

Sec. 17775. (1) This section and section 17776 shall be known and may be referred to as the "program for utilization of unused prescription drugs".

(2) As used in this section and section 17776:

(a) "Board" means the Michigan board of pharmacy created under section 17721.

(b) "Cancer drug" means that term as defined in section 17780.

(c) "Charitable clinic" means a charitable nonprofit corporation or facility that meets all of the following requirements:

(*i*) Is organized as a not-for-profit corporation pursuant to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(*ii*) Holds a valid exemption from federal income taxation issued under section 501(a) of the internal revenue code of 1986, 26 USC 501.

(*iii*) Is listed as an exempt organization under section 501(c) of the internal revenue code of 1986, 26 USC 501.

(*iv*) Is organized under or operated as a part of a health facility or agency licensed under article 17.

(*v*) Provides on an outpatient basis for a period of less than 24 consecutive hours to persons not residing or confined at the facility advice, counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or maintenance of health.

(*vi*) Has a licensed pharmacy.

(d) "Eligible facility" means a medical institution as that term is defined in R 338.486 of the Michigan administrative code.

(e) "Eligible participant" means an individual who meets all of the following requirements:

(*i*) Is a resident of this state.

(*ii*) Is eligible to receive medicaid or medicare or has no health insurance and otherwise lacks reasonable means to purchase prescription drugs, as prescribed in rules promulgated under this section.

(f) "Health professional" means any of the following individuals licensed and authorized to prescribe and dispense drugs or to provide medical, dental, or other health-related diagnoses, care, or treatment within the scope of his or her professional license:

(*i*) A physician licensed to practice medicine or osteopathic medicine and surgery under part 170 or 175.

(*ii*) A physician's assistant licensed under part 170, 175, or 180.

(*iii*) A dentist licensed under part 166.

(*iv*) An optometrist licensed under part 174.

(*v*) A pharmacist licensed under this part.

(*vi*) A podiatrist licensed under part 180.

(g) "Program" means the statewide unused prescription drug repository and distribution program known as the program for utilization of unused prescription drugs that is established under this section.

(3) The board shall establish, implement, and administer a statewide unused prescription drug repository and distribution program consistent with public health and safety through which unused or donated prescription drugs, other than controlled substances, may be transferred from an eligible facility or manufacturer to a pharmacy or a charitable clinic that elects to participate in the program. The program is created to dispense unused or donated prescription drugs, other than controlled substances, to eligible participants and to provide for the destruction and disposal of prescription drugs or other medications that are ineligible for dispensing under the program.

(4) Participation in the program by an eligible facility, manufacturer, pharmacy, or charitable clinic is voluntary. Nothing in this section or section 17776 requires any eligible facility, manufacturer, pharmacy, or charitable clinic to participate in the program.

(5) Pharmacies, health professionals, and charitable clinics that participate in the program shall use the following criteria in accepting unused or donated prescription drugs from eligible facilities or manufacturers for use in the program:

(a) Only prescription drugs in their original sealed, tamper-evident, and unopened unit dose packaging may be accepted for dispensing. However, prescription drugs packaged in single-unit dose packaging may be accepted for dispensing even if the outside packaging is open as long as the single-unit dose packaging is unopened.

(b) The following shall not be accepted for dispensing:

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(*i*) Expired prescription drugs.

(*ii*) Controlled substances as defined in article 7 or article 8 or by federal law.

(*iii*) Drugs that have been held outside of a health professional's control where sanitation and security cannot be assured.

(*iv*) Drugs that can only be dispensed to a patient registered with the drug's manufacturer under federal food and drug administration requirements.

(c) A prescription drug shall not be accepted for dispensing if the person accepting the drug has reason to believe that the drug is adulterated.

(d) Subject to the limitations prescribed in this subsection, unused or donated prescription drugs dispensed for purposes of a medical assistance program or drug product donation program may be accepted for dispensing under the program.

(e) Any additional criteria established in rules promulgated under this section.

(6) A pharmacy or charitable clinic that meets the eligibility requirements for participation in the program and any rules promulgated under this section may do any of the following:

(a) Dispense prescription drugs accepted under the program to eligible participants.

(b) If established by rule under this section, charge eligible participants who receive prescription drugs under the program a handling fee for the service.

(7) A pharmacy or charitable clinic that participates in the program and accepts prescription drugs for the program shall do all of the following:

(a) Comply with all applicable federal laws and regulations and state laws and rules related to the storage and distribution of harmful drugs.

(b) Inspect all accepted prescription drugs before dispensing the prescription drugs to determine that the drugs are not adulterated.

(c) Dispense prescription drugs only pursuant to a prescription issued by a health professional.

(8) A pharmacy, health professional, or charitable clinic that accepts prescription drugs under the program shall not resell the prescription drugs. Receipt of a fee from an eligible participant, if established in rules promulgated under this section, or reimbursement from a governmental agency to a charitable clinic does not constitute resale of prescription drugs under this subsection.

(9) For purposes of the lawful donation, acceptance, or dispensing of prescription drugs under the program, the following persons that are in compliance with the program, this section and section 17776, and any rules promulgated under this section and in the absence of bad faith or gross negligence are not subject to criminal or civil liability for injury other than death, or loss to person or property, or professional disciplinary action:

(a) The board.

(b) The department.

(c) An eligible facility or manufacturer that donates prescription drugs to the program.

(d) A manufacturer or its representative that directly donates prescription drugs in professional samples to a charitable clinic under the program.

(e) A pharmacy, charitable clinic, or health professional that accepts or dispenses prescription drugs for the program.

(f) A pharmacy or charitable clinic that employs a health professional who accepts prescription drugs for the program and who may legally dispense prescription drugs under this part.

(10) A manufacturer is not, in the absence of bad faith, subject to criminal prosecution or liability in tort or other civil action for injury, death, or loss to person or property for matters related to the donation, acceptance, or dispensing of a prescription drug manufactured by the manufacturer that is donated by any person under the program, including, but not limited to, liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

(11) Subject to subsection (12), the department, in consultation with the board, shall promulgate rules under the administrative procedures act of 1969 and establish procedures necessary to establish, implement, and administer the program. The board shall provide technical assistance to eligible facilities, manufacturers, pharmacies, and charitable clinics that participate in the program.

(12) The department, in consultation with the board, shall promulgate emergency rules under the administrative procedures act of 1969 on or before September 28, 2013 to establish, implement, and administer the program. The department, in consultation with the board, shall promulgate permanent rules under the administrative procedures act of 1969 as soon as practical after emergency rules have been promulgated under this subsection. The department and the board shall include all of the following in rules promulgated under this section:

(a) Eligibility criteria for pharmacies and charitable clinics authorized to accept and dispense prescription drugs for the program.

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(b) Eligibility criteria for eligible participants.

(c) A list of prescription drugs that are not eligible for acceptance and dispensing under the program.

(d) Standards and procedures for transfer, transportation, acceptance, safe storage, security, and dispensing of prescription drugs.

(e) A process for seeking input from the department of human services and the department of community health in establishing provisions that affect eligible facilities.

(f) A process for seeking input from the department of human services and the department of community health in establishing provisions that affect mental health and substance abuse clients.

(g) Standards and procedures for inspecting accepted prescription drugs to ensure that the prescription drugs meet the requirements of the program and to ensure that, in the professional judgment of the pharmacist, the prescription drugs meet all federal and state standards for product integrity.

(h) Procedures for the destruction and environmentally sound disposal of prescription drugs or other medications that are accepted and that are ineligible for dispensing under the program.

(i) Procedures for verifying whether the charitable clinic, pharmacy, pharmacist, or other health professionals participating in the program are licensed and in good standing with the applicable licensing board.

(j) Standards for acceptance of unused or donated prescription drugs from eligible facilities.

(k) Standards for the acceptance by a pharmacy, health professional, or charitable clinic that participates in the program from any person of a prescription drug or any other medication that is ineligible for dispensing under the program for destruction and disposal.

(*l*) Any other standards and procedures the department, in consultation with the board, considers appropriate or necessary to establish, implement, and administer the program.

(13) Pursuant to the rules promulgated and standards and procedures established for the program under this section, a resident of an eligible facility or the representative or guardian of a resident of an eligible facility may donate unused prescription drugs for dispensing to eligible participants under the program.

(14) Pursuant to rules promulgated and standards and procedures established for the program under this section, a person may deliver to a pharmacy, health professional, or charitable clinic that participates in the program a prescription drug or any other medication that is ineligible for dispensing under the program for destruction and disposal.

(15) This section and section 17776 do not impair or supersede the provisions regarding the cancer drug repository program established in section 17780. If any provision of this section or section 17776 conflicts with a provision of section 17780 with regard to a cancer drug, section 17780 controls.

History: Add. 2012, Act 383, Eff. Mar. 28, 2013;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

333.17776 Destruction and disposal of certain drugs and medications.

Sec. 17776. (1) Subject to all applicable federal laws and regulations and state laws and rules, a pharmacy, health professional, or charitable clinic that participates in the program shall accept from any person a prescription drug or any other medication that is ineligible for distribution under the program for destruction and disposal.

(2) A pharmacy, health professional, or charitable clinic that accepts prescription drugs and other medications under subsection (1) that are ineligible for distribution under the program shall destroy and dispose of those drugs and medications subject to rules promulgated under section 17775.

History: Add. 2012, Act 384, Eff. Mar. 28, 2013.

333.17780 Cancer drug repository program.

Sec. 17780. (1) The board shall establish and maintain a cancer drug repository program that would allow a person to donate a cancer drug or supply for use by an individual who meets the eligibility criteria specified under subsection (7). The board shall establish program guidelines, policies, and procedures addressing the cancer drug repository program. Under the cancer drug repository program, donations may be made on the premises of a health facility or pharmacy that elects to participate in the program and meets the requirements specified under subsection (2).

(2) Any health facility or pharmacy that is licensed and in compliance with all federal and state laws, rules, and regulations is eligible to participate in the cancer drug repository program. Participation in the cancer drug repository program is voluntary and a pharmacy or health facility may withdraw from participation in the cancer drug repository program at any time upon notification to the board. A notice to withdraw from participation may be given by telephone or regular mail. A pharmacy or health facility may choose to fully participate in the cancer drug repository program by accepting, storing, and dispensing or administering donated drugs and supplies or the pharmacy or health facility may limit its participation to only accepting and

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storing donated drugs and supplies. If a pharmacy or health facility chooses to limit its participation, the pharmacy or health facility shall distribute any donated drugs to a fully participating cancer drug repository in accordance with subsection (8). A pharmacy or health facility that elects to participate in the cancer drug repository program shall submit the following information to the board in a form provided by the board that includes, at a minimum, each of the following:

(a) The name, street address, and telephone number of the pharmacy or health facility.

(b) The name and telephone number of a pharmacist who is employed by or under contract with the pharmacy or health facility, or other contact person who is familiar with the pharmacy's or health facility's participation in the cancer drug repository program.

(c) A statement indicating that the pharmacy or health facility is licensed in this state and in compliance with all federal and state laws, rules, and regulations and the chosen level of participation in the cancer drug repository program.

(3) An individual who is at least 18 years of age may donate legally obtained cancer drugs or supplies to a cancer drug repository. If the donated drugs have not been previously dispensed, a pharmacy, health facility, manufacturer, or wholesale distributor may also donate cancer drugs or supplies to a cancer drug repository. Donated drugs or supplies are acceptable for donation if they are determined to be eligible by a pharmacist who is employed by or under contract with a cancer drug repository as follows:

(a) A cancer drug is eligible for donation under the cancer drug repository program only if all of the following requirements are met:

(*i*) The donation is accompanied by a cancer drug repository donor form that is provided by the board and states that to the best of the donor's knowledge the donated drug has been properly stored and that the drug has never been opened, used, tampered with, adulterated, or misbranded. The board shall make the cancer drug repository donor form available on the board's website. The form shall be signed by the person making the donation or that person's authorized representative.

(*ii*) The drug's expiration date is at least 6 months later than the date the drug was donated.

(*iii*) The drug is in its original, unopened, tamper-evident unit dose packaging that includes the drug's lot number and expiration date. Single unit dose drugs may be accepted if the single unit dose packaging is unopened.

(*iv*) The drug is not adulterated or misbranded.

(b) Cancer supplies are eligible for donation under the cancer drug repository program only if all of the following requirements are met:

(*i*) The supplies are not adulterated or misbranded.

(*ii*) The supplies are in their original, unopened, sealed package.

(*iii*) The donation is accompanied by a cancer drug repository donor form that is provided by the board and states that to the best of the donor's knowledge the donated supply has been properly stored and that the supply has never been opened, used, tampered with, adulterated, or misbranded. The board shall make the cancer drug repository donor form available on the board's website. The form shall be signed by the person making the donation or that person's authorized representative.

(4) Controlled substances are not eligible for donation or acceptance under the cancer drug repository program. Cancer drugs and supplies that do not meet the criteria described under subsection (3) are not eligible for donation or acceptance under the cancer drug repository program. Cancer drugs and supplies may be donated on the premises of a cancer drug repository to a pharmacist designated by the repository. A drop box shall not be used to deliver or accept donations. Cancer drugs and supplies donated under the cancer drug repository program shall be stored in a secure storage area under environmental conditions appropriate for the drugs or supplies being stored. Donated drugs and supplies may not be stored with nondonated inventory.

(5) Cancer drugs and supplies that are donated under the cancer drug repository program shall be dispensed by a pharmacist pursuant to a prescription by a prescriber or may be dispensed or administered by a dispensing prescriber. The cancer drugs and supplies shall be visually inspected by the pharmacist or dispensing prescriber before being dispensed or administered for adulteration, misbranding, and date of expiration. Cancer drugs or supplies that have expired or appear upon visual inspection to be adulterated, misbranded, or tampered with in any way may not be dispensed or administered.

(6) Before a cancer drug or supply may be dispensed or administered to an individual, the individual must provide verification that he or she has a current diagnosis of cancer, provide proof of his or her insurance, if any, and sign a cancer drug repository recipient form provided by the board acknowledging that the individual understands the information stated on the form. The form shall be made available to the public on the board's website. The form shall include, at a minimum, the following information:

(a) That the drug or supply being dispensed or administered has been donated and may have been previously dispensed.

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(b) That a visual inspection has been conducted by the pharmacist or dispensing prescriber to ensure that the drug has not expired, has not been adulterated or misbranded, and is in its original, unopened packaging.

(c) That the pharmacist, the dispensing or administering prescriber, the cancer drug repository, the board, and any other participant of the cancer drug repository program cannot guarantee the safety of the drug or supply being dispensed or administered and that the pharmacist or prescriber has determined that the drug or supply is safe to dispense or administer based on the accuracy of the donor's form submitted with the donated drug or supply and the visual inspection required to be performed by the pharmacist or prescriber before dispensing or administering.

(7) Any resident of this state who is diagnosed with cancer is eligible to receive drugs or supplies under the cancer drug repository program. Cancer drugs and supplies donated under the cancer drug repository program shall not be resold and shall only be dispensed or administered to residents of this state who are diagnosed with cancer. A pharmacist who dispenses those drugs and supplies donated under the cancer drug repository program shall not submit a claim or otherwise seek reimbursement from any public or private third party payer for drugs or supplies dispensed to any eligible individual in accordance with the program, nor shall a public or private third party payer be required to provide reimbursement for donated drugs or supplies dispensed by a pharmacist to an eligible individual in accordance with the program. Cancer drugs and supplies dispensed under the cancer drug repository program shall be dispensed in the following order of priority:

(a) Individuals who are uninsured or do not have insurance coverage for those cancer drugs or supplies.

(b) Individuals who are enrolled in medicaid, medicare, or any other public assistance health care program.

(c) All other individuals who are residents of this state and diagnosed with cancer.

(8) A cancer drug repository may charge the individual receiving a drug or supply a handling fee of not more than 250% of the medicaid dispensing fee or $5.00, whichever is less, for each cancer drug or supply dispensed or administered. Cancer drug repositories may distribute drugs and supplies donated under the cancer drug repository program to other repositories if requested by a participating repository. A cancer drug repository that has elected not to dispense donated drugs or supplies shall distribute any donated drugs and supplies to a participating repository upon request of the repository. If a cancer drug repository distributes drugs or supplies to another participating repository, the repository shall complete a cancer drug repository donor form provided by the board. The completed form and copy of the donor form that was completed by the original donor under subsection (3) shall be provided to the fully participating cancer drug repository at the time of distribution.

(9) Cancer drug repository donor and recipient forms shall be maintained for at least 5 years. A record of destruction of donated drugs and supplies that are not dispensed under subsection (7) shall be maintained by the dispensing repository for at least 5 years. For each drug or supply destroyed, the record shall include the following information:

(a) The date of destruction.

(b) The name, strength, and quantity of the cancer drug destroyed.

(c) The name of the person or firm that destroyed the drug.

(d) The source of the drugs or supplies destroyed.

(10) A manufacturer is not subject to criminal liability or liability in tort or other civil action for injury, death, or loss to a person or to property for any of the following causes of action:

(a) The intentional or unintentional adulteration or misbranding of the drug or supply by a party not under the control of the manufacturer.

(b) The failure of a party not under the control of the manufacturer to transfer or communicate product or consumer information or the expiration date of the donated drug or supply.

(c) Claims for payment to government or private payers.

(11) A health facility or pharmacy participating in the cancer drug repository program, a pharmacist dispensing a drug or supply pursuant to the program, a prescriber dispensing or administering a drug or supply pursuant to the program, or a donor of a cancer drug or supply is immune from civil liability for an act or omission that causes injury to or the death of an individual to whom the cancer drug or supply is dispensed and no disciplinary action shall be taken against a pharmacist or prescriber as long as the drug or supply is donated, accepted, distributed, and dispensed according to the requirements of this section. This immunity does not apply if the act or omission involves reckless, wanton, or intentional misconduct, or malpractice unrelated to the quality of the cancer drug or supply.

(12) As used in this section:

(a) "Cancer drug" means a prescription drug that is used to treat either of the following:

(*i*) Cancer or the side effects of cancer.

(*ii*) The side effects of any prescription drug that is used to treat cancer or the side effects of cancer.

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(b) "Cancer drug repository" means a health facility or pharmacy that has notified the board of its election to participate in the cancer drug repository program.

(c) "Cancer supply" or "supplies" means prescription and nonprescription cancer supplies needed to administer a cancer drug.

(d) "Distribute" means to deliver, other than by administering or dispensing.

(e) "Donor" means an individual and not a manufacturer or wholesale distributor who donates a cancer drug or supply according to the requirements of the cancer drug repository program.

(f) "Health facility" means a facility licensed in accordance with article 17 as a county medical care facility, freestanding surgical outpatient facility, home for the aged, hospital, hospital long-term care unit, nursing home, and hospice.

(g) "Side effects of cancer" means symptoms of cancer.

(h) "Single unit dose packaging" means a single unit container for articles intended for administration as a single dose, direct from the container.

(i) "Tamper-evident unit dose packaging" means a container within which a drug is sealed so that the contents cannot be opened without obvious destruction of the seal.

History: Add. 2006, Act 416, Imd. Eff. Sept. 29, 2006.

Popular name: Act 368

PART 178
PHYSICAL THERAPY

333.17801 Definitions; principles of construction.

Sec. 17801. (1) As used in this part:

(a) "Physical therapist" means an individual licensed under this article to engage in the practice of physical therapy.

(b) "Physical therapist assistant" means an individual with a health profession subfield license under this part who assists a physical therapist in physical therapy intervention.

(c) "Practice as physical therapist assistant" means the practice of physical therapy performed under the supervision of a physical therapist licensed under this part.

(d) "Practice of physical therapy" means the evaluation of, education of, consultation with, or treatment of an individual by the employment of effective properties of physical measures and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting, or alleviating a physical or mental disability. Physical therapy includes treatment planning, performance of tests and measurements, interpretation of referrals, initiation of referrals, instruction, consultative services, and supervision of personnel. Physical measures include massage, mobilization, heat, cold, air, light, water, electricity, and sound. Practice of physical therapy does not include the identification of underlying medical problems or etiologies, establishment of medical diagnoses, or the prescribing of treatment.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 177, Imd. Eff. June 9, 1982;—Am. 1987, Act 213, Imd. Eff. Dec. 22, 1987;—Am. 2009, Act 55, Imd. Eff. June 25, 2009.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.17819 Practice of physical therapy or physical therapist assistant; activities; scope of practice.

Sec. 17819. This part does not prohibit an individual licensed, registered, or otherwise authorized to engage in a health profession under any other part or any other act from performing activities that are considered the practice of physical therapy or the practice as a physical therapist assistant so long as those activities are within the individual's scope of practice and the individual does not use the words, titles, or letters protected under section 17820.

History: Add. 2010, Act 382, Imd. Eff. Dec. 22, 2010.

Popular name: Act 368

333.17820 Practice of physical therapy or physical therapist assistant; license or

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authorization required; engaging in treatment with or without prescription of certain license holders; use of words, titles, or letters.

Sec. 17820. (1) An individual shall not engage in the practice of physical therapy or practice as a physical therapist assistant unless licensed or otherwise authorized under this part. Except as otherwise provided in this subsection, a physical therapist or physical therapist assistant shall engage in the treatment of a patient if that treatment is prescribed by a health care professional who is an advanced practice registered nurse as that term is defined in section 17201, or who holds a license issued under part 166, 170, 175, or 180, or an equivalent license issued by another state. A physical therapist or a physical therapist assistant may engage in the treatment of a patient without the prescription of a health care professional who is an advanced practice registered nurse as that term is defined in section 17201, or who holds a license issued under part 166, 170, 175, or 180, or an equivalent license issued by another state, under either of the following circumstances:

(a) For 21 days or 10 treatments, whichever first occurs. However, a physical therapist shall determine that the patient's condition requires physical therapy before delegating physical therapy interventions to a physical therapist assistant.

(b) The patient is seeking physical therapy services for the purpose of preventing injury or promoting fitness.

(2) The following words, titles, or letters or a combination of words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "physical therapy", "physical therapist", "doctor of physiotherapy", "doctor of physical therapy", "physiotherapist", "physiotherapy", "registered physical therapist", "licensed physical therapist", "physical therapy technician", "physical therapist assistant", "physical therapy assistant", "physiotherapist assistant", "physiotherapy assistant", "p.t. assistant", "p.t.", "r.p.t.", "l.p.t.", "c.p.t.", "d.p.t.", "m.p.t.", "p.t.a.", "registered p.t.a.", "licensed p.t.a.", "certified p.t.a.", "c.p.t.a.", "l.p.t.a.", "r.p.t.a.", and "p.t.t.".

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 177, Imd. Eff. June 9, 1982;—Am. 1987, Act 213, Imd. Eff. Dec. 22, 1987;—Am. 2005, Act 281, Imd. Eff. Dec. 19, 2005;—Am. 2006, Act 387, Imd. Eff. Sept. 27, 2006;—Am. 2009, Act 55, Imd. Eff. June 25, 2009;—Am. 2014, Act 260, Eff. Jan. 1, 2015;—Am. 2016, Act 499, Eff. Apr. 9, 2017.

Popular name: Act 368

333.17821 Michigan board of physical therapy; creation; membership; terms.

Sec. 17821. (1) The Michigan board of physical therapy is created in the department and shall consist of the following 11 voting members who shall meet the requirements of part 161: 6 physical therapists, 1 physical therapist assistant, and 4 public members.

(2) The terms of office of the individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 387, Imd. Eff. Sept. 27, 2006;—Am. 2009, Act 55, Imd. Eff. June 25, 2009.

Popular name: Act 368

333.17822 Physical therapist; practice in hospital; condition.

Sec. 17822. This part does not prohibit a hospital, as a condition of employment or the granting of staff privileges, from requiring that a physical therapist perform activities within his or her scope of practice in the hospital if that treatment is prescribed by an individual who is an advanced practice registered nurse as that term is defined in section 17201, or who holds a license issued under part 166, 170, 175, or 180, or an equivalent license issued by another state.

History: Add. 1987, Act 213, Imd. Eff. Dec. 22, 1987;—Am. 2005, Act 281, Imd. Eff. Dec. 19, 2005;—Am. 2016, Act 499, Eff. Apr. 9, 2017.

Popular name: Act 368

333.17823 Professional development requirements; rules.

Sec. 17823. The department, in consultation with the board, shall promulgate rules to establish professional development requirements for physical therapists and physical therapist assistants. Notwithstanding the requirements of part 161, beginning the license year after the effective date of the rules promulgated under this subsection, an individual shall meet the professional development requirements established under this subsection. The department, in consultation with the board, shall promulgate rules to require licensees seeking renewal to furnish evidence acceptable to the department and the board of the successful completion, during the preceding license term, of those professional development requirements.

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History: Add. 2009, Act 55, Imd. Eff. June 25, 2009.

Popular name: Act 368

333.17824 Treatment of patient upon or without prescription of health care professional; duties of physical therapist.

Sec. 17824. (1) A physical therapist who is treating a patient upon the prescription of a health care professional as described in section 17820 shall do all of the following, as applicable:

(a) Refer the patient back to the health care professional who issued the prescription for treatment if the physical therapist has reasonable cause to believe that symptoms or conditions are present that require services beyond the scope of practice of physical therapy.

(b) Consult with the health care professional who issued the prescription for treatment if the patient does not show reasonable response to treatment in a time period consistent with the standards of practice as determined by the board.

(2) A physical therapist who is treating a patient without a prescription from a health care professional under the conditions authorized in section 17820 shall do all of the following, as applicable:

(a) Refer the patient to an appropriate health care professional for treatment if the physical therapist has reasonable cause to believe that symptoms or conditions are present that require services beyond the scope of practice of physical therapy.

(b) Consult with an appropriate health care professional if the patient does not show reasonable response to treatment in a time period consistent with the standards of practice as determined by the board.

History: Add. 2009, Act 55, Imd. Eff. June 25, 2009;—Am. 2014, Act 260, Eff. Jan. 1, 2015.

Popular name: Act 368

333.17825 Third party reimbursement or mandated worker's compensation benefits.

Sec. 17825. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for physical therapy services and does not preclude a third party payer from requiring a member or enrollee to fulfill benefit requirements for physical therapy services, including, but not limited to, prescription, referral, or preapproval when services are rendered by an individual licensed or otherwise authorized under this part.

History: Add. 2009, Act 55, Imd. Eff. June 25, 2009.

Popular name: Act 368

333.17826 Physical therapist assistant; licensure requirements; approval of physical therapist assistant training program.

Sec. 17826. (1) An applicant for licensure as a physical therapist assistant shall meet the requirements of section 16174 and, except as otherwise provided in subsection (2), all of the following requirements, as applicable:

(a) Is a graduate of a program for the training of physical therapist assistants approved by the board.

(b) If graduated from a program described in subdivision (a) after January 1, 2008, has passed an examination approved by the board.

(2) For the purposes of subsection (1)(a), the board shall approve a physical therapist assistant training program from the United States military or from outside of the United States if that training program is determined to be substantially equivalent to physical therapist assistant entry level training in the United States by a credentials evaluation organization approved by the American physical therapy association or is listed as a credentialing organization in 8 CFR 212.15(e).

History: Add. 2009, Act 55, Imd. Eff. June 25, 2009.

Popular name: Act 368

333.17827 Limited license; effectiveness.

Sec. 17827. Beginning on the effective date of this section and ending on the effective date of rules promulgated regarding the issuance of licenses to physical therapist assistants under this part, the board shall grant a limited license to an applicant who is a graduate of a physical therapist assistant education program accredited by the commission on accreditation in physical therapy education. A limited license issued under this section is effective until the board formally issues or denies a license to the applicant.

History: Add. 2009, Act 55, Imd. Eff. June 25, 2009.

Popular name: Act 368

333.17829 Standards of practice for services involving vaginal or anal penetration;

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promulgation of rules.

Sec. 17829. The department may promulgate rules that provide guidance to licensees on generally accepted standards of practice for services involving vaginal or anal penetration, including internal pelvic floor treatments. If the department promulgates rules under this section, the department shall consult with appropriate professional associations and other interested stakeholders.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023.

Popular name: Act 368

333.17831 Repealed. 1987, Act 213, Imd. Eff. Dec. 22, 1987.

Compiler's note: The repealed section provided penalties.

Popular name: Act 368

PART 179.
ATHLETIC TRAINING

333.17901 Definitions.

Sec. 17901. (1) As used in this part:

(a) "Athletic trainer" means an individual engaged in the practice of athletic training.

(b) "Practice of athletic training" means the treatment of an individual for risk management and injury prevention, the clinical evaluation and assessment of an individual for an injury or illness, or both, the immediate care and treatment of an individual for an injury or illness, or both, and the rehabilitation and reconditioning of an individual's injury or illness, or both, if those activities are within the rules promulgated under section 17904 and performed under the direction of, on the prescription of, or in collaboration with an individual licensed under part 170 or 175. The practice of athletic training does not include the practice of physical therapy, the practice of medicine, the practice of osteopathic medicine and surgery, the practice of chiropractic, or medical diagnosis or treatment.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: Add. 2006, Act 54, Eff. Dec. 1, 2006;—Am. 2015, Act 166, Eff. Jan. 26, 2016.

Compiler's note: Act 368

333.17902 Practice of athletic training; license required; use of titles; exceptions.

Sec. 17902. (1) Beginning on February 4, 2010, an individual shall not engage in the practice of athletic training unless licensed under this part or otherwise authorized to engage in the practice of athletic training under this section. An individual licensed under this part shall not provide, offer to provide, or represent that he or she is qualified to provide any services that he or she is not qualified to perform by his or her education, training, or experience or that he or she is otherwise prohibited by law from performing.

(2) Subsection (1) does not prohibit an individual licensed under any other part or any other act from performing activities that are considered the practice of athletic training so long as those activities are within the individual's scope of practice and the individual does not use the titles protected under subsection (3).

(3) Except as otherwise provided in this section, beginning on February 4, 2010, an individual shall not use the titles "athletic trainer", "licensed athletic trainer", "certified athletic trainer", "athletic trainer certified", "a.t.", "a.t.l.", "c.a.t.", "a.t.c.", or similar words that indicate that the person is an athletic trainer unless the individual is licensed under this article as an athletic trainer.

(4) This part does not apply to a person who is present in this state for an event that uses the services of athletic trainers, who is present in this state for not more than 30 consecutive days, and who is a board of certification certified athletic trainer or is licensed as an athletic trainer in another state.

History: Add. 2006, Act 54, Eff. Dec. 1, 2006;—Am. 2011, Act 26, Imd. Eff. May 16, 2011.

Compiler's note: Act 368

333.17903 Michigan athletic trainer board; creation; membership; terms.

Sec. 17903. (1) The Michigan athletic trainer board is created in the department and shall consist of the following members meeting the requirements of part 161:

(a) Until June 30, 2010, 4 athletic trainers. Beginning July 1, 2010, 6 athletic trainers.

(b) Until June 30, 2010, 1 public member. Beginning July 1, 2010, 3 public members.

(c) Two physicians licensed under part 170 or 175.

(2) The terms of office of individual members of the board created under this part, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

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History: Add. 2006, Act 54, Eff. Dec. 1, 2006;—Am. 2006, Act 387, Imd. Eff. Sept. 27, 2006;—Am. 2010, Act 79, Imd. Eff. May 20, 2010.

Compiler's note: Act 368

333.17904 Rules.

Sec. 17904. (1) The department shall promulgate rules establishing the minimum standards for licensure as an athletic trainer under this part for purposes of section 17905(1) and the minimum standards of care for the practice of athletic training.

(2) In promulgating the rules required under this section, the department may consult the professional standards issued by the National Athletic Trainer's Association, by the National Athletic Trainer's Association Board of Certification, or by another nationally recognized professional association. The department may incorporate by reference, in whole or in part, existing standards in the rules.

(3) As needed, the department may amend or supplement any standards described in this section by rule.

History: Add. 2006, Act 54, Eff. Dec. 1, 2006;—Am. 2020, Act 19, Imd. Eff. Jan. 27, 2020.

Compiler's note: Act 368

333.17905 License; requirements; continuing education rules.

Sec. 17905. (1) The department shall issue a license under this article as an athletic trainer to an individual who meets all of the following requirements:

(a) Applies to the department on a form provided by the department.

(b) Meets the requirements for licensure in rules promulgated under section 17904.

(c) Pays the fees prescribed in section 16336.

(2) The department, in consultation with the board, shall promulgate rules under this subsection to establish continuing education requirements for athletic trainers. The rules must adopt, by reference, the continuing education standards for athletic trainers issued by the Board of Certification, Inc. that are in existence on the effective date of the amendatory act that amended this subsection. The department, in consultation with the board, may adopt any updates or amendments to the standards described in this subsection by rule. Notwithstanding the requirements of part 161, beginning with the license cycle after the effective date of the rules promulgated under this subsection, an individual must meet the continuing education requirements established under this subsection. The department, in consultation with the board, shall promulgate rules to require licensees seeking renewal to furnish evidence acceptable to the department and the board of the successful completion, during the preceding license cycle, of those continuing education requirements.

History: Add. 2006, Act 54, Eff. Dec. 1, 2006;—Am. 2015, Act 166, Eff. Jan. 26, 2016;—Am. 2020, Act 19, Imd. Eff. Jan. 27, 2020.

Compiler's note: Act 368

333.17906 License renewal.

Sec. 17906. A license issued under section 17905 is renewable upon payment of the prescribed license renewal fee and the successful completion of the requirements for license renewal in rules promulgated under section 17905(2).

History: Add. 2006, Act 54, Eff. Dec. 1, 2006;—Am. 2015, Act 166, Eff. Jan. 26, 2016;—Am. 2020, Act 19, Imd. Eff. Jan. 27, 2020.

Compiler's note: Act 368

333.17907 Third party reimbursement.

Sec. 17907. This part does not require new or additional third party reimbursement for services rendered by an individual licensed under this part.

History: Add. 2006, Act 54, Eff. Dec. 1, 2006.

Compiler's note: Act 368

333.17909 Standards of practice for services involving vaginal or anal penetration; promulgation of rules.

Sec. 17909. The department may promulgate rules that provide guidance to licensees on generally accepted standards of practice for services involving vaginal or anal penetration, including internal pelvic floor treatments. If the department promulgates rules under this section, the department shall consult with appropriate professional associations and other interested stakeholders.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023.

Popular name: Act 368

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PART 179A.
MASSAGE THERAPY

333.17951 Definitions.

Sec. 17951. (1) As used in this part:

(a) "Feldenkrais method" means a system of somatic education in which touch and words are used to eliminate faulty habits, learn new patterns of self-organization and action, and improve a person's own functional movement patterns. Feldenkrais method is based on principles of physics, biomechanics, and an understanding of, or learning about, human development.

(b) "Massage therapist" means an individual engaged in the practice of massage therapy.

(c) "Polarity therapy" means diverse applications affecting the human energy system and includes energetic approaches to somatic contact, verbal facilitation, nutrition, exercise, and health education. Polarity therapy does not make medical claims, diagnose physical ailments, or allow prescription of medications.

(d) "Practice of massage therapy" means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the human body in which the primary intent is to enhance or restore the health and well-being of the client. Practice of massage therapy includes complementary methods, including the external application of water, heat, cold, lubrication, salt scrubs, body wraps, or other topical preparations; and electromechanical devices that mimic or enhance the actions possible by the hands. Practice of massage therapy does not include medical diagnosis; practice of physical therapy; high-velocity, low-amplitude thrust to a joint; electrical stimulation; application of ultrasound; or prescription of medicines.

(e) "School" means any of the following accredited or licensed institutions of higher education that meet the minimum standards and curriculum, in compliance with section 16148:

(*i*) A public or private community college, college, or university.

(*ii*) A public or private trade, vocational, or occupational school.

(f) "Trager approach" means a form of movement education that uses subtle directed movements and the skilled touch of a practitioner. The Trager approach combines physical movement with sensory awareness and internal imagery designed to increase the client's self-awareness and generate physiological changes in the body tissues so as to allow the client to experience a new way of moving his or her body.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this act and part 161 contains definitions applicable to this part.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009.

Popular name: Act 368

333.17953 Use of certain titles, words, or initials.

Sec. 17953. An individual shall not use the titles "licensed massage therapist", "massage therapist", "masseur", "massagist", "certified massage therapist", "clinical massage therapist", "medical massage therapist", "manual massage therapist", "board certified massage therapist", "massage technician", "myomassologist", "masseuse", "l.m.t.", "m.m.t.", and "c.m.t.", or similar words or initials that indicate that the individual is a massage therapist, unless the individual is licensed under this article as a massage therapist. This section does not prevent the use of a name, title, or initials that are registered or otherwise protected under law and used by a person certified or otherwise approved by a private organization.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009.

Popular name: Act 368

333.17955 Michigan board of massage therapy; creation; membership; qualifications; terms; appointment; vacancy.

Sec. 17955. (1) The Michigan board of massage therapy is created in the department and consists of the following 11 members appointed by the governor who meet the requirements of part 161:

(a) Seven individuals who meet the requirements of section 16135(2).

(b) Four public members.

(2) Except as otherwise provided in this subsection, the terms of office of individual members of the board created under subsection (1) expire 4 years after appointment on December 31 of the year in which the term will expire. Of the members first appointed to the board under subsection (1), 4 shall be appointed for terms of 4 years, 4 shall be appointed for terms of 3 years, and 3 shall be appointed for terms of 2 years. The term of office of an individual appointed to fill a vacancy expires at the end of the term of the vacancy being filled.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009.

Popular name: Act 368

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333.17957 Massage therapy; license required; exceptions.

Sec. 17957. (1) An individual shall not engage in the practice of massage therapy unless licensed under this part. The practices for which a license is not required under this subsection include, but are not limited to, all of the following:

(a) The use of touch, words, or directed movement to deepen awareness of patterns of movement in the body as long as those services are not designated or implied to be massage or massage therapy. These practices include, but are not limited to, all of the following:

(*i*) The Feldenkrais method.

(*ii*) The Trager approach.

(b) The affectation of the human energy system or acupoints or qi meridians of the human body while engaged within the scope of practice of a profession with established standards and ethics and as long as those services are not designated or implied to be massage or massage therapy. These practices include, but are not limited to, all of the following:

(*i*) Polarity or polarity therapy.

(*ii*) Asian bodywork therapy.

(*iii*) Reiki.

(*iv*) Shiatsu.

(c) Reflexology.

(d) Structural integration.

(2) The department shall provide for a 3-year license cycle.

(3) Subsection (1) does not prevent any of the following:

(a) An individual licensed under any other part or act from performing activities that are considered massage therapy services if those activities are within the individual's scope of practice and if the individual does not use the titles, words, or initials protected under section 17953.

(b) The practice of massage therapy that is an integral part of a program of study by students enrolled in a school, provided that they are identified as students and provide massage therapy services only while under the supervision of a licensed massage therapist.

(c) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a licensed massage therapist.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009.

Popular name: Act 368

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333.17959 Massage therapist; license; issuance; requirements; "classroom instruction" and "distance education" defined.

Sec. 17959. (1) If it receives a completed application and payment of the appropriate application processing and license fee, the department shall issue a license under this part to an individual who fulfills all of the following requirements:

(a) Is of good moral character as defined in section 1 of 1974 PA 381, MCL 338.41.

(b) Is at least 18 years of age.

(c) Has successfully passed an examination that meets the requirements of section 17961.

(d) Has successfully completed 1 of the following, and provides an academic transcript that is satisfactory to the board as evidence of successful completion:

(*i*) A massage education program that meets all of the following:

(A) Includes at least 500 hours of classroom instruction to complete the program if the applicant is or was enrolled in the school before August 1, 2017, or at least 625 hours of classroom instruction if the applicant enrolls in the school on or after August 1, 2017.

(B) Uses only classroom instruction described in subsection (3)(a)(*i*) to provide program components that contain psychomotor domain learning, including palpation, hands-on techniques, and clinical or lab experiences, or to provide other program components that the board determines require classroom instruction described in subsection (3)(a)(*i*).

(C) All classroom instruction in the program is facilitated by a qualified instructor who is trained in the subject matter he or she is teaching, and, if the classroom instruction is provided by distance education, is trained in distance education teaching methods.

(*ii*) The following number of hours of course and clinical massage education in a substantially equivalent program in another state, country, jurisdiction, territory, or province that, on a case-by-case review, is found by the board to be sufficient:

(A) If the applicant is or was enrolled in the school before August 1, 2017, at least 500 hours.

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(B) If the applicant enrolls in the school on or after August 1, 2017, at least 625 hours.

(2) The department shall issue a license to an applicant who meets the requirements of subsection (1)(a) and (b) and who is currently licensed as a massage therapist in another state, country, jurisdiction, territory, or province that requires standards for licensure that are substantially equivalent to the requirements for licensure under this part, as determined by the board.

(3) As used in this section:

(a) "Classroom instruction" means educational instruction that meets either of the following:

(*i*) Is provided at a physical location where the students and an instructor are present.

(*ii*) Is provided by distance education.

(b) "Distance education" means instruction that meets all of the following:

(*i*) Is provided electronically or online.

(*ii*) Does not require that the students and the instructor are physically present at the same place.

(*iii*) Allows for regular interaction between the students and instructor through a learning management system, online discussion board, live chat, or virtual classroom.

(*iv*) Provides a method for unique sign-in for student identification, provides for timely communication between instructors and students, and allows students to monitor their grades and progress.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009;—Am. 2010, Act 304, Imd. Eff. Dec. 17, 2010;—Am. 2016, Act 371, Imd. Eff. Dec. 22, 2016.

Popular name: Act 368

333.17961 Examination.

Sec. 17961. (1) The board shall provide that applicants pass an examination that measures entry level competence before issuance of a license under this part.

(2) For licensure purposes under this part, the board shall adopt only those examinations that meet all of the following requirements:

(a) Are statistically validated through a job analysis under current standards for educational and professional testing.

(b) Has examination standards that comply with pertinent state and federal equal employment opportunity guidelines.

(c) Are available to all potential candidates for licensure.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009.

Popular name: Act 368

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333.17963 Rules.

Sec. 17963. (1) The board shall promulgate rules to create a code of professional ethics.

(2) A licensee shall make a written referral of a client to an appropriate health professional if the client's physical or medical condition appears to constitute a contraindication for massage therapy.

(3) The board and department shall not, by rule or otherwise, restrict the right of a licensee to participate in and become a member of any nationally recognized trade or professional association.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009.

Popular name: Act 368

333.17965 Renewal; continuing education.

Sec. 17965. Subject to section 16204, the board shall, by rule, require as a condition of renewal of a license the furnishing of evidence of at least 18 hours, or the equivalent acceptable to the board, of continuing education for each 3-year license cycle. The courses shall be approved by the board and shall include subjects related to the practice of massage therapy.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009.

Popular name: Act 368

333.17967 Licensing requirements; administrative rules.

Sec. 17967. Beginning 1 year after the certification of administrative rules to implement and administer this part, a local unit of government shall not establish or maintain licensing requirements for a massage therapist licensed under this part.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009;—Am. 2010, Act 88, Imd. Eff. June 7, 2010.

Popular name: Act 368

333.17969 Third party reimbursement or mandated worker's compensation benefits.

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Sec. 17969. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed under this part.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009.

Popular name: Act 368

PART 180
PODIATRIC MEDICINE AND SURGERY

333.18001 Definitions; principles of construction.

Sec. 18001. (1) As used in this part:

(a) "Medical care services" means those services within the scope of practice of podiatric physicians licensed by the board, except those services that the board prohibits or otherwise restricts within a practice agreement or determines shall not be delegated by a podiatric physician without endangering the health and safety of patients as provided for in section 18048.

(b) "Participating podiatrist" means a podiatric physician or a podiatric physician designated by a group of podiatric physicians under section 18049 to represent that group.

(c) "Podiatric physician" means an individual who is licensed under this article to engage in the practice of podiatric medicine and podiatric surgery.

(d) "Practice agreement" means an agreement described in section 18047.

(e) "Practice as a physician's assistant" means the practice of podiatric medicine and podiatric surgery with a participating podiatric physician under a practice agreement.

(f) Except as otherwise provided in subdivision (g), "practice of podiatric medicine and podiatric surgery" means any of the following:

(*i*) The evaluation, diagnosis, management, and prevention of conditions of the lower extremities, including local manifestations of systemic disease in the human foot and ankle, by attending to and advising patients and through the use of devices, diagnostic tests, drugs and biologicals, surgical procedures, or other means. The evaluation, diagnosis, management, and prevention of conditions of the lower extremities may include osseous and soft tissue procedures that address the pathology of the foot, ankle, and the contiguous attachments below the tibial tuberosity.

(*ii*) The treatment of ulcerations below the tibial tuberosity and of human nail diseases, callosities, and verruca.

(g) "Practice of podiatric medicine and podiatric surgery" does not include amputations proximal to the tibiotalar joint, proximal osseous procedures that do not involve the tibiotalar joint, or the administration of intravenous sedation or general anesthesia.

(h) "Task force" means the joint task force created in section 17025.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 161, Eff. Nov. 26, 2006;—Am. 2016, Act 379, Eff. Mar. 22, 2017;—Am. 2018, Act 355, Eff. Feb. 13, 2019.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.18008 Physician's assistant; health profession subfield.

Sec. 18008. Practice as a physician's assistant is a health profession subfield of the practice of podiatric medicine and surgery, the practice of osteopathic medicine and surgery, and the practice of medicine.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006.

Popular name: Act 368

333.18011 Practice of podiatric medicine and surgery or as physician's assistant; license or authorization required; use of words, titles, or letters.

Sec. 18011. (1) A person shall not engage in the practice of podiatric medicine and surgery or practice as a physician's assistant unless licensed or otherwise authorized by this article.

(2) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "chiropodist", "chiropody", "chiropodical", "podiatry", "podiatrist", "podiatric", "doctor of podiatric medicine", "foot specialist", "podiatric physician and surgeon", and "d.p.m.".

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 161, Eff. Nov. 26, 2006;—Am. 2006, Act 391, Imd. Eff. Sept. 27, 2006
.

Popular name: Act 368

333.18012 Postgraduate podiatric study; full or limited license required; requirements of limited license; responsibility for training; limited license renewable.

Sec. 18012. (1) An individual shall not engage in postgraduate podiatric study in podiatric medicine and surgery, including the practice of podiatric medicine and surgery, before obtaining a full or limited license to practice under this part.

(2) A limited license for a postgraduate shall require that the individual confine his or her practice and training to a hospital, institution, or preceptorship program approved by the board for the training. The hospital, institution, or preceptorship program is responsible for the training. A limited license for a postgraduate is renewable for not more than 5 years.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1985, Act 31, Imd. Eff. June 12, 1985.

Popular name: Act 368

333.18021 Michigan board of podiatric medicine and surgery; creation; membership; terms.

Sec. 18021. (1) The Michigan board of podiatric medicine and surgery is created in the department and consists of the following 9 voting members who shall meet the requirements of part 161: 5 podiatrists, 1 physician's assistant, and 3 public members.

(2) Except as otherwise provided in this article, the board of podiatric medicine and surgery does not have the powers and duties vested in the task force by sections 17060 to 17084.

(3) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 161, Eff. Nov. 26, 2006;—Am. 2006, Act 391, Imd. Eff. Sept. 27, 2006;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.18031 Condition for more than limited licensure.

Sec. 18031. An applicant, in addition to completing the requirements for the degree as a doctor of podiatric medicine, shall complete a period of postgraduate education to attain proficiency in the practice of the profession as prescribed by the board in rule as a condition for more than limited licensure.

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

Popular name: Act 368

333.18033 Renewal of license; evidence required; completion of hours or courses in pain and symptom management as continuing education; rules.

Sec. 18033. (1) Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 3 years immediately preceding application for renewal the licensee has attended continuing education courses or programs approved by the board and totaling not less than 150 hours in subjects related to the practice of podiatric medicine and surgery and designed to further educate licensees.

(2) As required under section 16204, the board shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education requirement of subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979;—Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986;—Am. 1994, Act 234, Imd. Eff. June 30, 1994.

Popular name: Act 368

333.18047 Practice as physician's assistant; practice agreement; requirements.

Sec. 18047. (1) A physician's assistant shall not engage in the practice as a physician's assistant except under the terms of a practice agreement that meets the requirements of this section.

(2) A practice agreement must include all of the following:

(a) A process between the physician's assistant and participating podiatrist for communication, availability, and decision making when providing medical treatment to a patient. The process must utilize the knowledge and skills of the physician's assistant and participating podiatrist based on their education, training, and experience.

(b) A protocol for designating an alternative podiatrist for consultation in situations in which the

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participating podiatrist is not available for consultation.

(c) The signature of the physician's assistant and the participating podiatrist.

(d) A termination provision that allows the physician's assistant or participating podiatrist to terminate the practice agreement by providing written notice at least 30 days before the date of termination.

(e) Subject to section 18048, the duties and responsibilities of the physician's assistant and participating podiatrist. The practice agreement shall not include as a duty or responsibility of the physician's assistant or participating podiatrist an act, task, or function that the physician's assistant or participating podiatrist is not qualified to perform by education, training, or experience and that is not within the scope of the license held by the physician's assistant or participating podiatrist.

(f) A requirement that the participating podiatrist verify the physician's assistant's credentials.

(3) The number of physician's assistants in a practice agreement with a participating podiatrist and the number of individuals to whom a podiatrist has delegated the authority to perform acts, tasks, or functions are subject to section 16221.

History: Add. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.18048 Prohibiting or restricting delegation of medical care service; requiring higher levels of supervision.

Sec. 18048. Except for a medical care service within a practice agreement, to the extent that a particular selected medical care service requires extensive training, education, or ability or poses serious risks to the health or safety of patients, the board may prohibit or otherwise restrict the delegation of that medical care service or may require higher levels of supervision. To the extent that a particular medical care service requires extensive training, education, or ability or poses serious risks to the health or safety of patients, the board may prohibit or otherwise restrict that medical care service within a practice agreement.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.18049 Practice agreement; designation of podiatrist; countersigning order or signing official form not required.

Sec. 18049. (1) A group of podiatrists practicing other than as sole practitioners may designate 1 or more podiatrists in the group to enter into a practice agreement under section 18047.

(2) Notwithstanding any law or rule to the contrary, a podiatrist is not required to countersign orders written in a patient's clinical record by a physician's assistant with whom the podiatrist has a practice agreement. Notwithstanding any law or rule to the contrary, a podiatrist is not required to sign an official form that lists the podiatrist's signature as the required signatory if that official form is signed by a physician's assistant with whom the podiatrist has a practice agreement.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.18050 Prohibiting podiatrist or physician's assistant from entering practice agreement; grounds; rules concerning prescribing of drugs.

Sec. 18050. (1) In addition to its other powers and duties under this article, the board may prohibit a podiatrist or a physician's assistant from entering into a practice agreement for any of the grounds set forth in section 16221.

(2) For purposes of section 18051, the department, in consultation with the board, may promulgate rules concerning the prescribing of drugs by a physician's assistant. Subject to section 18051, the rules may define the drugs or classes of drugs that a physician's assistant may not prescribe and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006;—Am. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.18051 Physician's assistant; making calls or going on rounds; prescribing drug; ordering, receiving, and dispensing complimentary starter dose drugs.

Sec. 18051. (1) A physician's assistant may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities in accordance with a practice

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agreement. Notwithstanding any law or rule to the contrary, a physician's assistant may make calls or go on rounds as provided in this subsection without restrictions on the time or frequency of visits by a podiatrist or the physician's assistant.

(2) A physician's assistant who is a party to a practice agreement may prescribe a drug in accordance with procedures and protocols for the prescription established by rule of the department in consultation with the appropriate board. A physician's assistant may prescribe a drug, including a controlled substance that is included in schedules 2 to 5 of part 72. If a physician's assistant prescribes a drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that prescription. If a physician's assistant prescribes a drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that prescription.

(3) A physician's assistant may order, receive, and dispense complimentary starter dose drugs, including controlled substances that are included in schedules 2 to 5 of part 72. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. As used in this subsection, "complimentary starter dose" means that term as defined in section 17745. It is the intent of the legislature in enacting this subsection to allow a pharmaceutical manufacturer or wholesale distributor, as those terms are defined in part 177, to distribute complimentary starter dose drugs to a physician's assistant, as described in this subsection, in compliance with section 503(d) of the federal food, drug, and cosmetic act, 21 USC 353.

History: Add. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.18054 Approval of physician's assistants and valuation of training programs; criteria.

Sec. 18054. The board shall make written recommendations on criteria for the approval of physician's assistants and on criteria for the valuation of physician's assistants training programs to the task force on physician's assistants.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006.

Popular name: Act 368

333.18056 Applicability of part to student in training.

Sec. 18056. This part does not apply to a student in training to become a physician's assistant while performing duties assigned as part of the training.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006.

Popular name: Act 368

333.18058 Third party reimbursement or worker's compensation benefits not required.

Sec. 18058. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual authorized to practice as a physician's assistant under this part.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006.

Popular name: Act 368

PART 181
COUNSELING

333.18101 Definitions.

Sec. 18101. As used in this part:

(a) "Clinical counseling principles, methods, or procedures" means 1 or more of the following:

(*i*) Psychotherapy, the diagnosis and treatment planning for mental and emotional disorders, and evaluation.

(*ii*) Selecting, administering, scoring, and interpreting assessments, tests, and appraisals that are designed to assess an individual's aptitudes, interests, attitudes, abilities, achievements, and personal characteristics in order to use appraisal and diagnostic results in helping processes.

(*iii*) Psychoeducational consulting. As used in this subparagraph, "psychoeducational consulting" means

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assisting a consultee that is working with an individual, small group, or organization by identifying problems, strengths, and weaknesses and making recommendations for the implementation of preventative or remedial strategies.

(*iv*) Counseling techniques. As used in this subparagraph:

(A) "Counseling techniques" means the application of basic counseling and psychotherapy skills and theories in the counseling process for the purposes of establishing and maintaining the counseling relationship; diagnosing the problem; formulating a preventative, treatment, or rehabilitative plan; and facilitating appropriate interventions.

(B) "Diagnosing the problem" means the identification of the problem through the application of recognized counseling techniques and psychotherapy skills and theories, including the use of the classifications and diagnoses in the Diagnostic and Statistical Manual for Mental Disorders, obtained through the successful completion of a qualified program. Diagnosing the problem does not include the identification of other medical or physical conditions.

(*v*) Behavioral modification techniques. As used in this subparagraph, "behavioral modification techniques" means assisting clients in identifying maladaptive or harmful behaviors and replacing them with adaptive and helpful behaviors.

(*vi*) Referral. As used in this subparagraph, "referral" includes determining the need for referral to 1 or more statutorily regulated mental health professionals whose expertise, skills, and competence are appropriate to the problems of the individual, informing the individual of the referral, and communicating as appropriate with the professional to whom the individual has been referred.

(*vii*) Preventative techniques. As used in this subparagraph, "preventative techniques" means assisting a client in maintaining mental and emotional well-being and preventing emotional distress and mental illness.

(*viii*) Establishing a counseling plan for the treatment of 1 or more of the following disorders of an individual, couple, group, or family:

(A) An emotional disorder.

(B) A mental disorder.

(C) An addiction disorder.

(D) A physical disorder that requires a counseling intervention.

(*ix*) Promoting mental health wellness. As used in this subparagraph, "mental health wellness" means the achievement of social, career, and emotional development across an individual's life span.

(*x*) Preventing and treating mental and emotional disorders. As used in this subparagraph, "preventing and treating mental and emotional disorders" includes the use of crisis intervention.

(b) "Licensed professional counselor" means an individual who is licensed under this article to engage in the practice of counseling without supervision.

(c) "Limited licensed counselor" means an individual who has been granted a limited license under this article to engage in the practice of counseling under the supervision of a licensed professional counselor who meets the requirement of section 18106.

(d) Except as otherwise provided in subdivision (e), "practice of counseling" or "counseling" means the rendering to individuals, groups, families, organizations, or the general public in accordance with accepted and established ethics a service involving clinical counseling principles, methods, or procedures for the purpose of achieving social, personal, career, and emotional development and with the goal of promoting and enhancing healthy self-actualizing and satisfying lifestyles whether the services are rendered in an educational, business, health, private practice, or human services setting.

(e) The practice of counseling does not include the practice of psychology except for those preventive techniques, counseling techniques, or behavior modification techniques for which the licensed professional counselor or limited licensed counselor has been specifically trained. The practice of counseling does not include the practice of medicine or osteopathic medicine and surgery, including, but not limited to, the differential diagnosis of medical conditions or disorders, prescribing drugs, or administering electroconvulsive therapy. A counselor shall not hold himself or herself out as any of the following:

(*i*) A psychologist as defined in section 18201.

(*ii*) A marriage and family therapist as defined in section 16901.

(*iii*) A licensed bachelor's social worker or a licensed master's social worker as those terms are defined in section 18501.

(f) "Qualified program" means any of the following:

(*i*) A program that is accredited by the Council for the Accreditation of Counseling and Related Educational Programs, includes coursework and training in the diagnosis and treatment of mental and emotional disorders, and is approved by the department in consultation with the board.

(*ii*) A program that is not accredited by the Council for the Accreditation of Counseling and Related

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Educational Programs, includes coursework and training in the diagnosis and treatment of mental and emotional disorders and all other coursework requirements of the Council for the Accreditation of Counseling and Related Educational Programs, including practicum and internship requirements, and is approved by the department in consultation with the board.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989;—Am. 2019, Act 96, Eff. Jan. 27, 2020.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.18103 Michigan board of counseling; creation; membership; terms of office.

Sec. 18103. (1) The Michigan board of counseling is created in the department. The board shall consist of the following 11 voting members who shall meet the requirements of part 161:

(a) Six members of the board shall be engaged in the practice of counseling and shall consist of: 3 members who are engaged primarily in providing counseling techniques, behavior modification techniques, or preventive techniques to clients; 2 members who are engaged primarily in teaching, training, or research in counseling; and 1 member who is engaged primarily in the administration of counseling services.

(b) Four members of the general public.

(c) One member who is a statutorily regulated mental health professional. As used in this subdivision, "statutorily regulated mental health professional" means any of the following: a psychiatrist, psychologist, substance abuse counselor, marriage and family therapist, or social worker.

(2) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 429, Imd. Eff. Oct. 5, 2006.

Popular name: Act 368

333.18105 Practice of counseling; conditions; use of words, titles, or letters.

Sec. 18105. (1) A licensee shall not perform any acts, tasks, or functions within the practice of counseling unless he or she is trained to perform such acts, tasks, or functions.

(2) Effective October 1, 1990, a person shall not engage in the practice of counseling unless licensed or otherwise authorized under this article.

(3) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "licensed professional counselor", "licensed counselor", "professional counselor", and "l.p.c.".

History: Add. 1988, Act 421, Eff. Mar. 30, 1989;—Am. 1989, Act 262, Imd. Eff. Dec. 26, 1989;—Am. 2006, Act 429, Imd. Eff. Oct. 5, 2006.

Popular name: Act 368

333.18106 Supervision of limited licensed counselor; training required.

Sec. 18106. A licensed professional counselor shall not supervise a limited licensed counselor without completing training in supervision as required by rules promulgated by the department in consultation with the board.

History: Add. 2019, Act 96, Eff. Jan. 27, 2020.

Popular name: Act 368

333.18107 Professional counselor license; qualifications; rules.

Sec. 18107. (1) Subject to subsection (2), the department may grant a professional counselor license to an individual who meets all of the following criteria:

(a) Is not less than 18 years of age.

(b) Has received, from an accredited college or university approved by the department, a master's or doctoral degree in counseling from a qualified program, or a degree determined by the department in consultation with the board to be substantially equivalent to a counseling degree from a qualified program. The department in consultation with the board shall promulgate rules to establish standards to approve qualified programs.

(c) Has at least 2 years of counseling experience under the supervision of a licensed professional counselor. The department in consultation with the board may decrease the required length of counseling

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experience under the supervision of a licensed professional counselor to 1 year if an applicant has completed a doctoral degree in counseling. An applicant shall not be licensed before completing 1 year of counseling experience under the supervision of a licensed professional counselor.

(2) The department in consultation with the board shall promulgate rules under section 16145 as necessary or appropriate to supplement the requirements for licensure under this part as a licensed professional counselor, including adopting updated standards of the Council for the Accreditation of Counseling and Related Educational Programs or a successor organization.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989;—Am. 1989, Act 262, Imd. Eff. Dec. 26, 1989;—Am. 2019, Act 96, Eff. Jan. 27, 2020.

Popular name: Act 368

333.18109 Limited license; qualifications; renewal; restricted practice.

Sec. 18109. (1) Until October 1, 1991, the board may grant a limited license to an individual who has received a bachelor's degree and has engaged in the practice of counseling for not less than 5 years. The limited license shall be renewable for not more than 2 years.

(2) A limited license issued under this section shall require that the individual confine his or her practice to a program of counseling experience under the supervision of a licensed professional counselor.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989;—Am. 1989, Act 262, Imd. Eff. Dec. 26, 1989.

Popular name: Act 368

333.18111 Limited license; criteria; restricted practice; rules.

Sec. 18111. (1) Subject to subsection (3), the department may grant a limited license to an individual who meets both of the following criteria:

(a) Is not less than 18 years of age.

(b) Has received, from an accredited college or university approved by the department, a master's or doctoral degree in counseling from a qualified program, or a degree determined by the department in consultation with the board to be substantially equivalent to a counseling degree from a qualified program. The department in consultation with the board shall promulgate rules to establish standards to approve qualified programs.

(2) A limited license granted under this section must require that the individual confine his or her practice to a program of counseling experience under the supervision of a licensed professional counselor.

(3) The department in consultation with the board shall promulgate rules under section 16145 as necessary or appropriate to supplement the requirements for licensure under this part as a limited licensed counselor, including adopting updated standards of the Council for the Accreditation of Counseling and Related Educational Programs or a successor organization.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989;—Am. 2019, Act 96, Eff. Jan. 27, 2020.

Popular name: Act 368

333.18112 Administering assessments; training required.

Sec. 18112. A licensee shall not administer an assessment unless he or she has received specific training on administering the assessment.

History: Add. 2019, Act 96, Eff. Jan. 27, 2020.

Popular name: Act 368

333.18113 Professional disclosure statement.

Sec. 18113. (1) A licensee shall furnish a professional disclosure statement to a prospective client before engaging in counseling services.

(2) A professional disclosure statement required under this section shall contain all of the following:

(a) The licensee's name, business address, and telephone number.

(b) A description of the licensee's practice.

(c) A description of the education and experience of the licensee.

(d) The licensee's counseling fee schedule.

(e) The name, address, and telephone number of the department.

(3) The disclosure statement shall accompany the original application for licensure. Any changes in the disclosure statement shall be filed with the department within 30 days after the changes are made.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989.

Popular name: Act 368

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333.18114 Relicensure; application requirements; professional disclosure statement; out-of-state license verification.

Sec. 18114. (1) Except as otherwise provided in subsection (3), the department may grant relicensure as a licensed professional counselor or limited licensed counselor to an individual who is applying for relicensure less than 3 years after the expiration date of his or her license, if the individual submits to the department a completed application on a form provided by the department together with payment of the fees described in section 16201(3), and he or she complies with both of the following:

(a) Submits with his or her application a professional disclosure statement that meets the requirements of section 18113.

(b) If the individual holds or has held a license as a licensed professional counselor or limited licensed counselor in another state, ensures that the licensing agency of each out-of-state license verifies all of the following on a form provided by the department:

(*i*) That disciplinary proceedings are not pending against the individual at the time of his or her application for relicensure.

(*ii*) That if sanctions have been imposed against the individual, the sanctions are not in force at the time of his or her application for relicensure.

(2) Except as otherwise provided in subsection (3), the department may grant relicensure as a licensed professional counselor or limited licensed counselor to an individual who is applying for relicensure more than 3 years after the expiration date of his or her license, if the individual submits to the department a completed application on a form provided by the department together with payment of the fees described in section 16201(4) and a professional disclosure statement that meets the requirements of section 18113, and he or she complies with 1 of the following:

(a) Takes or retakes and passes 1 of the following:

(*i*) The national counselor examination developed by the National Board for Certified Counselors.

(*ii*) The certification examination given by the Commission on Rehabilitation Counselor Certification.

(*iii*) An examination that the department determines is equivalent to an examination described in subparagraph (*i*) or (*ii*).

(b) Demonstrates to the satisfaction of the department that he or she meets the requirements for certification issued by the National Board for Certified Counselors, the Commission on Rehabilitation Counselor Certification, or an equivalent program as determined by the department.

(3) The department may grant relicensure as a licensed professional counselor or limited licensed counselor to an individual who received a master's or doctoral degree in counseling or student personnel work before October 1, 1991, and completed 2 years of professional experience before October 1, 1993, if the individual submits to the department a completed application on a form provided by the department together with payment of the applicable fees described in section 16201(3) or (4) and he or she complies with 1 of the following:

(a) Submits with his or her application a professional disclosure statement that meets the requirements of section 18113.

(b) If the individual holds or has held a license as a licensed professional counselor or limited licensed counselor in another state, ensures that the licensing agency of each out-of-state license verifies all of the following on a form provided by the department:

(*i*) That disciplinary proceedings are not pending against the individual at the time of his or her application for relicensure.

(*ii*) That if sanctions have been imposed against the individual, the sanctions are not in force at the time of his or her application for relicensure.

History: Add. 2019, Act 96, Eff. Jan. 27, 2020.

Popular name: Act 368

333.18115 Practice of statutorily regulated profession or occupation not limited; definition; applicability of part; use of word "counselor."

Sec. 18115. (1) This article does not limit an individual in, nor prevent an individual from, the practice of a statutorily regulated profession or occupation if counseling is part of the services provided by that profession or occupation, and the individual does not hold himself or herself out as a counselor regulated under this article. As used in this subsection, "statutorily regulated profession or occupation" includes, but is not limited to, all of the following: a physician, attorney, marriage and family therapist, debt management counselor, licensed bachelor's social worker, licensed master's social worker, social service technician, licensed psychologist, limited licensed psychologist, temporary limited licensed psychologist, or school counselor.

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(2) This part does not apply to any of the following:

(a) An ordained member of the clergy if counseling is incidental to his or her religious duties performed under the auspices or recognition of a church, denomination, religious association, or sect, that has tax-exempt status under section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, if the member of the clergy does not hold himself or herself out as a counselor licensed under this article.

(b) An individual who performs volunteer services for a public or private nonprofit organization, church, or charity, if the individual is approved by the organization or agency for which the services are rendered.

(c) An individual who is employed by or who volunteers to work in a substance use disorder services program licensed by the department under part 62.

(d) A Christian Science practitioner.

(3) Notwithstanding section 18105(3), this part does not prohibit the use of the word "counselor" without the qualifying words "licensed" or "professional" used in conjunction with the word "counselor", except as otherwise provided by law.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989;—Am. 2006, Act 429, Imd. Eff. Oct. 5, 2006;—Am. 2019, Act 96, Eff. Jan. 27, 2020.

Popular name: Act 368

333.18116 Third party reimbursement or mandated worker's compensation benefits.

Sec. 18116. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed under this part.

History: Add. 2019, Act 96, Eff. Jan. 27, 2020.

Popular name: Act 368

333.18117 Privileged communications; disclosure of confidential information.

Sec. 18117. For the purposes of this part, the confidential relations and communications between a licensed professional counselor or a limited licensed counselor and a client of the licensed professional counselor or a limited licensed counselor are privileged communications, and this part does not require a privileged communication to be disclosed, except as otherwise provided by law. Confidential information may be disclosed only upon consent of the client, pursuant to section 16222 if the licensee reasonably believes it is necessary to disclose the information to comply with section 16222, or under section 16281.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1998, Act 496, Eff. Mar. 1, 1999.

Popular name: Act 368

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PART 182
PSYCHOLOGY

333.18201 Definitions; principles of construction.

Sec. 18201. (1) As used in this part:

(a) "Psychologist" means an individual who is licensed or authorized under this article to engage in the practice of psychology.

(b) "Practice of psychology" means the rendering to individuals, groups, organizations, or the public of services involving the application of principles, methods, and procedures of understanding, predicting, and influencing behavior for the purposes of the diagnosis, assessment related to diagnosis, prevention, amelioration, or treatment of mental or emotional disorders, disabilities or behavioral adjustment problems by means of psychotherapy, counseling, behavior modification, hypnosis, biofeedback techniques, psychological tests, or other verbal or behavioral means. The practice of psychology does not include the practice of medicine such as prescribing drugs, performing surgery, or administering electro-convulsive therapy.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2022, Act 254, Eff. Mar. 29, 2023.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.18211 Practice of psychology; license or authorization required; use of words, titles, or letters.

Sec. 18211. (1) A person shall not engage in the practice of psychology unless licensed or otherwise

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authorized by this article.

(2) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "consulting psychologist", "psychologist", "psychological assistant", "psychological examiner", "licensed psychologist", and "limited licensed psychologist".

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 395, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.18211a Psychology interjurisdictional compact; temporary authorization.

Sec. 18211a. (1) A psychologist who has temporary authorization to practice under the psychology interjurisdictional compact or is authorized to practice interjurisdictional telepsychology under the psychology interjurisdictional compact is authorized to engage in the practice of psychology under this article.

(2) For purposes of this article, including the obligations of an individual who is licensed as a psychologist under this part, a psychologist who has temporary authorization to practice under the psychology interjurisdictional compact or is authorized to practice interjurisdictional telepsychology under the psychology interjurisdictional compact is considered a psychologist who is licensed under this part.

(3) As used in this section, "psychology interjurisdictional compact" means the psychology interjurisdictional compact as enacted in section 16190.

History: Add. 2022, Act 254, Eff. Mar. 29, 2023.

Popular name: Act 368

333.18212 Postdoctoral training which includes practice of psychology; full or limited license required; requirements of limited license; responsibility for training; limited license renewable; waiver of limited license by Michigan board of psychology.

Sec. 18212. (1) Except as otherwise provided in subsection (3), an individual shall not engage in postdoctoral training which includes the practice of psychology without obtaining a full or limited license to practice under this part.

(2) A limited license for an individual in postdoctoral training shall require that the individual be under supervision of a licensed psychologist and confine his or her practice and training to a hospital, clinic, institution, or other arrangement approved by the board for the training. The hospital, clinic, or institution and designated licensed psychologist are responsible for the training. A limited license for a postdoctoral training is renewable for not more than 5 years.

(3) The Michigan board of psychology shall waive the requirement of having a limited license in order to engage in the postdoctoral experience necessary to obtain a full license if all of the following occur:

(a) The individual has met all the other requirements of subsection (2).

(b) The individual submits a request for the waiver in writing and pays a sum equal to the cost of a limited license.

(c) The individual has applied for a license between July 1, 1985 and July 1, 1986.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1987, Act 20, Imd. Eff. Apr. 24, 1987.

Popular name: Act 368

333.18214 Permissible conduct.

Sec. 18214. (1) This part does not prohibit an individual who holds a doctoral degree in psychology from a regionally accredited college or university from using a title including "psychologist" if the individual does not engage in the practice of psychology.

(2) This part does not prohibit an individual approved by the state department of education from using the title "school psychologist" and engaging in those duties and activities pertinent to employment by a public or private elementary or secondary school.

(3) This part does not prohibit an individual employed by a regionally accredited college or university and involved in research or the teaching of psychology from performing those duties for which he or she is employed by that institution.

(4) This part does not prohibit a certified, licensed, registered, or otherwise statutorily recognized member of any profession including a lawyer, social worker, school counselor or marriage counselor from practicing his or her profession as authorized by law.

(5) This part does not prohibit a clergyman, professional educator, or professional counselor, including an alcoholism or drug abuse counselor, whose practice may include preventive techniques, counseling techniques, or behavior modification techniques from practicing his or her profession consistent with his or her training and with a code of ethics for that respective profession.

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(6) This part shall not apply to a participant or employee in a program licensed under part 62 or self-help, peer counseling, or support services provided by a nonprofit organization.

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

Popular name: Act 368

333.18221 Michigan board of psychology; creation; membership; terms.

Sec. 18221. (1) The Michigan board of psychology is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 psychologists, including at least 1 nondoctoral psychologist, and 4 public members. Section 1212 does not apply to this board.

(2) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 395, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.18223 Rules as to licensing requirements; limited license; renewal; supervised postgraduate experience required; temporary license.

Sec. 18223. (1) The department, in consultation with the board, shall promulgate rules requiring that to be granted a license under this part, except as provided in subsection (2), an individual must meet both of the following requirements:

(a) Have been granted a doctoral degree in psychology, or a doctoral degree in a closely related field, from a doctoral degree program that meets all of the following requirements:

(*i*) Is offered by a regionally accredited or other college, university, or institution approved by the board, and includes education and training appropriate to the practice of psychology.

(*ii*) Has obtained the Association of State and Provincial Psychology Boards' national register designation, has been accredited by the American Psychological Association or the Canadian Psychological Association, or has obtained a similar designation from or been accredited by an entity approved by the board. However, a program that is in the process of obtaining the designation or becoming accredited as required in this subparagraph before August 1, 2011, and that obtains the designation or becomes accredited on or before August 31, 2020, meets the requirements of this subparagraph.

(b) Have not less than 1 year of postdoctoral experience in the practice of psychology in an organized health care setting or other arrangement, as established by the board.

(2) In addition to section 16182, the board shall grant a limited license to an individual granted a master's degree in psychology from a regionally accredited college, or university, or institution approved by the board, if the individual has education, training, and experience appropriate to the practice of psychology, as established by the board. An individual who applies for an initial limited license under this subsection before March 31, 2018 is not required to take an examination that is approved by the board to be granted a limited license under this part if the individual was granted a master's degree in psychology after January 1, 2007 but before June 30, 2010 from the college, university, or institution described in this subsection, the individual has continuously held the temporary license described in this section since it was initially granted by the board, and the disciplinary subcommittee has not imposed a sanction against the individual while holding the temporary license described in this section. Except for duties performed as an employee of a governmental entity or of a nonprofit organization serving benevolent and charitable purposes, the board shall place 2 limitations on a license granted to an individual under this subsection. The limitations must require supervision by a psychologist who has a license other than a limited license and must prohibit advertising or other representation to the public that will lead the public to believe the individual is engaging in the practice of psychology. A limited license granted under this subsection is renewable under part 161. An individual who is applying for a limited license under this subsection must have 1 year of supervised postgraduate experience in an organized health care setting or other arrangement, as established by the board. The individual must be supervised by a psychologist who has a license other than a limited license, or if a psychologist who has a license other than a limited license is not available, by a psychologist who has at least a master's degree in psychology and at least 3 years of experience in the practice of psychology or by any other individual approved by the board.

(3) The board shall grant a temporary license to an individual described in subsection (2) for the purpose of obtaining the 1 year of postgraduate experience described in that subsection. Beginning on March 31, 2018, a temporary license granted under this subsection is valid for 24 months and may be renewed for 1 additional 24-month term. If an individual described in subsection (2) was granted a temporary license by the board before March 31, 2018, his or her temporary license may be renewed for 1 additional 24-month term.

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(4) The board shall grant a temporary license to an individual who is enrolled in a doctoral degree program that meets the requirements of subsection (1). Beginning on March 31, 2018, a temporary license granted under this subsection is valid for 24 months and may be renewed for 3 additional 24-month terms. If an individual enrolled in a doctoral program that meets the requirements of subsection (1) was granted a temporary license by the board before March 31, 2018, his or her temporary license may be renewed for 3 additional 24-month terms.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 265, Imd. Eff. Sept. 29, 1980;—Am. 1982, Act 468, Imd. Eff. Dec. 30, 1982;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 2010, Act 121, Imd. Eff. July 13, 2010;—Am. 2014, Act 385, Imd. Eff. Dec. 18, 2014;—Am. 2018, Act 24, Imd. Eff. Feb. 14, 2018.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.18233 Renewal of license; evidence required; completion of hours or courses in pain and symptom management as continuing education; rules.

Sec. 18233. (1) In addition to the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 2 years immediately preceding application for renewal the licensee has attended continuing education courses or programs approved by the board totaling not less than a number of hours established by rule of the board in subjects related to the practice of psychology and designed to further educate licensees.

(2) As required under section 16204, the board shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education requirement of subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986;—Am. 1994, Act 234, Imd. Eff. June 30, 1994.

Popular name: Act 368

333.18237 Confidential information; disclosure; waiver.

Sec. 18237. A psychologist licensed or allowed to use that title under this part or an individual under his or her supervision cannot be compelled to disclose confidential information acquired from an individual consulting the psychologist in his or her professional capacity if the information is necessary to enable the psychologist to render services. Information may be disclosed with the consent of the individual consulting the psychologist, or if the individual consulting the psychologist is a minor, with the consent of the minor's guardian, pursuant to section 16222 if the psychologist reasonably believes it is necessary to disclose the information to comply with section 16222, or under section 16281. In a contest on the admission of a deceased individual's will to probate, an heir at law of the decedent, whether a proponent or contestant of the will, and the personal representative of the decedent may waive the privilege created by this section.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1998, Act 496, Eff. Mar. 1, 1999.

Popular name: Act 368

PART 182A
APPLIED BEHAVIOR ANALYSIS

333.18251 Definitions; principles of construction.

Sec. 18251. (1) As used in this part:

(a) "Applied behavior analysis services" means services provided to clients that are included in the practice of applied behavior analysis.

(b) "Assistant behavior analyst" means an individual who is licensed or otherwise authorized under this part to engage in practice as an assistant behavior analyst.

(c) "BACB" means the Behavior Analyst Certification Board, a nonprofit corporation that is exempt from taxation under section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, or its successor, as determined by the board.

(d) "Behavior analyst" means an individual who is licensed or otherwise authorized under this part to engage in the practice of applied behavior analysis.

(e) "Behavior technician" means an individual who is not licensed or authorized to practice a profession under this part and who delivers applied behavior analysis services under the delegation and supervision of a behavior analyst and meets the requirements of section 18263.

(f) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA

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295, MCL 28.722.

(g) "Other certification board" means a nationally recognized behavior analysis certification board approved by the department by rule.

(h) "Practice as an assistant behavior analyst" means the practice of applied behavior analysis under the supervision of a behavior analyst.

(i) "Practice of applied behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. All of the following apply for purposes of this subdivision:

(*i*) Practice of applied behavior analysis includes all of the following:

(A) The empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis.

(B) Applied behavior analysis interventions that are based on scientific research and the direct observation and measurement of behavior and the environment.

(C) The utilization of contextual factors, motivating operations, antecedent stimuli, or positive reinforcement.

(D) The utilization of other consequences to help individuals develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.

(*ii*) The practice of applied behavior analysis does not include any of the following:

(A) The practice of medicine, the practice of osteopathic medicine and surgery, or medical diagnosis or treatment.

(B) The practice of speech-language pathology.

(C) The practice of physical therapy.

(D) The practice of occupational therapy.

(E) Psychological testing, including standardized testing for intelligence or personality.

(F) Diagnosis of a mental or physical impairment.

(G) The practice of neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or counseling as treatment modalities.

(j) "Rules" means rules promulgated by the department in consultation with the board under this part.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017.

Popular name: Act 368

333.18253 Use of title or similar words or letters; practice of applied behavior analysis or assistant behavior analysis; licensure required; exceptions; issuance of license.

Sec. 18253. (1) Beginning 1 year after the effective date of the rules promulgated under sections 18257 and 18259 for licensure under this part, an individual shall not use the titles "licensed behavior analyst", "l.b.a.", "licensed assistant behavior analyst", "l.a.b.a.", or similar words or letters that indicate that he or she is licensed as a behavior analyst or assistant behavior analyst unless the individual is licensed or otherwise authorized under this part. The department shall provide for a 4-year license cycle.

(2) Beginning 1 year after the effective date of the rules promulgated under sections 18257 and 18259 for licensure under this part, an individual shall not engage in the practice of applied behavior analysis or practice as an assistant behavior analyst unless licensed or otherwise authorized under this article.

(3) Subsection (2) does not prevent any of the following:

(a) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a behavior analyst or assistant behavior analyst.

(b) A behavior technician from implementing a care plan under the delegation and supervision of a behavior analyst.

(c) A family member from providing a follow-up home program designed by a behavior analyst.

(d) A school-based paraprofessional from implementing an applied behavior analysis intervention under the delegation and supervision of a licensed professional described in subdivision (e) or an authorized professional described in subdivision (f).

(e) An individual authorized to practice psychology in the state under part 182 from providing services included in the practice of applied behavior analysis, if the behavior analysis services provided by that individual are within his or her education, training, and experience.

(f) An individual who holds a license, certificate, registration, or other authorization from this state that authorizes him or her to perform 1 or more of the services included in the practice of applied behavior analysis, so long as the individual does not do any of the following:

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(*i*) Perform any services included in the practice of applied behavior analysis that are not within the scope of practice of his or her profession or occupation.

(*ii*) Perform any services included in the practice of applied behavior analysis that he or she is not qualified by his or her education, training, and experience to perform.

(*iii*) Represent that he or she is a behavior analyst or assistant behavior analyst.

(g) An individual who is a matriculated student at a nationally accredited university approved in rules or who is a postdoctoral fellow from performing activities that are considered under this part to be the practice of applied behavior analysis if the activities are part of a defined behavior analysis program of study or practicum approved in rules and if the student or fellow is directly supervised by an individual who is any of the following:

(*i*) Licensed as a behavior analyst under this part.

(*ii*) Appointed as the instructor of a course sequence approved by the BACB or other certification board.

(h) An individual who is not licensed under this part from pursuing experience in behavior analysis compatible with the BACB's experience requirements for an applied behavior analysis credential, if the experience is supervised by an individual who is licensed as a behavior analyst under this part.

(i) An individual from performing activities that are considered under this part to be the practice of applied behavior analysis if the activities are with nonhuman or nonpatient clients or consumers. Individuals described in this subdivision include, but are not limited to, applied animal behaviorists and practitioners of organizational behavior management.

(4) The department shall issue a license as a behavior analyst to an individual who on or before the effective date of this part had a credential as a board certified behavior analyst, or conferred for applied behavior analysis by the BACB, and who applies for licensure as a behavior analyst by 1 year after the effective date of the rules promulgated under section 18257.

(5) The department shall issue a license as an assistant behavior analyst to an individual who on or before the effective date of this part had a credential as a board certified assistant behavior analyst, conferred for applied behavior analysis by the BACB, who is under the supervision of a behavior analyst, and who applies for licensure as an assistant behavior analyst by 1 year after the effective date of the rules promulgated under section 18259.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017.

Popular name: Act 368

333.18255 Michigan board of behavior analysts; creation; membership; terms.

Sec. 18255. (1) The Michigan board of behavior analysts is created in the department and consists of the following 9 voting members:

(a) Four behavior analysts. The 4 members appointed under this subdivision shall be behavior analysts who are licensed under this part, except that the first 4 members appointed to the board under this subdivision may be board-certified behavior analysts who are not licensed under this part. Members described in this subdivision shall be appointed in a manner that ensures that 3 of the members serving on the board are engaged in providing clinical services and 1 is engaged in providing applied behavior analysis services to the Medicaid population in addition to providing clinical services. As used in this subdivision:

(*i*) "Medicaid" means that term as defined in section 2701.

(*ii*) "Medicaid population" means those individuals who reside in this state and who are eligible for Medicaid.

(b) One individual who is affiliated with a university in this state and provides instruction or conducts research in applied behavior analysis.

(c) One assistant behavior analyst.

(d) One physician who is licensed under part 170 or 175 and works with patients with autism spectrum disorders or brain injuries.

(e) Two public members.

(2) The terms of office of individual members of the board, except those appointed to fill vacancies, expire 4 years after the appointment on December 31 of the year in which the term expires. However, for the members first appointed to the board under subsection (1), 3 must serve for 2 years, 3 must serve for 3 years, and 3 must serve for 4 years.

History: Add. 2016, Act 404, Eff. Apr. 3, 2017.

Popular name: Act 368

333.18257 Rules; minimum standards for licensure as behavior analyst.

Sec. 18257. By 2 years after the effective date of this part, the department, in consultation with the board,

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shall promulgate rules that establish the minimum standards for licensure as a behavior analyst. For purposes of this section, the department may adopt in its rules the professional standards, in whole or in part, issued by the BACB or any other nationally recognized professional association as its standards under this section.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017.

Popular name: Act 368

333.18259 Rules; minimum standards for licensure as assistant behavior analyst.

Sec. 18259. By 2 years after the effective date of this part, the department, in consultation with the board, shall promulgate rules that establish the minimum standards for licensure as an assistant behavior analyst. For purposes of this section, the department may adopt in its rules the professional standards, in whole or in part, issued by the BACB or any other nationally recognized professional association as its standards under this section.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017.

Popular name: Act 368

333.18261 Rules; conviction of listed offense; denial or revocation of license; hearing.

Sec. 18261. (1) Notwithstanding sections 16221, 16226, and 16245, the department shall include in rules promulgated under sections 18257 and 18259 that an application for a license under this part will be denied if the applicant's criminal history check required by section 16174 reveals that he or she was convicted of a listed offense, and that a licensee's license will be permanently revoked if he or she is convicted of a listed offense while licensed under this part.

(2) The department shall provide an opportunity for a hearing under section 16232 to an individual whose application is denied or whose license is permanently revoked under the rules promulgated under subsection (1).

History: Add. 2016, Act 403, Eff. Apr. 3, 2017.

Popular name: Act 368

333.18263 Behavior technician; requirements; use of words, titles, or letters; "convicted" defined.

Sec. 18263. (1) An individual shall not act as a behavior technician in this state if any of the following apply:

(a) Sanctions have been imposed against the individual by a licensure, registration, specialty licensure, or specialty certification board of any other state, of the United States Military, of the federal government, or of any other country based on grounds that are substantially similar to this article or a rule promulgated under this article, and the sanctions are in force at the time the individual is to deliver applied behavior analysis services.

(b) Beginning April 3, 2020, he or she has not completed a training program that is based on the BACB's registered behavior technician task list.

(c) He or she has been convicted of any of the following:

(*i*) A relevant crime described under 42 USC 1320a-7(a).

(*ii*) Any of the following felonies, an attempt or conspiracy to commit any of those felonies, or any other state or federal crime that is similar to the felonies described in this subparagraph, other than a felony for a relevant crime described under 42 USC 1320a-7(a), unless 15 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction before the date that he or she delivers applied behavior analysis services:

(A) A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.

(B) A felony involving cruelty or torture.

(C) A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(D) A felony involving criminal sexual conduct.

(E) A felony involving abuse or neglect.

(F) A felony involving the use of a firearm or dangerous weapon.

(G) A felony involving the diversion or adulteration of a prescription drug or other medications.

(*iii*) A felony or an attempt or conspiracy to commit a felony, other than a felony for a relevant crime described under 42 USC 1320a-7(a) or a felony described under subparagraph (*ii*), unless 10 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction before the date that he or she delivers applied behavior analysis services.

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(*iv*) Any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subparagraph, within the 10 years immediately preceding the date that he or she delivers applied behavior analysis services:

(A) A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

(B) A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(C) A misdemeanor involving criminal sexual conduct.

(D) A misdemeanor involving cruelty or torture unless otherwise provided under subparagraph (*v*).

(E) A misdemeanor involving abuse or neglect.

(*v*) Any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subparagraph, within the 5 years immediately preceding the date that he or she delivers applied behavior analysis services:

(A) A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.

(B) A misdemeanor involving home invasion.

(C) A misdemeanor involving embezzlement.

(D) A misdemeanor involving negligent homicide or a violation of section 601d(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.601d.

(E) A misdemeanor involving larceny unless otherwise provided under subparagraph (*vii*).

(F) A misdemeanor of retail fraud in the second degree unless otherwise provided under subparagraph (*vii*).

(G) Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under subparagraphs (*iv*), (*vi*), or (*vii*).

(*vi*) Any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subparagraph, within the 3 years immediately preceding the date that he or she delivers applied behavior analysis services:

(A) A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.

(B) A misdemeanor of retail fraud in the third degree unless otherwise provided under subparagraph (*vii*).

(C) A misdemeanor under part 74 unless otherwise provided under subparagraph (*vii*).

(*vii*) Any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subparagraph, within the year immediately preceding the date that he or she delivers applied behavior analysis services:

(A) A misdemeanor under part 74 if the individual, at the time of conviction, is under the age of 18.

(B) A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

(d) He or she is the subject of an order or disposition under section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(e) He or she engages in conduct that becomes the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency under an investigation conducted in accordance with 42 USC 1395i-3 or 1396r.

(2) A behavior technician shall not use words, titles, or letters that indicate that he or she is a behavior analyst or an assistant behavior analyst or that he or she is engaging in the practice of applied behavior analysis or practice as an assistant behavior analyst.

(3) As used in this section, "convicted" means either of the following:

(a) For a crime that is not a relevant crime described under 42 USC 1320a-7(a), a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(b) For a relevant crime described under 42 USC 1320a-7(a), that term as defined in 42 USC 1320a-7.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017;—Am. 2020, Act 19, Imd. Eff. Jan. 27, 2020.

Popular name: Act 368

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333.18265 Rules; license renewal; requirements.

Sec. 18265. In addition to the requirements of part 161, the department, in consultation with the board, may promulgate rules to require a licensee seeking renewal to do 1 of the following:

(a) For a licensee seeking renewal of his or her behavior analyst license, furnish evidence that, during the licensing period immediately preceding the application for renewal, he or she is current on his or her certification by the Behavior Analyst Certification Board or other certification board as a board certified behavior analyst.

(b) For a licensee seeking renewal of his or her assistant behavior analyst license, furnish evidence that, during the licensing period immediately preceding the application for renewal, he or she is current on his or her certification by the BACB or other certification board as a board certified assistant behavior analyst and that he or she is practicing under the supervision of a licensed behavior analyst.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017.

Popular name: Act 368

333.18267 Third party reimbursement or mandated worker's compensation benefits.

Sec. 18267. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a behavior analyst or an assistant behavior analyst under this part.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017.

Popular name: Act 368

PART 183
OCCUPATIONAL THERAPISTS

333.18301 Definitions; principles of construction.

Sec. 18301. (1) As used in this part:

(a) "Occupational therapy assistant" means an individual licensed under this article to engage in practice as an occupational therapy assistant.

(b) "Occupational therapist" means an individual licensed under this article to engage in the practice of occupational therapy.

(c) "Occupational therapy services" means those services provided to promote health and wellness, prevent disability, preserve functional capabilities, prevent barriers, and enable or improve performance in everyday activities, including, but not limited to, the following:

(*i*) Establishment, remediation, or restoration of a skill or ability that is impaired or not yet developed.

(*ii*) Compensation, modification, or adaptation of a person, activity, or environment.

(*iii*) Evaluation of factors that affect activities of daily living, instrumental activities of daily living, and other activities relating to education, work, play, leisure, and social participation. Those factors include, but are not limited to, body functions, body structure, habits, routines, role performance, behavior patterns, sensory motor skills, cognitive skills, communication and interaction skills, and cultural, physical, psychosocial, spiritual, developmental, environmental, and socioeconomic contexts and activities that affect performance.

(*iv*) Interventions and procedures, including, but not limited to, any of the following:

(A) Task analysis and therapeutic use of occupations, exercises, and activities.

(B) Training in self-care, self-management, home management, and community or work reintegration.

(C) Development remediation, or compensation of client factors such as body functions and body structure.

(D) Education and training.

(E) Care coordination, case management, transition, and consultative services.

(F) Modification of environments and adaptation processes such as the application of ergonomic and safety principles.

(G) Assessment, design, fabrication, application, fitting, and training in rehabilitative and assistive technology, adaptive devices, and low temperature orthotic devices, and training in the use of prosthetic devices. For the purposes of this sub-subparagraph, the design and fabrication of low temperature orthotic devices does not include permanent orthotics.

(H) Assessment, recommendation, and training in techniques to enhance safety, functional mobility, and community mobility such as wheelchair management and mobility.

(I) Management of feeding, eating, and swallowing.

(J) Application of physical agent modalities and use of a range of specific therapeutic procedures,

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including, but not limited to, techniques to enhance sensory-motor, perceptual, and cognitive processing, manual therapy techniques, and adjunctive and preparatory activities.

(K) Providing vision therapy services or low vision rehabilitation services, if those services are provided pursuant to a referral or prescription from, or under the supervision or comanagement of, a physician licensed under part 170 or 175 or an optometrist licensed under part 174.

(d) "Practice as an occupational therapy assistant" means the practice of occupational therapy under the supervision of an occupational therapist licensed under this article.

(e) "Practice of occupational therapy" means the therapeutic use of everyday life occupations and occupational therapy services to aid individuals or groups to participate in meaningful roles and situations in the home, school, workplace, community, and other settings, to promote health and wellness through research and practice, and to serve those individuals or groups who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. The practice of occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect a person's health, well-being, and quality of life throughout his or her life span. The practice of occupational therapy does not include any of the following:

(*i*) The practice of medicine or osteopathic medicine and surgery or medical diagnosis or treatment.

(*ii*) The practice of physical therapy.

(*iii*) The practice of optometry.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: Add. 1988, Act 473, Imd. Eff. Dec. 28, 1988;—Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.18303 Promulgation of rules; restricted use of words or titles; practice of occupational therapy or occupation therapy assistant; license required; exceptions.

Sec. 18303. (1) After the rules described in sections 18307 and 18309 are promulgated for licensure under this article, an individual shall not use the titles "occupational therapist", "o.t.", "occupational therapist licensed", "o.t.l.", "occupational therapist registered", "o.t.r.", "occupational therapist registered licensed", "o.t.r.l.", "certified occupational therapy assistant", "c.o.t.a.", "certified occupational therapy assistant licensed", "c.o.t.a.l.", "occupational therapy assistant", "o.t.a.", "occupational therapy assistant licensed", "o.t.a.l.", or similar words which indicate that he or she is licensed as an occupational therapist or occupational therapy assistant unless the individual is licensed under this article.

(2) After the rules described in sections 18307 and 18309 are promulgated for licensure under this part, an individual shall not engage in the practice of occupational therapy or the practice as an occupational therapy assistant unless licensed or otherwise authorized by this article.

(3) Subsection (2) does not prevent any of the following:

(a) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a licensed occupational therapist or occupational therapy assistant.

(b) An individual licensed or registered under any other part or act from performing activities that are considered occupational therapy services if those activities are within the individual's scope of practice and if the individual does not use the titles protected under subsection (1).

(c) An orthotist or prosthetist from providing services consistent with his or her training in orthotics or prosthetics if he or she is certified by the American board for certification in orthotics, prosthetics and pedorthics and he or she does not represent or hold himself or herself out to be a licensed occupational therapist or occupational therapy assistant.

(d) A parks and recreation professional who is directly employed by a local unit of government or a therapeutic recreation specialist certified by the national council for therapeutic recreation certification from providing services if he or she does not represent or hold himself or herself out to be a licensed occupational therapist or occupational therapy assistant.

History: Add. 1988, Act 473, Imd. Eff. Dec. 28, 1988;—Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

333.18305 Michigan board of occupational therapists; creation; membership; terms.

Sec. 18305. (1) The Michigan board of occupational therapists is created in the department and shall

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consist of the following 9 voting members who shall meet the requirements of part 161: 5 licensed occupational therapists and 4 public members, 1 of whom shall be a physician licensed under part 170 or 175.

(2) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after the appointment on December 31 of the year in which the term expires.

History: Add. 1988, Act 473, Imd. Eff. Dec. 28, 1988;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 394, Imd. Eff. Sept. 27, 2006;—Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

333.18307 Licensure as occupational therapist; rules.

Sec. 18307. The board, in consultation with the department, shall promulgate rules under section 16145 setting forth the minimum standards for licensure as an occupational therapist. For purposes of this section, the professional standards issued by the American occupational therapy association or any other recognized trade association may be adopted by the board. The board shall not promulgate rules under this section that diminish competition or exceed the minimum level of regulation necessary to protect the public.

History: Add. 1988, Act 473, Imd. Eff. Dec. 28, 1988;—Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

333.18309 Licensure as occupational therapy assistant; rules.

Sec. 18309. The board, in consultation with the department, shall promulgate rules under section 16145 setting forth the minimum standards for licensure as an occupational therapy assistant. For purposes of this section, the professional standards issued by the American occupational therapy association or any other recognized trade association may be adopted by the board. The board shall not promulgate rules under this section that diminish competition or exceed the minimum level of regulation necessary to protect the public.

History: Add. 1988, Act 473, Imd. Eff. Dec. 28, 1988;—Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

333.18311 Assistance.

Sec. 18311. Pursuant to section 16143, the department may contract with other state agencies, private agencies, organizations, and consultants to assist the board in carrying out its functions.

History: Add. 1988, Act 473, Imd. Eff. Dec. 28, 1988.

Popular name: Act 368

333.18313 Continuing education or competence requirements; rules.

Sec. 18313. (1) Beginning the license renewal cycle after the effective date of the rules promulgated under this part, an individual licensed under this article shall meet the continuing education or competence requirements of this section when renewing his or her license.

(2) In addition to the requirements of part 161, the board, in consultation with the department, may promulgate rules to require a licensee seeking renewal to furnish evidence that, during the licensing period immediately preceding the application for renewal, the licensee completed an appropriate number of hours of continuing education courses or continuing competence activities related to the practice of occupational therapy and designed to further educate and maintain competence.

History: Add. 2008, Act 523, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

333.18315 Third party reimbursement or mandated worker's compensation benefits not required.

Sec. 18315. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as an occupational therapist or an occupational therapist assistant under this article.

History: Add. 2008, Act 523, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

PART 183A.
DIETETICS AND NUTRITION

333.18351 Definitions.

Sec. 18351. (1) As used in this part:

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(a) "Dietitian nutritionist" means an individual who is licensed or otherwise authorized to engage in the practice of medical nutrition therapy under this article.

(b) "General nonmedical nutrition information" means information on any of the following:

(*i*) Principles of human nutrition and food preparation.

(*ii*) Principles of self-care and a healthy relationship with food.

(*iii*) The essential nutrients needed by the human body.

(*iv*) The recommended amounts of essential nutrients in the human body.

(*v*) The actions of nutrients in the human body.

(*vi*) The effects of deficiencies or excesses of nutrients in the human body.

(*vii*) Foods, herbs, and dietary supplements that are good sources of essential nutrients in the human body.

(c) "Medical weight control" means the practice of medical nutrition therapy for the purpose of reducing, maintaining, or gaining weight.

(d) "Nutrition assessment" means the ongoing, dynamic, and systematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, and dietary data to make decisions about the nature and cause of nutrition-related problems and making recommendations, including recommendations on enteral and parenteral nutrition. The collection of data does not, by itself, constitute nutrition assessment.

(e) "Nutrition care services" means any part or all of the following services within a systematic process:

(*i*) Assessing and evaluating the nutritional needs of individuals and groups and determining resources and constraints in the practice setting, including ordering laboratory tests to check and track nutrition status, creating dietary plans and orders, and monitoring the effectiveness thereof.

(*ii*) Interpreting anthropometric, biochemical, clinical, and dietary data in acute and chronic disease states and recommending or ordering nutrient needs based on dietary data, including enteral and parenteral nutrition.

(*iii*) Establishing priorities, goals, and objectives that meet nutritional needs and that are consistent with available resources and constraints.

(*iv*) Providing nutrition counseling in health and disease, including food and nutrient counseling and counseling on food and prescription drug interactions.

(*v*) Developing, implementing, and managing nutrition care systems.

(*vi*) Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.

(*vii*) Ordering therapeutic diets.

(f) "Nutrition counseling" means a supportive process, characterized by a collaborative counselor-patient or counselor-client relationship with individuals or groups, to establish food and nutrition priorities, goals, and individualized action plans and general physical activity guidance that acknowledge and foster responsibility for self-care to treat or manage an existing disease or medical condition or to promote health and wellness.

(g) "Nutrition diagnosis" means identifying and labeling nutritional problems managed and treated by a dietitian nutritionist. Nutrition diagnosis does not include the medical differential diagnosis of the health status of an individual.

(h) "Nutrition intervention" means purposefully planned actions and nutrition counseling intended to positively change a nutrition-related behavior, risk factor, environmental condition, or aspect of the health status for an individual.

(i) "Nutrition monitoring and evaluation" means identifying patient outcomes relevant to a nutrition diagnosis and comparing the outcomes with the patient's previous health status, intervention goals, or reference standards to determine the progress made in achieving desired outcomes of nutrition care and whether nutrition intervention should be continued or revised.

(j) "Patient" means an individual recipient of the practice of medical nutrition therapy, whether in the outpatient, inpatient, or nonclinical setting.

(k) "Practice of dietetics and nutrition" means the integration and application of scientific principles derived from the study of food, nutrition, biochemistry, metabolism, nutrigenomics, physiology, food systems and management, and from behavioral and social sciences in achieving and maintaining health throughout the lifespan and in providing nutrition care services, including the practice of medical nutrition therapy, for the prevention, management, and treatment of diseases or medical conditions. Practice of dietetics and nutrition does not include the medical differential diagnosis of the health status of an individual but does include each of the following:

(*i*) Nutrition assessment.

(*ii*) Nutrition diagnosis.

(*iii*) Nutrition support.

(*iv*) Dietary and nutrition counseling and education.

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(*v*) Nutrition intervention.

(*vi*) Nutrition monitoring and evaluation.

(*vii*) Development and administration of nutrition care standards and systems.

(*l*) "Practice of medical nutrition therapy" means the provision of nutrition care services for the treatment or management of diseases or medical conditions.

(m) "Qualified supervisor" means an individual meeting the requirements described in section 18360.

(n) "Registered dietitian nutritionist" means an individual who is credentialed by the Commission on Dietetic Registration or its successor organization as a registered dietitian or registered dietitian nutritionist.

(o) "Therapeutic diet" means a diet intervention prescribed by a physician, or another health professional licensed under this article, that provides food or nutrients via oral, enteral, and parenteral routes as part of treatment of a disease or clinical condition to modify, eliminate, decrease, or increase identified micronutrients and macronutrients in the diet, or to provide mechanically altered food when indicated.

(p) "Unrestricted practice of medical nutrition therapy" means the application of dietetics and nutrition knowledge and skills by an individual who regulates and is responsible for the individual's own practice or treatment procedures.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025.

Compiler's note: Former MCL 333.18351, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.

Popular name: Act 368

333.18353 Practice of medical nutrition therapy; license required; restricted use of words, titles, or letters; exemptions.

Sec. 18353. (1) Beginning 18 months after the effective date of the initial rules promulgated under this part, an individual shall not engage in the practice of medical nutrition therapy unless the individual is licensed or otherwise authorized under this article.

(2) Subject to subsection (3), beginning 18 months after the effective date of the initial rules promulgated under this part, the following words, titles, or letters or a combination of the following words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to a dietitian nutritionist: "licensed dietitian nutritionist", "dietitian nutritionist", "dietitian", "dietician", "nutritionist", or "l.d.n.".

(3) An individual, including a registered dietitian nutritionist, may use any lawfully earned federally trademarked title, and the words, titles, or letters "registered dietitian", "registered dietitian nutritionist", "r.d.", or "r.d.n.".

(4) In addition to the exemptions from licensure under section 16171, subsection (1) does not prevent any of the following:

(a) A physician or other individual licensed under any other part or any other act from performing activities that are considered the practice of medical nutrition therapy if those activities are within the individual's scope of practice and the individual does not use the titles protected under subsection (2).

(b) An individual from doing any of the following if the individual, while doing any of the following, does not engage in the practice of medical nutrition therapy and the individual does not use the titles protected under subsection (2):

(*i*) Furnishing general nonmedical nutrition information.

(*ii*) Providing evaluation, guidance, information, and education on the use of food, food materials, or dietary supplements.

(*iii*) Providing explanations to individuals or groups about food or food products, including dietary supplements.

(c) An individual from providing medical weight control for prediabetes or obesity to individuals under a program of instruction that is approved in writing by 1 of the following:

(*i*) A dietitian nutritionist.

(*ii*) A health professional licensed under this article whose scope of practice otherwise authorizes the health professional to provide nutrition care services for the treatment or management of the disease or medical condition for which medical weight control is being provided.

(d) An individual from providing delegated medical weight control services under a plan of care that is overseen by a health professional licensed under this article whose scope of practice otherwise authorizes the health professional to provide and delegate nutrition care services for the treatment or management of the disease or medical condition for which medical weight control is being provided.

(e) Subject to section 16215, an employee or other individual who is assisting a dietitian nutritionist and

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who is under the dietitian nutritionist's appropriate supervision from performing activities or functions that are delegated by the dietitian nutritionist, that are not discretionary, that do not require the exercise of professional judgment for their performance, and that are within the dietitian nutritionist's authority to perform.

(f) An individual from providing general nonmedical nutrition information, guidance, encouragement, individualized nutrition recommendations for wellness or primary prevention of chronic disease, behavior change management, coaching, assessments, services for weight management, or other nutrition care services if the services do not constitute the practice of medical nutrition therapy, the individual does not use the titles protected under subsection (2) or otherwise hold the individual out as a dietitian nutritionist or as a provider who engages in the practice of medical nutrition therapy, and the individual does not otherwise violate this act.

(g) Notwithstanding section 16171(a), an individual who is pursuing the educational requirements described in section 18357(1) from engaging in the practice of medical nutrition therapy, but only if all of the following apply:

(*i*) The individual is engaging in the practice of medical nutrition therapy as part of a course of study.

(*ii*) The individual does not engage in the unrestricted practice of medical nutrition therapy.

(*iii*) The individual is under the appropriate supervision of a qualified supervisor who assumes full professional responsibility for the work of the individual by verifying, directing, and authorizing the work.

(*iv*) The individual is designated by a title that clearly indicates the individual's status as a student, trainee, or supervisee.

(h) An individual from fulfilling supervised practice experience requirements to qualify for licensure as a dietitian nutritionist under this part but only if all of the following apply:

(*i*) The individual does not engage in the unrestricted practice of medical nutrition therapy.

(*ii*) The individual is designated by a title that clearly indicates the individual's status as a student, trainee, or supervisee.

(*iii*) The individual is appropriately supervised by a qualified supervisor who agrees to assume full professional responsibility for the work of the individual by verifying, directing, and authorizing the work.

(*iv*) The individual is engaging in the practice of medical nutrition therapy as part of a planned, continuous supervised practice experience.

(i) An individual from doing either of the following:

(*i*) Providing verbal nutrition information as an operator or employee of a health food store or business that sells health products, including, but not limited to, dietary supplements, food, herbs, or food materials.

(*ii*) Disseminating written nutrition information in connection with the marketing and distribution of the products described in subparagraph (*i*), or discussing the use of the products described in subparagraph (*i*), including explanations of their federally regulated label claims, any known drug-nutrient interactions, their role in various diets, or suggestions as how to best use and combine them.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025.

Compiler's note: Former MCL 333.18353, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.

Popular name: Act 368

333.18355 Michigan board of dietetics and nutrition; creation; membership; terms.

Sec. 18355. (1) The Michigan board of dietetics and nutrition is created in the department and consists of the following voting members, each of whom must meet the requirements of part 161:

(a) Nine dietitian nutritionists.

(b) One physician licensed under part 170 or 175.

(c) Three public members.

(2) The terms of office of individual members of the board created under this part, except those appointed to fill vacancies, expire on June 30 of the year in which the term expires.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025.

Compiler's note: Former MCL 333.18355, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.

Popular name: Act 368

333.18357 License requirements; rules; exception.

Sec. 18357. (1) Except as otherwise provided in subsection (4) and subject to section 18359, an individual seeking licensure as a dietitian nutritionist shall meet all of the following requirements:

(a) Hold a baccalaureate, master's, or doctoral degree from a college or university located in this state or

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another state that, at the time of graduation, was accredited in good standing by a United States institutional accrediting body for higher education recognized by the United States Department of Education and is approved by the department, or hold from a foreign educational institution an academic degree that is validated as equivalent by a credential evaluation agency recognized by the United States Department of Education and is approved by the department in consultation with the board.

(b) Have successfully completed a didactic program in dietetics accredited by the Accreditation Council for Education in Nutrition and Dietetics.

(c) Have successfully completed a planned, documented supervised practice experience in the practice of dietetics and nutrition fulfilling the competency requirements of a program in dietetics that is accredited by the Accreditation Council for Education in Nutrition and Dietetics or its successor organization. Except as otherwise provided in subsection (3), the practice experience described in this subdivision must include at least 1,000 hours under the supervision of a dietitian nutritionist or a registered dietitian nutritionist.

(d) Have successfully completed the registration examination for dietitian nutritionists administered by the Commission on Dietetic Registration or its successor organization.

(e) Is a registered dietitian nutritionist.

(2) The department in consultation with the board shall automatically approve an academic program described in subsection (1)(a) or an applicant's supervised practice experience described in subsection (1)(c) that is accredited by the Accreditation Council for Education in Nutrition and Dietetics or its successor organization.

(3) Any supervised practice experience described in subsection (1)(c) undertaken after the effective date of the initial rules promulgated under this part must be under the supervision of a qualified supervisor.

(4) An individual who, on the day before the effective date of the amendatory act that added this part, has and continues to be a registered dietitian nutritionist in good standing, is eligible for licensure as a dietitian nutritionist under this part. An individual seeking licensure under this subsection who maintains the credential conferred by the Commission on Dietetic Registration or a successor credential conferred by its successor organization shall first apply for a license on or before the expiration of 2 years after the effective date of the initial rules promulgated under this part. Subject to section 16201 and to the continuing education requirements described in section 18359, an individual who obtains a license under this subsection is eligible for renewal of that license if the individual continues to meet the requirements of this subsection.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025.

Compiler's note: Former MCL 333.18357, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.

Popular name: Act 368

333.18358 Dietitian nutritionist; permissible and prohibited conduct.

Sec. 18358. All of the following apply to a dietitian nutritionist:

(a) The dietitian nutritionist may accept or transmit orders related to the practice of medical nutrition therapy from a referring health professional licensed under this article, as established in rules promulgated by the department in consultation with the board.

(b) The dietitian nutritionist shall provide nutrition care services using systematic, evidence-based problem solving methods of the nutrition care process to critically think and make decisions to address nutrition-related problems and provide safe, effective, quality dietetic and nutrition services for individuals in clinical and community settings.

(c) The dietitian nutritionist may accept or transmit verbal, delegated, or electronically transmitted orders from a referring health professional licensed under this article consistent with applicable laws and rules and any controlling facility or employer protocols established to implement the practice of medical nutrition therapy.

(d) The dietitian nutritionist may order patient diets, including oral therapeutic diets, and enteral and parenteral nutrition therapy of specialized intravenous solutions and associated nutrition-related services, including, but not limited to, placing nasogastric and nasoenteric feeding tubes, as part of a therapeutic diet.

(e) The dietitian nutritionist may conduct swallow screens and order medical laboratory tests related to a nutritional therapeutic treatment as provided by the laws of this state.

(f) The dietitian nutritionist may implement prescription drug dose adjustments for specific disease treatment protocols within the limits of the dietitian nutritionist's knowledge, skills, judgment, and informed clinical practice guidelines as indicated in a facility, medical staff, or medical director approved protocol and as approved by and under the delegation of a prescriber.

(g) In an outpatient setting, the dietitian nutritionist may implement prescription drug dose adjustments for specific disease treatment protocols within the limits of the dietitian nutritionist's knowledge, skills, and

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judgment and as approved by and under the delegation of a prescriber.

(h) The dietitian nutritionist may recommend or order dietary supplements or the discontinuance of unnecessary dietary supplements, consistent with any existing controlling protocols.

(i) The dietitian nutritionist may develop and manage food service operations for the management or treatment of diseases or medical conditions, including operations with the primary function of nutrition care or recommending, ordering, or providing therapeutic diets.

(j) Except as otherwise provided in this section, the dietitian nutritionist shall not prescribe or initiate drug treatment.

(k) The dietitian nutritionist shall not perform an act, task, or function within the practice of dietetics and nutrition that the dietitian nutritionist is not competent to perform.

(*l*) The dietitian nutritionist may coordinate nutrition care services between health facilities or agencies as that term is defined in section 20106, including, but not limited to, monitoring, documenting, and deciding how and when to address weight changes and nutrition issues.

(m) The dietitian nutritionist may oversee the nutritional aspects of patient care within a health facility or agency as that term is defined in section 20106.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025.

Compiler's note: Former MCL 333.18358, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.

Popular name: Act 368

333.18359 Continuing education requirements for license renewal; rules.

Sec. 18359. (1) Notwithstanding the requirements of part 161, the department, in consultation with the board, shall by rule prescribe continuing education requirements as a condition of license renewal. At a minimum, the board shall accept continuing education approved by and continuing education provided by entities approved by the Commission on Dietetic Registration or its successor organization and any other organization approved by the board. The department, in consultation with the board, may adopt any updates or amendments to the standards described in this subsection by rule.

(2) As required under section 16204, the department, in consultation with the board, shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education required under subsection (1) an appropriate number of hours or courses in pain and symptom management.

(3) The department, in consultation with the board, may promulgate rules under section 16145 to supplement the requirements for licensure as a dietitian nutritionist under this part, including adopting updated standards of the Commission on Dietetic Registration or the Accreditation Council for Education in Nutrition and Dietetics or standards of any successor organizations of the organizations described in this subsection.

(4) The department in consultation with the board shall do both of the following:

(a) Promulgate rules to establish a code of ethics for licensees.

(b) Promulgate initial rules to implement this part for individuals seeking licensure as a dietitian nutritionist.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025.

Compiler's note: Former MCL 333.18359, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.

Popular name: Act 368

333.18360 Qualified supervisor; requirements; license; scope.

Sec. 18360. (1) To qualify as a qualified supervisor for purposes of this part, subject to subsection (3), an individual must be 1 of the following:

(a) A registered dietitian nutritionist.

(b) A dietitian nutritionist.

(c) An individual licensed or certified in another state as a dietitian, dietitian nutritionist, nutritionist, or other qualified nutrition professional who is authorized by that state to engage in the practice of medical nutrition therapy.

(2) A qualified supervisor shall only supervise a clinical activity or nutrition care service for which the qualified supervisor is qualified and is authorized to perform.

(3) A qualified supervisor must be licensed under this article if the qualified supervisor is supervising an applicant who is engaging in the practice of medical nutrition therapy to an individual who is located in this state.

(4) A qualified supervisor shall comply with all of the following:

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(a) Develop and carry out a program for advancing and optimizing the quality of care provided by a supervisee. The qualified supervisor and the supervisee shall identify and document goals for the supervised practice experience described in section 18357(1)(c), the assignment of clinical tasks as appropriate to the supervisee's evolving level of competence, the supervisee's relationship and access to the qualified supervisor, and an evaluation process for the supervisee's performance.

(b) Oversee the activities of, and accept responsibility for, the nutrition care services rendered by a supervisee, which includes a review of charts, records, and clinical notes of a supervisee on a regular basis and maintaining responsibility for the supervisee's clinical record keeping.

(c) At a minimum, be physically on-site and present where the supervisee is providing nutrition care services or be immediately and continuously available to the supervisee by means of 2-way real-time audiovisual technology that allows for the direct, contemporaneous interaction by sight and sound between the qualified supervisor and the supervisee. If the qualified supervisor assigns a nutrition care service to a supervisee that is to be provided in a setting where the qualified supervisor is not routinely present, the qualified supervisor shall ensure that the means and methods of supervision are adequate to ensure appropriate patient care, which may include synchronous videoconferencing, or another method of communication and oversight that is appropriate to the care setting and the education and experience of the supervisee.

(d) Limit the assignment of nutrition care services to those services that meet all of the following requirements:

(*i*) Are within the training and experience of a supervisee.

(*ii*) Are customary to the practice of the qualified supervisor.

(*iii*) Are within the parameters of the laws and rules of this state and any standards of the facility in which the qualified supervisor practices.

(e) Designate an alternate qualified supervisor to oversee a service provided in the event of and during a qualified supervisor's absence.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025.

Popular name: Act 368

333.18361 Temporary license; requirements.

Sec. 18361. (1) Notwithstanding section 16181, the board may grant a temporary license to an applicant who meets all requirements for licensure under this part except an examination or other evaluation procedure. A temporary license granted under this section is automatically void if the applicant fails the examination or other evaluation procedure.

(2) The holder of a temporary license granted under this section shall practice under the supervision of a licensee who holds a license other than a limited license or temporary license.

(3) The holder of a temporary license issued under this section is subject to this part and the rules promulgated under this part, except for the requirements for licensure. The department may automatically void the temporary license if the applicant violates this subsection.

(4) A temporary license granted under this section is valid for 1 year and is not renewable. An individual may be granted only 1 temporary license under this section.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025.

Compiler's note: Former MCL 333.18361, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.

Popular name: Act 368

333.18363 Repealed. 2014, Act 267, Imd. Eff. July 1, 2014.

Compiler's note: The repealed section pertained to licensure of dietitians and nutritionists.

Popular name: Act 368

333.18367 Third-party reimbursement or worker's compensation benefits.

Sec. 18367. This part does not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a dietitian nutritionist under this part.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025.

Popular name: Act 368

PART 184
SANITARIANS

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333.18401 Definitions; principles of construction.

Sec. 18401. (1) As used in this part:

(a) "Environmental health" means an area of activity dealing with the protection of human health through the management, control, and prevention of environmental factors that may adversely affect the health of individuals. Environmental health is concerned with the existence of substances, conditions, or facilities in quantities, of characteristics, and under conditions, circumstances, or duration that are or can be injurious to human health.

(b) "Registered sanitarian" means a sanitarian registered in accordance with this article.

(c) "Sanitarian" means an individual who has specialized education and experience in the physical, biological, and sanitary sciences as applied to the educational, investigational, and technical duties in the field of environmental health.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 308, Eff. Jan. 1, 2005.

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For transfer of powers and duties of the board of sanitarians from the department of commerce to the director of the department of consumer and industry services, and abolishment of the board of sanitarians, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

Popular name: Act 368

333.18411 Use of titles or similar words.

Sec. 18411. A person shall not use the titles "sanitarian", "registered sanitarian", "r.s.", or similar words which indicate that he, she, or it is a registered sanitarian unless the person is registered under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 408, Imd. Eff. Sept. 29, 2006.

Popular name: Act 368

333.18413 Conflict of interest; adoption by reference.

Sec. 18413. (1) A registered sanitarian shall not engage in or have an interest in any work, project, or operation prejudicial to his or her professional interest and shall not engage in the practice of professional engineering as defined in section 2001 of the occupational code, 1980 PA 299, MCL 339.2001, unless the activity is consistent with that as defined in section 18401(c).

(2) The standards of the national environmental health association as they exist on the effective date of the amendatory act that added this subsection relative to qualifications, education, and examinations are adopted by reference. The department shall accept the certification by the national environmental health association of the successful completion of any education or examination for purposes of registration under this part.

(3) Notwithstanding section 16148, the department may by rule adopt any other or additional appropriate standards and may adopt any updates or amendments to the national environmental health association standards adopted under subsection (2).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2004, Act 308, Eff. Jan. 1, 2005.

Popular name: Act 368

333.18421 Advisory committee; creation; purpose; appointment and terms of members.

Sec. 18421. (1) There is created a 7-member advisory committee whose purpose is to make recommendations to the department relative to qualifications for registration, establishment of education and training standards, and actions regarding disciplinary proceedings. The members shall be appointed by the governor for a term of 3 years.

(2) The membership on the committee is as follows:

(a) Four members who are registered sanitarians.

(b) One member who represents the Michigan restaurant association or its successor organization.

(c) One member who represents the Michigan groundwater association or its successor organization.

(d) One member who represents the Michigan onsite wastewater recycling association or its successor organization.

(3) Of the initial members who are registered sanitarians, 1 member shall be appointed for a term of 1 year, 1 member shall be appointed for a term of 2 years, and 2 members shall be appointed for terms of 3 years.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2004, Act 308, Eff. Jan. 1, 2005.

Compiler's note: For transfer of sanitarian advisory committee to department of community health by type III transfer, see E.R.O.

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No. 2009-10, compiled at MCL 333.26364.

Popular name: Act 368

PART 185.
Social Work

333.18501 Definitions; scope.

Sec. 18501. (1) As used in this part:

(a) "Health facility" means a health facility or agency licensed under article 17 or a hospital, psychiatric hospital, or psychiatric unit licensed under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(b) "Licensed bachelor's social worker" means an individual licensed under this article to engage in the practice of social work at the bachelor's level.

(c) "Licensed master's social worker" means an individual licensed under this article to engage in the practice of social work at the master's level.

(d) "Practice of medicine" means that term as defined in section 17001.

(e) "Practice of osteopathic medicine and surgery" means that term as defined in section 17501.

(f) "Practice of social work at the bachelor's level" means, subject to subsections (2) and (4), all of the following applied within the scope of social work values, ethics, principles, and skills:

(*i*) The application of social work theory, knowledge, methods, and ethics to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, or communities, with particular attention to the person-in-environment configuration.

(*ii*) Social work case management and casework, including assessments, planning, referral, and intervention with individuals, families, couples, groups, communities, or organizations within the context of social work values, ethics, principles, and skills.

(*iii*) Helping communities, organizations, individuals, or groups improve their social or health services by utilizing social work practice skills.

(*iv*) The administration of assessment checklists that do not require special training and that do not require interpretation.

(g) "Practice of social work at the master's level" means, subject to subsection (5), all of the following applied within the scope of social work values, ethics, principles, and advanced skills:

(*i*) The advanced application of the knowledge of human development and behavior and social, economic, and cultural institutions.

(*ii*) The advanced application of macro social work processes and systems to improve the social or health services of communities, groups, or organizations through planned interventions.

(*iii*) The application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. Treatment methods include the provision of advanced social work case management and casework and individual, couple, family, or group counseling and psychotherapy whether in private practice or other settings.

(h) "Social service technician" means an individual registered under this article who is specially trained to practice only under the supervision of a licensed master's social worker or a licensed bachelor's social worker.

(2) An individual who performs 1 or more of the functions described in subdivision (f)(*i*) through (*iv*) but not all of those functions is not considered engaged in the practice of social work at the bachelor's level.

(3) In addition to the definitions of this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

(4) The practice of social work at the bachelor's level does not include the practice of medicine or the practice of osteopathic medicine and surgery, including, but not limited to, the prescribing of drugs, the administration of electroconvulsive therapy, the practice of psychotherapy, and other advanced clinical skills pursuant to section 18501(g)(*iii*) or the administration or interpretation of psychological tests, except as otherwise provided in subdivision (f)(*iv*).

(5) The practice of social work at the master's level does not include the practice of medicine or the practice of osteopathic medicine and surgery, including, but not limited to, the prescribing of drugs or administration of electroconvulsive therapy.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000;—Am. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

333.18503 Representation or use of title; prohibition.

Sec. 18503. (1) An individual shall not represent that he or she is a social service technician or use a title

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including "social service technician" or an abbreviation of those terms or the letters "s.s.t." or similar words which would indicate that he or she is registered under this article unless the individual is registered in that capacity under this article.

(2) Only a licensed bachelor's social worker shall use the title "licensed bachelor's social worker", "social worker", or "l.b.s.w.". Only a licensed master's social worker shall use the title "licensed master's social worker", "social worker", or "l.m.s.w.".

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000;—Am. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

333.18504 License required.

Sec. 18504. (1) An individual shall not engage in the practice of social work at the bachelor's or master's level or use a title described in section 18503 unless licensed or otherwise allowed under this part.

(2) The department shall issue a license or registration under this part for a duration of 3 years.

History: Add. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

333.18505 Michigan board of social work; creation; membership; terms.

Sec. 18505. (1) Subject to section 18515(2) and subsection (2), the Michigan board of social work is created in the department and consists of the following 9 voting members who meet the requirements of part 161:

(a) Until July 1, 2004, 4 certified social workers and 2 social workers who meet the requirements of section 16135(2). Beginning July 1, 2004, 6 individuals engaged primarily in the practice of social work.

(b) Three public members.

(2) For board members appointed on or after July 1, 2004, the 6 members appointed that are primarily engaged in the practice of social work shall be licensed under this part by July 1, 2008.

(3) The terms of office of the individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000;—Am. 2004, Act 61, Imd. Eff. Apr. 12, 2004;—Am. 2006, Act 393, Imd. Eff. Sept. 27, 2006.

Popular name: Act 368

333.18506 Postdegree experience; limited license.

Sec. 18506. An individual who is granted a limited license under section 18509(2) to engage in the 2-year postdegree experience in the practice of social work at the bachelor's or master's level shall practice under the supervision of a licensed master's social worker and confine his or her practice to an agency, a health facility, an institution, or another entity approved by the board.

History: Add. 2004, Act 61, Eff. July 1, 2005.

333.18506a Applicability of part.

Sec. 18506a. (1) This part does not apply to any of the following:

(a) An individual who is engaged in a course of study leading to a degree in social work and participating in an internship or field placement supervised by a licensed master's social worker.

(b) An individual who is not licensed or otherwise authorized under this part to engage in the practice of social work at the bachelor's or master's level or registered as a social service technician who donates his or her services, other than psychotherapy services, to a charitable nonprofit organization so long as the individual does not hold himself or herself out to the public as a social worker licensed, registered, or otherwise authorized under this part.

(c) An ordained cleric or other religious practitioner if elements of section 18501(f) or (g) are incidental to his or her religious duties performed under the auspices or recognition of a church, denomination, religious association, or sect that has tax-exempt status pursuant to section 501(c)(3) of the internal revenue code of 1986, if he or she does not hold himself or herself out as a social worker licensed, registered, or otherwise authorized under this part.

(d) A certified, licensed, or otherwise statutorily recognized member of any other profession who practices his or her profession as authorized by law so long as the individual does not hold himself or herself out to the public as a social worker licensed, registered, or otherwise authorized under this part.

(e) An individual who is a participant in a self-help, peer counseling, or support services program provided by either a charitable or labor organization exempt from taxation under section 501(c)(3) or 501(c)(5) of the

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internal revenue code of 1986, so long as the individual does not hold himself or herself out to the public as a social worker licensed, registered, or otherwise authorized under this part. The exemption for a participant in a program described under this subdivision does not otherwise provide an exemption from licensure or registration under this part for an employee of the charitable or labor organization not otherwise authorized to engage in activities or use a title regulated under this part.

(f) An individual whose duties may include some or all of the activities described in section 18501(1)(f) as long as he or she is trained and does not hold himself or herself out as an individual licensed or registered under this part or does not use a title regulated by this part, or both.

(2) This part does not prohibit an individual who holds a bachelor's, master's, or doctorate degree in social work from an accredited college or university from using a title including "social work" if the individual does not engage in the practice of social work at the bachelor's or master's level.

History: Add. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

333.18507 Social service technician; registration requirements; limited registration.

Sec. 18507. (1) The board may grant registration under this article as a social service technician to an individual who meets all of the following requirements:

(a) Has had 1 year of social work experience acceptable to the board or has successfully completed 2 years of college that included some coursework relevant to human services areas.

(b) Is employed in the practice of social work and applies social work values, ethics, principles, and skills. This subdivision is waived if the individual has the equivalent of 2,000 hours of service in social work with an agency recognized by the board or has received an associate degree in social work at a college approved by the board that includes supervised instructional field experience.

(2) The board may grant registration under this article as a limited social service technician to an individual who has successfully completed 2 years of college and is employed in the practice of social work, or has been made an offer of employment in the practice of social work, with an agency recognized by the board, applies social work values, ethics, principles, and skills under the supervision of a licensee under this part, and is seeking to obtain the experience for registration as a social service technician. A limited registration under this subsection is renewable for not more than 1 year.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000;—Am. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

333.18509 License requirements; limited license.

Sec. 18509. (1) Except as otherwise provided in section 18515, an individual granted a license under this part shall meet the following requirements:

(a) A licensed bachelor's social worker shall have been awarded a bachelor's degree in social work from a college or university social work program approved by the board and shall have completed at least 2 years of full-time postbachelor's degree experience, or the equivalent in part-time hours, in the practice of social work at the bachelor's level under the supervision of a licensed master's social worker. Until July 1, 2008, the required experience in the practice of social work at the bachelor's level shall be performed under the supervision of a person who has been awarded a master's or doctoral degree in social work from a college or university school of social work.

(b) A licensed master's social worker shall have been awarded a master's or doctoral degree in the field of social work from a college or university social work program approved by the board and shall have completed at least 2 years of full-time postmaster's or postdoctoral degree experience, or the equivalent in part-time hours, in the practice of social work at the master's level under the supervision of a licensed master's social worker. Until July 1, 2008, the required experience in the practice of social work at the master's level shall be performed under the supervision of a person who has been awarded a master's or doctoral degree in the field of social work from a college or university school of social work and has engaged in the practice of social work for not less than 2 years. In addition to the requirements set forth in this subdivision, a licensed master's social worker employed by a school district shall meet the requirements for employment as a school social worker contained in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the rules promulgated under that act.

(2) The board may grant a limited license to engage in the 2-year postdegree experience required under subsection (1) to an individual who has completed all the educational requirements for licensure as a bachelor's social worker or a master's social worker. A limited license granted under this subsection is renewable for not more than 6 years.

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History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000;—Am. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

333.18511 Practice of social work; requirements.

Sec. 18511. A licensee shall not perform an act, task, or function within the practice of social work unless he or she is trained to perform the act, task, or function and the performance of the act, task, or function is consistent with the code of ethics for social workers.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000;—Am. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

333.18513 Confidentiality of communication.

Sec. 18513. (1) An individual registered or licensed under this part or an employee or officer of an organization that employs the registrant or licensee is not required to disclose a communication or a portion of a communication made by a client to the individual or advice given in the course of professional employment.

(2) Except as otherwise provided in this section, a communication between a registrant or licensee or an organization with which the registrant or licensee has an agency relationship and a client is a confidential communication. A confidential communication shall not be disclosed, except under either or both of the following circumstances:

(a) The disclosure is part of a required supervisory process within the organization that employs or otherwise has an agency relationship with the registrant or licensee.

(b) The privilege is waived by the client or a person authorized to act in the client's behalf.

(3) If requested by the court for a court action, a registrant or licensee shall submit to an appropriate court a written evaluation of the prospect or prognosis of a particular client without disclosing a privileged fact or a privileged communication. An attorney representing a client who is the subject of an evaluation described in this subsection has the right to receive a copy of the evaluation. If required for the exercise of a public purpose by a legislative committee, a registrant or licensee or agency representative may make available statistical and program information without violating the privilege established under subsection (2).

(4) A registrant or licensee may disclose a communication or a portion of a communication made by a client pursuant to section 946 of the mental health code, 1974 PA 258, MCL 330.1946, in order to comply with the duty set forth in that section.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000;—Am. 2004, Act 61, Eff. July 1, 2005.

333.18515 Registration issued under former act; term of member of board of examiners of social workers; continuation of rules; full licensure upon renewal application.

Sec. 18515. (1) An individual who holds a registration issued under former article 16 of the occupational code, 1980 PA 299, on March 7, 2000 is registered under this part until that registration expires and may renew his or her registration pursuant to part 161.

(2) The members of the board of examiners of social workers created under former section 1602 of the occupational code, 1980 PA 299, shall serve as the initial members of the Michigan board of social work until their successors are appointed under this article or until the expiration of their respective terms, whichever occurs first. However, if the term of a member of the board of examiners of social workers has not expired on March 7, 2000, that term expires on June 30 of the year in which the term will expire.

(3) Rules promulgated by the board of examiners of social workers or the director under former article 16 of the occupational code, 1980 PA 299, and in effect on March 7, 2000 continue in effect to the extent that they do not conflict with this article and shall continue to be enforced. The rules may be amended or rescinded by the director.

(4) The board shall grant a full license as a licensed bachelor's social worker to an individual who holds a certificate of registration as a social worker issued before the effective date of this subsection upon the next renewal application for registration.

(5) The board shall grant a full license as a licensed master's social worker to an individual who holds a registration as a certified social worker issued before the effective date of this subsection upon the next renewal application for registration.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000;—Am. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

333.18516 Continuing education; rules.

Sec. 18516. (1) Beginning the license renewal cycle after the effective date of the rules promulgated under this section, an individual licensed under this part shall meet the continuing education requirements of this

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section when renewing his or her license.

(2) The department, in consultation with the board, shall promulgate rules to require a licensee seeking renewal to furnish evidence that during the 3 years immediately preceding application for renewal, the licensee attended continuing education courses or programs related to the practice of social work and designed to further educate licensees.

(3) The department, in consultation with the board, shall establish by rule the total number of course or program clock hours at a minimum of 45 clock hours in any 3-year license renewal cycle. A portion of those clock hours must be in social work ethics.

(4) The department shall ensure that all approved continuing education courses include defined measurements of preknowledge and postknowledge or skill improvements, or both, as a result of the continuing education program.

History: Add. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

333.18517 Third party reimbursement or worker's compensation benefits.

Sec. 18517. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services by an individual licensed as a social worker or registered as a social service technician under this article.

History: Add. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

333.18518 Training requirements; rules.

Sec. 18518. (1) The department shall promulgate rules regarding the minimum training requirements for the practice of social work at the bachelor's level and for the practice of social work at the master's level.

(2) The rules regarding the practice of social work at the master's level shall distinguish between the training, education, and experience requirements relative to the social work applications described in section 18501(g)(*ii*) and (*iii*). The training, education, and experience requirements for the applications described in section 18501(g)(*iii*) shall include at least the following:

(a) Possession of a master's degree in social work.

(b) Completion of course work in normal human development and diagnosis, assessment, and treatment of individuals, couples, families, and groups, using a variety of psychotherapeutic methods or techniques.

(c) Completion of not less than 2 years of supervised post-master's degree clinical experience.

History: Add. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

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PART 187.
RESPIRATORY CARE

333.18701 Definitions.

Sec. 18701. (1) As used in this part:

(a) "Health facility" means a health facility or agency licensed under article 17.

(b) "Medical director" means a physician who is responsible for the quality, safety, appropriateness, and effectiveness of the respiratory care services provided by a respiratory therapist, who assists in quality monitoring, protocol development, and competency validation, and who meets all of the following:

(*i*) Is the medical director of an inpatient or outpatient respiratory care service or department within a health facility, or of a home care agency, durable medical equipment company, or educational program.

(*ii*) Has special interest and knowledge in the diagnosis and treatment of cardiopulmonary disorders and diseases.

(*iii*) Is qualified by training or experience, or both, in the management of acute and chronic cardiopulmonary disorders and diseases.

(c) "Physician" means that term as defined in sections 17001 and 17501.

(d) "Practice of respiratory care" means the provision of respiratory care services. Practice of respiratory care may be provided by an inpatient or outpatient service or department within a health facility, by a home care agency or durable medical equipment company, or by an educational program.

(e) "Respiratory care services" means preventative services, diagnostic services, therapeutic services, and rehabilitative services under the written, verbal, or telecommunicated order of a physician to an individual with a disorder, disease, or abnormality of the cardiopulmonary system as diagnosed by a physician. Respiratory care services involve, but are not limited to, observing, assessing, and monitoring signs and

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symptoms, reactions, general behavior, and general physical response of individuals to respiratory care services, including determination of whether those signs, symptoms, reactions, behaviors, or general physical response exhibit abnormal characteristics; the administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care services; the collection of blood specimens and other bodily fluids and tissues for, and the performance of, cardiopulmonary diagnostic testing procedures including, but not limited to, blood gas analysis; development, implementation, and modification of respiratory care treatment plans based on assessed abnormalities of the cardiopulmonary system, respiratory care protocols, clinical pathways, referrals, and written, verbal, or telecommunicated orders of a physician; application, operation, and management of mechanical ventilatory support and other means of life support; and the initiation of emergency procedures under the rules promulgated by the board.

(f) "Respiratory therapist" and "respiratory care practitioner" mean an individual engaged in the practice of respiratory care and who is responsible for providing respiratory care services and who is licensed under this article as a respiratory therapist or respiratory care practitioner.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

History: Add. 2004, Act 3, Eff. July 1, 2004.

Popular name: Act 368

333.18703 Restricted use of words, titles, or letters.

Sec. 18703. Beginning the effective date of the amendatory act that added this part, an individual shall not use the titles "respiratory therapist", "respiratory care practitioner", "licensed respiratory therapist", "licensed respiratory care practitioner", "r.t.", "r.c.p.", "l.r.t.", "l.r.c.p.", or similar words that indicate the individual is a respiratory therapist unless the individual is licensed under this article as a respiratory therapist or respiratory care practitioner.

History: Add. 2004, Act 3, Eff. July 1, 2004.

Popular name: Act 368

333.18705 Michigan board of respiratory care; creation; membership; terms.

Sec. 18705. (1) The Michigan board of respiratory care is created in the department and consists of the following members who meet the requirements of part 161:

(a) Until June 30, 2010, 4 individuals who meet the requirements of section 16135(2). Beginning July 1, 2010, 7 individuals who are engaged in the practice of respiratory care.

(b) One medical director.

(c) Until June 30, 2010, 2 public members. Beginning July 1, 2010, 3 public members.

(2) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: Add. 2004, Act 3, Eff. July 1, 2004;—Am. 2006, Act 407, Imd. Eff. Sept. 29, 2006;—Am. 2010, Act 79, Imd. Eff. May 20, 2010.

Popular name: Act 368

333.18707 Practice of respiratory care; license required.

Sec. 18707. (1) An individual shall not engage in the practice of respiratory care or provide or offer to provide respiratory care services unless licensed under this part.

(2) Subsection (1) does not prevent any of the following:

(a) An individual licensed under any other part or act from performing activities that are considered respiratory care services if those activities are within the individual's scope of practice and if the individual does not use the titles protected under section 18703.

(b) An individual not licensed under this part from performing activities that are considered respiratory care services while under the supervision of an individual who is licensed under this part as a respiratory therapist or respiratory care practitioner, if the individual does not use the titles protected under section 18703.

(c) An individual not licensed under this part from performing activities that are considered diagnostic services if the individual possesses a level of training approved by the board, has successfully passed a credentialing examination approved by the board, and if the individual does not use the titles protected under section 18703.

(d) The practice of respiratory care which is an integral part of a program of study by students enrolled in an accredited respiratory therapist educational program approved by the board, provided that they are

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identified as a student and provide respiratory care services only while under the supervision of a licensed respiratory therapist or respiratory care practitioner.

(e) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a licensed respiratory therapist or respiratory care practitioner.

History: Add. 2004, Act 3, Eff. July 1, 2004.

Popular name: Act 368

333.18709 Licensure requirements; rules; temporary license; interim standards.

Sec. 18709. (1) The department shall promulgate rules under section 16145 as necessary or appropriate to fulfill its functions under this article. In promulgating rules to establish requirements for licensure under section 16145, the department shall adopt all of the following requirements:

(a) Successful completion of an accredited respiratory therapist training program approved by the department.

(b) Having at least a 2-year associate's degree from an accredited college or university approved by the department.

(c) Having the credential conferred by the national board for respiratory care or its successor organization as a respiratory therapist or its successor credential, as approved by the department.

(2) The department shall issue a license as a respiratory therapist to an individual who had either of the credentials as a registered respiratory therapist or certified respiratory therapist, or their predecessor credentials, conferred by the national board for respiratory care, or its predecessor organization, on or before the effective date of this part, and who applies for licensure as a respiratory therapist within 1 year after the effective date of this part.

(3) The department shall issue a license as a respiratory therapist to an individual who is a holder of a temporary license as a respiratory therapist if a holder of a temporary license meets all of the following requirements:

(a) Applies for licensure as a respiratory therapist prior to the expiration of his or her temporary license as prescribed in section 18711(2).

(b) Provides proof to the department that he or she has successfully completed the national credentialing exam by the national board for respiratory care or its successor organization, as approved by the department.

(4) The department may utilize the standards contained in the clinical practice guidelines issued by the American association of respiratory care that are in effect on the effective date of this part as interim standards, which are adopted by reference, until rules are promulgated under subsection (1).

History: Add. 2004, Act 3, Eff. July 1, 2004.

Popular name: Act 368

333.18711 Temporary license.

Sec. 18711. (1) The department may issue a temporary license as a respiratory therapist to an applicant who does not meet all of the requirements of section 18709, if the applicant does all of the following:

(a) Applies to the department for a temporary license within 1 year after the effective date of the amendatory act that added this part.

(b) Provides satisfactory proof to the department that he or she has been employed full-time as a respiratory therapist for the 4 years immediately preceding the date of application in 1 of the following:

(*i*) An inpatient or outpatient respiratory care service or department within a licensed health facility.

(*ii*) A durable medical equipment company or home care agency.

(*iii*) A respiratory care educational program.

(c) Provides the department with a letter of recommendation from his or her medical director at the time of application attesting to the applicant's clinical competence as a respiratory therapist.

(d) Pays the applicable fees prescribed by section 16344.

(2) A temporary license issued by the department under this section expires within the same time period as a nontemporary license issued by the department under this part. The holder of a temporary license issued under this section may apply for 1 or more renewals of the temporary license a number of times, but an individual may not hold a temporary license for more than a total of 4 years.

(3) The holder of a temporary license issued under this section is subject to this part and the rules promulgated under this part, except for the requirements for licensure.

History: Add. 2004, Act 3, Eff. July 1, 2004.

Popular name: Act 368

333.18713 New or additional reimbursement or benefits not required.

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Sec. 18713. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a respiratory therapist under this article.

History: Add. 2004, Act 3, Eff. July 1, 2004.

Popular name: Act 368

PART 188
VETERINARY MEDICINE

333.18801 Meanings of words and phrases; general definitions and principles of construction.

Sec. 18801. (1) For purposes of this part the words and phrases defined in sections 18802 to 18805 have the meanings ascribed to them in those sections.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

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

Compiler's note: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular name: Act 368

333.18802 Definitions; A to S.

Sec. 18802. (1) "Abandoned by its owner" means any of the following:

(a) Failure of an owner to return to regain custody of an animal left in the custody of a veterinarian by its owner for treatment, boarding, or other services at the scheduled time for the animal's return or at completion of the services.

(b) Refusal of an owner to accept custody of an animal left in the custody of a veterinarian by its owner for treatment, boarding, or other services at the scheduled time for the animal's return or at completion of the services.

(c) Failure of an owner to provide payment for treatment, boarding, or other services on an animal left in the custody of a veterinarian by its owner as agreed upon by the owner and the veterinarian.

(2) "Animal" means an animal other than a human being and includes all fowl, birds, fish, and reptiles, wild or domestic, living or dead, which may be carriers of infectious diseases.

(3) "Owner" means the actual owner of an animal, an agent of the owner of the animal, or a person with the apparent authority to act as the owner or as the agent of the owner of an animal.

(4) "Supervision" includes that degree of close physical proximity necessary for the supervising veterinarian to observe and monitor the performance of a veterinary technician.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 353, Imd. Eff. Dec. 21, 1982;—Am. 2000, Act 22, Imd. Eff. Mar. 13, 2000.

Popular name: Act 368

333.18805 Definitions; P to V.

Sec. 18805. (1) "Practice as a veterinary technician" means the practice of veterinary medicine based on less comprehensive knowledge and skill than that required of a veterinarian and performed under supervision of a veterinarian.

(2) "Practice of veterinary medicine" means:

(a) Prescribing or administering a drug, medicine, treatment, or method of procedure; performing an operation or manipulation; applying an apparatus or appliance; or giving an instruction or demonstration designed to alter an animal from its normal condition.

(b) Curing, ameliorating, correcting, reducing, or modifying a disease, deformity, defect, wound, or injury in or to an animal.

(c) Diagnosing or prognosing, or both, a disease, deformity, or defect in an animal by a test, procedure, manipulation, technique, autopsy, biopsy, or other examination.

(3) "Veterinarian" means an individual licensed under this article to engage in the practice of veterinary medicine.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 353, Imd. Eff. Dec. 21, 1982.

Popular name: Act 368

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333.18808 Veterinary technician; health profession subfield.

Sec. 18808. Practice as a veterinary technician is a health profession subfield of the practice of veterinary medicine.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 353, Imd. Eff. Dec. 21, 1982.

Popular name: Act 368

333.18811 Veterinarian or veterinary technician; license or authorization required; prohibited conduct; use of words, titles, or letters.

Sec. 18811. (1) A person shall not engage in the practice of veterinary medicine unless licensed or otherwise authorized by this article.

(2) After July 1, 1979, an individual shall not practice as a veterinary technician without a license.

(3) A veterinary technician shall not diagnose animal diseases, prescribe medical or surgical treatment, or perform as a surgeon.

(4) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "veterinary", "veterinarian", "veterinary doctor", "veterinary surgeon", "doctor of veterinary medicine", "v.m.d.", "d.v.m.", "animal technician", or "animal technologist".

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 353, Imd. Eff. Dec. 21, 1982;—Am. 2006, Act 406, Imd. Eff. Sept. 29, 2006.

Popular name: Act 368

333.18812 Limited license for practice apart from veterinary education; requirements; graduates of nonapproved veterinary education programs.

Sec. 18812. (1) A limited license for practice apart from veterinary education shall require that the individual be a senior student in an approved school of veterinary medicine and be under the supervision of a veterinarian licensed by this state.

(2) Graduates of nonapproved veterinary education programs may be granted a limited license under section 16182(1).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 337, Imd. Eff. Dec. 16, 1982.

Popular name: Act 368

333.18813 Veterinarian or veterinary technician license renewal; continuing education; evidence; license cycle.

Sec. 18813. (1) Beginning January 1, 2020, a licensee seeking renewal of a veterinarian's license shall, if requested, furnish the department with satisfactory evidence that during the 3 years immediately preceding application for renewal, he or she attended at least 45 hours of continuing education courses or programs approved by the board.

(2) Beginning January 1, 2020, a licensee seeking renewal of a veterinary technician's license shall, if requested, furnish the department with satisfactory evidence that during the 3 years immediately preceding application for renewal, he or she attended at least 15 hours of continuing education courses or programs approved by the board.

(3) The license cycle for a veterinarian's license and a veterinary technician's license is 3 years.

History: Add. 2016, Act 47, Eff. June 13, 2016;—Am. 2016, Act 383, Eff. Mar. 28, 2017.

Popular name: Act 368

333.18814 Conduct not considered practice of veterinary medicine.

Sec. 18814. An individual is not engaging in the practice of veterinary medicine in this state who:

(a) Administers to livestock owned by that individual, except when the title is vested in him or her for the purpose of circumventing this act.

(b) Conducts experimentation and scientific research in the development of methods, techniques, or treatments directly or indirectly applicable to the problems of medicine and who in connection therewith uses animals.

(c) Conducts routine vaccination and pullorum testing of poultry under supervision of the national poultry improvement plan as administered by the official state agency and the United States department of agriculture.

(d) Is a regularly employed veterinarian of the United States department of agriculture or a full-time veterinary food inspector while engaged in the inspection of animals as food for human consumption.

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

Popular name: Act 368

333.18817 Use of marihuana or industrial hemp.

Sec. 18817. (1) A veterinarian may consult with an owner on the use of marihuana or industrial hemp on an animal of the owner.

(2) As used in this section:

(a) "Industrial hemp" means that term as defined in section 7106.

(b) "Marihuana" means that term as defined in section 7106.

History: Add. 2020, Act 280, Eff. Mar. 24, 2021.

Popular name: Act 368

333.18821 Michigan board of veterinary medicine; creation; membership; waiver; terms.

Sec. 18821. (1) The Michigan board of veterinary medicine is created in the department and shall consist of the following 9 members who shall meet the requirements of part 161: 5 veterinarians, 1 veterinary technician, and 3 public members. The chief of the animal health division of the department of agriculture is an ex officio member without vote.

(2) The requirement of section 16135(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived until September 30, 1980 for members of the board who are licensed in a health profession subfield created by this part.

(3) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1982, Act 353, Imd. Eff. Dec. 21, 1982;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 406, Imd. Eff. Sept. 29, 2006.

Popular name: Act 368

333.18822 Animal diseases; advising department of agriculture.

Sec. 18822. In addition to the functions set forth in part 161, upon request, the board shall advise the department of agriculture in matters pertaining to animal diseases.

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

Popular name: Act 368

333.18824 Repealed. 1989, Act 201, Imd. Eff. Oct. 23, 1989.

Compiler's note: The repealed section pertained to task force to advise board.

Popular name: Act 368

333.18826 Veterinarian or veterinary technician; civil liability for acts or omissions; immunity; applicability; notice.

Sec. 18826. (1) A veterinarian or veterinary technician is not liable for civil damages as a result of the acts or omissions described in subsection (2) if both of the following apply:

(a) The animal has been brought to the veterinarian or veterinary technician by a person other than the owner of the animal.

(b) The veterinarian or veterinary technician does not know who owns the animal or is unable to contact the owner of the animal before a decision must be made with respect to emergency treatment or euthanasia.

(2) The immunity granted by this section applies to both of the following:

(a) An injury to an animal or death of an animal that results from acts or omissions by the veterinarian or veterinary technician in providing treatment to the animal.

(b) The euthanasia of a seriously injured or seriously ill animal.

(3) This section does not apply to an act or omission by a veterinarian or veterinary technician amounting to gross negligence or willful and wanton misconduct in providing treatment to an animal.

(4) A veterinarian or veterinary technician shall notify the animal control authority in the county in which the animal is found of the disposition of the treatment rendered to the animal before the end of the first business day following the day treatment is rendered.

History: Add. 2000, Act 23, Imd. Eff. Mar. 13, 2000.

Popular name: Act 368

333.18827 Veterinarian or veterinary technician; reporting animal to be abandoned,

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neglected, or abused; immunity.

Sec. 18827. A veterinarian or veterinary technician who in good faith reports to a peace officer, an animal control officer, or an officer of a private organization devoted to the humane treatment of animals an animal that the veterinarian or veterinary technician knows or reasonably believes to be abandoned, neglected, or abused is immune from civil or criminal liability for making the report.

History: Add. 2000, Act 23, Imd. Eff. Mar. 13, 2000.

Popular name: Act 368

333.18835 Grounds for fine, reprimand, or probation; grounds for denying, limiting, suspending, or revoking license.

Sec. 18835. In addition to the grounds set forth in part 161, the disciplinary subcommittee may fine, reprimand, or place a licensee on probation, or deny, limit, suspend, or revoke the license of a veterinarian for fraudulent use or misuse of a health certificate, inspection certificate, vaccination certificate, test chart, meat inspection stamp, or other blank form used in the practice of veterinary medicine that might lead to the dissemination of disease, unlawful transportation of diseased animals, or the sale of inedible products of animal origin for human consumption.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

333.18838 Disposal of abandoned animal; notices; costs; relinquishment of rights by owner.

Sec. 18838. (1) A veterinarian may dispose of an animal placed in the veterinarian's custody for treatment, boarding, or other care and abandoned by its owner by sending the notices required by this section. The veterinarian shall send a first written notice of an intent to dispose of the animal by certified mail to the owner, at his or her last known address and a second written notice not less than 5 days after sending the first notice. Upon the expiration of 5 days after sending the second written notice to the owner, a veterinarian may dispose of the animal.

(2) The disposal of an animal does not release the owner from payment of costs incurred, including the disposal.

(3) This section does not prevent the owner or agent from mitigating additional costs by removing the animal from custody of the veterinarian.

(4) In the case of an animal abandoned by its owner, the owner is considered to have relinquished all rights to the animal.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2000, Act 22, Imd. Eff. Mar. 13, 2000.

Popular name: Act 368

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ARTICLE 17
FACILITIES AND AGENCIES

PART 201
GENERAL PROVISIONS

333.20101 Meanings of words and phrases; principles of construction.

Sec. 20101. (1) The words and phrases defined in sections 20102 to 20109 apply to all parts in this article except part 222 and have the meanings ascribed to them in those sections.

(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 332, Eff. Oct. 1, 1988.

Compiler's note: For transfer of powers and duties of the division of health facility licensing and certification in the bureau of health systems, division of federal support services, and the division of emergency medical services, with the exception of the division of managed care and division of health facility development, from the department of public health to the director of the department of commerce, 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 bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 368

333.20102 Definitions; A.

Sec. 20102. (1) "Aircraft transport operation" means that term as defined in section 20902.

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(2) "Ambulance operation" means that term as defined in section 20902.

(3) "Attending physician" means the physician selected by, or assigned to, the patient and who has primary responsibility for the treatment and care of the patient.

(4) "Authorized representative" means the individual designated in writing by the board of directors of the corporation or by the owner or person with legal authority to act on behalf of the company or organization on licensing matters. The authorized representative who is not an owner or licensee shall not sign the original license application or amendments to the application.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1981, Act 79, Imd. Eff. June 30, 1981;—Am. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2010, Act 381, Imd. Eff. Dec. 22, 2010;—Am. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.20104 Definitions; C to G.

Sec. 20104. (1) Except as otherwise provided in part 221, "certification" means the issuance of a document by the department to a health facility or agency attesting to the fact that the health facility or agency meets both of the following:

(a) It complies with applicable statutory and regulatory requirements and standards.

(b) It is eligible to participate as a provider of care and services in a specific federal or state health program.

(2) "Consumer" means a person who is not a health care provider as that term is defined in 42 USC 300jj.

(3) "County medical care facility" means a nursing care facility, other than a hospital long-term care unit, that provides organized nursing care and medical treatment to 7 or more unrelated individuals who are suffering or recovering from illness, injury, or infirmity and that is owned by a county or counties.

(4) "Department" means the department of licensing and regulatory affairs.

(5) "Direct access" means access to a patient or resident or to a patient's or resident's property, financial information, medical records, treatment information, or any other identifying information.

(6) "Director" means the director of the department.

(7) "Freestanding birth center" means that term as defined in section 20701.

(8) "Freestanding surgical outpatient facility" means a facility, other than the office of a physician, dentist, podiatrist, or other private practice office, offering a surgical procedure and related care that in the opinion of the attending physician can be safely performed without requiring overnight inpatient hospital care. Freestanding surgical outpatient facility does not include a surgical outpatient facility owned by and operated as part of a hospital.

(9) "Good moral character" means that term as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2010, Act 381, Imd. Eff. Dec. 22, 2010;—Am. 2015, Act 104, Eff. Oct. 1, 2015;—Am. 2015, Act 155, Eff. Jan. 18, 2016;—Am. 2022, Act 187, Imd. Eff. July 25, 2022;—Am. 2024, Act 252, Eff. Apr. 2, 2025.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20106 Definitions; H.

Sec. 20106. (1) "Health facility or agency", except as provided in section 20115, means:

(a) An ambulance operation, aircraft transport operation, nontransport prehospital life support operation, or medical first response service.

(b) A county medical care facility.

(c) A freestanding surgical outpatient facility.

(d) A health maintenance organization.

(e) A home for the aged.

(f) A hospital.

(g) A nursing home.

(h) A hospice.

(i) A hospice residence.

(j) A facility or agency listed in subdivisions (a) to (g) located in a university, college, or other educational institution.

(k) A freestanding birth center.

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(2) "Health maintenance organization" means that term as defined in section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501.

(3) "Home for the aged" means a supervised personal care facility at a single address, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility that provides room, board, and supervised personal care to 21 or more unrelated, nontransient individuals 55 years of age or older. Home for the aged includes a supervised personal care facility for 20 or fewer individuals 55 years of age or older if the facility is operated in conjunction with and as a distinct part of a licensed nursing home. Home for the aged does not include an area excluded from this definition by section 17(3) of the continuing care community disclosure act, 2014 PA 448, MCL 554.917.

(4) "Hospice" means a health care program that provides a coordinated set of services rendered at home or in outpatient or institutional settings for individuals suffering from a disease or condition with a terminal prognosis.

(5) "Hospital" means a facility offering inpatient, overnight care, and services for observation, diagnosis, and active treatment of an individual with a medical, surgical, obstetric, chronic, or rehabilitative condition requiring the daily direction or supervision of a physician. Hospital does not include a mental health hospital licensed or operated by the department of health and human services or a hospital operated by the department of corrections.

(6) "Hospital long-term care unit" means a nursing care facility, owned and operated by and as part of a hospital, providing organized nursing care and medical treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1981, Act 79, Imd. Eff. June 30, 1981;—Am. 1982, Act 354, Imd. Eff. Dec. 21, 1982;—Am. 1984, Act 311, Eff. Mar. 29, 1985;—Am. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 1996, Act 267, Imd. Eff. June 12, 1996;—Am. 2000, Act 253, Imd. Eff. June 29, 2000;—Am. 2014, Act 449, Imd. Eff. Jan. 2, 2015;—Am. 2015, Act 104, Eff. Oct. 1, 2015;—Am. 2017, Act 167, Eff. Feb. 11, 2018;—Am. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.20108 Definitions; I to N.

Sec. 20108. (1) "Intermediate care facility" means a hospital long-term care unit, nursing home, county medical care facility, or other nursing care facility, or distinct part thereof, certified by the department to provide intermediate care or basic care that is less than skilled nursing care but more than room and board.

(2) "License" means an authorization, annual or as otherwise specified, granted by the department and evidenced by a certificate of licensure or permit granting permission to a person to establish or maintain and operate, or both, a health facility or agency. For purposes of part 209, "license" includes a license issued to an individual under that part.

(3) "Licensee" means the holder of a license or permit to establish or maintain and operate, or both, a health facility or agency. For purposes of part 209, "licensee" includes an individual licensed under that part.

(4) "Limited license" means a provisional license or temporary permit or a license otherwise limited as prescribed by the department.

(5) "Medically contraindicated" means, with reference to nursing homes only, having a substantial adverse effect on the patient's physical health, as determined by the attending physician, which effect is explicitly stated in writing with the reasons therefor in the patient's medical record.

(6) "Medical first response service" means that term as defined in section 20906.

(7) "Nontransport prehospital life support operation" means that term as defined in section 20908.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1986, Act 78, Imd. Eff. Apr. 7, 1986;—Am. 1990, Act 179, Imd. Eff. July 2, 1990.

Popular name: Act 368

333.20109 Definitions; N to S.

Sec. 20109. (1) "Nursing home" means a nursing care facility, including a county medical care facility, that provides organized nursing care and medical treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity. As used in this subsection, "medical treatment" includes treatment by an employee or independent contractor of the nursing home who is an individual licensed or otherwise authorized to engage in a health profession under part 170 or 175. Nursing home does not include any of the following:

(a) A unit in a state correctional facility.

(b) A hospital.

(c) A veterans facility created under 1885 PA 152, MCL 36.1 to 36.12.

(d) A hospice residence that is licensed under this article.

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(e) A hospice that is certified under 42 CFR 418.100.

(2) "Person" means that term as defined in section 1106 or a governmental entity.

(3) "Public member" means a member of the general public who is not a provider; who does not have an ownership interest in or contractual relationship with a nursing home other than a resident contract; who does not have a contractual relationship with a person who does substantial business with a nursing home; and who is not the spouse, parent, sibling, or child of an individual who has an ownership interest in or contractual relationship with a nursing home, other than a resident contract.

(4) "Skilled nursing facility" means a hospital long-term care unit, nursing home, county medical care facility, or other nursing care facility, or a distinct part thereof, certified by the department to provide skilled nursing care.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1991, Act 39, Imd. Eff. June 11, 1991;—Am. 1996, Act 224, Eff. June 12, 1996;—Am. 2015, Act 156, Eff. Jan. 18, 2016.

Popular name: Act 368

333.20115 Rules defining or differentiating health facility or agency.

Sec. 20115. The department may promulgate rules to further define the term "health facility or agency" and the definition of a health facility or agency listed in section 20106 as required to implement this article. The department may define a specific organization as a health facility or agency for the sole purpose of certification authorized under this article. For purpose of certification only, an organization defined in section 20106(5), 20108(1), or 20109(4) is considered a health facility or agency. The term "health facility or agency" does not mean a visiting nurse service or home aide service conducted by and for the adherents of a church or religious denomination for the purpose of providing service for those who depend upon spiritual means through prayer alone for healing.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1999, Act 206, Eff. Mar. 10, 2000;—Am. 2012, Act 499, Eff. Mar. 31, 2013;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

Popular name: Act 368

Administrative rules: R 325.3801 et seq. and R 325.23101 et seq. of the Michigan Administrative Code.

333.20121-333.20127 Repealed. 2022, Act 187, Imd. Eff. July 25, 2022.

Compiler's note: The repealed sections pertained to the health facilities and agencies advisory commission and the appointment of task forces.

Popular name: Act 368

333.20131 Comprehensive system of licensure and certification; establishment; purpose; certification of health facility or agency; coordination, cooperation, and agreements; public disclosure.

Sec. 20131. (1) The department shall establish a comprehensive system of licensure and certification for health facilities or agencies in accordance with this article to:

(a) Protect the health, safety, and welfare of individuals receiving care and services in or from a health facility or agency.

(b) Assure the medical accountability for reimbursed care provided by a certified health facility or agency participating in a federal or state health program.

(2) The department may certify a health facility or agency, or part thereof, defined in section 20106 or under section 20115 when certification is required by state or federal law, rule, or regulation.

(3) The department shall coordinate all functions in state government affecting health facilities and agencies licensed under this article and cooperate with other state agencies which establish standards or requirements for health facilities and agencies to assure necessary, equitable, and consistent state supervision of licensees without unnecessary duplication of survey, evaluation, and consultation services or complaint investigations. The department may enter into agreements with other state agencies necessary to accomplish this purpose.

(4) The department shall utilize public disclosure to improve the effectiveness of licensure.

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

Popular name: Act 368

333.20132 Regulation of medical or surgical treatment prohibited; control of communicable diseases; protection of individuals receiving care and services; standards for inpatient food service establishment; compliance.

Sec. 20132. (1) The department shall not regulate the medical or surgical treatment provided to an

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individual by his or her attending physician in a health facility or agency.

(2) This article does not affect the authority of the department to control communicable diseases or to take immediate action necessary to protect the public health, safety, and welfare of individuals receiving care and services in or from a health facility or agency.

(3) A license for a health facility or agency shall include the operation of an inpatient food service establishment within the facility or agency. Standards for an inpatient food service establishment shall be the same as those established under part 129. A health facility or agency issued a license under this article is considered in compliance with that part.

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

Popular name: Act 368

333.20141 Health facility or agency; license required; eligibility to participate in federal or state health program; personnel; services; and equipment; evidence of compliance; providing data and statistics.

Sec. 20141. (1) A person shall not establish or maintain and operate a health facility or agency without holding a license from the department.

(2) A health facility or agency is not eligible to participate in a federal or state health program requiring certification without current certification from the department.

(3) A health facility or agency shall have the physician, professional nursing, health professional, technical and supportive personnel, and the technical, diagnostic, and treatment services and equipment necessary to assure the safe performance of the health care undertaken by or in the facility or agency.

(4) Licensure and certification of a health facility or agency shall be evidence of the fact that the facility or agency complies with applicable statutory and regulatory requirements and standards at the time of issuance.

(5) A health facility or agency shall provide the department with the data and statistics required to enable the department to carry out functions required by federal and state law, including rules and regulations.

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

Popular name: Act 368

333.20142 Application for licensure and certification; form; certifying accuracy of information; disclosures, reports, and notices; violation; penalty; false statement as felony.

Sec. 20142. (1) A health facility or agency shall apply for licensure or certification on a form authorized and provided by the department. The application shall include attachments, additional data, and information required by the department.

(2) An applicant shall certify the accuracy of information supplied in the application and supplemental statements.

(3) An applicant or a licensee under part 213 or 217 shall disclose the names, addresses, principal occupations, and official positions of all persons who have an ownership interest in the health facility or agency. If the health facility or agency is located on or in leased real estate, the applicant or licensee shall disclose the name of the lessor and any direct or indirect interest the applicant or licensee has in the lease other than as lessee. A change in ownership shall be reported to the director not less than 15 days before the change occurs, except that a person purchasing stock of a company registered pursuant to the securities exchange act of 1934, 15 U.S.C. 78a to 78kk, is exempt from disclosing ownership in the facility. A person required to file a beneficial ownership report pursuant to section 16(a) of the securities exchange act of 1934, 15 U.S.C. 78p shall file with the department information relating to securities ownership required by the department rule or order. An applicant or licensee proposing a sale of a nursing home to another person shall provide the department with written, advance notice of the proposed sale. The applicant or licensee and the other parties to the sale shall arrange to meet with specified department representatives and shall obtain before the sale a determination of the items of noncompliance with applicable law and rules which shall be corrected. The department shall notify the respective parties of the items of noncompliance prior to the change of ownership and shall indicate that the items of noncompliance must be corrected as a condition of issuance of a license to the new owner. The department may accept reports filed with the securities and exchange commission relating to the filings. A person who violates this subsection is guilty of a misdemeanor, punishable by a fine of not more than $1,000.00 for each violation.

(4) An applicant or licensee under part 217 shall disclose the names and business addresses of suppliers who furnish goods or services to an individual nursing home or a group of nursing homes under common ownership, the aggregate charges for which exceed $5,000.00 in a 12-month period which includes a month in a nursing home's current fiscal year. An applicant or licensee shall disclose the names, addresses, principal

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occupations, and official positions of all persons who have an ownership interest in a business which furnishes goods or services to an individual nursing home or to a group of nursing homes under common ownership, if both of the following apply:

(a) The person, or the person's spouse, parent, sibling, or child has an ownership interest in the nursing home purchasing the goods or services.

(b) The aggregate charges for the goods or services purchased exceeds $5,000.00 in a 12-month period which includes a month in the nursing home's current fiscal year.

(5) An applicant or licensee who makes a false statement in an application or statement required by the department pursuant to this article is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than $30,000.00, or both.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.20143 Compliance as condition to issuance of license, certificate, or certificate of need.

Sec. 20143. (1) A license or certificate under this part shall not be issued unless the applicant is in compliance with part 222.

(2) A licensee who is issued a certificate of need under part 222 shall comply with part 222 and all of the terms, conditions, and stipulations of the certificate of need.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 332, Eff. Oct. 1, 1988.

Popular name: Act 368

333.20144 Licensing on basis of approved building program.

Sec. 20144. A health facility or agency not meeting statutory and regulatory requirements for its physical plant and equipment may be licensed by the department on the basis of a building program approved by the department which:

(a) Sets forth a plan and timetable for correction of physical plant or equipment deficiencies and items of noncompliance.

(b) Includes documented evidence of the availability and commitment of money for carrying out the approved building program.

(c) Includes other documentation the department reasonably requires to assure compliance with the plan and timetable.

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

Popular name: Act 368

333.20145 Construction permit; certificate of need as condition of issuance; rules; information required for project not requiring certificate of need; public information; review and approval of architectural plans and narrative; rules; waiver; fee; "capital expenditure" defined.

Sec. 20145. (1) Before contracting for and initiating a construction project involving new construction, additions, modernizations, or conversions of a health facility or agency with a capital expenditure of $1,000,000.00 or more, a person shall obtain a construction permit from the department. The department shall not issue the permit under this subsection unless the applicant holds a valid certificate of need if a certificate of need is required for the project under part 222.

(2) To protect the public health, safety, and welfare, the department may promulgate rules to require construction permits for projects other than those described in subsection (1) and the submission of plans for other construction projects to expand or change service areas and services provided.

(3) If a construction project requires a construction permit under subsection (1) or (2), but does not require a certificate of need under part 222, the department shall require the applicant to submit information considered necessary by the department to ensure that the capital expenditure for the project is not a covered capital expenditure as that term is defined in section 22203.

(4) If a construction project requires a construction permit under subsection (1), but does not require a certificate of need under part 222, the department shall require the applicant to submit information on a 1-page sheet, along with the application for a construction permit, consisting of all of the following:

(a) A short description of the reason for the project and the funding source.

(b) A contact person for further information, including address and telephone number.

(c) The estimated resulting increase or decrease in annual operating costs.

(d) The current governing board membership of the applicant.

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(e) The entity, if any, that owns the applicant.

(5) The department shall make the information filed under subsection (4) publicly available by the same methods used to make information about certificate of need applications publicly available.

(6) The review and approval of architectural plans and narrative must require that the proposed construction project is designed and constructed in accord with applicable statutory and other regulatory requirements. In performing a construction permit review for a health facility or agency under this section, the department shall, at a minimum, apply the standards contained in the document entitled "Minimum Design Standards for Health Care Facilities in Michigan" published by the department and dated July 2007. The standards are incorporated by reference for purposes of this subsection. The department may promulgate rules that are more stringent than the standards if necessary to protect the public health, safety, and welfare.

(7) The department shall promulgate rules to further prescribe the scope of construction projects and other alterations subject to review under this section.

(8) The department may waive the applicability of this section to a construction project or alteration if the waiver will not affect the public health, safety, and welfare.

(9) On request by the person initiating a construction project, the department may review and issue a construction permit to a construction project that is not subject to subsection (1) or (2) if the department determines that the review will promote the public health, safety, and welfare.

(10) The department shall assess a fee for each review conducted under this section. The fee is .5% of the first $1,000,000.00 of capital expenditure and .85% of any amount over $1,000,000.00 of capital expenditure, up to a maximum of $60,000.00.

(11) As used in this section, "capital expenditure" means that term as defined in section 22203, except that capital expenditure does not include the cost of equipment that is not fixed equipment.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1990, Act 331, Imd. Eff. Dec. 21, 1990;—Am. 1991, Act 13, Imd. Eff. Apr. 25, 1991;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2002, Act 683, Imd. Eff. Dec. 30, 2002;—Am. 2004, Act 469, Imd. Eff. Dec. 28, 2004;—Am. 2015, Act 104, Eff. Oct. 1, 2015;—Am. 2022, Act 265, Imd. Eff. Dec. 22, 2022.

Popular name: Act 368

Administrative rules: R 325.3801 et seq. and R 325.20101 et seq. of the Michigan Administrative Code.

333.20151 Cooperation; professional advice and consultation.

Sec. 20151. A licensee or certificate holder shall cooperate with the department in carrying out its responsibility under this article. The department shall, to the extent allowed by law, provide professional advice and consultation as to the quality of facility or agency aspects of health care and services provided by the applicant or licensee.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2000, Act 171, Imd. Eff. June 20, 2000.

Popular name: Act 368

333.20152 Certification by licensee; developing facilities and programs of care; rating individuals for purposes of reimbursement.

Sec. 20152. (1) A licensee shall certify to the department as part of its application for licensing and certification, that:

(a) All phases of its operation, including its training programs, comply with state and federal laws prohibiting discrimination. The applicant shall direct the administrator of the health facility or agency to take the necessary action to assure that the facility or agency is, in fact, so operated.

(b) Selection and appointment of physicians to its medical staff is without discrimination on the basis of licensure or registration as doctors of medicine or doctors of osteopathic medicine and surgery.

(2) This section does not prohibit a health facility or agency from developing facilities and programs of care that are for specific ages or sexes or rating individuals for purposes of determining appropriate reimbursement for care and services.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1981, Act 111, Imd. Eff. July 17, 1981.

Popular name: Act 368

333.20153 Definitions; single-use device; reusing, recycling, or refurbishing prohibited; exceptions; violation as felony; penalty.

Sec. 20153. (1) As used in this section:

(a) "Health care provider" means a health facility or agency or a health professional that utilizes single-use devices in furnishing medical or surgical treatment or care to human patients.

(b) "Health professional" means an individual licensed, certified, or authorized to engage in a health

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profession under article 15, but not including dentists, dental hygienists, or dental assistants under part 166 or veterinarians or veterinary technicians under part 188.

(c) "Original device" means a new, unused single-use device.

(d) "Reprocessed" means with respect to a single-use device, an original device that has previously been used on a human patient and has been subjected to additional processing and manufacturing for the purpose of additional use on a different human patient. Reprocessed includes the subsequent processing and manufacture of a reprocessed single-use device and any single-use device that meets the definition in this subdivision without regard to any description of the device used by the manufacturer of the device or other persons, including a description that uses the term "recycled", "refurbished", or "reused" rather than the term "reprocessed". Reprocessed does not include a disposable or single-use device that has been opened but not used on a person.

(e) "Single-use device" means a medical device that is intended for 1 use or procedure on a human patient, including any device marked "single-use device".

(2) Except as otherwise provided in this section, a health care provider shall not knowingly reuse, recycle, refurbish for reuse, or provide for reuse a single-use device.

(3) This section does not apply to a health care provider that does any of the following:

(a) Utilizes, recycles or reprocesses for utilization, or provides for utilization a single-use device that has been reprocessed by an entity that is registered as a reprocessor and is regulated by the United States food and drug administration.

(b) Utilizes an opened, but unused single-use device for which the sterility has been breached or compromised and that meets all of the following requirements:

(*i*) The single-use device has not been used on a human patient and has not been in contact with blood or bodily fluids.

(*ii*) The single-use device has been resterilized.

(c) Utilizes a used single-use device on the same human patient in an emergency situation.

(4) A health care provider that violates this section is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $50,000.00, or both. A violation of this section by a health professional is considered a violation of article 15 and that health professional is subject to administrative action under sections 16221(h) and 16226.

History: Add. 2010, Act 25, Imd. Eff. Mar. 26, 2010.

Popular name: Act 368

333.20155 Visit to health facility or agency; survey and evaluation for purpose of licensure; nursing home surveyor; criminal history check; survey team; composition and membership; waiver; confidentiality of accreditation information; limitation and effect; consultation engineering survey; summary of substantial noncompliance or deficiencies and response; investigations or inspections; prior notice as misdemeanor; periodic reports; access to documents; disclosure; delegation of functions; voluntary inspections; forwarding evidence of violation to licensing agency; quarterly meeting; nursing home's survey report; posting; other state and federal law.

Sec. 20155. (1) Except as otherwise provided in this section, the department shall make at least 1 visit to each licensed health facility or agency every 3 years for survey and evaluation for the purpose of licensure. A visit made according to a complaint must be unannounced. Except for a county medical care facility, a home for the aged, a nursing home, or a hospice residence, the department shall determine whether the visits that are not made according to a complaint are announced or unannounced. The department shall ensure that each newly hired nursing home surveyor, as part of his or her basic training, is assigned full-time to a licensed nursing home for at least 10 days within a 14-day period to observe actual operations outside of the survey process before the trainee begins oversight responsibilities.

(2) The department shall establish a process that ensures both of the following:

(a) A newly hired nursing home surveyor does not make independent compliance decisions during his or her training period.

(b) A nursing home surveyor is not assigned as a member of a survey team for a nursing home in which he or she received training for 1 standard survey following the training received in that nursing home.

(3) The department shall perform a criminal history check on all nursing home surveyors in the manner provided for in section 20173a.

(4) A member of a survey team must not be employed by a licensed nursing home or a nursing home management company doing business in this state at the time of conducting a survey under this section. The

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department shall not assign an individual to be a member of a survey team for purposes of a survey, evaluation, or consultation visit at a nursing home in which he or she was an employee within the preceding 3 years.

(5) The department shall invite representatives from all nursing home provider organizations and the state long-term care ombudsman or his or her designee to participate in the planning process for the joint provider and surveyor training sessions. The department shall include at least 1 representative from nursing home provider organizations that do not own or operate a nursing home representing 30 or more nursing homes statewide in internal surveyor group quality assurance training provided for the purpose of general clarification and interpretation of existing or new regulatory requirements and expectations.

(6) The department shall make available online the general civil service position description related to the required qualifications for individual surveyors. The department shall use the required qualifications to hire, educate, develop, and evaluate surveyors.

(7) The department shall semiannually provide for joint training with nursing home surveyors and providers on at least 1 of the 10 most frequently issued federal citations in this state during the past calendar year. The department shall develop a protocol for the review of citation patterns compared to regional outcomes and standards and complaints regarding the nursing home survey process. Except as otherwise provided in this subsection, each member of a department nursing home survey team who is a health professional licensee under article 15 shall earn not less than 50% of his or her required continuing education credits, if any, in geriatric care. If a member of a nursing home survey team is a pharmacist licensed under article 15, he or she shall earn not less than 30% of his or her required continuing education credits in geriatric care.

(8) Subject to subsection (11), the department may waive the visit required by subsection (1) if a health facility or agency, requests a waiver and submits the following as applicable and if all of the requirements of subsection (10) are met:

(a) Evidence that it is currently fully accredited by a body with expertise in the health facility or agency type and the accrediting organization is accepted by the United States Department of Health and Human Services for purposes of 42 USC 1395bb.

(b) A copy of the most recent accreditation report, or executive summary, issued by a body described in subdivision (a), and the health facility's or agency's responses to the accreditation report is submitted to the department at least 30 days from license renewal. Submission of an executive summary does not prevent or prohibit the department from requesting the entire accreditation report if the department considers it necessary.

(c) For a nursing home, a finding of substantial compliance or an accepted plan of correction, if applicable, on the most recent standard federal certification survey under part 221.

(9) Except as otherwise provided in subsection (13), accreditation information provided to the department under subsection (8) is confidential, is not a public record, and is not subject to court subpoena. The department shall use the accreditation information only as provided in this section and properly destroy the documentation after a decision on the waiver request is made.

(10) The department shall grant a waiver under subsection (8) if the accreditation report submitted under subsection (8)(b) is less than 3 years old or the most recent standard federal certification survey under part 221 submitted under subsection (8)(c) shows substantial compliance or an accepted plan of correction, if applicable. If the accreditation report is too old, the department may deny the waiver request and conduct the visits required under subsection (8). Denial of a waiver request by the department is not subject to appeal.

(11) This section does not prohibit the department from citing a violation of this part during a survey, conducting investigations or inspections according to section 20156, or conducting surveys of health facilities or agencies for the purpose of complaint investigations. This section does not prohibit the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, from conducting annual surveys of hospitals, nursing homes, and county medical care facilities.

(12) At the request of a health facility or agency other than a health facility or agency defined in section 20106(1)(a), (d), (h), and (i), the department may conduct a consultation engineering survey of that health facility or agency and provide professional advice and consultation regarding facility construction and design. A health facility or agency may request a voluntary consultation survey under this subsection at any time between licensure surveys. The fees for a consultation engineering survey are the same as the fees established for waivers under section 20161(8).

(13) If the department determines that substantial noncompliance with licensure standards exists or that deficiencies that represent a threat to public safety or patient care exist based on a review of an accreditation report submitted under subsection (8)(b), the department shall prepare a written summary of the substantial noncompliance or deficiencies and the health facility's or agency's response to the department's determination.

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The department's written summary and the health facility's or agency's response are public documents.

(14) The department or a local health department shall conduct investigations or inspections, other than inspections of financial records, of a county medical care facility, home for the aged, nursing home, or hospice residence without prior notice to the health facility or agency. An employee of a state agency charged with investigating or inspecting the health facility or agency or an employee of a local health department who directly or indirectly gives prior notice regarding an investigation or an inspection, other than an inspection of the financial records, to the health facility or agency or to an employee of the health facility or agency, is guilty of a misdemeanor. Consultation visits that are not for the purpose of annual or follow-up inspection or survey may be announced.

(15) The department shall require periodic reports and a health facility or agency shall give the department access to books, records, and other documents maintained by a health facility or agency to the extent necessary to carry out the purpose of this article and the rules promulgated under this article. The department shall not divulge or disclose the contents of the patient's clinical records in a manner that identifies an individual except under court order. The department may copy health facility or agency records as required to document findings. Surveyors shall use electronic resident information, whenever available, as a source of survey-related data and shall request the assistance of a health facility or agency to access the system to maximize data export.

(16) The department may delegate survey, evaluation, or consultation functions to another state agency or to a local health department qualified to perform those functions. The department shall not delegate survey, evaluation, or consultation functions to a local health department that owns or operates a hospice or hospice residence licensed under this article. The department shall delegate under this subsection by cost reimbursement contract between the department and the state agency or local health department. The department shall not delegate survey, evaluation, or consultation functions to nongovernmental agencies, except as provided in this section. The licensee and the department must both agree to the voluntary inspection described in this subsection.

(17) If, upon investigation, the department or a state agency determines that an individual licensed to practice a profession in this state has violated the applicable licensure statute or the rules promulgated under that statute, the department, state agency, or local health department shall forward the evidence it has to the appropriate licensing agency.

(18) The department shall conduct a quarterly meeting and invite appropriate stakeholders. The department shall invite as appropriate stakeholders under this subsection at least 1 representative from each nursing home provider organization that does not own or operate a nursing home representing 30 or more nursing homes statewide, the state long-term care ombudsman or his or her designee, and any other clinical experts. Individuals who participate in these quarterly meetings, jointly with the department, may designate advisory workgroups to develop recommendations on opportunities for enhanced promotion of nursing home performance, including, but not limited to, programs that encourage and reward nursing homes that strive for excellence.

(19) A nursing home may use peer-reviewed, evidence-based, nationally recognized clinical process guidelines or peer-reviewed, evidence-based, best-practice resources to develop and implement resident care policies and compliance protocols with measurable outcomes to promote performance excellence.

(20) The department shall consider recommendations from an advisory workgroup created under subsection (18). The department may include training on new and revised peer-reviewed, evidence-based, nationally recognized clinical process guidelines or peer-reviewed, evidence-based, best-practice resources, which contain measurable outcomes, in the joint provider and surveyor training sessions to assist provider efforts toward improved regulatory compliance and performance excellence and to foster a common understanding of accepted peer-reviewed, evidence-based, best-practice resources between providers and the survey agency. The department shall post on its website all peer-reviewed, evidence-based, nationally recognized clinical process guidelines and peer-reviewed, evidence-based, best-practice resources used in a training session under this subsection for provider, surveyor, and public reference.

(21) A nursing home shall post the nursing home's survey report in a conspicuous place within the nursing home for public review.

(22) Nothing in this section limits the requirements of related state and federal law.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1981, Act 111, Imd. Eff. July 17, 1981;—Am. 1982, Act 474, Eff. Mar. 30, 1983;—Am. 1992, Act 80, Imd. Eff. June 2, 1992;—Am. 1996, Act 267, Imd. Eff. June 12, 1996;—Am. 2000, Act 170, Imd. Eff. June 20, 2000;—Am. 2000, Act 171, Imd. Eff. June 20, 2000;—Am. 2001, Act 218, Imd. Eff. Dec. 28, 2001;—Am. 2006, Act 195, Imd. Eff. June 19, 2006;—Am. 2012, Act 322, Imd. Eff. Oct. 9, 2012;—Am. 2015, Act 104, Eff. Oct. 1, 2015;—Am. 2015, Act 155, Eff. Jan. 18, 2016;—Am. 2022, Act 187, Imd. Eff. July 25, 2022.

Compiler's note: For transfer of the clinical advisory committee to the department of community health, and abolishment of the

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committee, see E.R.O. No. 2009-6, compiled at MCL 333.26329.

Popular name: Act 368

Administrative rules: R 325.3801 et seq. of the Michigan Administrative Code.

333.20155a Repealed. 2022, Act 187, Imd. Eff. July 25, 2022.

Compiler's note: The repealed section pertained to an electronic system for nursing home health survey tasks and federal grants.

Popular name: Act 368

333.20156 Entering premises of applicant or licensee; enforcement of rules; review and inspection of existing facilities; amendment of rules; verification of existing facilities; certificate of approval from bureau of fire services; applicability of subsections (2), (3), (4), and (5).

Sec. 20156. (1) A representative of the department or the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, upon presentation of proper identification, may enter the premises of an applicant or licensee at any reasonable time to determine whether the applicant or licensee meets the requirements of this article and the rules promulgated under this article. The director; the director of the department of health and human services; the bureau of fire services; the director of the office of services to the aging; or the director of a local health department; or an authorized representative of the director, the director of the department of health and human services, the bureau of fire services, the director of the office of services to the aging, or the director of a local health department may enter on the premises of an applicant or licensee under part 217 at any time in the course of carrying out program responsibilities.

(2) The bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, shall enforce rules promulgated by the bureau of fire services for health facilities and agencies to ensure that physical facilities owned, maintained, or operated by a health facility or agency are planned, constructed, and maintained in a manner to protect the health, safety, and welfare of patients.

(3) Beginning on the effective date of the amendatory act that added this subsection, the bureau of fire services shall amend the rules to allow facilities in existence on or before the effective date of the amendatory act that added this subsection and continuously operating up to the time of application for a home for the aged license to be reviewed and inspected to comply with the provisions of chapter 18 or 19 or chapter 32 or 33 of the National Fire Protection Association standard number 101.

(4) An applicant under subsection (3) shall provide information requested by the department that allows the department to verify that the facility was in existence on or before the effective date of the amendatory act that added this subsection and has been continuously operating up to the time of application.

(5) The department shall not issue a license or certificate to a health facility or agency until it receives an appropriate certificate of approval from the bureau of fire services. For purposes of this section, a decision of the bureau of fire services to issue a certificate controls over that of a local fire department.

(6) Subsections (2), (3), (4), and (5) do not apply to a health facility or an agency licensed under part 205 or 209.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1982, Act 474, Eff. Mar. 30, 1983;—Am. 1986, Act 78, Imd. Eff. Apr. 7, 1986;—Am. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2006, Act 195, Imd. Eff. June 19, 2006;—Am. 2017, Act 167, Eff. Feb. 11, 2018.

Compiler's note: For transfer of powers and duties of the fire marshal division on programs relating to fire safety inspections of adult foster care, correctional, and health care facilities from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

Popular name: Act 368

333.20158 Biannual inspection reports for certain entities.

Sec. 20158. The department shall submit biannual reports to the appropriation subcommittees for the department, the senate and house fiscal agencies, and the state budget director containing a summary of input from individuals who perform inspections for entities regulated by the bureau of community and health systems, or a successor agency within the department, under this article. The feedback and input must be regarding the adequacy of federal and state guidelines pertaining to the areas that the individual inspects for the entities described in this section. The summary must include details of the feedback excluding information that identifies the inspectors providing the feedback. The summary may be cumulative in nature, but must be understandable to the general public.

History: Add. 2022, Act 117, Imd. Eff. June 24, 2022.

Popular name: Act 368

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333.20161 Fees and assessments for health facility and agency licenses and certificates of need; schedule; fees; use of quality assurance assessment; tax levy; notification to ambulance operation; definitions.

Sec. 20161. (1) The department shall assess fees and other assessments for health facility and agency licenses and certificates of need on an annual basis as provided in this article. Until October 1, 2027, except as otherwise provided in this article, fees and assessments must be paid as provided in the following schedule:

(a) Freestanding surgical outpatient facilities	$500.00 per facility license.
(b) Hospitals	$500.00 per facility license and $10.00 per licensed bed.
(c) Nursing homes, county medical care facilities, and hospital long-term care units	$500.00 per facility license and $3.00 per licensed bed over 100 licensed beds.
(d) Homes for the aged	$500.00 per facility license and $6.27 per licensed bed.
(e) Hospice agencies	$500.00 per agency license.
(f) Hospice residences	$500.00 per facility license and $5.00 per licensed bed.
(g) Freestanding birth center	$500.00 per facility license.
(h) Subject to subsection (11), quality assurance assessment for nursing homes and hospital long-term care units	an amount resulting in not more than 6% of total industry revenues.
(i) Subject to subsection (12), quality assurance assessment for hospitals	at a fixed or variable rate that generates funds not more than the maximum allowable under the federal matching requirements, after consideration for the amounts in subsection (12)(a) and (i).
(j) Initial licensure application fee for subdivisions (a), (b), (c), (d), (e), (f), and (g)	$2,000.00 per initial license.

(2) If a hospital requests the department to conduct a certification survey for purposes of title XVIII or title XIX, the hospital shall pay a license fee surcharge of $23.00 per bed. As used in this subsection:

(a) "Title XVIII" means title XVIII of the social security act, 42 USC 1395 to 1395*lll*.

(b) "Title XIX" means title XIX of the social security act, 42 USC 1396 to 1396w-8.

(3) All of the following apply to the assessment under this section for certificates of need:

(a) The base fee for a certificate of need is $3,000.00 for each application. For a project requiring a projected capital expenditure of more than $500,000.00 but less than $4,000,000.00, an additional fee of $5,000.00 is added to the base fee. For a project requiring a projected capital expenditure of $4,000,000.00 or more but less than $10,000,000.00, an additional fee of $8,000.00 is added to the base fee. For a project requiring a projected capital expenditure of $10,000,000.00 or more, an additional fee of $12,000.00 is added to the base fee.

(b) In addition to the fees under subdivision (a), the applicant shall pay $3,000.00 for any designated complex project including a project scheduled for comparative review or for a consolidated licensed health facility application for acquisition or replacement.

(c) If required by the department, the applicant shall pay $1,000.00 for a certificate of need application that receives expedited processing at the request of the applicant.

(d) The department shall charge a fee of $500.00 to review any letter of intent requesting or resulting in a waiver from certificate of need review and any amendment request to an approved certificate of need.

(e) A health facility or agency that offers certificate of need covered clinical services shall pay $100.00 for each certificate of need approved covered clinical service as part of the certificate of need annual survey at the time of submission of the survey data.

(f) Except as otherwise provided in this section, the department shall use the fees collected under this subsection only to fund the certificate of need program. Funds remaining in the certificate of need program at the end of the fiscal year do not lapse to the general fund but remain available to fund the certificate of need program in subsequent years.

(4) A license issued under this part is effective for no longer than 1 year after the date of issuance.

(5) Fees described in this section are payable to the department at the time an application for a license, permit, or certificate is submitted. If an application for a license, permit, or certificate is denied or if a license, permit, or certificate is revoked before its expiration date, the department shall not refund fees paid to the

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department.

(6) The fee for a provisional license or temporary permit is the same as for a license. A license may be issued at the expiration date of a temporary permit without an additional fee for the balance of the period for which the fee was paid if the requirements for licensure are met.

(7) The cost of licensure activities must be supported by license fees.

(8) The application fee for a waiver under section 21564 is $200.00 plus $40.00 per hour for the professional services and travel expenses directly related to processing the application. The travel expenses must be calculated in accordance with the state standardized travel regulations of the department of technology, management, and budget in effect at the time of the travel.

(9) An applicant for licensure or renewal of licensure under part 209 shall pay the applicable fees set forth in part 209.

(10) Except as otherwise provided in this section, the fees and assessments collected under this section must be deposited in the state treasury, to the credit of the general fund. The department may use the unreserved fund balance in fees and assessments for the criminal history check program required under this article.

(11) The quality assurance assessment collected under subsection (1)(h) and all federal matching funds attributed to that assessment must be used only for the following purposes and under the following specific circumstances:

(a) The quality assurance assessment and all federal matching funds attributed to that assessment must be used to finance Medicaid nursing home reimbursement payments. Only licensed nursing homes and hospital long-term care units that are assessed the quality assurance assessment and participate in the Medicaid program are eligible for increased per diem Medicaid reimbursement rates under this subdivision. A nursing home or long-term care unit that is assessed the quality assurance assessment and that does not pay the assessment required under subsection (1)(h) in accordance with subdivision (c)(*i*) or in accordance with a written payment agreement with this state shall not receive the increased per diem Medicaid reimbursement rates under this subdivision until all of its outstanding quality assurance assessments and any penalties assessed under subdivision (f) have been paid in full. This subdivision does not authorize or require the department to overspend tax revenue in violation of the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

(b) Except as otherwise provided under subdivision (c), beginning October 1, 2005, the quality assurance assessment is based on the total number of patient days of care each nursing home and hospital long-term care unit provided to non-Medicare patients within the immediately preceding year, must be assessed at a uniform rate on October 1, 2005 and subsequently on October 1 of each following year, and is payable on a quarterly basis, with the first payment due 90 days after the date the assessment is assessed.

(c) Within 30 days after September 30, 2005, the department shall submit an application to the Centers for Medicare and Medicaid Services to request a waiver according to 42 CFR 433.68(e) to implement this subdivision as follows:

(*i*) If the waiver is approved, the quality assurance assessment rate for a nursing home or hospital long-term care unit with less than 40 licensed beds or with the maximum number, or more than the maximum number, of licensed beds necessary to secure federal approval of the application is $2.00 per non-Medicare patient day of care provided within the immediately preceding year or a rate as otherwise altered on the application for the waiver to obtain federal approval. If the waiver is approved, for all other nursing homes and long-term care units the quality assurance assessment rate is to be calculated by dividing the total statewide maximum allowable assessment permitted under subsection (1)(h) less the total amount to be paid by the nursing homes and long-term care units with less than 40 licensed beds or with the maximum number, or more than the maximum number, of licensed beds necessary to secure federal approval of the application by the total number of non-Medicare patient days of care provided within the immediately preceding year by those nursing homes and long-term care units with more than 39 licensed beds, but less than the maximum number of licensed beds necessary to secure federal approval. The quality assurance assessment, as provided under this subparagraph, must be assessed in the first quarter after federal approval of the waiver and must be subsequently assessed on October 1 of each following year, and is payable on a quarterly basis, with the first payment due 90 days after the date the assessment is assessed.

(*ii*) If the waiver is approved, continuing care retirement centers are exempt from the quality assurance assessment if the continuing care retirement center requires each center resident to provide an initial life interest payment of $150,000.00, on average, per resident to ensure payment for that resident's residency and services and the continuing care retirement center utilizes all of the initial life interest payment before the resident becomes eligible for medical assistance under the state's Medicaid plan. As used in this subparagraph, "continuing care retirement center" means a nursing care facility that provides independent living services,

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assisted living services, and nursing care and medical treatment services, in a campus-like setting that has shared facilities or common areas, or both.

(d) Beginning May 10, 2002, the department shall increase the per diem nursing home Medicaid reimbursement rates for the balance of that year. For each subsequent year in which the quality assurance assessment is assessed and collected, the department shall maintain the Medicaid nursing home reimbursement payment increase financed by the quality assurance assessment.

(e) The department shall implement this section in a manner that complies with federal requirements necessary to ensure that the quality assurance assessment qualifies for federal matching funds.

(f) If a nursing home or a hospital long-term care unit fails to pay the assessment required by subsection (1)(h), the department may assess the nursing home or hospital long-term care unit a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(g) The Medicaid nursing home quality assurance assessment fund is established in the state treasury. The department shall deposit the revenue raised through the quality assurance assessment with the state treasurer for deposit in the Medicaid nursing home quality assurance assessment fund.

(h) The department shall not implement this subsection in a manner that conflicts with 42 USC 1396b(w).

(i) The quality assurance assessment collected under subsection (1)(h) must be prorated on a quarterly basis for any licensed beds added to or subtracted from a nursing home or hospital long-term care unit since the immediately preceding July 1. Any adjustments in payments are due on the next quarterly installment due date.

(j) In each fiscal year governed by this subsection, Medicaid reimbursement rates must not be reduced below the Medicaid reimbursement rates in effect on April 1, 2002 as a direct result of the quality assurance assessment collected under subsection (1)(h).

(k) The state retention amount of the quality assurance assessment collected under subsection (1)(h) must be equal to 13.2% of the federal funds generated by the nursing homes and hospital long-term care units quality assurance assessment, including the state retention amount. The state retention amount must be appropriated each fiscal year to the department to support Medicaid expenditures for long-term care services. These funds must offset an identical amount of general fund/general purpose revenue originally appropriated for that purpose.

(*l*) Beginning October 1, 2027, the department shall not assess or collect the quality assurance assessment or apply for federal matching funds. The quality assurance assessment collected under subsection (1)(h) must not be assessed or collected after September 30, 2011 if the quality assurance assessment is not eligible for federal matching funds. Any portion of the quality assurance assessment collected from a nursing home or hospital long-term care unit that is not eligible for federal matching funds must be returned to the nursing home or hospital long-term care unit.

(12) The quality assurance dedication is an earmarked assessment collected under subsection (1)(i). That assessment and all federal matching funds attributed to that assessment must be used only for the following purpose and under the following specific circumstances:

(a) To maintain the increased Medicaid reimbursement rate increases as provided for in subdivision (c).

(b) The quality assurance assessment must be assessed on all net patient revenue, before deduction of expenses, less Medicare net revenue, as reported in the most recently available Medicare cost report and is payable on a quarterly basis, with the first payment due 90 days after the date the assessment is assessed. As used in this subdivision, "Medicare net revenue" includes Medicare payments and amounts collected for coinsurance and deductibles.

(c) Beginning October 1, 2002, the department shall increase the hospital Medicaid reimbursement rates for the balance of that year. For each subsequent year in which the quality assurance assessment is assessed and collected, the department shall maintain the hospital Medicaid reimbursement rate increase financed by the quality assurance assessments.

(d) The department shall implement this section in a manner that complies with federal requirements necessary to ensure that the quality assurance assessment qualifies for federal matching funds.

(e) If a hospital fails to pay the assessment required by subsection (1)(i), the department may assess the hospital a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(f) The hospital quality assurance assessment fund is established in the state treasury. The department shall deposit the revenue raised through the quality assurance assessment with the state treasurer for deposit in the hospital quality assurance assessment fund.

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(g) In each fiscal year governed by this subsection, the quality assurance assessment must only be collected and expended if Medicaid hospital inpatient DRG and outpatient reimbursement rates and graduate medical education payments are not below the level of rates and payments in effect on April 1, 2002 as a direct result of the quality assurance assessment collected under subsection (1)(i), except as provided in subdivision (h).

(h) The quality assurance assessment collected under subsection (1)(i) must not be assessed or collected after September 30, 2011 if the quality assurance assessment is not eligible for federal matching funds. Any portion of the quality assurance assessment collected from a hospital that is not eligible for federal matching funds must be returned to the hospital.

(i) The state retention amount of the quality assurance assessment collected under subsection (1)(i) must be equal to 13.2% of the federal funds generated by the hospital quality assurance assessment, including the state retention amount. The 13.2% state retention amount described in this subdivision does not apply to the Healthy Michigan plan. Beginning in the fiscal year ending September 30, 2018, and for each fiscal year thereafter, there is a retention amount of at least $118,420,600.00 for each fiscal year for the Healthy Michigan plan. By May 31 of each year, the department, the state budget office, and the Michigan Health and Hospital Association shall identify an appropriate retention amount for the Healthy Michigan plan. The state retention percentage must be applied proportionately to each hospital quality assurance assessment program to determine the retention amount for each program. The state retention amount must be appropriated each fiscal year to the department to support Medicaid expenditures for hospital services and therapy. These funds must offset an identical amount of general fund/general purpose revenue originally appropriated for that purpose.

(13) The department may establish a quality assurance assessment to increase ambulance reimbursement as follows:

(a) The quality assurance assessment authorized under this subsection must be used to provide reimbursement to Medicaid ambulance providers. The department may promulgate rules to provide the structure of the quality assurance assessment authorized under this subsection and the level of the assessment.

(b) The department shall implement this subsection in a manner that complies with federal requirements necessary to ensure that the quality assurance assessment qualifies for federal matching funds.

(c) The total annual collections by the department under this subsection must not exceed $20,000,000.00.

(d) The quality assurance assessment authorized under this subsection must not be collected after October 1, 2027. The quality assurance assessment authorized under this subsection must no longer be collected or assessed if the quality assurance assessment authorized under this subsection is not eligible for federal matching funds.

(e) By November 1 of each year, the department shall send a notification to each ambulance operation that will be assessed the quality assurance assessment authorized under this subsection during the year in which the notification is sent.

(14) The quality assurance assessment provided for under this section is a tax that is levied on a health facility or agency.

(15) As used in this section:

(a) "Healthy Michigan plan" means the medical assistance program described in section 105d of the social welfare act, 1939 PA 280, MCL 400.105d, that has a federal matching fund rate of not less than 90%.

(b) "Medicaid" means that term as defined in section 22207.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1981, Act 76, Eff. Oct. 1, 1981;—Am. 1984, Act 376, Eff. Mar. 29, 1985;—Am. 1987, Act 217, Imd. Eff. Dec. 22, 1987;—Am. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 1990, Act 252, Imd. Eff. Oct. 12, 1990;—Am. 1996, Act 267, Imd. Eff. June 12, 1996;—Am. 2000, Act 253, Imd. Eff. June 29, 2000;—Am. 2002, Act 303, Imd. Eff. May 10, 2002;—Am. 2002, Act 562, Imd. Eff. Oct. 1, 2002;—Am. 2003, Act 113, Imd. Eff. July 24, 2003;—Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003;—Am. 2004, Act 393, Imd. Eff. Oct. 15, 2004;—Am. 2004, Act 469, Imd. Eff. Dec. 28, 2004;—Am. 2005, Act 187, Eff. Sept. 30, 2005;—Am. 2007, Act 5, Imd. Eff. Mar. 23, 2007;—Am. 2007, Act 85, Imd. Eff. Sept. 30, 2007;—Am. 2008, Act 173, Imd. Eff. July 2, 2008;—Am. 2008, Act 277, Imd. Eff. Sept. 29, 2008;—Am. 2011, Act 144, Imd. Eff. Sept. 21, 2011;—Am. 2013, Act 137, Imd. Eff. Oct. 15, 2013;—Am. 2015, Act 104, Eff. Oct. 1, 2015;—Am. 2016, Act 189, Imd. Eff. June 21, 2016;—Am. 2018, Act 245, Imd. Eff. June 28, 2018;—Am. 2019, Act 74, Imd. Eff. Sept. 30, 2019;—Am. 2020, Act 35, Imd. Eff. Mar. 3, 2020;—Am. 2020, Act 169, Imd. Eff. Oct. 1, 2020;—Am. 2022, Act 187, Imd. Eff. July 25, 2022;—Am. 2023, Act 138, Imd. Eff. Sept. 29, 2023;—Am. 2024, Act 252, Eff. Apr. 2, 2025.

Compiler's note: Enacting section 2 of Act 234 of 2003 provides:

"Enacting section 2. (1) Section 20161 as amended by this amendatory act is curative and intended to express the original intent of the legislature regarding the application of 2002 PA 303 and 2002 PA 562, as amended by 2003 PA 113.

"(2) Section 20161 as amended by this amendatory act is retroactive and is effective for all quality assurance assessments made after May 9, 2002."

Enacting section 1 of Act 187 of 2005 provides:

"Enacting section 1. Section 20161 of the public health code, 1978 PA 368, MCL 333.20161, as amended by this amendatory act is retroactive and is effective for all quality assurance assessments made after September 30, 2005."

Enacting section 1 was enacted into law as follows:

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"Enacting section 1. This amendatory act takes effect October 1, 2013."

Popular name: Act 368

Administrative rules: R 325.3801 et seq. of the Michigan Administrative Code.

333.20162 License; receipt of completed application; issuance of license within certain period of time; nonrenewable temporary permit; provisional license; procedure for closing facility; order to licensee upon finding of noncompliance; notice, hearing, and status requirements; report; "completed application" defined.

Sec. 20162. (1) Beginning on the effective date of the amendatory act that added section 20935, upon a determination that a health facility or agency is in compliance with this article and the rules promulgated under this article, the department shall issue an initial license within 6 months after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make the notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information. If the department identifies a deficiency or requires the fulfillment of a corrective action plan, the 6-month period is tolled until either of the following occurs:

(a) Upon notification by the department of a deficiency, until the date the requested information is received by the department.

(b) Upon notification by the department that a corrective action plan is required, until the date the department determines the requirements of the corrective action plan have been met.

(2) The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

(3) Except as otherwise provided in this subsection, if the department fails to issue or deny a license within the time period required by this section, the department shall return the license fee and shall reduce the license fee for the applicant's next licensure application, if any, by 15%. Failure to issue or deny a license within the time period required under this section does not allow the department to otherwise delay processing an application. The completed application shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the application fee was refunded or discounted under this subsection. The department may issue a nonrenewable temporary permit for not more than 6 months if additional time is needed to make a proper investigation or to permit the applicant to undertake remedial action related to operational or procedural deficiencies or items of noncompliance. A temporary permit shall not be issued to cover deficiencies in physical plant requirements.

(4) Except as provided in part 217, the department may issue a provisional license for not more than 3 consecutive years to an applicant who temporarily is unable to comply with the rules as to the physical plant owned, maintained, or operated by a health facility or agency except as otherwise provided in this article. A provisional license shall not be issued to a new health facility or agency or a facility or agency whose ownership is transferred after September 30, 1978, unless the facility or agency was licensed and operating under this article or a prior law for not less than 5 years. Provisional licensure under acts repealed by this code shall be counted against the 3-year maximum for licensure.

(5) The department, in order to protect the people of this state, shall provide a procedure for the orderly closing of a facility if it is unable to maintain its license under this section.

(6) Except as provided in part 217, the department, upon finding that a health facility or agency is not operating in accord with the requirements of its license, may:

(a) Issue an order directing the licensee to:

(*i*) Discontinue admissions.

(*ii*) Transfer selected patients out of the facility.

(*iii*) Reduce its licensed capacity.

(*iv*) Comply with specific requirements for licensure or certification as appropriate.

(b) Through the office of the attorney general, initiate misdemeanor proceedings against the licensee as provided in section 20199(1).

(7) An order issued under subsection (6) shall be governed by the notice and hearing requirements of section 20168(1) and the status requirements of section 20168(2).

(8) Beginning October 1, 2005, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with public health issues. The director shall include all of the following information in the report

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concerning the preceding fiscal year:

(a) The number of initial applications the department received and completed within the 6-month time period required under subsection (1).

(b) The number of applications requiring a request for additional information.

(c) The number of applications denied.

(d) The average processing time for initial licenses granted after the 6-month period.

(e) The number of temporary permits issued under subsection (3).

(f) The number of initial license applications not issued within the 6-month period and the amount of money returned to applicants under subsection (3).

(9) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2004, Act 284, Imd. Eff. July 23, 2004.

Popular name: Act 368

333.20164 Duration of license or certification; license, certification, or certificate of need nontransferable; transfer of ownership or ownership interest; notice; application for license and certification.

Sec. 20164. (1) Except as provided in part 209, a license, certification, provisional license, or limited license is valid for not more than 1 year after the date of issuance.

(2) A license, certification, or certificate of need is not transferable and must state the persons, buildings, and properties to which it applies. Applications for licensure or certification because of transfer of ownership or essential ownership interest must not be acted upon until satisfactory evidence is provided of compliance with part 222.

(3) If ownership is not voluntarily transferred, the department must be notified immediately and the new owner shall apply for a license and certification not later than 30 days after the transfer.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1981, Act 111, Imd. Eff. July 17, 1981;—Am. 1982, Act 474, Eff. Mar. 30, 1983;—Am. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.20165 Denying, limiting, suspending, or revoking application, license, or certification; notice of intent; imposition of administrative fine.

Sec. 20165. (1) Except as otherwise provided in this section, after notice of intent to an applicant or licensee to deny, limit, suspend, or revoke the applicant's application or licensee's license or certification and an opportunity for a hearing, the department may deny, limit, suspend, or revoke the application, license, or certification or impose an administrative fine on a licensee if 1 or more of the following exist:

(a) Fraud or deceit in obtaining or attempting to obtain a license or certification or in the operation of the licensed health facility or agency.

(b) A violation of this article or a rule promulgated under this article.

(c) False or misleading advertising.

(d) Negligence or failure to exercise due care, including negligent supervision of employees and subordinates.

(e) Permitting a license or certificate to be used by an unauthorized health facility or agency.

(f) Evidence of abuse regarding a patient's health, welfare, or safety or the denial of a patient's rights.

(g) Failure to comply with section 10115.

(h) Failure to comply with part 222 or a term, condition, or stipulation of a certificate of need issued under part 222, or both.

(i) A violation of section 20197(1).

(2) The department may deny an application for a license or certification based on a finding of a condition or practice that would constitute a violation of this article if the applicant were a licensee.

(3) Denial, suspension, or revocation of an individual emergency medical services personnel license under part 209 is governed by section 20958.

(4) If the department determines under subsection (1) that a health facility or agency has violated section 20197(1), the department shall impose an administrative fine of $5,000,000.00 on the health facility or agency.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 186, Eff. Oct. 7, 1986;—Am. 1988, Act 332, Eff. Oct. 1, 1988;—Am.

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1990, Act 179, Imd. Eff. July 2, 1990;—Am. 1998, Act 108, Eff. Mar. 23, 1999;—Am. 2008, Act 39, Eff. May 1, 2008;—Am. 2024, Act 250, Eff. Apr. 2, 2025.

Popular name: Act 368

333.20165a Action against health facility's treatment as authorized under right to try act; definitions.

Sec. 20165a. (1) Except in the case of gross negligence or willful misconduct as determined by the department, a health facility's cooperation in a treatment recommended by a health professional as authorized under the right to try act, alone, is not grounds for the department to take any action against a licensee under section 20165.

(2) As used in this section:

(a) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether serious injury to a person would result.

(b) "Willful misconduct" means conduct committed with an intentional or reckless disregard for the safety of others, as by failing to exercise reasonable care to prevent a known danger.

History: Add. 2014, Act 346, Imd. Eff. Oct. 17, 2014.

333.20166 Notice of intent to deny, limit, suspend, or revoke license or certification; service; contents; hearing; record; transcript; determination; powers of department; judicial order to appear and give testimony; contempt; failure to show need for health facility or agency.

Sec. 20166. (1) Notice of intent to deny, limit, suspend, or revoke a license or certification shall be given by certified mail or personal service, shall set forth the particular reasons for the proposed action, and shall fix a date, not less that 30 days after the date of service, on which the applicant or licensee shall be given the opportunity for a hearing before the director or the director's authorized representative. The hearing shall be conducted in accordance with the administrative procedures act of 1969 and rules promulgated by the department. A full and complete record shall be kept of the proceeding and shall be transcribed when requested by an interested party, who shall pay the cost of preparing the transcript.

(2) On the basis of a hearing or on the default of the applicant or licensee, the department may issue, deny, limit, suspend, or revoke a license or certification. A copy of the determination shall be sent by certified mail or served personally upon the applicant or licensee. The determination becomes final 30 days after it is mailed or served, unless the applicant or licensee within the 30 days appeals the decision to the circuit court in the county of jurisdiction or to the Ingham county circuit court.

(3) The department may establish procedures, hold hearings, administer oaths, issue subpoenas, or order testimony to be taken at a hearing or by deposition in a proceeding pending at any stage of the proceeding. A person may be compelled to appear and testify and to produce books, papers, or documents in a proceeding.

(4) In case of disobedience of a subpoena, a party to a hearing may invoke the aid of the circuit court of the jurisdiction in which the hearing is held to require the attendance and testimony of witnesses. The circuit court may issue an order requiring an individual to appear and give testimony. Failure to obey the order of the circuit court may be punished by the court as a contempt.

(5) The department shall not deny, limit, suspend, or revoke a license on the basis of an applicant's or licensee's failure to show a need for a health facility or agency unless the health facility or agency has not obtained a certificate of need required by part 222.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 332, Eff. Oct. 1, 1988.

Compiler's note: In paragraph (1), the words “not less that 30 days” evidently should read “not less than 30 days.”

Popular name: Act 368

333.20168 Emergency order limiting, suspending, or revoking license; limiting reimbursements or payments; hearing; contents of order; order not suspended by hearing.

Sec. 20168. (1) Upon a finding that a deficiency or violation of this article or the rules promulgated under this article seriously affects the health, safety, and welfare of individuals receiving care or services in or from a licensed health facility or agency, the department may issue an emergency order limiting, suspending, or revoking the license of the health facility or agency. If the department of public health issues an emergency order affecting the license of a nursing home, the department of public health may request the department of social services to limit reimbursements or payments authorized under section 21718. The department shall provide an opportunity for a hearing within 5 working days after issuance of the order.

(2) An order shall incorporate the department's findings. The conduct of a hearing under this section shall not suspend the department's order.

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.20169 HIV infected test subject; compliance with reporting requirements; definitions.

Sec. 20169. (1) A health facility or agency licensed under this article that obtains from a test subject a test result that indicates that the test subject is HIV infected shall comply with the reporting requirements of section 5114.

(2) As used in this section:

(a) "HIV" means human immunodeficiency virus.

(b) "HIV infected" means that term as defined in section 5101.

History: Add. 1988, Act 489, Eff. Mar. 30, 1989.

Popular name: Act 368

333.20170 Medical records access; compliance.

Sec. 20170. A health facility or agency shall comply with the medical records access act.

History: Add. 2004, Act 48, Imd. Eff. Apr. 1, 2004.

Popular name: Act 368

333.20171 Rules implementing article; rules promulgated under MCL 333.21563; rules subject to MCL 554.917.

Sec. 20171. (1) The department shall promulgate and enforce rules to implement this article, including rules necessary to enable a health facility or agency to qualify for and receive federal funds available for patient care or for projects involving new construction, additions, modernizations, or conversions.

(2) The rules applicable to health facilities or agencies must be uniform insofar as is reasonable.

(3) The rules must establish standards relating to:

(a) Ownership.

(b) Reasonable disclosure of ownership interests in proprietary corporations and of financial interests of trustees of voluntary, nonprofit corporations and owners of proprietary corporations and partnerships.

(c) Organization and function of the health facility or agency, owner, operator, and governing body.

(d) Administration.

(e) Professional and nonprofessional staff, services, and equipment appropriate to implement section 20141(3).

(f) Policies and procedures.

(g) Fiscal and medical audit.

(h) Utilization and quality control review.

(i) Physical plant including planning, construction, functional design, sanitation, maintenance, housekeeping, and fire safety.

(j) Arrangements for the continuing evaluation of the quality of health care provided.

(k) Other pertinent organizational, operational, and procedural requirements for each type of health facility or agency.

(4) The rules promulgated under section 21563 for the designation of rural community hospitals may also specify all of the following:

(a) Maximum bed size.

(b) The level of services to be provided in each category as described in section 21562(2).

(c) Requirements for transfer agreements with other hospitals to ensure efficient and appropriate patient care.

(5) Rules promulgated under this article are subject to section 17 of the continuing care community disclosure act, 2014 PA 448, MCL 554.917.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1990, Act 252, Imd. Eff. Oct. 12, 1990;—Am. 2014, Act 449, Imd. Eff. Jan. 2, 2015;—Am. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

Administrative rules: R 325.1001 et seq.; R 325.1801 et seq.; R 325.2301 et seq.; R 325.3801 et seq.; R 325.6001 et seq.; R 325.20101 et seq.; and R 325.23101 et seq. of the Michigan Administrative Code.

333.20172 Policies and procedures; publication and distribution.

Sec. 20172. The department may publish and distribute written policies and procedures in the form of departmental letters necessary to the effective administration of this article.

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

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Popular name: Act 368

333.20173 Repealed. 2006, Act 28, Eff. Apr. 1, 2006.

Compiler's note: The repealed section pertained to criminal history check for employment applicants to nursing home, county medical care facility, or home for the aged.

333.20173a Covered facility; employees or applicants for employment; prohibitions; criminal history check; procedure; conditional employment or clinical privileges; knowingly providing false information as misdemeanor; prohibited use or dissemination of criminal history information as misdemeanor; review by licensing or regulatory department; conditions of continued employment; failure to conduct criminal history checks as misdemeanor; storage and retention of fingerprints; notification; electronic web-based system; definitions.

Sec. 20173a. (1) Except as otherwise provided in subsection (2), a covered facility shall not employ, independently contract with, or grant clinical privileges to an individual who regularly has direct access to or provides direct services to patients or residents in the covered facility if the individual satisfies 1 or more of the following:

(a) Has been convicted of a relevant crime described under 42 USC 1320a-7(a).

(b) Has been convicted of any of the following felonies, an attempt or conspiracy to commit any of those felonies, or any other state or federal crime that is similar to the felonies described in this subdivision, other than a felony for a relevant crime described under 42 USC 1320a-7(a), unless 15 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction before the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.

(*ii*) A felony involving cruelty or torture.

(*iii*) A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(*iv*) A felony involving criminal sexual conduct.

(*v*) A felony involving abuse or neglect.

(*vi*) A felony involving the use of a firearm or dangerous weapon.

(*vii*) A felony involving the diversion or adulteration of a prescription drug or other medications.

(c) Has been convicted of a felony or an attempt or conspiracy to commit a felony, other than a felony for a relevant crime described under 42 USC 1320a-7(a) or a felony described under subdivision (b), unless 10 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or clinical privileges or the date of the execution of the independent contract.

(d) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 10 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

(*ii*) A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(*iii*) A misdemeanor involving criminal sexual conduct.

(*iv*) A misdemeanor involving cruelty or torture unless otherwise provided under subdivision (e).

(*v*) A misdemeanor involving abuse or neglect.

(e) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 5 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.

(*ii*) A misdemeanor involving home invasion.

(*iii*) A misdemeanor involving embezzlement.

(*iv*) A misdemeanor involving negligent homicide or a violation of section 601d(1) of the Michigan vehicle

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code, 1949 PA 300, MCL 257.601d.

(*v*) A misdemeanor involving larceny unless otherwise provided under subdivision (g).

(*vi*) A misdemeanor of retail fraud in the second degree unless otherwise provided under subdivision (g).

(*vii*) Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under subdivision (d), (f), or (g).

(f) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 3 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.

(*ii*) A misdemeanor of retail fraud in the third degree unless otherwise provided under subdivision (g).

(*iii*) A misdemeanor under part 74 unless otherwise provided under subdivision (g).

(g) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the year immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract:

(*i*) A misdemeanor under part 74 if the individual, at the time of conviction, is under the age of 18.

(*ii*) A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

(h) Is the subject of an order or disposition under section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(i) Engages in conduct that becomes the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency under an investigation conducted in accordance with 42 USC 1395i-3 or 1396r.

(2) Except as otherwise provided in this subsection or subsection (5), a covered facility shall not employ, independently contract with, or grant privileges to an individual who regularly has direct access to or provides direct services to patients or residents in the covered facility until the covered facility or staffing agency has a criminal history check conducted in compliance with this section or has received criminal history record information in compliance with subsections (3) and (10). This subsection and subsection (1) do not apply to any of the following:

(a) An individual who is employed by, under independent contract to, or granted clinical privileges in a covered facility before April 1, 2006. On or before April 1, 2011, an individual who is exempt under this subdivision and who has not been the subject of a criminal history check conducted in compliance with this section shall provide the department of state police with a set of fingerprints and the department of state police shall input those fingerprints into the automated fingerprint identification system database established under subsection (13). An individual who is exempt under this subdivision is not limited to working within the covered facility with which he or she is employed by, under independent contract to, or granted clinical privileges on April 1, 2006 but may transfer to another covered facility, adult foster care facility, or mental health facility. If an individual who is exempt under this subdivision is subsequently convicted of a crime described under subsection (1)(a) to (g) or found to be the subject of a substantiated finding described under subsection (1)(i) or an order or disposition described under subsection (1)(h), or is found to have been convicted of a relevant crime described under 42 USC 1320a-7(a), then he or she is no longer exempt and shall be terminated from employment or denied employment or clinical privileges.

(b) An individual who is under an independent contract with a covered facility if he or she is not under the facility's control and the services for which he or she is contracted are not directly related to the provision of services to a patient or resident or if the services for which he or she is contracted allow for direct access to the patients or residents but are not performed on an ongoing basis. This exception includes, but is not limited to, an individual who is under an independent contract with the covered facility to provide utility, maintenance, construction, or communications services.

(3) An individual who applies for employment either as an employee or as an independent contractor or for clinical privileges with a staffing agency or covered facility and who has not been the subject of a criminal history check conducted in compliance with this section shall give written consent at the time of application for the department of state police to conduct a criminal history check under this section, along with identification acceptable to the department of state police. If the applicant has been the subject of a criminal history check conducted in compliance with this section, the applicant shall give written consent at the time of application for the covered facility or staffing agency to obtain the criminal history record information as prescribed in subsection (4) from the relevant licensing or regulatory department and for the department of

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state police to conduct a criminal history check under this section if the requirements of subsection (10) are not met and a request to the Federal Bureau of Investigation to make a determination of the existence of any national criminal history pertaining to the applicant is necessary, along with identification acceptable to the department of state police. Upon receipt of the written consent to obtain the criminal history record information and identification required under this subsection, the staffing agency or covered facility that has made a good faith offer of employment or an independent contract or clinical privileges to the applicant shall request the criminal history record information from the relevant licensing or regulatory department and shall make a request regarding that applicant to the relevant licensing or regulatory department to conduct a check of all relevant registries in the manner required in subsection (4). If the requirements of subsection (10) are not met and a request to the Federal Bureau of Investigation to make a subsequent determination of the existence of any national criminal history pertaining to the applicant is necessary, the covered facility or staffing agency shall proceed in the manner required in subsection (4). A staffing agency that employs an individual who regularly has direct access to or provides direct services to patients or residents under an independent contract with a covered facility shall submit information regarding the criminal history check conducted by the staffing agency to the covered facility that has made a good faith offer of independent contract to that applicant.

(4) Upon receipt of the written consent to conduct a criminal history check and identification required under subsection (3), a staffing agency or covered facility that has made a good faith offer of employment or an independent contract or clinical privileges to the applicant shall make a request to the department of state police to conduct a criminal history check on the applicant, to input the applicant's fingerprints into the automated fingerprint identification system database, and to forward the applicant's fingerprints to the Federal Bureau of Investigation. The department of state police shall request the Federal Bureau of Investigation to make a determination of the existence of any national criminal history pertaining to the applicant. The applicant shall provide the department of state police with a set of fingerprints. The request shall be made in a manner prescribed by the department of state police. The staffing agency or covered facility shall make the written consent and identification available to the department of state police. The staffing agency or covered facility shall make a request regarding that applicant to the relevant licensing or regulatory department to conduct a check of all relevant registries established according to federal and state law and regulations for any substantiated findings of abuse, neglect, or misappropriation of property. If the department of state police or the Federal Bureau of Investigation charges a fee for conducting the criminal history check, the staffing agency or covered facility shall pay the cost of the charge. Except as otherwise provided in this subsection, if the department of state police or the Federal Bureau of Investigation charges a fee for conducting the criminal history check, the department shall pay the cost of or reimburse the charge for a covered facility that is a home for the aged. After October 1, 2018, if the department of state police or the Federal Bureau of Investigation charges a fee for conducting the criminal history check, the department shall pay the cost of the charge up to 40 criminal history checks per year for a covered facility that is a home for the aged with fewer than 100 beds and 50 criminal history checks per year for a home for the aged with 100 beds or more. The staffing agency or covered facility shall not seek reimbursement for a charge imposed by the department of state police or the Federal Bureau of Investigation from the individual who is the subject of the criminal history check. A prospective employee or a prospective independent contractor covered under this section may not be charged for the cost of a criminal history check required under this section. The department of state police shall conduct a criminal history check on the applicant named in the request. The department of state police shall provide the department with a written report of the criminal history check conducted under this subsection. The report shall contain any criminal history record information on the applicant maintained by the department of state police. The department of state police shall provide the results of the Federal Bureau of Investigation determination to the department within 30 days after the request is made. If the requesting staffing agency or covered facility is not a state department or agency and if criminal history record information is disclosed on the written report of the criminal history check or the Federal Bureau of Investigation determination that resulted in a conviction, the department shall notify the staffing agency or covered facility and the applicant in writing of the type of crime disclosed on the written report of the criminal history check or the Federal Bureau of Investigation determination without disclosing the details of the crime. Any charges imposed by the department of state police or the Federal Bureau of Investigation for conducting a criminal history check or making a determination under this subsection shall be paid in the manner required under this subsection. The notice shall include a statement that the applicant has a right to appeal the information relied upon by the staffing agency or covered facility in making its decision regarding his or her employment eligibility based on the criminal history check. The notice shall also include information regarding where to file and describing the appellate procedures established under section 20173b.

(5) If a covered facility determines it necessary to employ or grant clinical privileges to an applicant before

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receiving the results of the applicant's criminal history check or criminal history record information under this section, the covered facility may conditionally employ or grant conditional clinical privileges to the individual if all of the following apply:

(a) The covered facility requests the criminal history check or criminal history record information under this section upon conditionally employing or conditionally granting clinical privileges to the individual.

(b) The individual signs a statement in writing that indicates all of the following:

(*i*) That he or she has not been convicted of 1 or more of the crimes that are described in subsection (1)(a) to (g) within the applicable time period prescribed by each subdivision respectively.

(*ii*) That he or she is not the subject of an order or disposition described in subsection (1)(h).

(*iii*) That he or she has not been the subject of a substantiated finding as described in subsection (1)(i).

(*iv*) That he or she agrees that, if the information in the criminal history check conducted under this section does not confirm the individual's statements under subparagraphs (*i*) to (*iii*), his or her employment or clinical privileges will be terminated by the covered facility as required under subsection (1) unless and until the individual appeals and can prove that the information is incorrect.

(*v*) That he or she understands that the conditions described in subparagraphs (*i*) to (*iv*) may result in the termination of his or her employment or clinical privileges and that those conditions are good cause for termination.

(c) Except as otherwise provided in this subdivision, the covered facility does not permit the individual to have regular direct access to or provide direct services to patients or residents in the covered facility without supervision until the criminal history check or criminal history record information is obtained and the individual is eligible for that employment or clinical privileges. If required under this subdivision, the covered facility shall provide on-site supervision of an individual in the covered facility on a conditional basis under this subsection by an individual who has undergone a criminal history check conducted in compliance with this section. A covered facility may permit an individual in the covered facility on a conditional basis under this subsection to have regular direct access to or provide direct services to patients or residents in the covered facility without supervision if all of the following conditions are met:

(*i*) The covered facility, at its own expense and before the individual has direct access to or provides direct services to patients or residents of the covered facility, conducts a search of public records on that individual through the internet criminal history access tool maintained by the department of state police and the results of that search do not uncover any information that would indicate that the individual is not eligible to have regular direct access to or provide direct services to patients or residents under this section.

(*ii*) Before the individual has direct access to or provides direct services to patients or residents of the covered facility, the individual signs a statement in writing that he or she has resided in this state without interruption for at least the immediately preceding 12-month period.

(*iii*) If applicable, the individual provides to the department of state police a set of fingerprints on or before the expiration of 10 business days following the date the individual was conditionally employed or granted conditional clinical privileges under this subsection.

(6) The department shall develop and distribute a model form for the statements required under subsection (5)(b) and (c). The department shall make the model form available to covered facilities upon request at no charge.

(7) If an individual is employed as a conditional employee or is granted conditional clinical privileges under subsection (5), and the information under subsection (3) or report under subsection (4) does not confirm the individual's statement under subsection (5)(b)(*i*) to (*iii*), the covered facility shall terminate the individual's employment or clinical privileges as required by subsection (1).

(8) An individual who knowingly provides false information regarding his or her identity, criminal convictions, or substantiated findings on a statement described in subsection (5)(b)(*i*) to (*iii*) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(9) A staffing agency or covered facility shall use criminal history record information obtained under subsection (3) or (4) only for the purpose of evaluating an applicant's qualifications for employment, an independent contract, or clinical privileges in the position for which he or she has applied and for the purposes of subsections (5) and (7). A staffing agency or covered facility or an employee of the staffing agency or covered facility shall not disclose criminal history record information obtained under subsection (3) or (4) to a person who is not directly involved in evaluating the applicant's qualifications for employment, an independent contract, or clinical privileges. An individual who knowingly uses or disseminates the criminal history record information obtained under subsection (3) or (4) in violation of this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both. Except for a knowing or intentional release of false information, a staffing agency or covered facility

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has no liability in connection with a criminal history check conducted in compliance with this section or the release of criminal history record information under this subsection.

(10) Upon consent of an applicant as required in subsection (3) and upon request from a staffing agency or covered facility that has made a good faith offer of employment or an independent contract or clinical privileges to the applicant, the relevant licensing or regulatory department shall review the criminal history record information, if any, and notify the requesting staffing agency or covered facility of the information in the manner prescribed in subsection (4). Until the department of state police can participate with the Federal Bureau of Investigation's automatic notification system similar to the system required of the state police under subsection (13) and federal regulations allow the federal criminal record to be used for subsequent authorized uses, as determined in an order issued by the department, a staffing agency or covered facility may rely on the criminal history record information provided by the relevant licensing or regulatory department under this subsection and a request to the Federal Bureau of Investigation to make a subsequent determination of the existence of any national criminal history pertaining to the applicant is not necessary if all of the following requirements are met:

(a) The criminal history check was conducted during the immediately preceding 12-month period.

(b) The applicant has been continuously employed by the staffing agency or a covered facility, adult foster care facility, or mental health facility since the criminal history check was conducted in compliance with this section or meets the continuous employment requirement of this subdivision other than being on layoff status for less than 1 year from a covered facility, adult foster care facility, or mental health facility.

(c) The applicant can provide evidence acceptable to the relevant licensing or regulatory department that he or she has been a resident of this state for the immediately preceding 12-month period.

(11) As a condition of continued employment, each employee, independent contractor, or individual granted clinical privileges shall do each of the following:

(a) Agree in writing to report to the staffing agency or covered facility immediately upon being arraigned for 1 or more of the criminal offenses listed in subsection (1)(a) to (g), upon being convicted of 1 or more of the criminal offenses listed in subsection (1)(a) to (g), upon becoming the subject of an order or disposition described under subsection (1)(h), and upon being the subject of a substantiated finding of neglect, abuse, or misappropriation of property as described in subsection (1)(i). Reporting of an arraignment under this subdivision is not cause for termination or denial of employment.

(b) If a set of fingerprints is not already on file with the department of state police, provide the department of state police with a set of fingerprints.

(12) In addition to sanctions set forth in section 20165, a licensee, owner, administrator, or operator of a staffing agency or covered facility who knowingly and willfully fails to conduct the criminal history checks as required under 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.

(13) The department of state police and the Federal Bureau of Investigation shall store and retain all fingerprints submitted under this section and provide for an automatic notification if and when subsequent criminal information submitted into the system matches a set of fingerprints previously submitted under this section. Upon such notification, the department of state police shall immediately notify the department and the department shall immediately contact each respective staffing agency or covered facility with which that individual is associated. Information in the database established under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(14) The department shall maintain an electronic web-based system to assist staffing agencies and covered facilities required to check relevant registries and conduct criminal history checks of its employees, independent contractors, and individuals granted privileges and to provide for an automated notice to those staffing agencies and covered facilities for those individuals inputted in the system who, since the initial criminal history check, have been convicted of a disqualifying offense or have been the subject of a substantiated finding of abuse, neglect, or misappropriation of property. The department may charge a staffing agency a 1-time set-up fee of up to $100.00 for access to the electronic web-based system under this section.

(15) As used in this section:

(a) "Adult foster care facility" means an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(b) "Convicted" means either of the following:

(*i*) For a crime that is not a relevant crime, a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

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(*ii*) For a relevant crime described under 42 USC 1320a-7(a), convicted means that term as defined in 42 USC 1320a-7.

(c) "Covered facility" means a health facility or agency that is a nursing home, county medical care facility, hospice, hospital that provides swing bed services, home for the aged, or home health agency.

(d) "Criminal history check conducted in compliance with this section" includes a criminal history check conducted under this section, under section 134a of the mental health code, 1974 PA 258, MCL 330.1134a, or under section 34b of the adult foster care facility licensing act, 1979 PA 218, MCL 400.734b.

(e) "Direct access" means access to a patient or resident or to a patient's or resident's property, financial information, medical records, treatment information, or any other identifying information.

(f) "Home health agency" means a person certified by Medicare whose business is to provide to individuals in their places of residence other than in a hospital, nursing home, or county medical care facility 1 or more of the following services: nursing services, therapeutic services, social work services, homemaker services, home health aide services, or other related services.

(g) "Independent contract" means a contract entered into by a covered facility with an individual who provides the contracted services independently or a contract entered into by a covered facility with a staffing agency that complies with the requirements of this section to provide the contracted services to the covered facility on behalf of the staffing agency.

(h) "Medicare" means benefits under the federal Medicare program established under title XVIII of the social security act, 42 USC 1395 to 1395*lll*.

(i) "Mental health facility" means a psychiatric facility or other facility defined in 42 USC 1396d(d) as described under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(j) "Staffing agency" means an entity that recruits candidates and provides temporary and permanent qualified staffing for covered facilities, including independent contractors.

(k) "Under the facility's control" means an individual employed by or under independent contract with a covered facility for whom the covered facility does both of the following:

(*i*) Determines whether the individual who has access to patients or residents may provide care, treatment, or other similar support service functions to patients or residents served by the covered facility.

(*ii*) Directs or oversees 1 or more of the following:

(A) The policy or procedures the individual must follow in performing his or her duties.

(B) The tasks performed by the individual.

(C) The individual's work schedule.

(D) The supervision or evaluation of the individual's work or job performance, including imposing discipline or granting performance awards.

(E) The compensation the individual receives for performing his or her duties.

(F) The conditions under which the individual performs his or her duties.

History: Add. 2006, Act 28, Eff. Apr. 1, 2006;—Am. 2008, Act 123, Imd. Eff. May 9, 2008;—Am. 2008, Act 443, Imd. Eff. Jan. 9, 2009;—Am. 2008, Act 444, Eff. Oct. 31, 2010;—Am. 2010, Act 291, Imd. Eff. Dec. 16, 2010;—Am. 2014, Act 66, Imd. Eff. Mar. 28, 2014;—Am. 2017, Act 167, Eff. Feb. 11, 2018.

Compiler's note: Enacting section 1 of Act 28 of 2006 provides:

"Enacting section 1. (1) Section 20173 of the public health code, 1978 PA 368, MCL 333.20173, is repealed effective April 1, 2006.

"(2) Section 20173a of the public health code, 1978 PA 368, MCL 333.20173a, as added by this amendatory act, takes effect April 1, 2006, since the department has secured the necessary federal approval to utilize federal funds to reimburse those facilities for the costs incurred for requesting a national criminal history check to be conducted by the federal bureau of investigation and the department has filed written notice of that approval with the secretary of state. The department shall issue a medicaid policy bulletin regarding the payment and reimbursement for the criminal history checks by April 1, 2006.

"(3) Section 20173b of the public health code, 1978 PA 368, MCL 333.20173b, as added by this amendatory act, takes effect the date this amendatory act is enacted."

Popular name: Act 368

333.20173b Individual disqualified or denied employment pursuant to MCL 333.20173, 333.20173a, or 330.1134a; appeal; report to legislature; "business day" defined.

Sec. 20173b. (1) An individual who has been disqualified from or denied employment by a health facility or agency that is a nursing home, county medical care facility, hospice, hospital that provides swing bed services, home for the aged, or home health agency or by a psychiatric facility or other facility defined in 42 USC 1396d(d) based on a criminal history check conducted pursuant to section 20173 or 20173a or pursuant to section 134a of the mental health code, 1974 PA 258, MCL 330.1134a, respectively, may appeal to the department if he or she believes that the criminal history report is inaccurate, and the appeal shall be conducted as a contested case hearing pursuant to the administrative procedures act of 1969. The individual shall file the appeal with the director of the department within 15 business days after receiving the written

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report of the criminal history check unless the conviction contained in the criminal history report is one that may be expunged or set aside. If an individual has been disqualified or denied employment based on a conviction that may be expunged or set aside, then he or she shall file the appeal on a form provided by the department within 15 business days after a court order granting or denying his or her application to expunge or set aside that conviction is granted. If the order is granted and the conviction is expunged or set aside, then the individual shall not be disqualified or denied employment based solely on that conviction. The director shall review the appeal and issue a written decision within 30 business days after receiving the appeal. The decision of the director is final.

(2) Beginning February 17, 2007 and each year thereafter for the next 3 years, the department shall provide the legislature with a written report regarding the appeals process implemented under this section for employees subject to criminal history checks. The report shall include, but is not limited to, for the immediately preceding year the number of applications for appeal received, the number of inaccuracies found and appeals granted with regard to the criminal history checks conducted under section 20173a, the average number of days necessary to complete the appeals process for each appeal, and the number of appeals rejected without a hearing and a brief explanation of the denial.

(3) As used in this section, "business day" means a day other than a Saturday, Sunday, or any legal holiday.

History: Add. 2006, Act 28, Imd. Eff. Feb. 17, 2006;—Am. 2014, Act 66, Imd. Eff. Mar. 28, 2014.

Compiler's note: Enacting section 1 of Act 28 of 2006 provides:

"Enacting section 1. (1) Section 20173 of the public health code, 1978 PA 368, MCL 333.20173, is repealed effective April 1, 2006.

"(2) Section 20173a of the public health code, 1978 PA 368, MCL 333.20173a, as added by this amendatory act, takes effect April 1, 2006, since the department has secured the necessary federal approval to utilize federal funds to reimburse those facilities for the costs incurred for requesting a national criminal history check to be conducted by the federal bureau of investigation and the department has filed written notice of that approval with the secretary of state. The department shall issue a medicaid policy bulletin regarding the payment and reimbursement for the criminal history checks by April 1, 2006.

"(3) Section 20173b of the public health code, 1978 PA 368, MCL 333.20173b, as added by this amendatory act, takes effect the date this amendatory act is enacted."

333.20174 Practice agreement; designation of physician by health facility or agency.

Sec. 20174. A health facility or agency may designate 1 or more physicians to enter into a practice agreement under section 17047 or 17547.

History: Add. 2016, Act 379, Eff. Mar. 22, 2017.

Popular name: Act 368

333.20175 Maintaining record for each patient; confidentiality; wrongfully altering or destroying records; noncompliance; fine; licensing and certification records as public records; confidentiality; disclosure; report or notice of disciplinary action; information provided in report; nature and use of certain records, data, and knowledge.

Sec. 20175. (1) A health facility or agency shall keep and maintain a record for each patient, including a full and complete record of tests and examinations performed, observations made, treatments provided, and in the case of a hospital, the purpose of hospitalization. If a medical service provided to a patient on or after the effective date of the amendatory act that added this sentence involves the vaginal or anal penetration of the patient, a health facility or agency shall ensure that the patient's medical record expressly states that vaginal or anal penetration was performed unless the medical service meets any of the circumstances described in subsection (2)(b)(*i*)(A), (B), (C), or (D).

(2) Unless a longer retention period is otherwise required under federal or state laws or regulations or by generally accepted standards of medical practice, a health facility or agency shall keep and retain each record required under subsection (1) as follows:

(a) Except as otherwise provided in subdivision (b), for a minimum of 7 years from the date of service to which the record pertains.

(b) For a minimum of 15 years from the date of service to which the record pertains if the service is performed on or after the effective date of the amendatory act that added this subdivision and 1 of the following applies:

(*i*) The record includes a medical service involving the vaginal or anal penetration of a patient. This subparagraph does not apply to a record for any of the following:

(A) A medical service that primarily relates to the patient's urological, gastrointestinal, reproductive, gynecological, or sexual health.

(B) A medical service that is necessary and associated with or incident to a medical emergency. As used in this sub-subparagraph, "medical emergency" means a circumstance that, in the good-faith medical judgment

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of a health professional who is licensed under article 15, creates an immediate threat of serious risk to the life or physical health of the patient.

(C) A medical service performed for the purpose of rectally administering a drug or medicine.

(D) A medical service performed to measure a patient's temperature.

(*ii*) The patient has filed a complaint with the health facility or agency alleging sexual misconduct by an individual who is employed by, under contract to, or granted privileges by the health facility or agency. As used in this subparagraph, "sexual misconduct" means the conduct described in section 90, 136, 145a, 145b, 145c, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.90, 750.136, 750.145a, 750.145b, 750.145c, 750.520b, 750.520c, 750.520d, 750.520e, or 750.520g, regardless of whether the conduct resulted in a criminal conviction.

(3) A health facility or agency shall maintain the records required under subsection (1) in such a manner as to protect their integrity, to ensure their confidentiality and proper use, and to ensure their accessibility and availability to each patient or the patient's authorized representative as required by law.

(4) Except as otherwise provided in subsection (6), a health facility or agency may destroy a record required under subsection (1) that is less than 7 years old only if both of the following are satisfied:

(a) The health facility or agency sends a written notice to the patient at the last known address of that patient informing the patient that the record is about to be destroyed, offering the patient the opportunity to request a copy of that record, and requesting the patient's written authorization to destroy the record.

(b) The health facility or agency receives written authorization from the patient or the patient's authorized representative agreeing to the destruction of the record.

(5) Except as otherwise provided under federal or state laws and regulations, records required to be maintained under subsection (1), other than a record described in subsection (2)(b), may be destroyed or otherwise disposed of after being maintained for 7 years, and records described in subsection (2)(b) may be destroyed or otherwise disposed of after being maintained for 15 years. If records maintained in accordance with this section are subsequently destroyed or otherwise disposed of, those records must be shredded, incinerated, electronically deleted, or otherwise disposed of in a manner that ensures continued confidentiality of the patient's health care information and any other personal information relating to the patient. If records are not destroyed or otherwise disposed of as provided under this subsection or subsection (4), the department may take action, including, but not limited to, contracting for or making other arrangements to ensure that those records and any other confidential identifying information related to the patient are properly destroyed or disposed of to protect the confidentiality of patient's health care information and any other personal information relating to the patient. Before the department takes action in accordance with this subsection, the department, if able to identify the health facility or agency responsible for the improper destruction or disposal of the medical records at issue, shall send a written notice to that health facility or agency at the last known address on file with the department and provide the health facility or agency with an opportunity to properly destroy or dispose of those medical records as required under this subsection or subsection (4), unless a delay in the proper destruction or disposal may compromise the patient's confidentiality. The department may assess the health facility or agency with the costs incurred by the department to enforce this subsection. In addition to the sanctions set forth in section 20165, a hospital that fails to comply with this subsection or subsection (4) is subject to an administrative fine of $10,000.00.

(6) A health facility or agency shall only destroy a record described in subsection (2)(b) in accordance with subsection (5).

(7) A hospital shall take precautions to ensure that the records required under subsection (1) are not wrongfully altered or destroyed. A hospital that fails to comply with this subsection is subject to an administrative fine of $10,000.00.

(8) Unless otherwise provided by law, the licensing and certification records required by this article are public records.

(9) Departmental officers and employees shall respect the confidentiality of patient clinical records and shall not divulge or disclose the contents of records in a manner that identifies an individual except pursuant to court order or as otherwise authorized by law.

(10) A health facility or agency that employs, contracts with, or grants privileges to a health professional licensed or registered under article 15 shall report the following to the department not more than 30 days after it occurs:

(a) Disciplinary action taken by the health facility or agency against a health professional licensed or registered under article 15 based on the licensee's or registrant's professional competence, disciplinary action that results in a change of employment status, or disciplinary action based on conduct that adversely affects the licensee's or registrant's clinical privileges for a period of more than 15 days. As used in this subdivision, "adversely affects" means the reduction, restriction, suspension, revocation, denial, or failure to renew the

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clinical privileges of a licensee or registrant by a health facility or agency.

(b) Restriction or acceptance of the surrender of the clinical privileges of a licensee or registrant under either of the following circumstances:

(*i*) The licensee or registrant is under investigation by the health facility or agency.

(*ii*) There is an agreement in which the health facility or agency agrees not to conduct an investigation into the licensee's or registrant's alleged professional incompetence or improper professional conduct.

(c) A case in which a health professional resigns or terminates a contract or whose contract is not renewed instead of the health facility or agency taking disciplinary action against the health professional.

(11) Upon request by another health facility or agency seeking a reference for purposes of changing or granting staff privileges, credentials, or employment, a health facility or agency that employs, contracts with, or grants privileges to health professionals licensed or registered under article 15 shall notify the requesting health facility or agency of any disciplinary or other action reportable under subsection (10) that it has taken against a health professional licensed or registered under article 15 and employed by, under contract to, or granted privileges by the health facility or agency.

(12) For the purpose of reporting disciplinary actions under this section, a health facility or agency shall include only the following in the information provided:

(a) The name of the licensee or registrant against whom disciplinary action has been taken.

(b) A description of the disciplinary action taken.

(c) The specific grounds for the disciplinary action taken.

(d) The date of the incident that is the basis for the disciplinary action.

(13) The records, data, and knowledge collected for or by individuals or committees assigned a professional review function in a health facility or agency, or an institution of higher education in this state that has colleges of osteopathic and human medicine, are confidential, must be used only for the purposes provided in this article, are not public records, and are not subject to court subpoena.

(14) This section does not apply to a health facility or agency that is a health maintenance organization.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2000, Act 319, Imd. Eff. Oct. 24, 2000;—Am. 2006, Act 481, Imd. Eff. Dec. 22, 2006;—Am. 2023, Act 62, Eff. Oct. 10, 2023.

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.20175a Agreement with another health facility to protect, maintain, and provide access to records; closure of health facility; noncompliance; fine; definitions.

Sec. 20175a. (1) If a health facility or agency is unable to comply with section 20175, the health facility or agency shall employ or contract, arrange, or enter into an agreement with another health facility or agency or a medical records company to protect, maintain, and provide access to those records required under section 20175(1).

(2) If a health facility or agency closes or otherwise ceases operation, the health facility or agency shall not abandon the records required to be maintained under section 20175(1) and shall send a written notice to the department that specifies who will have custody of the medical records and how a patient may request access to or copies of the patient's medical records and shall do either of the following:

(a) Transfer the records required under section 20175(1) to any of the following:

(*i*) A successor health facility or agency.

(*ii*) If designated by the patient or the patient's authorized representative, to the patient or a specific health facility or agency or a health care provider licensed or registered under article 15.

(*iii*) A health facility or agency or a medical records company with which the health facility or agency had contracted or entered into an agreement to protect, maintain, and provide access to those records required under section 20175(1).

(b) Except as otherwise provided in section 20175(6) and in accordance with section 20175(1) to (5), as long as the health facility or agency sends a written notice to the last known address of each patient for whom the health facility or agency has provided medical services and receives written authorization from the patient or the patient's authorized representative, destroy the records required under section 20175(1). The notice must provide the patient with 30 days to request a copy of the patient's records or to designate where the patient would like the patient's medical records transferred and must request from the patient within 30 days written authorization for the destruction of the patient's medical records. Except as otherwise provided in section 20175(6), if the patient fails to request a copy or transfer of the patient's medical records or to provide the health facility or agency with written authorization for the destruction, then the health facility or agency shall not destroy those records that are less than 7 years old but may destroy, in accordance with section

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20175(1) to (5), those that are 7 years old or older.

(3) Nothing in this section shall be construed to create or change the ownership rights to any medical records.

(4) A person that fails to comply with this section is subject to an administrative fine of not more than $10,000.00 if the failure was the result of gross negligence or willful and wanton misconduct.

(5) As used in this section:

(a) "Medical record" or "record" means information, oral or recorded in any form or medium, that pertains to a patient's health care, medical history, diagnosis, prognosis, or medical condition and that is maintained by a licensee in the process of providing medical services.

(b) "Medical records company" means a person who contracts for or agrees to protect, maintain, and provide access to medical records for a health facility or agency in accordance with section 20175.

(c) "Patient" means an individual who receives or has received health care from a health care provider or health facility or agency. Patient includes a guardian, if appointed, and a parent, guardian, or person acting in loco parentis, if the individual is a minor, unless the minor lawfully obtained health care without the consent or notification of a parent, guardian, or other person acting in loco parentis, in which case the minor has the exclusive right to exercise the rights of a patient under this section with respect to the minor's medical records relating to that care.

(6) This section does not apply to a health facility or agency that is a health maintenance organization.

History: Add. 2006, Act 481, Imd. Eff. Dec. 22, 2006;—Am. 2023, Act 62, Eff. Oct. 10, 2023.

Popular name: Act 368

333.20175b Violations of record retention requirements for medical services involving vaginal or anal penetration; penalties.

Sec. 20175b. (1) Except as otherwise provided in subsections (2) and (3), a person that violates section 20175(1) regarding the documentation of a medical service involving vaginal or anal penetration in a patient's medical record is subject to an administrative fine or guilty of a crime as follows:

(a) For a first violation, an administrative fine of not more than $2,500.00.

(b) For a second violation, an administrative fine of not more than $5,000.00.

(c) For a third or subsequent violation, a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than $7,500.00, or both.

(2) A person that violates section 20175(1) regarding the documentation of a medical service involving vaginal or anal penetration in a patient's medical record is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of $10,000.00, or both, if the violation was the result of gross negligence.

(3) A person that intentionally violates section 20175(1) regarding the documentation of a medical service involving vaginal or anal penetration in a patient's medical record is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $10,000.00, or both.

(4) This section does not limit any other sanction the department is authorized to impose under section 20165.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023.

Popular name: Act 368

333.20176 Notice of violation; investigation of complaints; notice of proposed action; public record; appeal; reinvestigation.

Sec. 20176. (1) A person may notify the department of a violation of this article or of a rule promulgated under this article that the person believes exists. The department shall investigate each written complaint received and shall notify the complainant in writing of the results of a review or investigation of the complaint and any action proposed to be taken. Except as otherwise provided in sections 20180, 21743(1)(d), and 21799a, the name of the complainant and the charges contained in the complaint are a matter of public record.

(2) Except as otherwise provided in section 21799a, a complainant who is aggrieved by the decision of the department under this section may appeal to the director. After review of an appeal under this subsection, the director may order the department to reinvestigate the complaint.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1994, Act 52, Imd. Eff. Mar. 31, 1994.

Popular name: Act 368

333.20176a Health facility or agency; prohibited conduct; violation; fine.

Sec. 20176a. (1) A health facility or agency shall not discharge or discipline, threaten to discharge or discipline, or otherwise discriminate against an employee regarding the employee's compensation, terms,

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conditions, location, or privileges of employment because the employee or an individual acting on behalf of the employee does either or both of the following:

(a) In good faith reports or intends to report, verbally or in writing, the malpractice of a health professional or a violation of this article, article 7, article 8, or article 15 or a rule promulgated under this article, article 7, article 8, or article 15.

(b) Acts as an expert witness in a civil action involving medical malpractice or in an administrative action.

(2) In addition to the sanctions set forth in section 20165, a health facility or agency that violates subsection (1) is subject to an administrative fine of not more than $10,000.00 for each violation.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1994, Act 52, Imd. Eff. Mar. 31, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

Popular name: Act 368

333.20177 Action to restrain, enjoin, or prevent establishment, maintenance, or operation of health facility or agency.

Sec. 20177. Notwithstanding the existence and pursuit of any other remedy, the director, without posting a bond, may request the prosecuting attorney or attorney general to bring an action in the name of the people of this state to restrain, enjoin, or prevent the establishment, maintenance, or operation of a health facility or agency in violation of this article or rules promulgated under this article.

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

Popular name: Act 368

333.20178 Nursing home, home for the aged, or county medical care facility; description of services to patients or residents with Alzheimer's disease; contents; "represents to the public" defined.

Sec. 20178. (1) Beginning not more than 90 days after the effective date of the amendatory act that added this section, a health facility or agency that is a nursing home, home for the aged, or county medical care facility that represents to the public that it provides inpatient care or services or residential care or services, or both, to persons with Alzheimer's disease or a related condition shall provide to each prospective patient, resident, or surrogate decision maker a written description of the services provided by the health facility or agency to patients or residents with Alzheimer's disease or a related condition. A written description shall include, but not be limited to, all of the following:

(a) The overall philosophy and mission reflecting the needs of patients or residents with Alzheimer's disease or a related condition.

(b) The process and criteria for placement in or transfer or discharge from a program for patients or residents with Alzheimer's disease or a related condition.

(c) The process used for assessment and establishment of a plan of care and its implementation.

(d) Staff training and continuing education practices.

(e) The physical environment and design features appropriate to support the function of patients or residents with Alzheimer's disease or a related condition.

(f) The frequency and types of activities for patients or residents with Alzheimer's disease or a related condition.

(g) Identification of supplemental fees for services provided to patients or residents with Alzheimer's disease or a related condition.

(2) As used in this section, "represents to the public" means advertises or markets the facility as providing specialized Alzheimer's or dementia care services.

History: Add. 2000, Act 500, Imd. Eff. Jan. 11, 2001.

Popular name: Act 368

333.20179 Artificial insemination services on anonymous basis; use of frozen sperm; testing sperm donor for presence of HIV or antibody to HIV; violation; liability; definitions.

Sec. 20179. (1) A health facility or agency licensed under this article that provides artificial insemination services on an anonymous basis shall use only frozen sperm, and shall test each potential sperm donor for the presence in the donor of HIV or an antibody to HIV. The donated sperm shall be frozen, stored, and quarantined for not less than 6 months. Before frozen sperm is used for artificial insemination, and not less than 6 months after the date of the donation, the health facility or agency shall take a second blood sample from the donor and have that blood sample tested for HIV or an antibody to HIV. If at any time the test results are positive, the health facility or agency licensed under this article shall not use the sperm of the donor for artificial insemination purposes.

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(2) A health facility or agency licensed under this article that violates this section shall be liable in a civil action for damages for the loss or damage resulting from the violation.

(3) As used in this section:

(a) "Anonymous basis" means that the recipient of the sperm does not know the identity of the donor, but the health facility or agency licensed under this article that provides the artificial insemination services or collects the sperm from the donor does know the identity of the donor.

(b) "HIV" means human immunodeficiency virus.

History: Add. 1988, Act 487, Eff. July 1, 1989.

Popular name: Act 368

333.20180 Health facility or agency; person making or assisting in originating, investigating, or preparing report or complaint; immunity and protection from civil or criminal liability; disclosure of identity; notice; "hospital" defined.

Sec. 20180. (1) A person employed by or under contract to a health facility or agency or any other person acting in good faith who makes a report or complaint including, but not limited to, a report or complaint of a violation of this article or a rule promulgated under this article; who assists in originating, investigating, or preparing a report or complaint; or who assists the department in carrying out its duties under this article is immune from civil or criminal liability that might otherwise be incurred and is protected under the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369. A person described in this subsection who makes or assists in making a report or complaint, or who assists the department as described in this subsection, is presumed to have acted in good faith. The immunity from civil or criminal liability granted under this subsection extends only to acts done pursuant to this article.

(2) Unless a person described in subsection (1) otherwise agrees in writing, the department shall keep the person's identity confidential until disciplinary proceedings under this article are initiated against the subject of the report or complaint and the person making or assisting in originating, investigating, or preparing the report or complaint is required to testify in the disciplinary proceedings. If disclosure of the person's identity is considered by the department to be essential to the disciplinary proceedings and if the person is the complainant, the department shall give the person an opportunity to withdraw the complaint before disclosure.

(3) Subject to subsection (4), a person employed by or under contract to a hospital is immune from civil or criminal liability that might otherwise be incurred and shall not be discharged, threatened, or otherwise discriminated against by the hospital regarding that person's compensation or the terms, conditions, location, or privileges of that person's employment if that person reports to the department, verbally or in writing, an issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article. The protections afforded under this subsection do not limit, restrict, or diminish, in any way, the protections afforded under the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369.

(4) Except as otherwise provided in subsection (5), a person employed by or under contract to a hospital is eligible for the immunity and protection provided under subsection (3) only if the person meets all of the following conditions before reporting to the department the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article:

(a) The person gave the hospital 60 days' written notice of the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article. A person who provides a hospital written notice as provided under this subdivision shall not be discharged, threatened, or otherwise discriminated against by the hospital regarding that person's compensation or the terms, conditions, location, or privileges of that person's employment. Within 60 days after receiving a written notice of an issue related to the hospital that is an unsafe practice or condition, the hospital shall provide a written response to the person who provided that written notice.

(b) The person had no reasonable expectation that the hospital had taken or would take timely action to address the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article.

(5) Subsection (4) does not apply if the person employed by or under contract to a hospital is required by law to report the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article before the expiration of the 60 days' notice required under subsection (4).

(6) A hospital shall post notices and use other appropriate means to keep a person employed by or under contract to the hospital informed of their protections and obligations under this section. The notices shall be in a form approved by the department. The notice shall be made available on the department's internet website and shall be posted in 1 or more conspicuous places where notices to persons employed by or under contract

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to a hospital are customarily posted.

(7) As used in this section, "hospital" means a hospital licensed under article 17.

History: Add. 1994, Act 52, Imd. Eff. Mar. 31, 1994;—Am. 2002, Act 731, Imd. Eff. Dec. 30, 2002.

Popular name: Act 368

333.20181 Abortion; admitting patient not required; refusal to perform, participate in, or allow; immunity.

Sec. 20181. A hospital, clinic, institution, teaching institution, or other health facility is not required to admit a patient for the purpose of performing an abortion. A hospital, clinic, institution, teaching institution, or other health facility or a physician, member, or associate of the staff, or other person connected therewith, may refuse to perform, participate in, or allow to be performed on its premises an abortion. The refusal shall be with immunity from any civil or criminal liability or penalty.

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

Popular name: Act 368

333.20182 Abortion; objection; participation in medical procedures not required; immunity.

Sec. 20182. A physician, or other individual who is a member of or associated with a hospital, clinic, institution, teaching institution, or other health facility, or a nurse, medical student, student nurse, or other employee of a hospital, clinic, institution, teaching institution, or other health facility in which an abortion is performed, who states an objection to abortion on professional, ethical, moral, or religious grounds, is not required to participate in the medical procedures which will result in abortion. The refusal by the individual to participate does not create a liability for damages on account of the refusal or for any disciplinary or discriminatory action by the patient, hospital, clinic, institution, teaching institution, or other health facility against the individual.

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

Popular name: Act 368

333.20183 Abortion; refusal to give advice; refusal to participate in; immunity.

Sec. 20183. (1) A physician who informs a patient that he or she refuses to give advice concerning, or participate in, an abortion is not liable to the hospital, clinic, institution, teaching institution, health facility, or patient for the refusal.

(2) A civil action for negligence or malpractice or a disciplinary or discriminatory action may not be maintained against a person refusing to give advice as to, or participating in, an abortion based on the refusal.

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

Popular name: Act 368

333.20184 Rights of individuals, staff members, and employees previously participating in, or expressing willingness to participate in, termination of pregnancy.

Sec. 20184. A hospital, clinic, institution, teaching institution, or other health facility which refuses to allow abortions to be performed on its premises shall not deny staff privileges or employment to an individual for the sole reason that the individual previously participated in, or expressed a willingness to participate in, a termination of pregnancy. A hospital, clinic, institution, teaching institution, or other health facility shall not discriminate against its staff members or other employees for the sole reason that the staff members or employees have participated in, or have expressed a willingness to participate in, a termination of pregnancy.

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

Popular name: Act 368

333.20188 Repealed. 2004, Act 119, Eff. Nov. 27, 2005.

Compiler's note: The repealed section pertained to creation of commission on patient safety.

Popular name: Act 368

333.20189 Licensure under the interstate medical licensure compact as condition of employment; prohibit.

Sec. 20189. A health facility or agency shall not require a physician who is licensed under article 15 to seek licensure through the interstate medical licensure compact enacted in section 16189 as a condition of initial or continued employment. However, a health facility or agency may require a physician who is licensed under article 15 to obtain and maintain a license to engage in the practice of medicine or practice of osteopathic medicine and surgery in 1 or more other states if the physician is free to obtain and maintain each

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license by any means authorized by the laws of the other states.

History: Add. 2018, Act 524, Eff. Mar. 28, 2019.

Popular name: Act 368

333.20189a Written practice agreement; condition of employment; prohibited.

Sec. 20189a. A health facility or agency shall not require a dentist to enter into a written practice agreement with a dental therapist as a condition of employment. As used in this section, "written practice agreement" means that term as defined in section 16655.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019.

Compiler's note: Act 368

333.20191 Emergency patient; test for presence of infectious agent; positive test results; duties of health facility; notice; request for testing; confidentiality; rules; disclosure as misdemeanor; liability; definitions.

Sec. 20191. (1) If a police officer, fire fighter, individual licensed under section 20950 or 20952, or another individual assists an emergency patient who is subsequently transported to a health facility or transports an emergency patient to a health facility, and if the emergency patient, as part of the treatment rendered by the health facility or pursuant to a request made under subsection (2), is tested for the presence in the emergency patient of an infectious agent and the test results are positive, or is tested pursuant to a request made under subsection (2) for the presence in the emergency patient of the infectious agent of HIV or HBV and the test results are positive or negative, the health facility shall do all of the following:

(a) Subject to subsection (4) and subdivision (b), if the test results are positive for an infectious agent and the individual meets 1 of the following requirements, notify the individual on a form provided by the department that he or she may have been exposed to an infectious agent and, if the test results of a test conducted pursuant to subsection (2) are negative for the infectious agent of HIV or HBV, notify the individual of that fact:

(*i*) The individual is a police officer, fire fighter, or individual licensed under section 20950 or 20952.

(*ii*) The individual demonstrates in writing to the health facility that he or she was exposed to the blood, body fluids, or airborne agents of the emergency patient or participated in providing assistance to the emergency patient or transportation of the emergency patient to the health facility. An individual who makes a request under subsection (2) is exempt from the requirements of this subparagraph.

(b) Subject to subsection (4), if the test results indicate that the emergency patient is HIV infected, the health facility shall not reveal that the infectious agent is HIV unless the health facility has received a written request for notification from an individual described in subdivision (a)(*i*) or (*ii*). This subdivision does not apply if the test results indicate that the emergency patient is not HIV infected.

(c) Subject to subsection (4), on a form provided by the department, notify the individual described in subdivision (a), at a minimum, of the appropriate infection control precautions to be taken and the approximate date of the potential exposure. If the emergency patient is tested pursuant to a request made under subsection (2) for the presence in the emergency patient of the infectious agent of HIV or HBV, or both, and if the test results are positive or negative, the health facility also shall notify the individual described in subdivision (a) on the form provided by the department that he or she should be tested for HIV infection or HBV infection, or both, and counseled regarding both infectious agents.

(2) A police officer, fire fighter, individual licensed under section 20950 or 20952, or other individual who assists an emergency patient who is subsequently transported to a health facility or who transports an emergency patient to a health facility and who sustains a percutaneous, mucous membrane, or open wound exposure to the blood or body fluids of the emergency patient may request that the emergency patient be tested for HIV infection or HBV infection, or both, pursuant to this subsection. The police officer, fire fighter, individual licensed under section 20950 or 20952, or other individual shall make a request to a health facility under this subsection in writing on a form provided by the department and before the emergency patient is discharged from the health facility. The request form shall be dated and shall contain at a minimum the name and address of the individual making the request and a description of the individual's exposure to the emergency patient's blood or other body fluids. The request form shall contain a space for the information required under subsection (3) and a statement that the requester is subject to the confidentiality requirements of subsection (5) and section 5131. The request form shall not contain information that would identify the emergency patient by name. A health facility that receives a request under this subsection shall accept as fact the requester's description of his or her exposure to the emergency patient's blood or other body fluids, unless the health facility has reasonable cause to believe otherwise. The health facility shall make a determination as to whether or not the exposure described in the request was a percutaneous, mucous membrane, or open

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wound exposure pursuant to R 325.70001 to R 325.70018 of the Michigan administrative code. If the health facility determines that the exposure described in the request was a percutaneous, mucous membrane, or open wound exposure, the health facility shall test the emergency patient for HIV infection or HBV infection, or both, as indicated in the request. A health facility that performs a test under this subsection may charge the individual requesting the test for the reasonable and customary charges of the test. The individual requesting the test is responsible for the payment of the charges if the charges are not payable by the individual's employer, pursuant to an agreement between the individual and the employer, or by the individual's health care payment or benefits plan. A health facility is not required to provide HIV counseling pursuant to section 5133(1) to an individual who requests that an emergency patient be tested for HIV under this subsection, unless the health facility tests the requesting individual for HIV.

(3) A health facility shall comply with this subsection if the health facility receives a request under subsection (2) and determines either that there is reasonable cause to disbelieve the requester's description of his or her exposure or that the exposure was not a percutaneous, mucous membrane, or open wound exposure and as a result of the determination the health facility is not required to test the emergency patient for HIV infection or HBV infection, or both. A health facility shall also comply with this subsection if the health facility receives a request under subsection (2) and determines that the exposure was a percutaneous, mucous membrane, or open wound exposure, but is unable to test the emergency patient for HIV infection or HBV infection, or both. The health facility shall state in writing on the request form the reasons for disbelieving the requester's description of his or her exposure, the health facility's exposure determination, or the inability to test the emergency patient, as applicable. The health facility shall transmit a copy of the completed request form to the requesting individual within 2 days after the date the determination is made that the health facility has reasonable cause to disbelieve the requester's description of his or her exposure or that the exposure was not a percutaneous, mucous membrane, or open wound exposure or within 2 days after the date the health facility determines that it is unable to test the emergency patient for HIV infection or HBV infection, or both.

(4) The notification required under subsection (1) shall occur within 2 days after the test results are obtained by the health facility or after receipt of a written request under subsection (1)(b). The notification shall be transmitted to the potentially exposed individual or, upon request of the individual, to the individual's primary care physician or other health professional designated by the individual, as follows:

(a) If the potentially exposed individual provides his or her name and address or the name and address of the individual's primary care physician or other health professional designated by the individual to the health facility or if the health facility has a procedure that allows the health facility in the ordinary course of its business to determine the individual's name and address or the name and address of the individual's primary care physician or other health professional designated by the individual, the health facility shall notify the individual or the individual's primary care physician or other health professional designated by the individual directly at that address.

(b) If the potentially exposed individual is a police officer, fire fighter, or individual licensed under section 20950 or 20952, and if the health facility does not have the name of the potentially exposed individual or the individual's primary care physician or other health professional designated by the individual, the health facility shall notify the appropriate police department, fire department, or life support agency that employs or dispatches the individual. If the health facility is unable to determine the employer of an individual described in this subdivision, the health facility shall notify the medical control authority or chief elected official of the governmental unit that has jurisdiction over the transporting vehicle.

(c) A medical control authority or chief elected official described in subdivision (b) shall notify the potentially exposed individual or the individual's primary care physician or other health professional designated by the individual or, if unable to notify the potentially exposed individual or the individual's primary care physician or other health professional designated by the individual, shall document in writing the notification efforts and reasons for being unable to make the notification.

(5) The notice required under subsection (1) shall not contain information that would identify the emergency patient who tested positive for an infectious agent or who tested positive or negative for the presence in the emergency patient of the infectious agent of HIV or HBV. The information contained in the notice is confidential and is subject to this section, the rules promulgated under section 5111, and section 5131. A person who receives confidential information under this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.

(6) The department shall promulgate rules to administer this section. The department shall develop and distribute the forms required under subsections (1)(a) and (c) and (2).

(7) Except as otherwise provided in this subsection, a person who discloses information regarding an infectious agent in violation of subsection (5) is guilty of a misdemeanor. This subsection does not apply to the disclosure of information regarding a serious communicable disease or infection, if the disclosure is

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subject to rules promulgated under section 5111 or to section 5131.

(8) A person or governmental entity that makes a good faith effort to comply with subsection (1), (2), (3), or (4) is immune from any civil liability or criminal penalty based on compliance or the failure to comply.

(9) As used in this section:

(a) "Emergency patient" means an individual who is transported to an organized emergency department located in and operated by a hospital licensed under this article or a facility other than a hospital that is routinely available for the general care of medical patients.

(b) "HBV" means hepatitis B virus.

(c) "HBV infected" or "HBV infection" means the status of an individual who is tested as HBsAg-positive.

(d) "Health facility" means a health facility or agency as defined in section 20106.

(e) "HIV" means human immunodeficiency virus.

(f) "HIV infected" means that term as defined in section 5101.

(g) "Infectious agent" means that term as defined in R 325.9031 of the Michigan administrative code.

(h) "Life support agency" means that term as defined in section 20906.

(i) "Serious communicable disease or infection" means that term as defined in section 5101.

History: Add. 1988, Act 490, Eff. Mar. 30, 1989;—Am. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 1994, Act 419, Eff. Mar 30, 1995;—Am. 2010, Act 119, Imd. Eff. July 13, 2010.

Popular name: Act 368

333.20192 Do-not-resuscitate order; execution not required.

Sec. 20192. A health facility or agency shall not require the execution of a do-not-resuscitate order under the Michigan do-not-resuscitate procedure act as a condition for admission or receipt of services.

History: Add. 1996, Act 192, Eff. Aug. 1, 1996.

Popular name: Act 368

333.20192a POST form as condition for admission or receipt of services; requirement prohibited.

Sec. 20192a. A health facility or agency shall not require the execution of a POST form under part 56B as a condition for admission or the receipt of services.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.20193 Compliance.

Sec. 20193. A health facility or agency shall comply with part 138.

History: Add. 1990, Act 21, Eff. June 4, 1990.

Popular name: Act 368

333.20194 Pamphlets; display; distribution; model standardized complaint form; availability.

Sec. 20194. (1) Subject to subsections (2), (3), and (4), a health facility or agency, except a health facility or agency licensed under part 209, and including a health facility that is not licensed under this article but holds itself out as providing medical services, shall conspicuously display in the patient waiting areas or other common areas of the health facility or agency copies of a pamphlet developed by the department of consumer and industry services outlining the procedure for filing a complaint against a health facility or agency with the department and the procedure for filing a complaint against an individual who is licensed or registered under article 15 and employed by, under contract to, or granted privileges by the health facility or agency. The pamphlet shall be developed and distributed by the department of consumer and industry services after consultation with appropriate professional associations.

(2) The department of consumer and industry services shall develop the pamphlets required under subsection (1) in languages that are appropriate to the ethnic composition of the patient population where the pamphlet will be displayed. The department shall use large, easily readable type and nontechnical, easily understood language in the pamphlet. The department shall periodically distribute copies of the pamphlet to each health facility or agency and to each unlicensed health facility described in subsection (1).

(3) The department of consumer and industry services shall include a model standardized complaint form in the pamphlet described in subsection (1). The department may develop a separate model standardized complaint form that is specific to a particular health facility or agency or category of health facilities and agencies. The department shall develop a model standardized complaint form that is specific to nursing homes. The department shall include on the model standardized complaint form, at a minimum, simple instructions on how to file a complaint, including with the nursing home as required under section 21723, the

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department, the state long-term care ombudsman, the Michigan protection and advocacy service, inc., and the health care fraud unit of the department of attorney general. The department shall distribute copies of the model standardized complaint form simultaneously with copies of the pamphlet as required under subsection (2). The nursing home shall conspicuously display and make available multiple copies of the pamphlet and model standardized complaint form with the complaint information required to be posted under section 21723 in the patient waiting areas or other common areas of the nursing home that are easily accessible to nursing home patients and their visitors, as described in subsection (1), and shall provide a copy of the pamphlet and complaint form to each nursing home resident or the resident's surrogate decision maker upon admission to the nursing home. The department shall include on the model standardized complaint form a telephone number for the receipt of oral complaints.

(4) The department may continue to distribute the complaint pamphlets within its possession on the effective date of the amendatory act that added this subsection until the department's stock is exhausted or until October 1, 2003, whichever is sooner. Beginning October 1, 2003, the department shall only distribute the complaint pamphlets and model standardized complaint forms that are in compliance with subsections (2) and (3).

(5) The department shall make the complaint pamphlet and the model standardized complaint form available to the public on the department's internet website. The department shall take affirmative action toward the development and implementation of an electronic filing system that would allow an individual to file a complaint through the website.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2003, Act 3, Imd. Eff. Apr. 22, 2003.

Popular name: Act 368

333.20197 Human cloning in facility owned or operated by health facility or agency.

Sec. 20197. (1) A health facility or agency shall not allow a licensee or registrant under article 15 or any other individual to engage in or attempt to engage in human cloning in a facility owned or operated by the health facility or agency.

(2) Subsection (1) does not prohibit a health facility or agency from allowing a licensee or registrant under article 15 or any other individual from engaging in scientific research or cell-based therapies not specifically prohibited by that subsection.

(3) A health facility or agency that violates subsection (1) is subject to the administrative penalties prescribed in section 20165(4).

(4) This section does not give a person a private right of action.

(5) As used in this section, "human cloning" means that term as defined in section 16274.

History: Add. 1998, Act 108, Eff. Mar. 23, 1999.

Popular name: Act 368

333.20198 Health facility, agency inpatient facility, or residential facility; prohibited conduct; violation as misdemeanor; penalty; nonapplicability of subsections (1) and (2).

Sec. 20198. (1) Subject to subsection (3), an individual shall not enter upon the premises of a health facility or agency that is an inpatient facility, an outpatient facility, or a residential facility for the purpose of engaging in an activity that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes a health facility or agency employee, patient, resident, or visitor to feel terrorized, frightened, intimidated, threatened, harassed, or molested. This subsection does not prohibit constitutionally protected activity or conduct that serves a legitimate purpose.

(2) An individual who violates subsection (1) is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not less than $1,000.00 or more than $10,000.00, or both.

(3) Subsections (1) and (2) do not apply to a nursing home covered under sections 21763(5) and 21799c(1)(c).

History: Add. 1998, Act 270, Eff. Mar. 23, 1999.

Popular name: Act 368

333.20199 Violations; penalties.

Sec. 20199. (1) Except as otherwise provided in subsection (2) or this article, a person that violates this article or a rule promulgated or an order issued under this article is guilty of a misdemeanor, punishable by a fine of not more than $1,000.00 for each day the violation continues or, in case of a violation of sections 20551 to 20554, a fine of not more than $1,000.00 for each occurrence.

(2) A person that violates sections 20181 to 20184 is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $2,000.00, or both.

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History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2023, Act 62, Eff. Oct. 10, 2023.

Popular name: Act 368

333.20201 Policy describing rights and responsibilities of patients or residents; adoption; posting; contents; additional requirements; discharging, harassing, retaliating, or discriminating against patient exercising protected right; exercise of rights by patient's representative; informing patient or resident of policy; designation of person to exercise rights and responsibilities; additional patients' rights; definitions.

Sec. 20201. (1) A health facility or agency that provides services directly to patients or residents and is licensed under this article shall adopt a policy describing the rights and responsibilities of patients or residents admitted to the health facility or agency. Except for a licensed health maintenance organization that is subject to chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3573, the health facility or agency shall post the policy at a public place in the health facility or agency and shall provide the policy to each member of the health facility or agency staff. Patients or residents shall be treated in accordance with the policy.

(2) The policy describing the rights and responsibilities of patients or residents required under subsection (1) shall include, as a minimum, all of the following:

(a) A patient or resident shall not be denied appropriate care on the basis of race, religion, color, national origin, sex, age, disability, marital status, sexual preference, or source of payment.

(b) An individual who is or has been a patient or resident is entitled to inspect, or receive for a reasonable fee, a copy of his or her medical record upon request in accordance with the medical records access act, 2004 PA 47, MCL 333.26261 to 333.26271. Except as otherwise permitted or required under the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, a third party shall not be given a copy of the patient's or resident's medical record without prior authorization of the patient or resident.

(c) A patient or resident is entitled to confidential treatment of personal and medical records, and may refuse their release to a person outside the health facility or agency except as required because of a transfer to another health care facility, as required by law or third party payment contract, or as permitted or required under the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164.

(d) A patient or resident is entitled to privacy, to the extent feasible, in treatment and in caring for personal needs with consideration, respect, and full recognition of his or her dignity and individuality.

(e) A patient or resident is entitled to receive adequate and appropriate care, and to receive, from the appropriate individual within the health facility or agency, information about his or her medical condition, proposed course of treatment, and prospects for recovery, in terms that the patient or resident can understand, unless medically contraindicated as documented in the medical record by the attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse.

(f) A patient or resident is entitled to refuse treatment to the extent provided by law and to be informed of the consequences of that refusal. If a refusal of treatment prevents a health facility or agency or its staff from providing appropriate care according to ethical and professional standards, the relationship with the patient or resident may be terminated upon reasonable notice.

(g) A patient or resident is entitled to exercise his or her rights as a patient or resident and as a citizen, and to this end may present grievances or recommend changes in policies and services on behalf of himself or herself or others to the health facility or agency staff, to governmental officials, or to another person of his or her choice within or outside the health facility or agency, free from restraint, interference, coercion, discrimination, or reprisal. A patient or resident is entitled to information about the health facility's or agency's policies and procedures for initiation, review, and resolution of patient or resident complaints.

(h) A patient or resident is entitled to information concerning an experimental procedure proposed as a part of his or her care and has the right to refuse to participate in the experimental procedure without jeopardizing his or her continuing care.

(i) A patient or resident is entitled to receive and examine an explanation of his or her bill regardless of the source of payment and to receive, upon request, information relating to financial assistance available through the health facility or agency.

(j) A patient or resident is entitled to know who is responsible for and who is providing his or her direct care, to receive information concerning his or her continuing health needs and alternatives for meeting those needs, and to be involved in his or her discharge planning, if appropriate.

(k) A patient or resident is entitled to associate and have private communications and consultations with

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his or her physician or a physician's assistant with whom the physician has a practice agreement, with his or her advanced practice registered nurse, with his or her attorney, or with any other individual of his or her choice and to send and receive personal mail unopened on the same day it is received at the health facility or agency, unless medically contraindicated as documented in the medical record by the attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse. A patient's or resident's civil and religious liberties, including the right to independent personal decisions and the right to knowledge of available choices, shall not be infringed and the health facility or agency shall encourage and assist in the fullest possible exercise of these rights. A patient or resident may meet with, and participate in, the activities of social, religious, and community groups at his or her discretion, unless medically contraindicated as documented in the medical record by the attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse.

(*l*) A patient or resident is entitled to be free from mental and physical abuse and from physical and chemical restraints, except those restraints authorized in writing by the attending physician, by a physician's assistant with whom the physician has a practice agreement, or by an advanced practice registered nurse, for a specified and limited time or as are necessitated by an emergency to protect the patient or resident from injury to self or others, in which case the restraint may only be applied by a qualified professional who shall set forth in writing the circumstances requiring the use of restraints and who shall promptly report the action to the attending physician, physician's assistant, or advanced practice registered nurse who authorized the restraint. In case of a chemical restraint, the physician, or the advanced practice registered nurse who authorized the restraint, shall be consulted within 24 hours after the commencement of the chemical restraint.

(m) A patient or resident is entitled to be free from performing services for the health facility or agency that are not included for therapeutic purposes in the plan of care.

(n) A patient or resident is entitled to information about the health facility or agency rules and regulations affecting patient or resident care and conduct.

(o) A patient or resident is entitled to adequate and appropriate pain and symptom management as a basic and essential element of his or her medical treatment.

(3) The following additional requirements for the policy described in subsection (2) apply to licensees under parts 213 and 217:

(a) The policy shall be provided to each nursing home patient or home for the aged resident upon admission, and the staff of the facility shall be trained and involved in the implementation of the policy.

(b) Each nursing home patient may associate and communicate privately with persons of his or her choice. Reasonable, regular visiting hours, which shall be not less than 8 hours per day, and which shall take into consideration the special circumstances of each visitor, shall be established for patients to receive visitors. A patient may be visited by the patient's attorney or by representatives of the departments named in section 20156, during other than established visiting hours. Reasonable privacy shall be afforded for visitation of a patient who shares a room with another patient. Each patient shall have reasonable access to a telephone. A married nursing home patient or home for the aged resident is entitled to meet privately with his or her spouse in a room that ensures privacy. If both spouses are residents in the same facility, they are entitled to share a room unless medically contraindicated and documented in the medical record by the attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse.

(c) A nursing home patient or home for the aged resident is entitled to retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other patients or residents, or unless medically contraindicated as documented in the medical record by the attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse. Each nursing home patient or home for the aged resident shall be provided with reasonable space. At the request of a patient, a nursing home shall provide for the safekeeping of personal effects, money, and other property of a patient in accordance with section 21767, except that a nursing home is not required to provide for the safekeeping of a property that would impose an unreasonable burden on the nursing home.

(d) A nursing home patient or home for the aged resident is entitled to the opportunity to participate in the planning of his or her medical treatment. The attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse, shall fully inform the nursing home patient of the patient's medical condition unless medically contraindicated as documented in the medical record by a physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse. Each nursing home patient shall be afforded the opportunity to discharge himself or herself from the nursing home.

(e) A home for the aged resident may be transferred or discharged only for medical reasons, for his or her

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welfare or that of other residents, or for nonpayment of his or her stay, except as provided by title XVIII or title XIX. A nursing home patient may be transferred or discharged only as provided in sections 21773 to 21777. A nursing home patient or home for the aged resident is entitled to be given reasonable advance notice to ensure orderly transfer or discharge. Those actions shall be documented in the medical record.

(f) A nursing home patient or home for the aged resident is entitled to be fully informed before or at the time of admission and during stay of services available in the facility, and of the related charges including any charges for services not covered under title XVIII, or not covered by the facility's basic per diem rate. The statement of services provided by the facility shall be in writing and shall include those required to be offered on an as-needed basis.

(g) A nursing home patient or home for the aged resident is entitled to manage his or her own financial affairs, or to have at least a quarterly accounting of personal financial transactions undertaken in his or her behalf by the facility during a period of time the patient or resident has delegated those responsibilities to the facility. In addition, a patient or resident is entitled to receive each month from the facility an itemized statement setting forth the services paid for by or on behalf of the patient and the services rendered by the facility. The admission of a patient to a nursing home does not confer on the nursing home or its owner, administrator, employees, or representatives the authority to manage, use, or dispose of a patient's property.

(h) A nursing home patient or a person authorized by the patient in writing may inspect and copy the patient's personal and medical records. The records shall be made available for inspection and copying by the nursing home within a reasonable time, not exceeding 1 week, after the receipt of a written request.

(i) If a nursing home patient desires treatment by a licensed member of the healing arts, the treatment shall be made available unless it is medically contraindicated, and the medical contraindication is justified in the patient's medical record by the attending physician, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse.

(j) A nursing home patient has the right to have his or her parents, if a minor, or his or her spouse, next of kin, or patient's representative, if an adult, stay at the facility 24 hours a day if the patient is considered terminally ill by the physician responsible for the patient's care, a physician's assistant with whom the physician has a practice agreement, or an advanced practice registered nurse.

(k) Each nursing home patient shall be provided with meals that meet the recommended dietary allowances for that patient's age and sex and that may be modified according to special dietary needs or ability to chew.

(*l*) Each nursing home patient has the right to receive representatives of approved organizations as provided in section 21763.

(4) A nursing home, its owner, administrator, employee, or representative shall not discharge, harass, or retaliate or discriminate against a patient because the patient has exercised a right protected under this section.

(5) In the case of a nursing home patient, the rights enumerated in subsection (2)(c), (g), and (k) and subsection (3)(d), (g), and (h) may be exercised by the patient's representative.

(6) A nursing home patient or home for the aged resident is entitled to be fully informed, as evidenced by the patient's or resident's written acknowledgment, before or at the time of admission and during stay, of the policy required by this section. The policy shall provide that if a patient or resident is adjudicated incompetent and not restored to legal capacity, the rights and responsibilities set forth in this section shall be exercised by a person designated by the patient or resident. The health facility or agency shall provide proper forms for the patient or resident to provide for the designation of this person at the time of admission.

(7) This section does not prohibit a health facility or agency from establishing and recognizing additional patients' rights.

(8) As used in this section:

(a) "Advanced practice registered nurse" means that term as defined in section 17201.

(b) "Patient's representative" means that term as defined in section 21703.

(c) "Practice agreement" means an agreement described in section 17047, 17547, or 18047.

(d) "Title XVIII" means title XVIII of the social security act, 42 USC 1395 to 1395*lll*.

(e) "Title XIX" means title XIX of the social security act, 42 USC 1396 to 1396w-5.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1982, Act 354, Imd. Eff. Dec. 21, 1982;—Am. 1998, Act 88, Imd. Eff. May 13, 1998;—Am. 2001, Act 240, Imd. Eff. Jan. 8, 2002;—Am. 2006, Act 38, Imd. Eff. Mar. 2, 2006;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011;—Am. 2016, Act 379, Eff. Mar. 22, 2017;—Am. 2016, Act 499, Eff. Apr. 9, 2017.

Popular name: Act 368

Popular name: Patient Rights

333.20202 Responsibilities of patient or resident.

Sec. 20202. (1) A patient or resident is responsible for following the health facility rules and regulations affecting patient or resident care and conduct.

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(2) A patient or resident is responsible for providing a complete and accurate medical history.

(3) A patient or resident is responsible for making it known whether he or she clearly comprehends a contemplated course of action and the things he or she is expected to do.

(4) A patient or resident is responsible for following the recommendations and advice prescribed in a course of treatment by the physician.

(5) A patient or resident is responsible for providing information about unexpected complications that arise in an expected course of treatment.

(6) A patient or resident is responsible for being considerate of the rights of other patients or residents and health facility personnel and property.

(7) A patient or resident is responsible for providing the health facility with accurate and timely information concerning his or her sources of payment and ability to meet financial obligations.

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

Popular name: Act 368

333.20203 Guidelines; immunity; other remedies at law neither expanded nor diminished.

Sec. 20203. (1) The rights and responsibilities prescribed in sections 20201 and 20202 are guidelines for health facilities, facility staff, facility employees, patients, and residents. An individual shall not be civilly or criminally liable for failure to comply with those sections.

(2) Sections 20201 and 20202 shall not be construed to expand or diminish other remedies at law available to a patient or resident under this code or the statutory and common law of this state.

(3) The department shall develop guidelines to assist health facilities and agencies in the implementation of sections 20201 and 20202.

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

Popular name: Act 368

333.20211 Repealed. 2022, Act 187, Imd. Eff. July 25, 2022.

Compiler's note: The repealed section pertained to a summary of activities related to licensing and regulations.

Popular name: Act 368

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PART 203
AMBULANCE OPERATIONS AND ADVANCED MOBILE EMERGENCY CARE SERVICES

333.20301-333.20382 Repealed. 1981, Act 79, Imd. Eff. June 30, 1981.

Popular name: Act 368

PART 204
MEDICAL GOOD-FAITH PROVISIONS

333.20401 Short title of part.

Sec. 20401. This part shall be known and may be cited as the "medical good-faith provisions act".

History: Add. 2013, Act 57, Eff. Sept. 10, 2013.

Popular name: Act 368

333.20403 Life-sustaining or nonbeneficial treatment; policies of heath facility or agency; disclosure to patient or resident; patient as minor or ward.

Sec. 20403. (1) Upon the request of a patient or resident or a prospective patient or resident, a health facility or agency shall disclose in writing any policies related to a patient or resident or the services a patient or resident may receive involving life-sustaining or nonbeneficial treatment within that health facility or agency.

(2) If the patient or resident or prospective patient or resident is a minor or ward, the health facility or agency shall upon request provide in writing the policies described in subsection (1) to a parent or legal guardian of the patient or resident or prospective patient or resident.

History: Add. 2013, Act 57, Eff. Sept. 10, 2013.

Popular name: Act 368

333.20405 Policy required by federal or state law.

Sec. 20405. This part does not require a health facility or agency to establish or maintain a policy described in section 20403 that is not already required by federal or state law on the effective date of this part.

History: Add. 2013, Act 57, Sept. 10, 2013.

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Popular name: Act 368

PART 205
CLINICAL AND OTHER LABORATORIES

333.20501 "Laboratory" defined; principles of construction.

Sec. 20501. (1) As used in this part, "laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

(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. 2015, Act 104, Eff. Oct. 1, 2015.

Compiler's note: For transfer of powers and duties of the division of health facility licensing and certification in the bureau of health systems, division of federal support services, and the division of emergency medical services, with the exception of the division of managed care and division of health facility development, from the department of public health to the director of the department of commerce, 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 bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 368

333.20507 Laboratories to which MCL 333.20501 to 333.20525 inapplicable.

Sec. 20507. Sections 20501 to 20525 do not apply to any of the following:

(a) A laboratory where examinations are always performed personally by the individual desiring the information.

(b) A laboratory operated by an individual licensed to practice medicine, osteopathic medicine and surgery, dentistry, or podiatry who performs clinical laboratory tests or procedures personally or through his or her employees only as an adjunct to the treatment of the licensee's patients.

(c) A laboratory operated in the manner described in subdivision (b) by a group of not more than 5 individuals licensed to practice medicine, osteopathic medicine and surgery, dentistry, or podiatry.

(d) A laboratory operated by a college, university, or school approved by the department of education that is conducted for the training of its students, if the result of an examination performed in the clinical laboratory is not used in the diagnosis and treatment of disease.

(e) A laboratory operated by the federal government.

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

Popular name: Act 368

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333.20511 Repealed. 2015, Act 104, Eff. Oct. 1, 2015.

Compiler's note: The repealed section pertained to contents, display, and validity of license for clinical laboratory.

333.20515 Repealed. 2015, Act 104, Eff. Oct. 1, 2015.

Compiler's note: The repealed section pertained to staffing and operation of clinical laboratory.

333.20521 Authorization to order laboratory test classified by Food and Drug Administration.

Sec. 20521. Only a physician, dentist, or other person authorized by law can order a laboratory test that has been classified by the Food and Drug Administration as moderate or high complexity. A laboratory test that is classified by the Food and Drug Administration as waived does not require an order.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 104, Eff. Oct. 1, 2015.

Popular name: Act 368

333.20525 Repealed. 2015, Act 104, Eff. Oct. 1, 2015.

Compiler's note: The repealed section pertained to denial, limitation, suspension, or revocation of license.

333.20531 Lead analysis; clinical laboratory reporting requirements.

Sec. 20531. Not later than 90 days after the effective date of this section, the department shall mail a notice to each clinical laboratory doing business in this state explaining the reporting requirements of this section. Beginning October 1, 2005, a clinical laboratory that analyzes a blood sample for lead shall report the results of the blood lead analysis to the department electronically in a format as prescribed by the department. The clinical laboratory shall submit the report to the department as required under this section within 5 days after

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the analysis is completed.

History: Add. 2004, Act 54, Imd. Eff. Apr. 12, 2004.

Popular name: Act 368

333.20551 Registration of laboratory or other place handling, cultivating, selling, giving away, or shipping pathogenic microorganisms, or doing recombinant deoxyribonucleic acid research; application for and duration of registration number; "handled", "cultivated", and "shipped" defined.

Sec. 20551. (1) A laboratory or other place where live bacteria, fungi, mycoplasma, parasites, viruses, or other microorganisms of a pathogenic nature are handled, cultivated, sold, given away, or shipped from or to or where recombinant deoxyribonucleic acid research is done shall be registered with the department, and a registration number shall be issued to each place registered. An application for a registration number shall be made by the person in charge of the laboratory or other place where the pathogens are handled or where recombinant deoxyribonucleic acid research is done. The registration number is valid for 1 year and may be renewed upon application to the department.

(2) As used in this section and section 20552, "handled", "cultivated", or "shipped" does not include the collection of specimens, the initial inoculation of specimens into transport media or culture media, or the shipment to registered laboratories, but does include any additional work performed on cultivated pathogenic microorganisms or any recombinant deoxyribonucleic acid research is done.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 104, Eff. Oct. 1, 2015.

Popular name: Act 368

333.20552 Registration of laboratory, department, or school handling pathogens or doing recombinant deoxyribonucleic acid research; application for and duration of registration number.

Sec. 20552. The department shall register a laboratory or a department of a college, university, or school which is responsible for the handling, cultivating, selling, giving away, or shipping of the microorganisms described in section 20551(1) or is engaged in recombinant deoxyribonucleic acid research. The person in charge of the laboratory or department where the pathogens are handled or where recombinant deoxyribonucleic acid research is done shall apply for a registration number. The registration is valid for 1 year and may be renewed upon application.

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

Popular name: Act 368

333.20554 Sale, gift, or other distribution of live pathogenic microorganisms and cultures or recombinant deoxyribonucleic acid materials; contents of label on container; record.

Sec. 20554. Live pathogenic bacteria, fungi, mycoplasma, parasites, viruses, or other microorganisms or cultures of the microorganisms when sold, given away, or shipped by a laboratory or other person, shall bear a label on the container showing the registration number of the laboratory or other person sending the specimens and the name and address of the person to whom sent. A laboratory or person shall not sell or convey a live pathogenic microorganism or recombinant deoxyribonucleic acid materials to any other laboratory or person in this state without permission of the department unless each is registered under section 20551 or 20552. The laboratory or person shall keep a record of each sale, gift, or other distribution of live pathogenic microorganisms and cultures or recombinant deoxyribonucleic acid materials containing the name and laboratory address of the recipient or purchaser. The record shall be at all times open to examination and copying by a representative of the department.

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

Popular name: Act 368

PART 206
COUNTY MEDICAL CARE FACILITIES

333.20601-333.20621 Repealed. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

PART 207
FREESTANDING BIRTH CENTERS

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333.20701 General definitions and principles of construction.

Sec. 20701. (1) As used in this part:

(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 health profession specialty field of nurse midwifery by the Michigan board of nursing under section 17210.

(b) "Freestanding birth center" means a facility that provides midwifery care for normal deliveries, well-person reproductive and sexual health care, extended postpartum care, and newborn care, that is within the scope of practice of the health care provider. Freestanding birth center does not include a hospital or freestanding surgical outpatient facility.

(c) "Health care provider" means any of the following:

(*i*) A physician.

(*ii*) A physician's assistant licensed under part 170 or 175.

(*iii*) A certified nurse midwife.

(*iv*) A midwife.

(d) "Midwife" means that term as defined in section 17101.

(e) "Midwifery care" means the practice of midwifery as that term is defined in section 17101 by a midwife and the practice of nursing by a certified nurse midwife.

(f) "Physician" means that term as defined in section 17001 or 17501.

(g) "Social determinants of health" means the social and economic conditions that influence individual and group differences in health status.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Compiler's note: Former MCL 333.20701-333.20773 Expired. 1981, Act 79, Eff. Sept. 30, 1989;—Repealed, 1990, Act 179, Imd. Eff. July 2, 1990.

Popular name: Act 368

333.20711 License required; use of term "freestanding birth center".

Sec. 20711. (1) A freestanding birth center must be licensed under this article.

(2) "Freestanding birth center" or a similar term or abbreviation must not be used to describe or refer to a health facility or agency unless it is licensed by the department under this article.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.20713 Owner, operator, governing body of freestanding birth center; responsibilities and duties.

Sec. 20713. The owner, operator, and governing body of a freestanding birth center licensed under this article:

(a) Are responsible for all phases of the operation of the freestanding birth center, selection of health care providers, and quality of care rendered in the freestanding birth center.

(b) Shall cooperate with the department in the enforcement of this article and require that the health care providers and other personnel working in the freestanding birth center and for whom a state license or registration is required be currently licensed or registered.

(c) Subject to sections 20719 and 20721, shall ensure that health care providers are of a sufficient number to maintain safety and quality of care and have the qualifications, training, and skills necessary to meet operational needs and the needs of a patient, considering the caseload and size of the freestanding birth center.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.20715 Compliance requirements.

Sec. 20715. Subject to this part, part 171, and any rules promulgated for purposes of this part and part 171, a freestanding birth center shall comply with all of the following:

(a) Have a plan to identify needs caused by social determinants of health and, with the consent of a patient, refer the patient to a support service to address the patient's needs. For purposes of this subdivision, "support service" includes, but is not limited to, a food assistance program, a counseling service, an early childhood development resource, a housing assistance program, or an intimate partner violence support group.

(b) Develop, implement, and enforce written policies and procedures for the freestanding birth center's operations. The policies and procedures must be made available to health care providers and other personnel

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who are employed by or under contract with the freestanding birth center and must comply with all of the following:

(*i*) Be administered in a manner that provides quality health care services in a safe environment.

(*ii*) Identify a process for hiring, credentialing, and training staff.

(*iii*) Ensure that the right of a patient to informed consent and to refuse treatment is upheld at every stage of care.

(*iv*) Include a process by which health care providers who are employed by or under contract with the freestanding birth center comply with all of the following:

(A) Refer a patient to services that are not directly provided by the freestanding birth center, including, but not limited to, outside laboratory testing services, lactation support services, and childbirth education.

(B) Consult with another health care provider.

(C) Refer a patient to another health care provider.

(D) Transfer the care of a patient to another health care provider with the informed consent of the patient.

(E) Initiate patient transport to a hospital described under subdivision (e) when needed by calling 9-1-1 or an ambulance operation or by arranging other means for patient transport.

(F) Notify a hospital described under subdivision (e) of the freestanding birth center's license.

(*v*) Include a process by which a patient's medical record is provided to another health care provider upon the patient's request or if the patient is transferred as described in subparagraph (*iv*)(D) or (E).

(c) Ensure that services are provided in a community setting with adequate space for furnishings, equipment, supplies, and accommodations for patients and the families of patients.

(d) Ensure that a patient is notified of each health care provider within the freestanding birth center who maintains a malpractice liability insurance policy and each health care provider who does not.

(e) Identify a hospital to which a patient may be transferred from the freestanding birth center and that is in close proximity to the freestanding birth center.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.20717 Prohibited conduct; development of policies and procedures; exception for insufficient time.

Sec. 20717. (1) A freestanding birth center shall not do any of the following:

(a) Except as otherwise provided in this subdivision, use general or regional anesthesia, including epidural anesthesia. Local anesthesia, nitrous oxide, and other forms of pain relief may be administered at the freestanding birth center if all of the following are met:

(*i*) It is determined to be clinically necessary by a health care provider.

(*ii*) It is administered by a health care provider who is acting within the scope of the health care provider's practice.

(*iii*) It is used according to the freestanding birth center's policies and procedures and according to the professionally recognized standards of practice described in section 20727.

(b) Use pharmacologic agents to induce, stimulate, or augment labor, or bring about cervical ripening, during the first or second stages of labor or before labor. A freestanding birth center may use pharmacologic agents during the delivery of a placenta and in the postpartum period.

(c) Perform surgical procedures other than the following:

(*i*) Episiotomies.

(*ii*) Repairs of perineal lacerations.

(*iii*) Circumcisions.

(*iv*) Newborn frenulum revisions.

(*v*) Any other surgical procedure that is authorized by the department by rule.

(d) Use vacuum extractors or vaginal forceps.

(e) Except as otherwise provided in subsection (3), permit a patient to deliver at the freestanding birth center if any of the following limiting factors apply:

(*i*) Fetal gestation is less than 36 weeks and 0 days.

(*ii*) Labor has not started before fetal gestation of 42 weeks and 1 day.

(*iii*) Any other limiting factor established by rule under section 20727 is present in the patient or the clinical needs of the patient fall outside the scope of practice of a health care provider at the freestanding birth center.

(2) A freestanding birth center shall develop policies and procedures for assessing a patient seeking perinatal care to determine whether it is appropriate for the patient to deliver at the freestanding birth center.

(3) A freestanding birth center may permit a patient who meets a limiting factor described in subsection (1)

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or in rules promulgated under section 20727 to deliver at the freestanding birth center if there is insufficient time to convey the responsibility for the care of the patient to a hospital before the fetus is born.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.20719 Provision of quality perinatal care and information; availability of health care provider; personnel and equipment requirements.

Sec. 20719. (1) A freestanding birth center shall provide quality perinatal care that promotes physiologic birth, including, but not limited to, all of the following:

(a) Respectful, supportive care during labor, for which the patient has provided consent.

(b) Minimization of stress-inducing stimuli.

(c) Freedom of movement.

(d) Oral intake, as appropriate.

(e) Availability of nonpharmacologic pain relief methods.

(f) Regular and appropriate assessment of the patient and fetus throughout labor.

(2) The freestanding birth center shall provide a patient, at the inception of care, with all of the following information:

(a) A written description of the training, philosophy of practice, qualifications, and license or specialty certification of a health care provider who is employed by or under contract with the freestanding birth center.

(b) A written description of the freestanding birth center's patient practice policies.

(c) The complaint process for state and national credentialing organizations for a health care provider who is employed by or under contract with the freestanding birth center.

(3) The freestanding birth center shall ensure that a health care provider is present or available to the patient at all times when a patient is admitted to the freestanding birth center and until the patient and the newborn are determined to be clinically stable, based on criteria established by the freestanding birth center.

(4) The freestanding birth center shall ensure that a health care provider monitors the progress of a patient's labor and the condition of the patient and fetus or newborn at intervals established in the freestanding birth center's policies and procedures.

(5) Subject to this subsection, the freestanding birth center shall have the personnel and equipment necessary to ensure patient safety, meet the demands for services that are routinely provided in the freestanding birth center, provide coverage during periods of high demand or in the case of an emergency, and respond to patient health emergencies that may arise while a patient is receiving services in the freestanding birth center, including, but not limited to, basic life support, neonatal resuscitation, and the initial management of postpartum complications. The freestanding birth center shall ensure that at least 2 individuals are on the premises and immediately available during a delivery who are certified in basic life support from the American Heart Association or an equivalent organization as determined by the department and are certified in neonatal resuscitation from the American Academy of Pediatrics, the American Heart Association, or an equivalent organization, as determined by the department.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.20721 Discharge, follow-up, and evaluation requirements.

Sec. 20721. (1) A freestanding birth center shall not discharge a patient from the birth center until the patient is clinically stable and has met discharge criteria established by the freestanding birth center.

(2) A freestanding birth center shall ensure that a program for follow-up care and postpartum evaluation is planned for each patient.

(3) A freestanding birth center shall ensure that both of the following are available to a patient of the freestanding birth center 24 hours a day and 7 days a week:

(a) Consultation with a health care provider by telephone.

(b) A health care provider or other personnel who are available on call to provide intrapartum care to the patient.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.20722 Limitations on departmental requirements.

Sec. 20722. (1) The department shall not require a freestanding birth center to do any of the following:

(a) Maintain a collaborative agreement with another health facility or agency or with a health care provider who is not employed by or under contract with a freestanding birth center.

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(b) Provide care other than midwifery care.

(2) Subsection (1) does not limit a freestanding birth center from maintaining a collaborative agreement or providing care other than midwifery care as described under subsection (1).

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.20723 Health care providers; recommended vaccinations; immunization requirements; tuberculosis testing.

Sec. 20723. (1) A freestanding birth center shall recommend that health care providers and other personnel who are employed by or under contract with the freestanding birth center receive an annual vaccination against influenza and recommend that health care providers and other personnel who are employed by or under contract with the freestanding birth center are fully vaccinated against COVID-19.

(2) A freestanding birth center shall provide evidence to the department, on request, of immunization, positive titer result, or documentation of refusal for health care providers and other personnel who are employed by or under contract with the freestanding birth center, for each of the following:

(a) Rubella.

(b) Tdap.

(c) Hepatitis B.

(d) Varicella.

(e) Against any other disease required by the department by rule.

(3) A freestanding birth center shall conduct tuberculosis testing before employing or entering into a contract with an individual who will work in the freestanding birth center.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.20727 Promulgation of rules.

Sec. 20727. The department, in consultation with representatives of freestanding birth centers, the Michigan Affiliate of the American College of Nurse-Midwives, the Michigan Midwives Association, the Michigan board of nursing, the Michigan board of licensed midwifery, and the State of Birth Justice, shall promulgate rules to implement this part. The rules must include at least all of the following:

(a) Professionally recognized standards of practice based on standards issued by the American Association of Birth Centers, the American College of Nurse-Midwives, and the National Association of Certified Professional Midwives. If any of the standards described in this subdivision are revised after the effective date of the amendatory act that added this section, the department shall take notice of the revision. The department, in consultation with the persons described in this section, may promulgate rules to incorporate any revision by reference.

(b) Limiting factors that, when present, would preclude a patient from delivering at the freestanding birth center because the patient is not considered to be a patient with a normal delivery. The rules must allow a freestanding birth center to develop policies that would include additional limiting factors to preclude delivery at the freestanding birth center.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.20729 Enforcement of part.

Sec. 20729. Notwithstanding part 201, the department shall not enforce this part or any rules promulgated for purposes of this part, including, but not limited to, the requirement that a freestanding birth center be licensed under this article, until 2 years after the effective date of the amendatory act that added this part.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.20735 Third-party reimbursement or worker's compensation benefits.

Sec. 20735. This part does not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered at a freestanding birth center.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

PART 208
FREESTANDING SURGICAL OUTPATIENT FACILITIES

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333.20801 General definitions and principles of construction.

Sec. 20801. Article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

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

Compiler's note: For transfer of powers and duties of the division of health facility licensing and certification in the bureau of health systems, division of federal support services, and the division of emergency medical services, with the exception of the division of managed care and division of health facility development, from the department of public health to the director of the department of commerce, 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 bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 368

333.20811 License required; use of term "freestanding surgical outpatient facility."

Sec. 20811. (1) A freestanding surgical outpatient facility shall be licensed under this article.

(2) "Freestanding surgical outpatient facility" or a similar term or abbreviation shall not be used to describe or refer to a health facility or agency unless it is licensed by the department under this article.

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

Popular name: Act 368

333.20813 Owner, operator, and governing body of freestanding surgical outpatient facility; responsibilities and duties.

Sec. 20813. The owner, operator, and governing body of a freestanding surgical outpatient facility licensed under this article:

(a) Are responsible for all phases of the operation of the facility, selection of medical staff, and quality of care rendered in the facility.

(b) Shall cooperate with the department in the enforcement of this article and require that the physicians and other personnel working in the facility and for whom a state license or registration is required be currently licensed or registered.

(c) Shall assure that physicians admitted to practice in the facility are granted professional privileges consistent with the capability of the facility and with the physicians' individual training, experience, and other qualifications.

(d) Shall assure that physicians admitted to practice in the facility are organized into a medical staff to enable an effective review of the professional practices of the facility for the purpose of reducing morbidity and mortality and improving the care provided in the facility for patients.

(e) Shall assure that the facility does not pay a fee to compensate or reimburse a medical referral agency or other person that refers or recommends an individual to a facility for any form of medical or surgical care or treatment.

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

Popular name: Act 368

333.20821 Freestanding surgical outpatient facility; requirements.

Sec. 20821. A freestanding surgical outpatient facility shall:

(a) Be organized, administered, staffed, and equipped to provide on a regular and scheduled basis major and minor surgical procedures outside a hospital which in a physician's judgment may be safely performed on a basis other than on an inpatient basis.

(b) Have the physician, professional nursing, technical, and supportive personnel; the technical, diagnostic, and treatment services; and the equipment necessary to assure the safe performance of surgery and related care undertaken in the facility.

(c) Have a written agreement with a nearby licensed hospital to provide for the emergency admission of postsurgical patients who for unpredictable reasons may require hospital admission and care.

(d) Assure that a clinical record is established for each patient including a history, physical examination, justification for treatment planned and rendered, tests and examinations performed, observations made, and treatment provided.

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

Popular name: Act 368

PART 209
EMERGENCY MEDICAL SERVICES

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333.20901 Meanings of words and phrases; general definitions and principles of construction.

Sec. 20901. (1) For purposes of this part, the words and phrases defined in sections 20902 to 20908 have the meanings ascribed to them in those sections.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code, and part 201 contains definitions applicable to this part.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of the division of health facility licensing and certification in the bureau of health systems, division of federal support services, and the division of emergency medical services, with the exception of the division of managed care and division of health facility development, from the department of public health to the director of the department of commerce, 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 bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the Michigan public health code, including any board, commission, council, or similar entity providing regulation of health professionals licensed, registered, or certified under part 209 of article 17 of the Michigan public health code, to the department of community health, see E.R.O. No. 2014-2, compiled at MCL 333.26253.

For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

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333.20902 Definitions; A to D.

Sec. 20902. (1) "Advanced life support" means patient care that may include any care a paramedic is qualified to provide by paramedic education that meets the educational requirements established by the department under section 20912 or is authorized to provide by the protocols established by the local medical control authority under section 20919 for a paramedic.

(2) "Aircraft transport operation" means a person licensed under this part to provide patient transport, for profit or otherwise, between health facilities using an aircraft transport vehicle.

(3) "Aircraft transport vehicle" means an aircraft that is primarily used or designated as available to provide patient transportation between health facilities and that is capable of providing patient care according to orders issued by the patient's physician.

(4) "Ambulance" means a motor vehicle or rotary aircraft that is primarily used or designated as available to provide transportation and basic life support, limited advanced life support, or advanced life support.

(5) "Ambulance operation" means a person licensed under this part to provide emergency medical services and patient transport, for profit or otherwise.

(6) "Basic life support" means patient care that may include any care an emergency medical technician is qualified to provide by emergency medical technician education that meets the educational requirements established by the department under section 20912 or is authorized to provide by the protocols established by the local medical control authority under section 20919 for an emergency medical technician.

(7) "Clinical preceptor" means an individual who is designated by or under contract with an education program sponsor for purposes of overseeing the students of an education program sponsor during the participation of the students in clinical training.

(8) "Disaster" means an occurrence of imminent threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or man-made cause, including but not limited to, fire, flood, snow, ice, windstorm, wave action, oil spill, water contamination requiring emergency action to avert danger or damage, utility failure, hazardous peacetime radiological incident, major transportation accident, hazardous materials accident, epidemic, air contamination, drought, infestation, or explosion. Disaster does not include a riot or other civil disorder unless it directly results from and is an aggravating element of the disaster.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20904 Definitions; E.

Sec. 20904. (1) "Education program sponsor" means a person, other than an individual, that meets the standards of the department to conduct training at the following levels:

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(a) Medical first responder.

(b) Emergency medical technician.

(c) Emergency medical technician specialist.

(d) Paramedic.

(e) Emergency medical services instructor-coordinator.

(2) "Emergency" means a condition or situation in which an individual declares a need for immediate medical attention for any individual, or where that need is declared by emergency medical services personnel or a public safety official.

(3) "Emergency medical services instructor-coordinator" means an individual licensed under this part to conduct and instruct emergency medical services education programs.

(4) "Emergency medical services" means the emergency medical services personnel, ambulances, nontransport prehospital life support vehicles, aircraft transport vehicles, medical first response vehicles, and equipment required for transport or treatment of an individual requiring medical first response life support, basic life support, limited advanced life support, or advanced life support.

(5) "Emergency medical services personnel" means a medical first responder, emergency medical technician, emergency medical technician specialist, paramedic, or emergency medical services instructor-coordinator.

(6) "Emergency medical services system" means a comprehensive and integrated arrangement of the personnel, facilities, equipment, services, communications, medical control, and organizations necessary to provide emergency medical services and trauma care within a particular geographic region.

(7) "Emergency medical technician" means an individual who is licensed by the department to provide basic life support.

(8) "Emergency medical technician specialist" means an individual who is licensed by the department to provide limited advanced life support.

(9) "Emergency patient" means an individual with a physical or mental condition that manifests itself by acute symptoms of sufficient severity, including, but not limited to, pain such that a prudent layperson, possessing average knowledge of health and medicine, could reasonably expect to result in 1 or all of the following:

(a) Placing the health of the individual or, in the case of a pregnant woman, the health of the patient or the unborn child, or both, in serious jeopardy.

(b) Serious impairment of bodily function.

(c) Serious dysfunction of a body organ or part.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2024, Act 48, Eff. Apr. 2, 2025.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20906 Definitions; L, M.

Sec. 20906. (1) "Life support agency" means an ambulance operation, nontransport prehospital life support operation, aircraft transport operation, or medical first response service.

(2) "Life support vehicle" means an ambulance, nontransport prehospital life support vehicle, aircraft transport vehicle, or medical first response vehicle.

(3) "Limited advanced life support" means patient care that may include any care an emergency medical technician specialist is qualified to provide by emergency medical technician specialist education that meets the educational requirements established by the department under section 20912 or is authorized to provide by the protocols established by the local medical control authority under section 20919 for an emergency medical technician specialist.

(4) "Local governmental unit" means a county, city, village, charter township, or township.

(5) "Medical control" means supervising and coordinating emergency medical services through a medical control authority, as prescribed, adopted, and enforced through department-approved protocols, within an emergency medical services system.

(6) "Medical control authority" means an organization designated by the department under section 20910(1)(g) to provide medical control.

(7) "Medical director" means a physician who is appointed to that position by a medical control authority under section 20918.

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(8) "Medical first responder" means an individual who has met the educational requirements of a department approved medical first responder course and who is licensed to provide medical first response life support as part of a medical first response service or as a driver of an ambulance that provides basic life support services only. Medical first responder does not include a police officer solely because his or her police vehicle is equipped with an automated external defibrillator.

(9) "Medical first response life support" means patient care that may include any care a medical first responder is qualified to provide by medical first responder education that meets the educational requirements established by the department under section 20912 or is authorized to provide by the protocols established by the local medical control authority under section 20919 for a medical first responder.

(10) "Medical first response service" means a person licensed by the department to respond under medical control to an emergency scene with a medical first responder and equipment required by the department before the arrival of an ambulance, and includes a fire suppression agency only if it is dispatched for medical first response life support. Medical first response service does not include a law enforcement agency, as defined in section 8 of 1968 PA 319, MCL 28.258, unless the law enforcement agency holds itself out as a medical first response service and the unit responding was dispatched to provide medical first response life support.

(11) "Medical first response vehicle" means a motor vehicle staffed by at least 1 medical first responder and meeting equipment requirements of the department. Medical first response vehicle does not include a vehicle solely because it is staffed with a medical first responder.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2004, Act 6, Imd. Eff. Feb. 20, 2004;—Am. 2006, Act 582, Imd. Eff. Jan. 3, 2007.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20908 Definitions; N to V.

Sec. 20908. (1) "Nonemergency patient" means an individual who is transported by stretcher, isolette, cot, or litter but whose physical or mental condition is such that the individual may reasonably be suspected of not being in imminent danger of loss of life or of significant health impairment.

(2) "Nontransport prehospital life support operation" means a person licensed under this part to provide, for profit or otherwise, basic life support, limited advanced life support, or advanced life support at the scene of an emergency.

(3) "Nontransport prehospital life support vehicle" means a motor vehicle that is used to provide basic life support, limited advanced life support, or advanced life support, and is not intended to transport patients.

(4) "Ongoing education program sponsor" means an education program sponsor that provides continuing education for emergency medical services personnel.

(5) "Paramedic" means an individual licensed under this part to provide advanced life support.

(6) "Patient" means an emergency patient or a nonemergency patient.

(7) "Person" means a person as defined in section 1106 or a governmental entity other than an agency of the United States.

(8) "Professional standards review organization" means a committee established by a life support agency or a medical control authority for the purpose of improving the quality of medical care.

(9) "Protocol" means a patient care standard, standing orders, policy, or procedure for providing emergency medical services that is established by a medical control authority and approved by the department under section 20919.

(10) "Statewide emergency medical services communications system" means a system that integrates each emergency medical services system with a centrally coordinated dispatch and resource coordination facility utilizing the universal emergency telephone number, 9-1-1, when that number is appropriate, or any other designated emergency telephone number, a statewide emergency medical 2-way radio communications network, and linkages with the statewide emergency preparedness communications system.

(11) "Statewide trauma care system" means a comprehensive and integrated arrangement of the emergency services personnel, facilities, equipment, services, communications, medical control authorities, and organizations necessary to provide trauma care to all patients within a particular geographic region.

(12) "Volunteer" means an individual who provides services regulated under this part without expecting or receiving money, goods, or services in return for providing those services, except for reimbursement for expenses necessarily incurred in providing those services.

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History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2004, Act 581, Imd. Eff. Jan. 4, 2005.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20910 Powers and duties of department.

Sec. 20910. (1) The department shall do all of the following:

(a) Be responsible for the development, coordination, and administration of a statewide emergency medical services system.

(b) Facilitate and promote programs of public information and education concerning emergency medical services.

(c) In case of actual disasters and disaster training drills and exercises, provide emergency medical services resources pursuant to applicable provisions of the Michigan emergency preparedness plan, or as prescribed by the director of emergency services pursuant to the emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

(d) Consistent with the rules of the federal communications commission, plan, develop, coordinate, and administer a statewide emergency medical services communications system.

(e) Develop and maintain standards of emergency medical services and personnel as follows:

(*i*) License emergency medical services personnel in accordance with this part.

(*ii*) License ambulance operations, nontransport prehospital life support operations, and medical first response services in accordance with this part.

(*iii*) At least annually, inspect or provide for the inspection of each life support agency, except medical first response services. As part of that inspection, the department shall conduct random inspections of life support vehicles. If a life support vehicle is determined by the department to be out of compliance, the department shall give the life support agency 24 hours to bring the life support vehicle into compliance. If the life support vehicle is not brought into compliance in that time period, the department shall order the life support vehicle taken out of service until the life support agency demonstrates to the department, in writing, that the life support vehicle has been brought into compliance.

(*iv*) Promulgate rules to establish the requirements for licensure of life support agencies, vehicles, and individuals licensed under this part to provide emergency medical services and other rules necessary to implement this part. The department shall submit all proposed rules and changes to the state emergency medical services coordination committee and provide a reasonable time for the committee's review and recommendations before submitting the rules for public hearing under the administrative procedures act of 1969.

(f) Promulgate rules to establish and maintain standards for and regulate the use of descriptive words, phrases, symbols, or emblems that represent or denote that an ambulance operation, nontransport prehospital life support operation, or medical first response service is or may be provided. The department's authority to regulate use of the descriptive devices includes use for the purposes of advertising, promoting, or selling the services rendered by an ambulance operation, nontransport prehospital life support operation, or medical first response service, or by emergency medical services personnel.

(g) Designate a medical control authority as the medical control for emergency medical services for a particular geographic region as provided for under this part.

(h) Develop and implement field studies involving the use of skills, techniques, procedures, or equipment that are not included as part of the standard education for medical first responders, emergency medical technicians, emergency medical technician specialists, or paramedics, if all of the following conditions are met:

(*i*) The state emergency medical services coordination committee reviews the field study prior to implementation.

(*ii*) The field study is conducted in an area for which a medical control authority has been approved pursuant to subdivision (g).

(*iii*) The medical first responders, emergency medical technicians, emergency medical technician specialists, and paramedics participating in the field study receive training for the new skill, technique, procedure, or equipment.

(i) Collect data as necessary to assess the need for and quality of emergency medical services throughout the state pursuant to 1967 PA 270, MCL 331.531 to 331.533.

(j) Develop, with the advice of the emergency medical services coordination committee, an emergency

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medical services plan that includes rural issues.

(k) Develop recommendations for territorial boundaries of medical control authorities that are designed to assure that there exists reasonable emergency medical services capacity within the boundaries for the estimated demand for emergency medical services.

(*l*) Within 1 year after the statewide trauma care advisory subcommittee is established under section 20917a and in consultation with the statewide trauma care advisory subcommittee, develop, implement, and promulgate rules for the implementation and operation of a statewide trauma care system within the emergency medical services system consistent with the document entitled "Michigan Trauma Systems Plan" prepared by the Michigan trauma coalition, dated November 2003. The implementation and operation of the statewide trauma care system, including the rules promulgated in accordance with this subdivision, are subject to review by the emergency medical services coordination committee and the statewide trauma care advisory subcommittee. The rules promulgated under this subdivision shall not require a hospital to be designated as providing a certain level of trauma care. Upon implementation of a statewide trauma care system, the department shall review and identify potential funding mechanisms and sources for the statewide trauma care system.

(m) Promulgate other rules to implement this part.

(n) Perform other duties as set forth in this part.

(2) The department may do all of the following:

(a) In consultation with the emergency medical services coordination committee, promulgate rules to require an ambulance operation, nontransport prehospital life support operation, or medical first response service to periodically submit designated records and data for evaluation by the department.

(b) Establish a grant program or contract with a public or private agency, emergency medical services professional association, or emergency medical services coalition to provide training, public information, and assistance to medical control authorities and emergency medical services systems or to conduct other activities as specified in this part.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2004, Act 200, Imd. Eff. July 12, 2004;—Am. 2004, Act 582, Imd. Eff. Jan. 4, 2005;—Am. 2006, Act 582, Imd. Eff. Jan. 3, 2007.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the Michigan public health code, including any board, commission, council, or similar entity providing regulation of health professionals licensed, registered, or certified under part 209 of article 17 of the Michigan public health code, to the department of community health, see E.R.O. No. 2014-2, compiled at MCL 333.26253.

For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20911 Repealed. 2006, Act 582, Eff. Dec. 31, 2009.

Compiler's note: The repealed section pertained to equipping life support vehicle with automated external defibrillator.

333.20912 Duties of department with regard to educational programs and services.

Sec. 20912. (1) The department shall perform all of the following with regard to educational programs and services:

(a) Review and approve education program sponsors, ongoing education program sponsors, and curricula for emergency medical services personnel. Approved education programs and refresher programs must be coordinated by a licensed emergency medical services instructor-coordinator commensurate with level of licensure. Approved programs conducted by ongoing education program sponsors must be coordinated by a licensed emergency medical services instructor-coordinator.

(b) Maintain a listing of approved education program sponsors and licensed emergency medical services instructor-coordinators.

(c) Develop and implement standards for all education program sponsors and ongoing education program sponsors based upon criteria recommended by the emergency medical services coordination committee and developed by the department.

(2) An education program sponsor that conducts education programs for paramedics and that receives accreditation from the joint review committee on educational programs for the EMT-paramedic or other organization approved by the department as having equivalent expertise and competency in the accreditation of paramedic education programs is considered approved by the department under subsection (1)(a) if the education program sponsor meets both of the following requirements:

(a) Submits an application to the department that includes verification of accreditation described in this

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subsection.

(b) Maintains accreditation as described in this subsection.

(3) Before offering an education program to an individual seeking to become licensed as a paramedic, an education program sponsor that is not accredited as described under subsection (2) shall inform the individual that the education program sponsor is not accredited as described under subsection (2).

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2024, Act 48, Eff. Apr. 2, 2025.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20915 State emergency medical services coordination committee; creation; appointment, qualifications, and terms of members; ex officio members; replacement of member; chairperson; meetings; quorum; per diem compensation; reimbursement of expenses.

Sec. 20915. (1) The state emergency medical services coordination committee is created in the department. Subject to subsections (3) and (5), the director shall appoint the voting members of the committee as follows:

(a) Four representatives from the Michigan health and hospital association or its successor organization, at least 1 of whom is from a hospital located in a county with a population of not more than 100,000.

(b) Four representatives from the Michigan chapter of the American college of emergency physicians or its successor organization, at least 1 of whom practices medicine in a county with a population of not more than 100,000.

(c) Three representatives from the Michigan association of ambulance services or its successor organization, at least 1 of whom operates an ambulance service in a county with a population of not more than 100,000.

(d) Three representatives from the Michigan fire chiefs association or its successor organization, at least 1 of whom is from a fire department located in a county with a population of not more than 100,000.

(e) Two representatives from the society of Michigan emergency medical services technician instructor-coordinators or its successor organization, at least 1 of whom works in a county with a population of not more than 100,000.

(f) Two representatives from the Michigan association of emergency medical technicians or its successor organization, at least 1 of whom practices in a county with a population of not more than 100,000.

(g) One representative from the Michigan association of air medical services or its successor organization.

(h) One representative from the Michigan association of emergency medical services systems or its successor organization.

(i) Three representatives from a statewide organization representing labor that deals with emergency medical services, at least 1 of whom represents emergency medical services personnel in a county with a population of not more than 100,000 and at least 1 of whom is a member of the Michigan professional fire fighters union or its successor organization.

(j) One consumer.

(k) One individual who is an elected official of a city, village, or township located in a county with a population of not more than 100,000.

(2) In addition to the voting members appointed under subsection (1), the following shall serve as ex officio members of the committee without the right to vote:

(a) One representative of the office of health and medical affairs of the department of management and budget, appointed by the director.

(b) One representative of the department of consumer and industry services, appointed by the director.

(c) One member of the house of representatives, appointed by the speaker of the house of representatives.

(d) One member of the senate, appointed by the senate majority leader.

(3) The representatives of the organizations described in subsection (1) shall be appointed from among nominations made by each of those organizations.

(4) The voting members shall serve for a term of 3 years. A member who is unable to complete a term shall be replaced for the balance of the unexpired term.

(5) At least 1 voting member shall be from a county with a population of not more than 35,000 and at least 1 voting member shall be from a city with a population of not less than 900,000.

(6) The committee shall annually select a voting member to serve as chairperson.

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(7) Meetings of the committee are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Thirteen voting members constitute a quorum for the transaction of business.

(8) The per diem compensation for the voting members and a schedule for reimbursement of expenses shall be as established by the legislature.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20916 State emergency medical services coordination committee; duties.

Sec. 20916. The state emergency medical services coordination committee created in section 20915 shall do all of the following:

(a) Meet not less than twice annually at the call of the chairperson or the director.

(b) Provide for the coordination and exchange of information on emergency medical services programs and services.

(c) Act as liaison between organizations and individuals involved in the emergency medical services system.

(d) Make recommendations to the department in the development of a comprehensive statewide emergency medical services program.

(e) Advise the legislature and the department on matters concerning emergency medical services throughout the state.

(f) Issue opinions on appeals of medical control authority decisions under section 20919 and make recommendations based on those opinions to the department for the resolution of those appeals.

(g) Participate in educational activities, special studies, and the evaluation of emergency medical services as requested by the director.

(h) Advise the department concerning vehicle standards for ambulances.

(i) Advise the department concerning minimum patient care equipment lists.

(j) Advise the department on the standards required under section 20910(1)(f).

(k) Appoint, with the advice and consent of the department, a statewide quality assurance task force to review and make recommendations to the department concerning approval of medical control authority applications and revisions concerning protocols under section 20919 and field studies under section 20910(1)(h), and conduct other quality assurance activities as requested by the director. A majority of the members of the task force shall be individuals who are not currently serving on the committee. The task force shall report its decisions, findings, and recommendations to the committee and the department.

(*l*) Advise the department concerning requirements for curriculum changes for emergency medical services educational programs.

(m) Advise the department on minimum standards that each life support agency must meet for licensure under this part.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20917 Repealed. 2000, Act 440, Eff. July 1, 2004.

Compiler's note: The repealed section pertained to the statewide trauma care commission.

333.20917a Statewide trauma care advisory subcommittee; establishment; membership; appointment; terms; chairperson; meetings; quorum; recommendations regarding funding sources; "rural county" defined.

Sec. 20917a. (1) The statewide trauma care advisory subcommittee is established under the emergency medical services coordination committee to advise and assist the department on all matters concerning the development, implementation, and promulgation of rules for the implementation and continuing operation of a statewide trauma care system. The subcommittee shall consist of 10 members appointed by the director, within 90 days after the effective date of the amendatory act that added this section, as follows:

(a) Two trauma surgeons who are trauma center directors.

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(b) One trauma nurse coordinator.

(c) One trauma registrar.

(d) One emergency physician.

(e) Two administrative hospital representatives, 1 of whom represents a hospital designated as a level I or level II trauma center by the American college of surgeons committee on trauma and 1 of whom represents a hospital that is not designated as a level I or level II trauma center by the American college of surgeons committee on trauma.

(f) One life support agency manager who is a member of the emergency medical services coordination committee.

(g) Two medical control authority medical directors, 1 of whom represents a rural county and 1 of whom represents a nonrural county.

(2) The members shall serve for a term of 3 years. A member who is unable to complete a term shall be replaced for the balance of the unexpired term.

(3) The committee shall annually select a member to serve as chairperson.

(4) Meetings of the committee are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Six members constitute a quorum for the transaction of business.

(5) Recommendations regarding potential funding mechanisms and sources for the statewide trauma care system shall only be submitted to the department for consideration after a unanimous vote of all members of the statewide trauma care advisory subcommittee in support of those recommendations.

(6) "Rural county" means a county not located in a metropolitan statistical area or micropolitan statistical areas as those terms are defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 FR p. 82238 (December 27, 2000).

History: Add. 2004, Act 580, Imd. Eff. Jan. 3, 2005.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20918 Local medical control authority; designation; participating hospitals and freestanding surgical outpatient facilities; adherence to protocols; administration; appointment and membership of advisory body; medical director; operation of medical control authority; accountability of life support agencies and licensed individuals.

Sec. 20918. (1) Each hospital licensed under part 215 and each freestanding surgical outpatient facility licensed under part 208 that operates a service for treating emergency patients 24 hours a day, 7 days a week and meets standards established by medical control authority protocols shall be given the opportunity to participate in the ongoing planning and development activities of the local medical control authority designated by the department and shall adhere to protocols for providing services to a patient before care of the patient is transferred to hospital personnel, to the extent that those protocols apply to a hospital or freestanding surgical outpatient facility. The department shall designate a medical control authority for each Michigan county or part of a county, except that the department may designate a medical control authority to cover 2 or more counties if the department and affected medical control authorities determine that the available resources would be better utilized with a multiple county medical control authority. In designating a medical control authority, the department shall assure that there is a reasonable relationship between the existing emergency medical services capacity in the geographical area to be served by the medical control authority and the estimated demand for emergency medical services in that area.

(2) A medical control authority shall be administered by the participating hospitals. A medical control authority shall accept participation in its administration by a freestanding surgical outpatient facility licensed under part 208 if the freestanding surgical outpatient facility operates a service for treating emergency patients 24 hours a day, 7 days a week determined by the medical control authority to meet the applicable standards established by medical control authority protocols. Subject to subsection (4), the participating hospitals shall appoint an advisory body for the medical control authority that shall include, at a minimum, a representative of each type of life support agency and each type of emergency medical services personnel functioning within the medical control authority's boundaries.

(3) With the advice of the advisory body of the medical control authority appointed under subsection (2), a medical control authority shall appoint a medical director of the medical control authority. The medical director shall be a physician who is board certified in emergency medicine by a national organization

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approved by the department, or who practices emergency medicine and is certified in both advanced cardiac life support and advanced trauma life support by a national organization approved by the department, and who meets other standards set forth in department rules. The medical director is responsible for medical control for the emergency medical services system served by the medical control authority.

(4) No more than 10% of the membership of the advisory body of a medical control authority shall be employees of the medical director or of an entity substantially owned or controlled by the medical director.

(5) A designated medical control authority shall operate in accordance with the terms of its designation.

(6) Each life support agency and individual licensed under this part is accountable to the medical control authority in the provision of emergency medical services, as defined in protocols developed by the medical control authority and approved by the department under this part.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20919 Protocols for practice of life support agencies and licensed emergency medical services personnel; development and adoption; procedures; conflict with Michigan do-not-resuscitate procedure act prohibited; requirements; appeal; standards for equipment and personnel; negative medical or economic impacts; epinephrine auto-injector; availability of medical and economic information; review; findings.

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

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

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

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

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

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

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

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

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

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

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

(k) Protocols to ensure that each life support vehicle that is dispatched and responding to provide medical first response life support, basic life support, or limited advanced life support is equipped with opioid antagonists and that each emergency medical services personnel is properly trained to administer opioid antagonists. However, a medical control authority, at its discretion, may rescind or continue the protocol

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adopted under this subdivision.

(*l*) Protocols for complying with part 56B.

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

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

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

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

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

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

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

(4) A medical control authority shall provide an opportunity for an affected participant in an emergency medical services system to appeal a decision of the medical control authority. Following appeal, the medical control authority may affirm, suspend, or revoke its original decision. After appeals to the medical control authority have been exhausted, the affected participant in an emergency medical services system may appeal the medical control authority's decision to the state emergency medical services coordination committee created in section 20915. The state emergency medical services coordination committee shall issue an opinion on whether the actions or decisions of the medical control authority are in accordance with the department-approved protocols of the medical control authority and state law. If the state emergency medical services coordination committee determines in its opinion that the actions or decisions of the medical control authority are not in accordance with the medical control authority's department-approved protocols or with state law, the state emergency medical services coordination committee shall recommend that the department take any enforcement action authorized under this code.

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

(6) If adopted in protocols approved by the department, a medical control authority may require medical first response services and licensed medical first responders within its region to meet additional standards for equipment and personnel to ensure that each medical first response service is equipped with an epinephrine auto-injector, and that each licensed medical first responder is properly trained to recognize an anaphylactic reaction and to administer and dispose of the epinephrine auto-injector, if a life support agency that provides basic life support, limited advanced life support, or advanced life support is not readily available in that location.

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

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History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 1996, Act 192, Eff. Aug. 1, 1996;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2003, Act 233, Imd. Eff. Dec. 22, 2003;—Am. 2006, Act 582, Imd. Eff. Jan. 3, 2007;—Am. 2014, Act 312, Imd. Eff. Oct. 14, 2014;—Am. 2017, Act 154, Eff. Feb. 6, 2018;—Am. 2018, Act 383, Eff. Mar. 19, 2019;—Am. 2019, Act 37, Eff. Sept. 24, 2019.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20920 Ambulance operation; license required; contents of application; fee; contents of license; operation of ambulance operation; renewal of license; compliance; ambulance operation upgrade license; statewide emergency medical coordination committee; revocation or failure to renew ambulance operation upgrade license.

Sec. 20920. (1) A person shall not establish, operate, or cause to be operated an ambulance operation unless the ambulance operation is licensed under this section.

(2) Upon proper application and payment of a $100.00 fee, the department shall issue a license as an ambulance operation to a person who meets the requirements of this part and the rules promulgated under this part.

(3) An applicant shall specify in the application each ambulance to be operated.

(4) An ambulance operation license shall specify the ambulances licensed to be operated.

(5) An ambulance operation license shall state the highest level of life support the ambulance operation is licensed to provide. An ambulance operation shall operate in accordance with this part, rules promulgated under this part, and approved medical control authority protocols and, except as provided in section 20921a(2), shall not provide life support at a level that exceeds its license and available licensed personnel or violates approved medical control authority protocols.

(6) An ambulance operation license may be renewed annually upon application to the department and payment of a $100.00 renewal fee. Before issuing a renewal license, the department shall determine that the ambulance operation is in compliance with this part, the rules promulgated under this part, and medical control authority protocols.

(7) Beginning on July 22, 1997, an ambulance operation that meets all of the following requirements may apply for an ambulance operation upgrade license under subsection (8):

(a) On or before July 22, 1997, holds an ambulance operation license that designates the ambulance operation either as a transporting basic life support service or as a transporting limited advanced life support service.

(b) Is a transporting basic life support service, that is able to staff and equip 1 or more ambulances for the transport of emergency patients at a life support level higher than basic life support, or is a transporting limited advanced life support service, that is able to staff and equip 1 or more ambulances for the transport of emergency patients at the life support level of advanced life support.

(c) Is owned or operated by or under contract to a local unit of government and providing first-line emergency medical response to that local unit of government on or before July 22, 1997.

(d) Will provide the services described in subdivision (b) only to the local unit of government described in subdivision (c), and only in response to a 911 call or other call for emergency transport.

(8) An ambulance operation meeting the requirements of subsection (7) that applies for an ambulance operation upgrade license shall include all of the following information in the application provided by the department:

(a) Verification of all of the requirements of subsection (7) including, but not limited to, a description of the staffing and equipment to be used in providing the higher level of life support services.

(b) If the applicant is a transporting basic life support service, a plan of action to upgrade from providing basic life support to providing limited advanced life support or advanced life support to take place over a period of not more than 2 years. If the applicant is a transporting limited advanced life support service, a plan of action to upgrade from providing limited advanced life support to providing advanced life support to take place over a period of not more than 2 years.

(c) The medical control authority protocols for the ambulance operation upgrade license, along with a recommendation from the medical control authority under which the ambulance operation operates that the ambulance operation upgrade license be issued by the department.

(d) Other information required by the department.

(9) The statewide emergency medical services coordination committee shall review the information described in subsection (8)(c) and make a recommendation to the department as to whether or not an

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ambulance operation upgrade license should be granted to the applicant.

(10) Upon receipt of a completed application as required under subsection (8), a positive recommendation under subsection (9), and payment of a $100.00 fee, the department shall issue to the applicant an ambulance operation upgrade license. Subject to subsection (12), the license is valid for 2 years from the date of issuance and is renewable for 1 additional 2-year period. An application for renewal of an ambulance operation upgrade license shall contain documentation of the progress made on the plan of action described in subsection (8)(b). In addition, the medical control authority under which the ambulance operation operates shall annually file with the statewide emergency medical services coordination committee a written report on the progress made by the ambulance operation on the plan of action described in subsection (8)(b), including, but not limited to, information on training, equipment, and personnel.

(11) If an ambulance operation is designated by its regular license as providing basic life support services, then an ambulance operation upgrade license issued under this section allows the ambulance operation to provide limited advanced life support services or advanced life support services when the ambulance operation is able to staff and equip 1 or more ambulances to provide services at the higher levels. If an ambulance operation is designated by its regular license as providing limited advanced life support services, then an ambulance operation upgrade license issued under this section allows the ambulance operation to provide advanced life support services when the ambulance operation is able to staff and equip 1 or more ambulances to provide services at the higher level. An ambulance operation shall not provide services under an ambulance operation upgrade license unless the medical control authority under which the ambulance operation operates has adopted protocols for the ambulance operation upgrade license regarding quality monitoring procedures, use and protection of equipment, and patient care.

(12) The department may revoke or fail to renew an ambulance operation upgrade license for a violation of this part or a rule promulgated under this part or for failure to comply with the plan of action filed under subsection (8)(b). An ambulance operation that obtains an ambulance operation upgrade license must annually renew its regular license under subsections (2) to (6). An ambulance operation's regular license is not affected by the following:

(a) The fact that the ambulance operation has obtained or renewed an ambulance operation upgrade license.

(b) The fact that an ambulance operation's ambulance operation upgrade license is revoked or is not renewed under this subsection.

(c) The fact that the ambulance operation's ambulance operation upgrade license expires at the end of the second 2-year period prescribed by subsection (10).

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 1997, Act 78, Imd. Eff. July 22, 1997;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2004, Act 200, Imd. Eff. July 12, 2004;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20921 Ambulance operation; duties; prohibitions; staffing; operation at higher level of life support; occupants of patient compartment; applicability of subsection (5).

Sec. 20921. (1) An ambulance operation shall do all of the following:

(a) Except as provided in section 20921a, provide at least 1 ambulance available for response to requests for emergency assistance on a 24-hour-a-day, 7-day-a-week basis in accordance with local medical control authority protocols.

(b) Respond or ensure that a response is provided to each request for emergency assistance originating from within the bounds of its service area.

(c) Operate under the direction of a medical control authority or the medical control authorities with jurisdiction over the ambulance operation.

(d) Notify the department immediately of a change that would alter the information contained on its application for an ambulance operation license or renewal.

(e) Subject to section 20920(7) to (12) and section 20921a, provide life support consistent with its license and approved local medical control authority protocols to each emergency patient without prior inquiry into ability to pay or source of payment.

(2) An ambulance operation shall not do any of the following:

(a) Knowingly provide a person with false or misleading information concerning the time at which an emergency response will be initiated or the location from which the response is being initiated.

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(b) Induce or seek to induce any person engaging an ambulance to patronize a long-term care facility, mortuary, or hospital.

(c) Advertise, or permit advertising of, within or on the premises of the ambulance operation or within or on an ambulance, the name or the services of an attorney, accident investigator, nurse, physician, long-term care facility, mortuary, or hospital. If 1 of those persons or facilities owns or operates an ambulance operation, the person or facility may use its business name in the name of the ambulance operation and may display the name of the ambulance operation within or on the premises of the ambulance operation or within or on an ambulance.

(d) Advertise or disseminate information for the purpose of obtaining contracts under a name other than the name of the person holding an ambulance operation license or the trade or assumed name of the ambulance operation.

(e) If the ambulance operation is operating under an ambulance operation upgrade license issued under section 20920(7) to (12), advertise or otherwise hold itself out as a full-time transporting limited advanced life support service or a full-time transporting advanced life support service unless the ambulance operation actually provides those services on a 24-hour-per-day, 7-day-a-week basis.

(3) Except as provided in subsection (4) and section 20921a, an ambulance operation shall not operate, attend, or permit an ambulance to be operated while transporting a patient unless the ambulance is, at a minimum, staffed as follows:

(a) If designated as providing basic life support, with at least 1 emergency medical technician and 1 medical first responder.

(b) If designated as providing limited advanced life support, with at least 1 emergency medical technician specialist and 1 emergency medical technician.

(c) If designated as providing advanced life support, with at least 1 paramedic and 1 emergency medical technician.

(4) An ambulance operation that is licensed to provide advanced life support and has more than 1 ambulance licensed under its operation may operate an ambulance licensed to provide basic life support or limited advanced life support at a higher level of life support if all of the following are met:

(a) The ambulance operation has at least 1 ambulance under its operation that is properly staffed and available to provide advanced life support on a 24-hour-a-day, 7-day-a-week basis.

(b) The licensed personnel required to operate at that higher level of life support are available at the scene and in the ambulance during the patient transport to provide life support to that patient at that higher level.

(c) The ambulance meets all equipment and communication requirements to operate at that higher level of life support.

(d) The ambulance operation that is unable to respond to a request for emergency assistance immediately requests assistance pursuant to protocols established by the local medical control authority and approved by the department under this part.

(5) Except as provided in subsection (6), an ambulance operation shall ensure that an emergency medical technician, an emergency medical technician specialist, or a paramedic is in the patient compartment of an ambulance while transporting an emergency patient.

(6) Subsection (5) does not apply to the transportation of a patient by an ambulance if the patient is accompanied in the patient compartment of the ambulance by an appropriate licensed health professional designated by a physician and after a physician-patient relationship has been established as prescribed in this part or the rules promulgated by the department under this part.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 1997, Act 78, Imd. Eff. July 22, 1997;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2004, Act 200, Imd. Eff. July 12, 2004;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20921a County population 10,000 or less and population density less than 7 people per square mile; ambulance availability.

Sec. 20921a. (1) A limited ambulance operation whose primary service area is in a county with a population of 10,000 or less and whose primary service area has a population density of fewer than 7 people per square mile may have an ambulance available at less than the limited level of licensure if both of the following conditions are met:

(a) The medical control authority under which the ambulance operation operates authorizes the lesser

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availability.

(b) The ambulance operation has department-approved local medical control authority protocols in place.

(2) A basic ambulance operation whose primary service area is in a county with a population of 10,000 or less and whose primary service area has a population density of fewer than 7 people per square mile may operate at a limited ambulance operation level of licensure when staffed with an advanced EMT if all of the following conditions are met:

(a) The basic ambulance is equipped at the greater licensure level.

(b) The medical control authority under which the ambulance operation operates authorizes the conditional increased level of licensure.

(c) The basic ambulance operation has department-approved local medical control authority protocols in place.

History: Add. 2018, Act 398, Imd. Eff. Dec. 19, 2018.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Former MCL 333.20921a, which pertained to ambulance availability for county or micropolitan area with population 10,000 or less and density less than 7 people per square mile, was repealed by Act 413 of 2014, Eff. Jan. 1, 2018.

Popular name: Act 368

333.20921b Transportation of nonemergency patient by rotary aircraft ambulance; duties; notice; violation; payment in full; definitions.

Sec. 20921b. (1) Before transporting a nonemergency patient in an ambulance that is a rotary aircraft, an ambulance operation shall do all of the following:

(a) Provide the nonemergency patient, or that patient's representative, all of the following information:

(*i*) Whether the ambulance operation is a participating provider with the nonemergency patient's health benefit plan.

(*ii*) A good-faith estimate of the cost for transporting the nonemergency patient.

(*iii*) That the nonemergency patient has a right to be transported by a method other than an ambulance that is a rotary aircraft.

(b) Complete the notice described in subsection (2) and, after completing the notice, obtain on the notice the signature of the nonemergency patient, or that patient's representative, acknowledging that the nonemergency patient, or that patient's representative, has received, has read, and understands the notice. An ambulance operation shall retain a copy of the notice required under this subdivision for not less than 7 years.

(2) The notice required under subsection (1)(b) must be in not less than 12-point type and in substantially the following form:

"I have been provided the following good-faith estimate of the cost of transportation by the ambulance that is a rotary aircraft that will be provided to me by _____ (insert name of ambulance operation): _____ (insert good-faith cost estimate).

I have been notified by _____ (insert name of ambulance operation) that the ambulance that is a rotary aircraft that is transporting me _____ (is or is not) a participating provider with my health benefit plan.

I was informed by _____ (insert name of ambulance operation) that I have the right to request transportation from an ambulance operation that is a participating provider with my health benefit plan.

I am aware that if my health benefit plan provides coverage for transportation by an ambulance that is a rotary aircraft or coverage for transportation provided by _____ (insert name of ambulance operation), I may be subject to a deductible, a copayment, or coinsurance. If the ambulance operation is not a participating provider with my health benefit plan, I have been informed that I may be responsible for the costs of being transported by the ambulance operation that are not covered by my health benefit plan.

I have been informed that I have the right to be transported by a method other than an ambulance that is a rotary aircraft.

_____ _____

(Patient's or patient representative's signature) (Date)

_____

(Type or print patient's or patient representative's name)".

(3) Upon the request of a nonemergency patient's health benefit plan or third party administrator, an ambulance operation shall provide a copy of the notice required under subsection (1)(b) to the person designated in the nonemergency patient's health benefit plan or to the third party administrator.

(4) If the ambulance operation fails to provide a nonemergency patient with the notice required under

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subsection (1)(b), the ambulance operation shall accept the amount covered by the nonemergency patient's health benefit plan for transporting the nonemergency patient as payment in full, other than coinsurance, copayments, or deductibles.

(5) If the patient is an emergency patient, the ambulance operation shall accept the amount covered by the emergency patient's health benefit plan for transporting the emergency patient as payment in full, other than coinsurance, copayments, or deductibles. However, if an ambulance operation is not a participating provider with the emergency patient's health benefit plan, the ambulance operation shall accept as payment in full the greater of the following:

(a) The average amount negotiated by the emergency patient's health benefit plan with participating providers for transporting the patient excluding any in-network coinsurance, copayments, or deductibles.

(b) One hundred fifty percent of the amount that would be covered by Medicare for the emergency service, excluding any in-network coinsurance, copayments, or deductibles.

(6) As used in this section and section 20921c:

(a) "Health benefit plan" means that term as defined in section 21501.

(b) "Participating provider" means that term as defined in section 21501.

(c) "Patient's representative" means that term as defined in section 21501.

(d) "Third party administrator" means that term as defined in section 2 of the third party administrator act, 1984 PA 218, MCL 550.902.

History: Add. 2018, Act 385, Eff. Mar. 19, 2019.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20921c Ambulance operation; patient request; right to land.

Sec. 20921c. If a patient at a hospital requests transportation from an ambulance operation that is a participating provider with the patient's health benefit plan, an ambulance that is a rotary aircraft that is operated by the ambulance operation shall have the right to land at the destination hospital for the purpose of transporting the patient, regardless of whether the ambulance operation is a contracted provider with the originating hospital or the destination hospital.

History: Add. 2018, Act 385, Eff. Mar. 19, 2019.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20922 Use of terms “ambulance,”“ambulance operation,” or similar term; advertising or disseminating information; license required.

Sec. 20922. (1) A person shall not use the terms "ambulance" or "ambulance operation" or a similar term to describe or refer to the person unless the person is licensed by the department under section 20920.

(2) A person shall not advertise or disseminate information leading the public to believe that the person provides an ambulance operation unless that person does in fact provide that service and has been licensed by the department to do so.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20923 Operation of ambulance; conditions; application for and issuance of ambulance license or annual renewal; fee; certificate of insurance; vehicle standards; minimum requirements for equipment; use of equipment or medications by licensed personnel; communications system; ambulance license nontransferable to ambulance operation.

Sec. 20923. (1) Except as provided in section 20924(2), a person shall not operate an ambulance unless the ambulance is licensed under this section and is operated as part of a licensed ambulance operation.

(2) Upon proper application and payment of a $25.00 fee, the department shall issue an ambulance license,

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or annual renewal of an ambulance license, to the ambulance operation. Receipt of the application by the department serves as attestation to the department by the ambulance operation that the ambulance being licensed or renewed is in compliance with the minimum standards required by the department. The inspection of an ambulance by the department is not required as a basis for licensure renewal, unless otherwise determined by the department.

(3) An ambulance operation shall submit an application and fee to the department for each ambulance in service. Each application shall include a certificate of insurance for the ambulance in the amount and coverage required by the department.

(4) Upon purchase by an ambulance operation, an ambulance shall meet all vehicle standards established by the department under section 20910(e)(*iv*).

(5) Once licensed for service, an ambulance is not required to meet subsequently modified state vehicle standards during its use by the ambulance operation that obtained the license.

(6) Patient care equipment and safety equipment carried on an ambulance shall meet the minimum requirements prescribed by the department and the approved local medical control authority protocols.

(7) An ambulance operation that maintains patient care equipment and medications necessary to upgrade from providing basic or limited advanced life support to providing a higher level of life support in accordance with section 20921(4) shall secure the necessary patient care equipment and medications in a way such that the equipment or medications can only be used by the appropriately licensed personnel.

(8) An ambulance shall be equipped with a communications system utilizing frequencies and procedures consistent with the statewide emergency medical services communications system developed by the department.

(9) An ambulance license is not transferable to another ambulance operation.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2004, Act 200, Imd. Eff. July 12, 2004.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20924 Business or service of transportation of patients; licensed ambulance required; exceptions.

Sec. 20924. (1) Except as provided in subsection (2), a person shall not furnish, operate, conduct, maintain, advertise, or otherwise be engaged or profess to be engaged in the business or service of the transportation of patients in this state unless the person uses an ambulance licensed under this part.

(2) An ambulance operated by an agency of the United States is not required to be licensed under this part. This part does not apply to an ambulance or ambulance personnel from another state or nation or a political subdivision of another state or nation that is performing in this state emergency assistance required by an official of this state.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20925 Emergency transportation of police dog; allow under certain conditions.

Sec. 20925. This part does not prohibit an ambulance from providing emergency transport of a police dog that is injured in the line of duty to a veterinary clinic or similar facility, if the police dog is in need of emergency medical treatment and there are no individuals who require transport or emergency assistance at that time. Ambulance personnel may require that a police officer accompany the police dog during the emergency transport. As used in this section, "police dog" means that term as defined in section 50c of the Michigan penal code, 1931 PA 328, MCL 750.50c.

History: Add. 2018, Act 600, Eff. Mar. 29, 2019.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

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333.20926 Nontransport prehospital life support operation; license required; application; fee; contents of license and application; renewal; compliance.

Sec. 20926. (1) A person shall not establish, operate, or cause to be operated a nontransport prehospital life support operation unless it is licensed under this section.

(2) The department, upon proper application and payment of a $100.00 fee, shall issue a license for a nontransport prehospital life support operation to a person meeting the requirements of this part and rules promulgated under this part.

(3) A nontransport prehospital life support operation license shall specify the level of life support the operation is licensed to provide. A nontransport prehospital life support operation shall operate in accordance with this part, rules promulgated under this part, and approved local medical control authority protocols and shall not provide life support at a level that exceeds its license or violates approved local medical control authority protocols.

(4) An applicant for a nontransport prehospital life support operation license shall specify in the application for licensure each nontransport prehospital life support vehicle to be operated.

(5) A nontransport prehospital life support operation license shall specify the nontransport prehospital life support vehicles licensed to be operated.

(6) A nontransport prehospital life support operation license may be renewed annually upon application to the department and payment of a $100.00 renewal fee. Before issuing a renewal license, the department shall determine that the nontransport prehospital life support operation is in compliance with this part, rules promulgated under this part, and local medical control authority protocols.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20927 Nontransport prehospital life support operation; duties; prohibitions.

Sec. 20927. (1) A nontransport prehospital life support operation shall:

(a) Provide at least 1 nontransport prehospital life support vehicle with proper equipment and personnel available for response to requests for emergency assistance on a 24-hour-a-day, 7-day-a-week basis in accordance with local medical control authority protocols.

(b) Respond or ensure that a response is provided to all requests for emergency assistance originating from within the bounds of its primary dispatch service area.

(c) Operate only under the direction of a medical control authority.

(d) Notify the department of any change that would alter the information contained on its application for a nontransport prehospital life support operation license or renewal.

(e) Provide life support consistent with its license and approved local medical control authority protocols to all patients without prior inquiry into ability to pay or source of payment.

(2) A nontransport prehospital life support operation shall not knowingly provide any person with false or misleading information concerning the time at which an emergency response will be initiated or the location from which the response is being initiated.

(3) A nontransport prehospital life support operation shall not operate a nontransport prehospital life support vehicle unless it is staffed, 24 hours a day, 7 days a week, as follows:

(a) If designated as providing basic life support, with at least 1 emergency medical technician who is on board that vehicle or if approved by the local medical control authority with at least 1 emergency medical technician who is at the emergency scene.

(b) If designated as providing limited advanced life support, with at least 1 emergency medical technician specialist.

(c) If designated as providing advanced life support, with at least 1 paramedic.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2005, Act 261, Imd. Eff. Dec. 16, 2005.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20928 Use of term "nontransport prehospital life support vehicle,""nontransport

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prehospital life support operation," or similar term; advertising or disseminating information; license required.

Sec. 20928. (1) A person shall not use the term "nontransport prehospital life support vehicle" or "nontransport prehospital life support operation" or a similar term to describe or refer to the person unless the person is licensed by the department under section 20926.

(2) A person shall not advertise or disseminate information leading the public to believe that the person provides a nontransport prehospital life support operation unless that person does in fact provide that service and has been licensed by the department to do so.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20929 Operation of nontransport prehospital life support vehicle; conditions; application for and issuance of license or annual renewal; fee; certificate of insurance; communications system; equipment.

Sec. 20929. (1) A person shall not operate a nontransport prehospital life support vehicle unless the vehicle is licensed by the department under this section and is operated as part of a licensed nontransport prehospital life support operation.

(2) Upon proper application and payment of a $25.00 fee, the department shall issue a nontransport prehospital life support vehicle license or annual renewal to the applicant nontransport prehospital life support operation. Receipt of the application by the department serves as attestation to the department by the nontransport prehospital life support operation that the vehicle being licensed or renewed is in compliance with the minimum standards required by the department. The inspection of a nontransport prehospital life support vehicle by the department is not required as a basis for issuing a licensure renewal, unless otherwise determined by the department.

(3) A nontransport prehospital life support operation shall submit an application and required fee to the department for each vehicle in service. Each application shall include a certificate of insurance for the vehicle in the amount and coverage required by the department.

(4) A nontransport prehospital life support vehicle shall be equipped with a communications system utilizing frequencies and procedures consistent with the statewide emergency medical services communications system developed by the department.

(5) A nontransport prehospital life support vehicle shall be equipped according to the department's minimum equipment list and approved medical control authority protocols based upon the level of life support the vehicle and personnel are licensed to provide.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20931 Air transport operation; license required; application; fee; issuance and contents of license; renewal; compliance.

Sec. 20931. (1) A person shall not establish, operate, or cause to be operated an aircraft transport operation unless it is licensed under this section.

(2) The department, upon proper application and payment of a $100.00 fee, shall issue a license for an aircraft transport operation to a person meeting the requirements of this part and rules promulgated under this part.

(3) An aircraft transport operation license shall specify the level of life support the operation is licensed to provide. An aircraft transport operation shall operate in accordance with this part, rules promulgated under this part, and orders established by the patient's physician and shall not provide life support at a level that exceeds its license or violates those orders.

(4) An applicant for an aircraft transport operation license shall specify in the application for licensure each aircraft transport vehicle to be operated and licensed.

(5) An aircraft transport operation license may be renewed annually upon application to the department

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and payment of a $100.00 renewal fee. Before issuing a renewal license, the department shall determine that the aircraft transport operation is in compliance with this part and rules promulgated under this part.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20932 Aircraft transport operation; duties; prohibitions.

Sec. 20932. (1) An aircraft transport operation shall:

(a) Provide an aircraft transport vehicle with proper equipment and personnel available for response to requests for patient transportation between health facilities, as needed and for life support during that transportation according to the written orders of the patient's physician.

(b) Notify the department of any change that would alter the information contained on its application for an aircraft transport operation license or renewal.

(2) An aircraft transport operation shall not operate an aircraft transport vehicle unless it is staffed, with emergency medical services personnel or other licensed health care professionals as appropriate according to the written orders of the patient's physician.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20932a Transportation of nonemergency patient by aircraft transport operation; duties; notice; violation; payment in full; definitions.

Sec. 20932a. (1) Before transporting a nonemergency patient in an aircraft transport vehicle, an aircraft transport operation shall do all of the following:

(a) Provide the nonemergency patient, or that patient's representative, all of the following information:

(*i*) Whether the aircraft transport operation is a participating provider with the nonemergency patient's health benefit plan.

(*ii*) A good-faith estimate of the cost for transporting the nonemergency patient.

(*iii*) That the nonemergency patient has a right to be transported by a method other than an aircraft transport vehicle.

(b) Complete the notice described in subsection (2) and, after completing the notice, obtain on the notice the signature of the nonemergency patient, or that patient's representative, acknowledging that the nonemergency patient, or that patient's representative, has received, has read, and understands the notice. An aircraft transport operation shall retain a copy of the notice required under this subdivision for not less than 7 years.

(2) The notice required under subsection (1)(b) must be in not less than 12-point type and in substantially the following form:

"I have been provided the following good-faith estimate of the cost of transportation by the aircraft transport vehicle that will be provided to me by _____ (insert name of aircraft transport operation): _____ (insert good-faith cost estimate).

I have been notified by _____ (insert name of aircraft transport operation) that the aircraft transport vehicle transporting me _____ (is or is not) a participating provider with my health benefit plan.

I was informed by _____ (insert name of aircraft transport operation) that I have the right to request transportation from an aircraft transport operation that is a participating provider with my health benefit plan.

I am aware that if my health benefit plan provides coverage for transportation by an aircraft transport vehicle or coverage for transportation provided by _____ (insert name of aircraft transport operation), I may be subject to a deductible, a copayment, or coinsurance. If the aircraft transport operation is not a participating provider with my health benefit plan, I have been informed that I may be responsible for the costs of being transported by the aircraft transport operation that are not covered by my health benefit plan.

I have been informed that I have the right to be transported by a method other than an aircraft transport vehicle.

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_____ _____

(Patient's or patient representative's signature) (Date)

_____

(Type or print patient's or patient representative's name)".

(3) Upon the request of a nonemergency patient's health benefit plan or third party administrator, an aircraft transport operation shall provide a copy of the notice required under subsection (1)(b) to the person designated in the nonemergency patient's health benefit plan or to the third party administrator.

(4) If the aircraft transport operation fails to provide a nonemergency patient with the notice required under subsection (1)(b), the aircraft transport operation shall accept the amount covered by the nonemergency patient's health benefit plan for transporting the nonemergency patient as payment in full, other than coinsurance, copayments, or deductibles.

(5) If a patient is an emergency patient, the aircraft transport operation shall accept the amount covered by the emergency patient's health benefit plan for transporting the emergency patient as payment in full, other than coinsurance, copayments, or deductibles. However, if an aircraft transport operation is not a participating provider with the emergency patient's health benefit plan, the aircraft transport operation shall accept as payment in full the greater of the following:

(a) The average amount negotiated by the emergency patient's health benefit plan with participating providers for transporting the patient excluding any in-network coinsurance, copayments, or deductibles.

(b) One hundred fifty percent of the amount that would be covered by Medicare for the emergency service, excluding any in-network coinsurance, copayments, or deductibles.

(6) As used in this section and section 20932b:

(a) "Health benefit plan" means that term as defined in section 21501.

(b) "Participating provider" means that term as defined in section 21501.

(c) "Patient's representative" means that term as defined in section 21501.

(d) "Third party administrator" means that term as defined in section 2 of the third party administrator act, 1984 PA 218, MCL 550.902.

History: Add. 2018, Act 385, Eff. Mar. 19, 2019.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20932b Aircraft transport operation; patient request; right to land.

Sec. 20932b. If a patient at a hospital requests transportation from an aircraft transport operation that is a participating provider with the patient's health benefit plan, an aircraft transport vehicle that is operated by the aircraft transport operation shall have the right to land at the destination hospital for the purpose of transporting the patient, regardless of whether the aircraft transport operation is a contracted provider with the originating hospital or the destination hospital.

History: Add. 2018, Act 385, Eff. Mar. 19, 2019.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20933 Use of term “aircraft transport vehicle,”“aircraft transport operation,” or similar term; advertising or disseminating information; license required.

Sec. 20933. (1) A person shall not use the term "aircraft transport vehicle" or "aircraft transport operation" or a similar term to describe or refer to the person unless the person is licensed by the department under section 20931.

(2) A person shall not advertise or disseminate information leading the public to believe that the person provides an aircraft transport operation unless that person does in fact provide that service and has been licensed by the department to do so.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

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Popular name: Act 368

333.20934 Operation of aircraft transport vehicle; conditions; application for and issuance of license or annual renewal; fee; certificate of insurance; communications system; equipment; amount of liability coverage; determination.

Sec. 20934. (1) A person shall not operate an aircraft transport vehicle unless the vehicle is licensed by the department under this section and is operated as part of a licensed aircraft transport operation.

(2) Upon proper application and payment of a $100.00 fee, the department shall issue an aircraft transport vehicle license or annual renewal to the applicant aircraft transport operation. Receipt of the application by the department serves as attestation to the department by the aircraft transport operation that the vehicle is in compliance with the minimum standards required by the department. The inspection of an aircraft transport vehicle by the department is not required as a basis for licensure renewal, unless otherwise determined by the department.

(3) An aircraft transport operation shall submit an application and required fee to the department for each vehicle in service. Except as provided in subsection (6), each application shall include a certificate of insurance for the vehicle in the amount and coverage required by the department.

(4) An aircraft transport vehicle shall be equipped with a communications system utilizing frequencies and procedures consistent with the statewide emergency medical services communications system developed by the department.

(5) An aircraft transport vehicle shall be equipped according to the department's minimum equipment list based upon the level of life support the vehicle and personnel are licensed to provide.

(6) When determining the amount of liability coverage required by the department under subsection (3), an aircraft transport operation that transports patients less than an average of 45 times a year over the 5-year period preceding the date coverage begins, is not required to have more than $2,000,000.00 in liability coverage on each aircraft transport vehicle in that aircraft transport operation. An aircraft transport operator described under this subsection that has a valid federal aviation regulation part 135 air carrier certificate issued by the federal aviation administration shall have its base of operation and primary business address on an island in the Great Lakes more than 20 miles from the nearest mainland airport. The aircraft transport operator's primary business address is the address shown in the operations specifications and on the air carrier certificate.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2012, Act 269, Imd. Eff. July 3, 2012.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the Michigan public health code, including any board, commission, council, or similar entity providing regulation of health professionals licensed, registered, or certified under part 209 of article 17 of the Michigan public health code, to the department of community health, see E.R.O. No. 2014-2, compiled at MCL 333.26253.

For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20935 Receipt of completed license application; issuance of license within certain period of time; report; “completed application” defined.

Sec. 20935. (1) Subject to subsection (3), beginning on the effective date of the amendatory act that added this section, the department shall approve or reject an initial license application for an ambulance operation, nontransport prehospital life support operation, aircraft transport operation, or medical first response service within 6 months after the applicant files a completed application as required under this part. Receipt of the application is considered the date the application is received by any agency or department of this state.

(2) If an initial license application for an ambulance operation, nontransport prehospital life support operation, aircraft transport operation, or medical first response service is considered incomplete by the department, the department shall notify the applicant in writing or make the notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information.

(3) If the department identifies a deficiency or requires the fulfillment of a corrective action plan, the 6-month period is tolled until either of the following occurs:

(a) Upon notification by the department of a deficiency, until the date the requested information is received by the department.

(b) Upon notification by the department that a corrective action plan is required, until the date the

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department determines the requirements of the corrective action plan have been met.

(4) The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

(5) If the department fails to approve or reject an initial license application within the time period required under this section, the department shall return the license fee and shall reduce the license fee for the applicant's next licensure application, if any, by 15%. Failure to issue or deny a license within the time period required under this section does not allow the department to otherwise delay processing an application. The completed application shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the application fee was refunded or discounted under this subsection.

(6) Beginning October 1, 2005, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with public health issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial applications the department received and completed within the 6-month time period required under subsection (1).

(b) The number of applications requiring a request for additional information.

(c) The number of applications denied.

(d) The average processing time for initial licenses granted after the 6-month period.

(e) The number of initial license applications not issued within the 6-month period and the amount of money returned to applicants under subsection (5).

(7) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.

History: Add. 2004, Act 284, Imd. Eff. July 23, 2004.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20936 Application for license renewal received after expiration date of license; late fee; completing requirements for initial licensure.

Sec. 20936. (1) If an application for renewal of an ambulance operation, nontransport prehospital life support operation, or aircraft transport operation license is received by the department after the expiration date of the license, the applicant shall pay a late fee in the amount of $300.00 in addition to the renewal fee. If an application for renewal is not received by the department within 60 days after the license expires, the department shall not issue a renewal license unless the licensee completes the requirements for initial licensure and pays the late fee.

(2) If an application for renewal of an ambulance or nontransport prehospital life support vehicle, or aircraft transport vehicle license is received by the department after the expiration date of the license, the applicant shall pay a late fee in the amount of $100.00 in addition to the renewal fee. If an application for renewal is not received by the department within 60 days after the license expires, the department shall not issue a renewal license unless the licensee completes the requirements for initial licensure and pays the late fee.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20938 Operation of ambulance or nontransport prehospital life support vehicle under emergency conditions; privileges and constraints.

Sec. 20938. When operating an ambulance or a nontransport prehospital life support vehicle under emergency conditions or a reasonable belief that an emergency condition exists, the driver of the ambulance or nontransport prehospital life support vehicle may exercise the privileges and is subject to the constraints

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prescribed by the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, pertaining to the driver of an authorized emergency vehicle.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20939 Spontaneous use of vehicle under exceptional circumstances; written report.

Sec. 20939. If an ambulance operation is unable to respond to an emergency patient within a reasonable time, this part does not prohibit the spontaneous use of a vehicle under exceptional circumstances to provide, without charge or fee and as a humane service, transportation for the emergency patient. Emergency medical personnel who transport or who make the decision to transport an emergency patient under this section shall file a written report describing the incident with the medical control authority.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20941 Medical first response service; license required; issuance; requirements; duties; renewal of license; advertising or disseminating information; availability of vehicle; ability of patient to pay; police or fire suppression agency.

Sec. 20941. (1) A person shall not establish, operate, or cause to be operated a medical first response service unless the service is licensed by the department.

(2) Upon proper application, the department shall issue a license as a medical first response service to a person who meets the requirements of this part and rules promulgated under this part. The department shall not charge a fee for licensing a medical first response service.

(3) A medical first response service shall provide life support in accordance with approved local medical control authority protocols and shall not provide life support at a level that exceeds its license or violates approved local medical control authority protocols.

(4) A medical first response service license may be renewed annually upon the application to the department.

(5) A person shall not advertise or disseminate information leading the public to believe that the person provides a medical first response service unless that person does in fact provide that service and has been licensed by the department.

(6) A medical first response service shall have at least 1 medical first response vehicle available on a 24-hour-a-day, 7-day-a-week basis, to provide a medical first response capability. Each medical first response vehicle shall be equipped and staffed as required by this part or rules promulgated under this part.

(7) A medical first response service shall provide life support consistent with its license and approved local medical control authority protocols to all patients without prior inquiry into ability to pay or source of payment.

(8) To the extent that a police or fire suppression agency is dispatched to provide medical first response life support, that agency is subject to this section and the other provisions of this part relating to medical first response services.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the Michigan public health code, including any board, commission, council, or similar entity providing regulation of health professionals licensed, registered, or certified under part 209 of article 17 of the Michigan public health code, to the department of community health, see E.R.O. No. 2014-2, compiled at MCL 333.26253.

For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20945 Life support agency license; nonrenewable conditional license in lieu of denial, suspension, or revocation; duration; conditions.

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Sec. 20945. If the department determines that grounds exist under section 20165 for denial, suspension, or revocation of a life support agency license but that the denial, suspension, or revocation of the license may be detrimental to the health, safety, and welfare of the residents served by the life support agency or applicant, the department may issue a nonrenewable conditional license effective for not more than 1 year and may prescribe such conditions as the department determines to be necessary to protect the public health, safety, and welfare.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20948 Operations and services furnished by local governmental unit; costs; ordinance.

Sec. 20948. (1) A local governmental unit or combination of local governmental units may operate an ambulance operation or a nontransport prehospital life support operation, or contract with a person to furnish any of those services for the use and benefit of its residents, and may pay for any or all of the cost from available funds. A local governmental unit may receive state or federal funds or private funds for the purpose of providing emergency medical services.

(2) A local governmental unit that operates an ambulance operation or a nontransport prehospital life support operation or is a party to a contract or an interlocal agreement may defray any or all of its share of the cost by either or both of the following methods:

(a) Collection of fees for services.

(b) Special assessments created, levied, collected, and annually determined pursuant to a procedure conforming as nearly as possible to the procedure set forth in section 1 of Act No. 33 of the Public Acts of 1951, being section 41.801 of the Michigan Compiled Laws. This procedure does not prohibit the right of referendum set forth under Act No. 33 of the Public Acts of 1951, being sections 41.801 to 41.811 of the Michigan Compiled Laws.

(3) A local governmental unit may enact an ordinance regulating ambulance operations, nontransport prehospital life support operations, or medical first response services. The standards and procedures established under the ordinance shall not be in conflict with or less stringent than those required under this part or the rules promulgated under this part.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20950 Medical first responder, emergency medical technician, emergency medical technician specialist, paramedic, or emergency medical services instructor-coordinator; licensing requirements; duration of license; fees; volunteers; waiver of fee; "armed forces" defined.

Sec. 20950. (1) An individual shall not practice or advertise to practice as a medical first responder, emergency medical technician, emergency medical technician specialist, paramedic, or emergency medical services instructor-coordinator unless licensed by the department under this section.

(2) The department shall issue a license under this section only to an individual who meets all of the following requirements:

(a) Is 18 years of age or older.

(b) Meets either of the following requirements:

(*i*) Has successfully completed the appropriate education program approved under section 20912.

(*ii*) While serving as a member of the armed forces, served as a military health care specialist and was separated from service with an honorable character of service or under an honorable conditions (general) character of service in the 2-year period preceding the date the license application is filed. The applicant shall provide a form DD214, DD215, or any other form that is satisfactory to the department to meet the criteria established in this subparagraph. This subparagraph only applies to an applicant for a license as an emergency medical technician.

(c) Subject to subsection (3), has attained a passing score on the appropriate department prescribed examination, as follows:

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(*i*) A medical first responder must pass the written examination proctored by the department or the department's designee and a practical examination approved by the department. The instructors of the medical first responder course shall administer the practical examination. The department or the department's designee may also proctor the practical examination. The individual shall pay the fee for the written examination required under this subparagraph directly to the National Registry of Emergency Medical Technicians or other organization approved by the department. As used in this subparagraph, "examination" means an evaluation approved or developed by the National Registry of Emergency Medical Technicians or another organization with equivalent national recognition and expertise in emergency medical services personnel testing and approved by the department.

(*ii*) An emergency medical technician or emergency medical technician specialist must pass the written examination proctored by the department or the department's designee and a practical examination proctored by the department or the department's designee. The individual shall pay the fee for the written examination required under this subparagraph directly to the National Registry of Emergency Medical Technicians or other organization approved by the department. As used in this subparagraph, "examination" means an evaluation approved or developed by the National Registry of Emergency Medical Technicians or another organization with equivalent national recognition and expertise in emergency medical services personnel testing and approved by the department.

(*iii*) A paramedic must pass either of the following:

(A) A written and practical examination developed or prescribed by the department other than an examination defined in sub-subparagraph (B).

(B) The written examination proctored by the department or the department's designee and a practical examination proctored by the department or the department's designee. An individual who takes the examination described in this sub-subparagraph shall pay the fee for the examination directly to the National Registry of Emergency Medical Technicians or another organization approved by the department. As used in this sub-subparagraph, "examination" means an evaluation approved or developed by the National Registry of Emergency Medical Technicians or another organization with equivalent national recognition and expertise in emergency medical services personnel testing and approved by the department.

(d) Meets other requirements of this part.

(3) The department shall require for purposes of compliance with subsection (2)(c) successful passage by each first-time applicant of the applicable examination described in that subsection. Not later than 2 years after the effective date of the amendatory act that added this sentence, the department shall develop or prescribe the examination described in subsection (2)(c)(*iii*)(A).

(4) The department shall issue a license as an emergency medical services instructor-coordinator only to an individual who meets the requirements of subsection (2) for an emergency medical services instructor-coordinator and at the time of application is currently licensed as a medical first responder, emergency medical technician, emergency medical technician specialist, or paramedic and has at least 3 years' field experience with a licensed life support agency as a medical first responder, emergency medical technician, emergency medical technician specialist, or paramedic. The department shall provide for the development and administration of an examination for emergency medical services instructor-coordinators. The license must specify the level of instruction-coordination the individual is licensed to provide. An emergency medical services instructor-coordinator shall not instruct or coordinate emergency medical training courses at a level that exceeds his or her designated level of licensure and for which he or she does not have at least 3 years' field experience at that level of licensure.

(5) Except as otherwise provided in section 20952, a license under this section is effective for 3 years from the date of issuance unless revoked or suspended by the department.

(6) Except as otherwise provided in this section, an applicant for licensure under this section shall pay the following triennial licensure fees:

(a) Medical first responder - no fee.

(b) Emergency medical technician - $40.00.

(c) Emergency medical technician specialist - $60.00.

(d) Paramedic - $80.00.

(e) Emergency medical services instructor-coordinator - $100.00.

(7) If a life support agency certifies to the department that an applicant for licensure under this section will act as a volunteer and if the life support agency does not charge for its services, the department shall not require the applicant to pay the fee required under subsection (6). If the applicant ceases to meet the definition of a volunteer under this part at any time during the effective period of his or her license and is employed as a licensee under this part, the applicant shall at that time pay the fee required under subsection (6).

(8) The department shall waive the fee required under subsection (6) for the initial license if the applicant

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for initial licensure was separated from service with an honorable character of service or under honorable conditions (general) character of service in the armed forces. The applicant shall provide a form DD214, DD215, or any other form that is satisfactory to the department to be eligible for the waiver of the fee under this subsection.

(9) The department may charge a fee for an applicant taking the examination described in section 20950(2)(c)(*iii*)(A), in an amount that does not exceed the fee for an applicant taking the examination described in section 20950(2)(c)(*iii*)(B).

(10) As used in this section, "armed forces" means that term as defined in section 16103.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2006, Act 568, Imd. Eff. Jan. 3, 2007;—Am. 2013, Act 165, Eff. Feb. 12, 2014;—Am. 2021, Act 25, Eff. Sept. 7, 2021;—Am. 2024, Act 48, Eff. Apr. 2, 2025.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20952 Temporary license.

Sec. 20952. (1) The department may grant a nonrenewable temporary license to an individual who has made proper application with the required fee for licensure as a medical first responder, emergency medical technician, emergency medical technician specialist, or paramedic and who has successfully completed all of the requirements for licensure except for the examinations described in section 20950. A temporary license is valid for 1 year from the date of an accepted application.

(2) An individual holding a temporary license under this section shall practice only under direct supervision as provided under section 20952a.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2024, Act 48, Eff. (sine die);—Am. 2024, Act 84, Imd. Eff. July 23, 2024.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20952a Emergency medical technician; temporary license.

Sec. 20952a. (1) An individual holding a temporary license as an emergency medical technician shall practice only under the direct supervision of an emergency medical technician, emergency medical technician specialist, or paramedic who holds a license other than a temporary license.

(2) An individual holding a temporary license as an emergency medical technician specialist shall practice only under the direct supervision of an emergency medical technician specialist or paramedic who holds a license other than a temporary license.

(3) An individual holding a temporary license as a paramedic shall practice only under the direct supervision of a paramedic who holds a license other than a temporary license.

History: Add. 2024, Act 85, Imd. Eff. July 23, 2024.

Popular name: Act 368

333.20954 Renewal license; renewal fees; procedures for late renewal; volunteers.

Sec. 20954. (1) Upon proper application to the department and payment of the renewal fee under subsection (2), the department may renew an emergency medical services personnel license if the applicant meets the requirements of this part and provides, upon request of the department, verification of having met ongoing education requirements established by the department. If an applicant for renewal fails to provide the department with a change of address, the applicant shall pay a $20.00 fee in addition to the renewal and late fees required under subsections (2) and (3).

(2) Except as otherwise provided in subsection (5), an applicant for renewal of a license under section 20950 shall pay a renewal fee as follows:

(a) Medical first responder - no fee.

(b) Emergency medical technician - $25.00.

(c) Emergency medical technician specialist - $25.00.

(d) Paramedic - $25.00.

(e) Emergency medical services instructor-coordinator - $25.00.

(3) Except as otherwise provided in subsection (5), if an application for renewal under subsection (1) is

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postmarked after the date the license expires, the applicant shall pay a late fee in addition to the renewal fee under subsection (2) as follows:

(a) Medical first responder - $50.00.

(b) Emergency medical technician - $50.00.

(c) Emergency medical technician specialist - $50.00.

(d) Paramedic - $50.00.

(e) Emergency medical services instructor-coordinator - $50.00.

(4) A license or registration must be renewed by the licensee on or before the expiration date as prescribed by rule. The department shall mail a notice to the licensee at the last known address on file with the department advising of the time, procedure, and fee for renewal. Failure of the licensee to receive notice under this subsection does not relieve the licensee of the responsibility for renewing his or her license. A license not renewed by the expiration date may be renewed within 60 days of the expiration date upon application, payment of renewal and late renewal fees, and fulfillment of any continued continuing education requirements set forth in rules promulgated under this article. The licensee may continue to practice and use the title during the 60-day period. If a license is not so renewed within 60 days of the expiration date, the license is void. The licensee shall not practice or use the title. An individual may be relicensed within 3 years of the expiration date upon application, payment of the application processing, renewal, and late renewal fees, and fulfillment of any continuing education requirements in effect at the time of the expiration date, or that would have been required had the individual renewed his or her license pursuant to subsection (1). An individual may be relicensed more than 3 years after the expiration date upon application as a new applicant, meeting all licensure requirements in effect at the time of application, taking or retaking and passing any applicable examinations described in section 20950 required for initial licensure, and payment of fees required of new applicants.

(5) If a life support agency certifies to the department that an applicant for renewal under this section is a volunteer and if the life support agency does not charge for its services, the department shall not require the applicant to pay the fee required under subsection (2) or a late fee under subsection (3). If the applicant for renewal ceases to meet the definition of a volunteer under this part at any time during the effective period of his or her license renewal and is employed as a licensee under this part, the applicant for renewal shall at that time pay the fee required under subsection (2).

(6) An individual seeking renewal under this section is not required to maintain national registry status as a condition of license renewal.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 314, Eff. Jan. 1, 2001;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2024, Act 48, Eff. Apr. 2, 2025.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20956 Provision of life support; limitation; authorized techniques.

Sec. 20956. (1) A medical first responder, an emergency medical technician, an emergency medical technician specialist, or a paramedic shall not provide life support at a level that is inconsistent with his or her education, licensure, and approved medical control authority protocols.

(2) A medical first responder, emergency medical technician, emergency medical technician specialist, or paramedic may perform techniques required in implementing a field study authorized under section 20910(1)(h) if he or she receives training for the skill, technique, procedure, or equipment involved in the field study.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20958 Emergency medical services personnel license; denial, revocation, or suspension; findings; notice; hearing order of circuit court to appear and give testimony.

Sec. 20958. (1) The department may deny, revoke, or suspend an emergency medical services personnel license upon finding that an applicant or licensee meets 1 or more of the following:

(a) Is guilty of fraud or deceit in procuring or attempting to procure licensure.

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(b) Has illegally obtained, possessed, used, or distributed drugs.

(c) Has practiced after his or her license has expired or has been suspended.

(d) Has knowingly violated, or aided or abetted others in the violation of, this part or rules promulgated under this part.

(e) Is not performing in a manner consistent with his or her education, licensure, or approved medical control authority protocols.

(f) Is physically or mentally incapable of performing his or her prescribed duties.

(g) Has been convicted of a criminal offense under sections 520a to 520*l* of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520*l*. A certified copy of the court record is conclusive evidence of the conviction.

(h) Has been convicted of a misdemeanor or felony reasonably related to and adversely affecting the ability to practice in a safe and competent manner. A certified copy of the court record is conclusive evidence of the conviction.

(2) The department shall provide notice of intent to deny, revoke, or suspend an emergency services personnel license by certified mail or personal service. The notice of intent shall set forth the particular reasons for the proposed action and shall advise the applicant or licensee that he or she is entitled to the opportunity for a hearing before the director or the director's authorized representative. If the person to whom the notice is sent does not make a written request to the department for a hearing within 30 days of receiving the notice, the license is considered denied, revoked, or suspended as stated in the notice. If requested, the hearing shall be conducted pursuant to the administrative procedures act of 1969 and rules promulgated by the department. A full and complete record shall be kept of the proceeding and shall be transcribed when requested by an interested party, who shall pay the cost of preparing the transcript. On the basis of a hearing or on the default of the applicant or licensee, the department may issue, deny, suspend, or revoke a license.

(3) The department may establish procedures, hold hearings, administer oaths, issue subpoenas, or order testimony to be taken at a hearing or by deposition in a proceeding pending at any stage of the proceeding. A person may be compelled to appear and testify and to produce books, papers, or documents in a proceeding.

(4) In case of disobedience of a subpoena, a party to a hearing may invoke the aid of the circuit court of the jurisdiction in which the hearing is held to require the attendance and testimony of witnesses. The circuit court may issue an order requiring an individual to appear and give testimony. Failure to obey the order of the circuit court may be punished by the court as a contempt.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2010, Act 304, Imd. Eff. Dec. 17, 2010.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the Michigan public health code, including any board, commission, council, or similar entity providing regulation of health professionals licensed, registered, or certified under part 209 of article 17 of the Michigan public health code, to the department of community health, see E.R.O. No. 2014-2, compiled at MCL 333.26253.

For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20961 Reciprocity.

Sec. 20961. (1) The department may grant a license under this part to a person who is licensed in another state at the time of application if the applicant provides evidence satisfactory to the department as to all of the following:

(a) The applicant meets the requirements of this part and rules promulgated by the department for licensure.

(b) There are no pending disciplinary proceedings against the applicant before a similar licensing agency of this or any other state or country.

(c) If sanctions have been imposed against the applicant by a similar licensing agency of this or any other state or country based upon grounds that are substantially similar to those set forth in section 20165 or 20958, as determined by the department, the sanctions are not in force at the time of the application.

(d) The other state maintains licensure standards equivalent to or more stringent than those of this state.

(2) The department may make an independent inquiry to determine whether an applicant meets the requirements described in subsection (1)(b) and (c).

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar

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entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20963 Radio communications; compliance.

Sec. 20963. (1) A person participating in radio communications activities in support of emergency medical services, on frequencies utilized in the statewide emergency medical services communications system, shall comply with procedures and radio system requirements established by the department.

(2) A person who receives any intercepted public safety radio communication shall not utilize the contents of the communication for the purpose of initiating an emergency medical service response without the authorization of the sender. This subsection shall not apply to a radio communication generally transmitted to any listener by a person in distress.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20965 Immunity from liability.

Sec. 20965. (1) Unless an act or omission is the result of gross negligence or willful misconduct, the acts or omissions of a medical first responder, emergency medical technician, emergency medical technician specialist, paramedic, medical director of a medical control authority or his or her designee, or, subject to subsection (5), an individual acting as a clinical preceptor of a department-approved education program sponsor while providing services to a patient outside a hospital, in a hospital before transferring patient care to hospital personnel, or in a clinical setting that are consistent with the individual's licensure or additional training required by the medical control authority including, but not limited to, services described in subsection (2), or consistent with an approved procedure for that particular education program do not impose liability in the treatment of a patient on those individuals or any of the following persons:

(a) The authorizing physician or physician's designee.

(b) The medical director and individuals serving on the governing board, advisory body, or committee of the medical control authority and an employee of the medical control authority.

(c) The person providing communications services or lawfully operating or utilizing supportive electronic communications devices.

(d) The life support agency or an officer, member of the staff, or other employee of the life support agency.

(e) The hospital or an officer, member of the staff, nurse, or other employee of the hospital.

(f) The authoritative governmental unit or units.

(g) Emergency personnel from outside the state.

(h) The education program medical director.

(i) The education program instructor-coordinator.

(j) The education program sponsor and education program sponsor advisory committee.

(k) The student of a department-approved education program who is participating in an education program-approved clinical setting.

(*l*) An instructor or other staff employed by or under contract to a department-approved education program for the purpose of providing training or instruction for the department-approved education program.

(m) The life support agency or an officer, member of the staff, or other employee of the life support agency providing the clinical setting described in subdivision (k).

(n) The hospital or an officer, member of the medical staff, or other employee of the hospital providing the clinical setting described in subdivision (k).

(2) Subsection (1) applies to services consisting of any of the following:

(a) The use of an automated external defibrillator on an individual who is in or is exhibiting symptoms of cardiac distress.

(b) The administration of an opioid antagonist to an individual who is suffering or is exhibiting symptoms of an opioid-related overdose.

(3) Unless an act or omission is the result of gross negligence or willful misconduct, the acts or omissions of any of the persons named below, while participating in the development of protocols under this part, implementation of protocols under this part, or holding a participant in the emergency medical services system accountable for department-approved protocols under this part, does not impose liability in the performance of those functions:

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(a) The medical director and individuals serving on the governing board, advisory body, or committees of the medical control authority or employees of the medical control authority.

(b) A participating hospital or freestanding surgical outpatient facility in the medical control authority or an officer, member of the medical staff, or other employee of the hospital or freestanding surgical outpatient facility.

(c) A participating agency in the medical control authority or an officer, member of the medical staff, or other employee of the participating agency.

(d) A nonprofit corporation that performs the functions of a medical control authority.

(4) Subsections (1) and (3) do not limit immunity from liability otherwise provided by law for any of the persons listed in subsections (1) and (3).

(5) The limitation on liability granted to a clinical preceptor under subsection (1) applies only to an act or omission of the clinical preceptor relating directly to a student's clinical training activity or responsibility while the clinical preceptor is physically present with the student during the clinical training activity, and does not apply to an act or omission of the clinical preceptor during that time that indirectly relates or does not relate to the student's clinical training activity or responsibility.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 1997, Act 78, Imd. Eff. July 22, 1997;—Am. 1999, Act 199, Imd. Eff. Dec. 20, 1999;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001;—Am. 2014, Act 312, Imd. Eff. Oct. 14, 2014.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20967 Authority for management of emergency patient or management of scene of emergency; declaring nonexistence of emergency.

Sec. 20967. (1) Authority for the management of a patient in an emergency is vested in the licensed health professional or licensed emergency medical services personnel at the scene of the emergency who has the most training specific to the provision of emergency medical care. If a licensed health professional or licensed emergency medical services personnel is not available, the authority is vested in the most appropriately trained representative of a public safety agency at the scene of the emergency.

(2) When a life support agency is present at the scene of the emergency, authority for the management of an emergency patient in an emergency is vested in the physician responsible for medical control until that physician relinquishes management of the patient to a licensed physician at the scene of the emergency.

(3) Authority for the management of the scene of an emergency is vested in appropriate public safety agencies. The scene of an emergency shall be managed in a manner that will minimize the risk of death or health impairment to an emergency patient and to other individuals who may be exposed to the risks as a result of the emergency. Priority shall be given to the interests of those individuals exposed to the more serious remediable risks to life and health. Public safety officials shall ordinarily consult emergency medical services personnel or other authoritative health professionals at the scene in the determination of remediable risks.

(4) If an emergency has been declared, the declaration that an emergency no longer exists shall be made only by an individual licensed under this part or a health professional licensed under article 15 who has training specific to the provision of emergency medical services in accordance with protocols established by the local medical control authority.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20969 Objection to treatment or transportation.

Sec. 20969. This part and the rules promulgated under this part do not authorize medical treatment for or transportation to a hospital of an individual who objects to the treatment or transportation. However, if emergency medical services personnel, exercising professional judgment, determine that the individual's condition makes the individual incapable of competently objecting to treatment or transportation, emergency medical services may provide treatment or transportation despite the individual's objection unless the objection is expressly based on the individual's religious beliefs.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

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Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20971 Emergency preparedness act and MCL 30.261 not affected by part; references to former laws.

Sec. 20971. (1) This part does not supersede, limit, or otherwise affect the emergency preparedness act, Act No. 390 of the Public Acts of 1976, being sections 30.401 to 30.420 of the Michigan Compiled Laws, or Act No. 151 of the Public Acts of 1953, being section 30.261 of the Michigan Compiled Laws, dealing with licenses for professional, mechanical, or other skills for persons performing civil defense, emergency, or disaster functions under those acts.

(2) A reference in any law to former Act No. 290 of the Public Acts of 1976; former Act No. 288 of the Public Acts of 1976; former Act No. 330 of the Public Acts of 1976; or former part 32, 203, or 207 of this act shall be considered a reference to this part.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20973 Emergency medical services to and cooperative agreements with other states.

Sec. 20973. This part does not deny emergency medical services to individuals outside of the boundaries of this state, or limit, restrict, or prevent a cooperative agreement for the provision of emergency medical services between this state or a political subdivision of this state and another state or a political subdivision of another state, a federal agency, or another nation or a political subdivision of another nation.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20975 Rules generally.

Sec. 20975. The department may promulgate rules to implement this part.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the Michigan public health code, including any board, commission, council, or similar entity providing regulation of health professionals licensed, registered, or certified under part 209 of article 17 of the Michigan public health code, to the department of community health, see E.R.O. No. 2014-2, compiled at MCL 333.26253.

For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

333.20977 Rules considered as rescinded; exceptions.

Sec. 20977. (1) Except as otherwise provided in subsection (2), rules promulgated to implement former parts 32, 203, or 207 of this act and in effect on July 22, 1990 do not continue, and are considered as rescinded.

(2) Subsection (1) does not apply to rules that have been identified as being applicable within 6 months after the effective date of the amendatory act that added this subsection, as recommended by the department and approved by the statewide emergency medical services coordination committee.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 2000, Act 375, Imd. Eff. Jan. 2, 2001.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

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333.20979 Prohibited use of fees.

Sec. 20979. The legislature shall not use the increase in the amount of fees charged under this part from the fees charged under former part 207 as a basis for reducing the amount of general fund money that is appropriated to the department.

History: Add. 1990, Act 179, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of department of licensing and regulatory affairs relative to registration, licensing, or regulation of professional occupations arising from part 209 of the public health code, including board, commission, council, or similar entity providing regulation of health professionals under part 209 of article 17 of the public health code to department of health and human services, see E.R.O. No. 2017-3, compiled at MCL 333.26254.

Popular name: Act 368

PART 209A
CRITICAL INCIDENT STRESS MANAGEMENT SERVICES

333.20981 Definitions.

Sec. 20981. (1) As used in this part:

(a) "Critical incident" means an actual or perceived event or situation that involves crisis, disaster, trauma, or emergency.

(b) "Critical incident stress" means stress or trauma that an emergency service provider may experience in providing an emergency service in response to a critical incident or a series of critical incidents.

(c) "Critical incident stress management services" or "CISM services" means services provided by a critical incident stress management team or critical incident stress management team member to an emergency service provider affected by a critical incident or a series of critical incidents that are designed to assist the emergency service provider in coping with critical incident stress or to mitigate reactions to critical incident stress. Critical incident stress management services include 1 or more of the following:

(*i*) Precrisis education.

(*ii*) Critical incident stress defusings.

(*iii*) Critical incident stress debriefings.

(*iv*) On-scene support services.

(*v*) One-on-one support services.

(*vi*) Consultation.

(*vii*) Referral services.

(d) "Critical incident stress management team" or "CISM team" means an organized community or local crisis response team that is a member of the Michigan Crisis Response Association Network.

(e) "Critical incident stress management team member" or "CISM team member" means an individual who is specially trained to provide critical incident stress management services as a member of a critical incident stress management team.

(f) "Emergency service provider" means any of the following:

(*i*) An individual who provides emergency response services, including a law enforcement officer, corrections officer, firefighter, emergency medical services provider, dispatcher, emergency response communication employee, or rescue service provider.

(*ii*) An individual who is employed by or under contract with a health facility or agency.

(*iii*) A health professional licensed under article 15.

(g) "Stress or trauma" means an emotional, cognitive, behavioral, or physical reaction that may interfere with normal functioning, including, but not limited to, 1 or more of the following:

(*i*) Physical and emotional illness.

(*ii*) Failure of usual coping mechanisms.

(*iii*) Loss of interest in the job or normal life activities.

(*iv*) Personality changes.

(*v*) Loss of ability to function.

(*vi*) Psychological disruption of personal life, including a relationship with a spouse, child, or friend.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

History: Add. 2016, Act 40, Eff. June 13, 2016;—Am. 2020, Act 48 , Eff. June 1, 2020.

Compiler's note: Enacting section 1 of Act 40 of 2016 provides:

"Enacting section 1. This amendatory act applies only to critical incident stress management services provided in relation to a critical incident that occurs on or after 90 days after the date this amendatory act is enacted into law."

Popular name: Act 368

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333.20982 Confidentiality of communication or record; exceptions.

Sec. 20982. (1) Except as otherwise provided in this section, a communication made by an emergency service provider to a CISM team member while the emergency service provider receives CISM services is confidential and shall not be disclosed in a civil, criminal, or administrative proceeding. A record kept by a CISM team member relating to the provision of CISM services to an emergency service provider by the CISM team or a CISM team member is confidential and is not subject to subpoena, discovery, or introduction into evidence in a civil, criminal, or administrative proceeding.

(2) A communication or record described in subsection (1) is not confidential if any of the following circumstances exist:

(a) The CISM team member reasonably needs to make an appropriate referral of the emergency service provider to or consult about the emergency service provider with another member of the CISM team or an appropriate professional associated with the CISM team.

(b) The communication conveys information that the emergency service provider is or appears to be an imminent threat to himself or herself, a CISM team member, or any other individual.

(c) The communication conveys information relating to child or elder abuse.

(d) The emergency service provider or the legal representative of the emergency service provider expressly agrees that the emergency service provider's communication is not confidential.

History: Add. 2016, Act 40, Eff. June 13, 2016.

Compiler's note: Enacting section 1 of Act 40 of 2016 provides:

"Enacting section 1. This amendatory act applies only to critical incident stress management services provided in relation to a critical incident that occurs on or after 90 days after the date this amendatory act is enacted into law."

Popular name: Act 368

333.20983 Liability.

Sec. 20983. (1) Except as otherwise provided in subsection (2), a CISM team or a CISM team member providing CISM services is not liable for damages, including personal injury, wrongful death, property damage, or other loss related to the CISM team's or CISM team member's act, error, or omission in performing CISM services, unless the act, error, or omission constitutes wanton, willful, or intentional misconduct.

(2) Subsection (1) does not apply to an action for medical malpractice.

History: Add. 2016, Act 40, Eff. June 13, 2016.

Compiler's note: Enacting section 1 of Act 40 of 2016 provides:

"Enacting section 1. This amendatory act applies only to critical incident stress management services provided in relation to a critical incident that occurs on or after 90 days after the date this amendatory act is enacted into law."

Popular name: Act 368

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PART 210
HEALTH MAINTENANCE ORGANIZATIONS

333.21001-333.21099 Repealed. 1982, Act 354, Imd. Eff. Dec. 21, 1982;—1987, Act 149, Imd. Eff. Oct. 26, 1987;—1988, Act 315, Eff. Mar. 30, 1989;—1996, Act 472, Eff. Oct. 1, 1997;—2000, Act 252, Imd. Eff. June 29, 2000.

Popular name: Act 368

Popular name: HMO

PART 213
HOMES FOR THE AGED

333.21301 Definitions and principles of construction.

Sec. 21301. Article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

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

Compiler's note: For transfer of powers and duties of the division of health facility licensing and certification in the bureau of health systems, division of federal support services, and the division of emergency medical services, with the exception of the division of managed care and division of health facility development, from the department of public health to the director of the department of commerce, 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 bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 368

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333.21302 "Continuing care community," and "supervised personal care" defined.

Sec. 21302. (1) "Continuing care community" means that term as defined in section 3 of the continuing care community disclosure act, 2014 PA 448, MCL 554.903.

(2) "Supervised personal care" means the direct guidance or hands-on assistance with activities of daily living offered by a facility to residents of the facility that include 2 or more of the following services provided by the facility to any resident for 30 or more consecutive days as documented in the resident's service plan:

(a) Direct and regular involvement by staff in assisting a resident with the administration of the resident's prescription medications, including direct supervision of the resident taking medication in accordance with the instructions of the resident's licensed health care professional.

(b) Hands-on assistance by staff in carrying out 2 or more of the following activities of daily living: eating, toileting, bathing, grooming, dressing, transferring, and mobility.

(c) Direct staff involvement in a resident's personal and social activities or the use of devices to enhance resident safety by controlling resident egress from the facility.

History: Add. 2017, Act 167, Eff. Feb. 11, 2018.

Popular name: Act 368

333.21307 Exemptions.

Sec. 21307. This part does not authorize the medical supervision, regulation, or control of the remedial care or treatment of residents in a home for the aged operated for the adherents of a bona fide church or religious denomination who rely on treatment by prayer or spiritual means only in accordance with the creed or tenets of that church or denomination. The residents, personnel, or employees, other than food handlers, of the home are not required to submit to a medical or physical examination.

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

Popular name: Act 368

333.21311 License required; use of "home for aged" or similar term or abbreviation; minimum age for admission; waiver of age limitation; documentation; determination by director.

Sec. 21311. (1) Except as provided in section 21311a, a home for the aged shall be licensed under this article.

(2) "Home for the aged" or a similar term or abbreviation shall not be used to describe or refer to a health facility or agency unless the health facility or agency is licensed as a home for the aged by the department under this article.

(3) Except as otherwise provided in this subsection, a home for the aged shall not admit an individual under 55 years of age. Upon the request of a home for the aged and subject to subsection (4), the director shall waive the age limitation imposed by this subsection if the individual, the individual's guardian or other legal representative, if appointed, and the owner, operator, and governing body of the home for the aged, upon consultation with the individual's physician, agree on each of the following:

(a) The home for the aged is capable of meeting all of the individual's medical, social, and other needs as determined in the individual's plan of service.

(b) The individual will be compatible with the other residents of that home for the aged.

(c) The placement in that home for the aged is in the best interests of the individual.

(4) The owner, operator, and governing body of the home for the aged shall submit, with its request for a waiver, documentation to the director that supports each of the points of agreement necessary under subsection (3). Within 5 days after receipt of the information required under this subsection, the director shall determine if that documentation collectively substantiates each of the points of agreement necessary under subsection (3) and approve or deny the waiver. If denied, the director shall send a written notice of the denial and the reasons for denial to the requesting party.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1984, Act 311, Eff. Mar. 29, 1985;—Am. 2004, Act 74, Imd. Eff. Apr. 21, 2004;—Am. 2017, Act 167, Eff. Feb. 11, 2018.

Popular name: Act 368

333.21311a Existing facility or facility under construction; exemption.

Sec. 21311a. (1) Beginning on the effective date of the amendatory act that added this section, an exemption from licensure as a home for the aged under this article shall be given to an existing facility or a facility under construction if the requirements of subsection (3) are met and 1 of the following applies:

(a) The person that offers board is not related to the person that provides room or supervised personal care,

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or both.

(b) The person that provides supervised personal care, whether or not related to the person that provides room or board, or both, has had a supervised personal care arrangement in effect for at least 2 consecutive years before the date of the attestation required under subsection (3) and residents at the facility have the option to select any supervised personal care provider of their choice.

(2) An exemption from licensure as a home for the aged under this article shall be given to a facility or a facility under construction if the requirements of subsection (3) are met and 1 of the following applies:

(a) The person that provides room and the person that provides supervised personal care are related and the facility is registered as a continuing care community under the continuing care community disclosure act, 2014 PA 448, MCL 554.901 to 554.993, and includes a licensed nursing home as part of the continuing care community.

(b) The person that provides room and the person that provides supervised personal care are not related and residents at the facility have the option to select any supervised personal care from a person of their choice.

(3) The department shall make a determination that a facility is exempt from licensure as a home for the aged under this article if the owner, operator, or governing body of the facility submits an attestation to the department that certifies that all of the requirements under subsection (1)(a) or (b) or (2)(a) or (b) are met, is signed by the owner, operator, or governing body for the facility, and includes an acknowledgment that the penalty for submitting a false or inaccurate attestation is an administrative fine of $5,000.00.

(4) An exemption granted under this section continues to exist for a successor owner, operator, or governing body if the successor files the attestation required under subsection (3). An exemption under subsection (1)(a) or (b) shall not be granted under this section after December 31, 2019, except to a successor owner, operator, or governing body as provided in this subsection. An exemption under subsection (2)(a) or (b) is not limited to an existing facility or a facility under construction on or before the effective date of the amendatory act that added this section as long as the requirements of this section are met.

(5) The department shall act on an application for exemption requested under this section as soon as practicable but no later than 60 days after receipt of the application for the exemption.

(6) A denial of an application for exemption, an issuance of a fine, or a revocation of an exemption is, upon the applicant providing further information, subject to a review by the department or an appeal as provided in section 1205, or both.

(7) An exemption granted under this section may be revoked if the department determines 1 of the following:

(a) That the false or inaccurate information provided in the attestation was material to granting the exemption.

(b) The person receiving the exemption is found to be negligent, which negligence results in serious physical injury, death of a resident, or serious mental anguish, and there continues to be a risk to the health and safety of the residents at that facility.

(c) The person receiving the exemption does not cooperate in the department's investigation to make a determination for subsection (3).

(8) As used in this section:

(a) "Board" means food service provided at a facility.

(b) "Related" means any of the following personal relationships by marriage, blood, or adoption: spouse, child, parent, brother, sister, grandparent, grandchild, aunt, uncle, stepparent, stepbrother, stepsister, or cousin. Related also means an entity owns or is owned by a person that has a direct or indirect ownership interest in another entity that provides a component of operations or service under subsections (1) and (2).

(c) "Serious mental anguish" means damage suffered by a resident that a physician, physician assistant, or nurse practitioner determines caused or could have caused extreme emotional distress that resulted in hospitalization, psychiatric treatment, or death of a resident.

(d) "Serious physical injury" means damage suffered by a resident that a physician, physician assistant, or nurse practitioner determines caused or could have caused death of a resident, caused the impairment of his or her bodily function, or caused the permanent disfigurement of a resident.

History: Add. 2017, Act 167, Eff. Feb. 11, 2018.

Popular name: Act 368

333.21313 Owner, operator, and governing body of home for aged; responsibilities and duties; good moral character; issuance of license by department; criminal history check and criminal records check required; renewal of license; storage of fingerprints in automated fingerprint identification system database; convictions.

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Sec. 21313. (1) The owner, operator, and governing body of a home for the aged are responsible for all phases of the operation of the home and shall assure that the home maintains an organized program to provide room and board, protection, supervision, assistance, and supervised personal care for its residents.

(2) The owner, operator, and governing body shall assure the availability of emergency medical care required by a resident.

(3) The owner, operator, or member of the governing body of a home for the aged and the authorized representative shall be of good moral character.

(4) The department of human services shall not issue a license to or renew the license of an owner, operator, or member of the governing body, who has regular direct access to residents or who has on-site facility operational responsibilities, or an applicant, if an individual or the authorized representative, if any of those individuals have been convicted of 1 or more of the following:

(a) A felony under this act or under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(b) A misdemeanor under this act or under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r, within the 10 years immediately preceding the application.

(c) A misdemeanor involving abuse, neglect, assault, battery, or criminal sexual conduct or involving fraud or theft against a vulnerable adult as that term is defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m, or a state or federal crime that is substantially similar to a misdemeanor described in this subdivision within the 10 years immediately preceding the application.

(5) The applicant for a license for a home for the aged, if an individual, shall give written consent at the time of license application and the authorized representative shall give written consent at the time of appointment, for the department of state police to conduct both of the following:

(a) A criminal history check.

(b) A criminal records check through the federal bureau of investigation.

(6) Unless already submitted under subsection (5), an owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities for a home for the aged shall give written consent at the time of license application for the department of state police to conduct both of the following:

(a) A criminal history check.

(b) A criminal records check through the federal bureau of investigation.

(7) The department of human services shall require the applicant, authorized representative, owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities to submit his or her fingerprints to the department of state police for the criminal history check and criminal records check described in subsections (5) and (6).

(8) Not later than 1 year after the effective date of the 2012 amendatory act that amended this subsection, all owners, operators, and members of the governing body of homes for the aged who have regular direct access to residents or who have on-site facility operational responsibilities and all authorized representatives shall comply with the requirements of this section.

(9) The department of human services shall request a criminal history check and criminal records check in the manner prescribed by the department of state police. The department of state police shall conduct the criminal history check and provide a report of the results to the licensing or regulatory bureau of the department of human services. The report shall contain any criminal history information on the person maintained by the department of state police and the results of the criminal records check from the federal bureau of investigation. The department of state police may charge the person on whom the criminal history check and criminal records check are performed under this section a fee for the checks required under this section that does not exceed the actual cost and reasonable cost of conducting the checks.

(10) Beginning the effective date of the 2012 amendatory act that added this subsection, if an applicant, authorized representative, owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities applies for a license or to renew a license to operate a home for the aged and previously underwent a criminal history check and criminal records check required under subsection (5) or (6) or under section 134a of the mental health code, 1974 PA 258, MCL 330.1134a, and has remained continuously licensed or continuously employed under section 20173a or under section 34b of the adult foster care facility licensing act, 1979 PA 218, MCL 400.734b, after the criminal history check and criminal records check have been performed, the applicant, authorized representative, owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities is not required to submit to another criminal history check or criminal records check upon renewal of the license obtained under this section.

(11) The department of state police shall store and maintain all fingerprints submitted under this act in an

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automated fingerprint identification system database that provides for an automatic notification at the time a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints previously submitted in accordance with this act. At the time of that notification, the department of state police shall immediately notify the department of human services. The department of human services shall take the appropriate action upon notification by the department of state police under this subsection.

(12) An applicant, owner, operator, member of a governing body, or authorized representative of a home for the aged shall not be present in a home for the aged if he or she has been convicted of either of the following:

(a) Vulnerable adult abuse, neglect, or financial exploitation.

(b) A listed offense as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2010, Act 381, Imd. Eff. Dec. 22, 2010;—Am. 2012, Act 51, Imd. Eff. Mar. 13, 2012.

Popular name: Act 368

333.21321 Bond required.

Sec. 21321. (1) Before issuance of a license under this article, the owner, operator, or governing body of the applicant shall give a bond with a surety approved by the department. The bond shall insure the department for the benefit of the residents. The bond shall be conditioned that the applicant do all of the following:

(a) Hold separately and in trust all resident funds deposited with the applicant.

(b) Administer the funds on behalf of a resident in the manner directed by the depositor.

(c) Render a true and complete account to the resident, the depositor, and the department when requested.

(d) Account, on termination of the deposit, for all funds received, expended, and held on hand.

(2) The bond shall be in an amount equal to not less than 1-1/4 times the average balance of resident funds held during the prior year. The department may require an additional bond or permit filing of a bond in a lower amount, if the department determines that a change in the average balance has occurred or may occur. An applicant for a new license shall file a bond in an amount which the department estimates as 1-1/4 times the average amount of funds which the applicant, upon issuance of the license, is likely to hold during the first year of operation.

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

Popular name: Act 368

333.21325 Removal of resident from home for the aged; conditions.

Sec. 21325. If a resident of a home for the aged is receiving care in the facility in addition to the room, board, and supervised personal care specified in section 20106(3), as determined by a physician, the department shall not order the removal of the resident from the home for the aged if both of the following conditions are met:

(a) The resident, the resident's family, the resident's physician, and the owner, operator, and governing body of the home for the aged consent to the resident's continued stay in the home for the aged.

(b) The owner, operator, and governing body of the home for the aged commit to assuring that the resident receives the necessary additional services.

History: Add. 2000, Act 437, Imd. Eff. Jan. 9, 2001.

Popular name: Act 368

333.21331 Licensee considered consumer of tangible personal property.

Sec. 21331. A licensee of a home for the aged operated for profit is considered to be the consumer, and not the retailer, of tangible personal property purchased and used or consumed in operation of the home.

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

Popular name: Act 368

333.21332 Home for the aged; influenza vaccination.

Sec. 21332. A home for the aged shall offer each resident, or shall provide each resident with information and assistance in obtaining, an annual vaccination against influenza in accordance with the most recent recommendations of the advisory committee on immunization practices of the federal centers for disease control and prevention, as approved by the department of community health.

History: Add. 2000, Act 437, Imd. Eff. Jan. 9, 2001.

Popular name: Act 368

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333.21333 Repealed. 2009, Act 188, Eff. May 1, 2010.

Compiler's note: The repealed section pertained to smoking policies in homes for the aged.

333.21335 Requirement of emergency generator system in home for the aged.

Sec. 21335. (1) Except as provided under subsection (2), a home for the aged seeking a license or a renewal of a license under this article shall have, at a minimum, an emergency generator system that during an interruption of the normal electrical supply is capable of both of the following:

(a) Providing not less than 4 hours of service.

(b) Generating enough power to provide lighting at all entrances and exits and to operate equipment to maintain fire detection, alarm, and extinguishing systems, telephone switchboards, heating plant controls, and other critical mechanical equipment essential to the safety and welfare of the residents, personnel, and visitors.

(2) A home for the aged that is licensed under this article on the effective date of the amendatory act that added this section is not required to comply with subsection (1) until that home for the aged undergoes any major building modification. As used in this section, "major building modification" means an alteration of walls that creates a new architectural configuration or revision to the mechanical or electrical systems that significantly revises the design of the system or systems. Major building modification does not include normal building maintenance, repair, or replacement with equivalent components or a change in room function.

(3) A home for the aged that is exempt from compliance under subsection (2) shall notify the local medical control authority and the local law enforcement agency that it does not have an emergency generator on site. Until a home for the aged undergoes any major building modification as provided under subsection (2), a home for the aged that is exempt from compliance under subsection (2) shall file with the department a copy of the home for the aged's written policies and procedures and existing plans or agreements for emergency situations, including in the event of an interruption of the normal electrical supply.

(4) A home for the aged that fails to comply with this section is subject to a civil penalty of not more than $2,000.00 for each violation. Each day a violation continues is a separate offense and shall be assessed a civil penalty of not less than $500.00 for each day during which the failure continues.

History: Add. 2004, Act 397, Eff. Apr. 15, 2005.

Popular name: Act 368

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PART 214
HOSPICES

333.21401 Definitions; principles of construction.

Sec. 21401. (1) As used in this part:

(a) "Home care" means a level of care provided to a patient that is consistent with the categories "routine home care" or "continuous home care" described in 42 C.F.R. 418.302(b)(1) and (2).

(b) "Hospice residence" means a facility that meets all of the following:

(*i*) Provides 24-hour hospice care to 2 or more patients at a single location.

(*ii*) Either provides inpatient care directly in compliance with this article and with the standards set forth in 42 C.F.R. 418.100 or provides home care as described in this article.

(*iii*) Is owned, operated, and governed by a hospice program that is licensed under this article and provides aggregate days of patient care on a biennial basis to not less than 51% of its hospice patients in their own homes. As used in this subparagraph, "home" does not include a residence established by a patient in a health facility or agency licensed under this article or a residence established by a patient in an adult foster care facility licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being sections 400.701 to 400.737 of the Michigan Compiled Laws.

(c) "Inpatient care" means a level of care provided to a patient that is consistent with the categories "inpatient respite care day" and "general inpatient care day" described in 42 C.F.R. 418.302(b)(3) and (4).

(2) Article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

History: Add. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1996, Act 267, Imd. Eff. June 12, 1996.

Compiler's note: For transfer of powers and duties of the division of health facility licensing and certification in the bureau of health systems, division of federal support services, and the division of emergency medical services, with the exception of the division of managed care and division of health facility development, from the department of public health to the director of the department of commerce, 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 bureau of health services from the department of consumer and industry services to the

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director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 368

333.21411 License for hospice or hospice residence required; exception; use of term "hospice"; representation as hospice residence; exemption from licensure; separate license for health facility or agency; activities of health facility or agency not restricted; inspections and concurrent issuance of licenses.

Sec. 21411. (1) Except as provided in subsection (5), a hospice or hospice residence shall be licensed as required under this article.

(2) The term "hospice" shall not be used to describe or refer to a health program or agency unless that program or agency is licensed as a hospice by the department as required under this article or is exempted from licensure as provided in subsection (5).

(3) A person shall not represent itself as a hospice residence unless that person is licensed as a hospice residence by the department as required under this article.

(4) A hospital, nursing home, home for the aged, county medical care facility, or any other health facility or agency that operates a hospice or hospice residence shall be licensed as a hospice or hospice residence under this article.

(5) A hospice is exempt from licensure under this article if the hospice meets all of the following requirements:

(a) Provides services to not more than 7 patients per month on a yearly average.

(b) Does not charge or receive fees for goods or services provided.

(c) Does not receive third party reimbursement for goods or services provided.

(6) If a hospice provides inpatient services that meet the definition of a hospital, nursing home, home for the aged, county medical care facility, hospice residence, or other health facility or agency, the hospice or hospice residence shall obtain a separate license as required under this article for that hospital, nursing home, home for the aged, county medical care facility, hospice residence, or other health facility or agency.

(7) This part does not restrict an activity of a health facility or agency if the activity is permitted under the license held by that health facility or agency.

(8) If separate licensure is required under this section, the department may conduct inspections and issue the required licenses concurrently.

History: Add. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1984, Act 16, Imd. Eff. Mar. 1, 1984;—Am. 1996, Act 267, Imd. Eff. June 12, 1996.

Popular name: Act 368

333.21413 Duties of owner, operator, and governing body of hospice or hospice residence.

Sec. 21413. (1) The owner, operator, and governing body of a hospice or hospice residence licensed under this article:

(a) Are responsible for all phases of the operation of the hospice or hospice residence and for the quality of care and services rendered by the hospice or hospice residence.

(b) Shall cooperate with the department in the enforcement of this part, and require that the physicians and other personnel working in the hospice or hospice residence and for whom a license or registration is required be currently licensed or registered.

(c) Shall not discriminate because of race, religion, color, national origin, or sex, in the operation of the hospice or hospice residence including employment, patient admission and care, and room assignment.

(2) As a condition of licensure as a hospice residence, an applicant shall have been licensed under this article as a hospice and in compliance with the standards set forth in 42 C.F.R. part 418 for not less than the 2 years immediately preceding the date of application for licensure. A hospice residence licensed under this article may provide both home care and inpatient care at the same location. A hospice residence providing inpatient care shall comply with the standards in 42 C.F.R. 418.100.

(3) In addition to the requirements of subsections (1) and (2) and section 21415, the owner, operator, and governing body of a hospice residence that is licensed under this article and that provides care only at the home care level shall do all of the following:

(a) Provide 24-hour nursing services for each patient in accordance with the patient's hospice care plan as required under 42 C.F.R. part 418.

(b) Have an approved plan for infection control that includes making provisions for isolating each patient with an infectious disease.

(c) Obtain fire safety approval pursuant to section 20156.

(d) Equip each patient room with a device approved by the department for calling the staff member on

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duty.

(e) Design and equip areas within the hospice residence for the comfort and privacy of each patient and his or her family members.

(f) Permit patients to receive visitors at any hour, including young children.

(g) Provide individualized meal service plans in accordance with 42 C.F.R. 418.100(j).

(h) Provide appropriate methods and procedures for the storage, dispensing, and administering of drugs and biologicals pursuant to 42 C.F.R. 418.100(k).

History: Add. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1996, Act 267, Imd. Eff. June 12, 1996.

Popular name: Act 368

333.21415 Program of planned and continuous hospice care; direction of medical components; coordination, design, and provision of hospice services.

Sec. 21415. (1) A hospice or a hospice residence shall provide a program of planned and continuous hospice care, the medical components of which shall be under the direction of a physician.

(2) Hospice care shall consist of a coordinated set of services rendered at home or in hospice residence or other institutional settings on a continuous basis for individuals suffering from a disease or condition with a terminal prognosis. The coordination of services shall assure that the transfer of a patient from 1 setting to another will be accomplished with a minimum disruption and discontinuity of care. Hospice services shall address the physical, psychological, social, and spiritual needs of the individual and shall be designed to meet the related needs of the individual's family through the periods of illness and bereavement. These hospice services shall be provided through a coordinated interdisciplinary team that may also include services provided by trained volunteers.

History: Add. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1996, Act 267, Imd. Eff. June 12, 1996.

Popular name: Act 368

333.21417 Disease or condition with terminal prognosis as prerequisite for admission to or retention for care.

Sec. 21417. An individual shall not be admitted to or retained for care by a hospice or a hospice residence unless the individual is suffering from a disease or condition with a terminal prognosis. An individual shall be considered to have a disease or condition with a terminal prognosis if, in the opinion of a physician, the individual's death is anticipated within 6 months after the date of admission to the hospice or hospice residence. If a person lives beyond a 6-month or less prognosis, the person is not disqualified from receiving continued hospice care.

History: Add. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1996, Act 267, Imd. Eff. June 12, 1996.

Popular name: Act 368

333.21418 Controlled substance disposal policy; requirements; rules; definitions.

Sec. 21418. (1) Beginning 90 days after the department promulgates rules to implement this section, a hospice or hospice residence that provides services in a patient's private home shall establish and implement a written controlled substance disposal policy establishing procedures to be followed to mitigate the diversion of controlled substances that are prescribed to the patient. The policy must include all of the following:

(a) A procedure for offering to assist with the disposal of a controlled substance that is prescribed to a patient as part of the patient's hospice plan of care.

(b) A requirement that an employee provide the patient or the patient's family education on safe disposal locations for a controlled substance and techniques for the safe disposal of a controlled substance when the controlled substance is no longer needed by the patient or at the time of death.

(c) Procedures for offering assistance with the disposal of a controlled substance to a patient who revokes hospice care and services.

(d) A requirement that an employee document whether the patient or the patient's family accepted or refused an offer to assist with the disposal of a controlled substance when the controlled substance is no longer needed by the patient or at the time of death.

(e) A requirement that if an employee assists with the disposal of a controlled substance, the disposal is performed and witnessed in any of the following ways:

(*i*) Performed by the employee and witnessed by another competent adult.

(*ii*) Performed by the patient or the patient's family and witnessed by another competent adult.

(f) A requirement that if an employee assists with the disposal of a controlled substance, the disposal must be performed in the patient's private home.

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(2) A hospice or hospice residence that provides services in a patient's private home shall ensure that all of the following are met within 5 days of admission to the hospice or hospice residence and providing hospice care or services to the patient in the patient's private home:

(a) That a copy of the controlled substance disposal policy established under subsection (1) is distributed to the patient or the patient's family and that an offer to discuss the procedures included in the policy is made to the patient and the patient's family.

(b) That the patient and the patient's family are informed that an employee will offer to assist with the disposal of a controlled substance that is included in the patient's hospice plan of care at the time of death or when the controlled substance is no longer needed by the patient.

(3) The department shall promulgate rules to implement this section, including, but not limited to, rules governing the safe disposal of controlled substances in a patient's private home.

(4) As used in this section:

(a) "At the time of death" means within 72 hours after the patient's death.

(b) "Employee" means a registered professional nurse or licensed practical nurse who is employed by the hospice or hospice residence.

(c) "Licensed practical nurse" means an individual who is licensed to engage in the practice of nursing as a licensed practical nurse under article 15.

(d) "Patient's family" means a relative or caregiver who has been designated by the patient.

(e) "Patient's private home" means a patient's home. As used in this subdivision, "home" does not include a residence established by a patient in a health facility or agency or a residence established by a patient in an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(f) "Registered professional nurse" means that term as defined in section 17201.

History: Add. 2018, Act 396, Eff. Mar. 19, 2019.

Popular name: Act 368

333.21419 Rules.

Sec. 21419. (1) Not later than 1 year after the effective date of this part, the department shall submit for a public hearing proposed rules necessary to implement and administer this part.

(2) The rules promulgated pursuant to subsection (1) shall not establish standards related to the credentials of an individual providing care in a hospice program, whether as an employee of a program or volunteer in a program, unless, with respect to the type of care the individual would provide in the hospice program, a license or other credential is required by law for an individual providing that care.

History: Add. 1980, Act 293, Eff. Mar. 31, 1981.

Popular name: Act 368

Administrative rules: R 325.13101 et seq. of the Michigan Administrative Code.

333.21420 Exemption of hospices from license fees and certificate of need fees; period.

Sec. 21420. Notwithstanding any other provision of this act, all hospices shall be exempt from license fees and certificate of need fees for 3 years after the first hospice is licensed under this article.

History: Add. 1980, Act 293, Eff. Mar. 31, 1981;—Am. 1982, Act 245, Imd. Eff. Sept. 23, 1982.

Popular name: Act 368

333.21421 Repealed. 1987, Act 149, Imd. Eff. Oct. 26, 1987.

Compiler's note: The repealed section provided for the expiration of this part.

Popular name: Act 368

PART 215
HOSPITALS

333.21501 Definitions and principles of construction.

Sec. 21501. (1) As used in this part:

(a) "Aircraft transport vehicle" means that term as defined in section 20902.

(b) "Ambulance" means that term as defined in section 20902.

(c) "Emergency patient" means that term as defined in section 20904.

(d) "Group health plan" means an employer program of health benefits, including an employee welfare benefit plan as defined in section 3(1) of subtitle A of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 USC 1002, to the extent that the plan provides medical care, including items and

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services paid for as medical care to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement, or otherwise.

(e) "Health benefit plan" means a group health plan, an individual or group expense-incurred hospital, medical, or surgical policy or certificate, or an individual or group health maintenance organization contract. Health benefit plan does not include accident-only, credit, dental, or disability income insurance; long-term care insurance; coverage issued as a supplement to liability insurance; coverage only for a specified disease or illness; worker's compensation or similar insurance; or automobile medical-payment insurance.

(f) "Nonemergency patient" means that term as defined in section 20908.

(g) "Participating provider" means a provider that, under contract with an insurer that issues health benefit plans, or with such an insurer's contractor or subcontractor, has agreed to provide health care services to covered individuals and to accept payment by the insurer, contractor, or subcontractor for covered services as payment in full, other than coinsurance, copayments, or deductibles.

(h) "Patient's representative" means any of the following:

(*i*) A person to whom a patient has given express written consent to represent the patient.

(*ii*) A person authorized by law to provide consent for a patient.

(*iii*) A patient's treating health professional, but only if the patient is unable to provide consent.

(i) "Rural emergency hospital" means a hospital that is designated by the Centers for Medicare and Medicaid Services to offer rural emergency hospital services.

(j) "Rural emergency hospital services" means that term as defined in 42 USC 1395x.

(k) "Third party administrator" means that term as defined in section 2 of the third party administrator act, 1984 PA 218, MCL 550.902.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2018, Act 384, Eff. Mar. 19, 2019;—Am. 2022, Act 265, Imd. Eff. Dec. 22, 2022.

Compiler's note: For transfer of powers and duties of the division of health facility licensing and certification in the bureau of health systems, division of federal support services, and the division of emergency medical services, with the exception of the division of managed care and division of health facility development, from the department of public health to the director of the department of commerce, 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 bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 368

333.21511 License required; use of term "hospital."

Sec. 21511. (1) A hospital shall be licensed under this article.

(2) "Hospital" shall not be used to describe or refer to a health facility unless the health facility is licensed as a hospital by the department under this article. This section does not apply to a hospital licensed or operated by the department of mental health or the federal government or to a veterinary hospital.

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

Popular name: Act 368

333.21513 Owner, operator, and governing body of hospital; responsibilities and duties generally.

Sec. 21513. The owner, operator, and governing body of a hospital licensed under this article:

(a) Are responsible for all phases of the operation of the hospital, selection of the medical staff, and quality of care rendered in the hospital.

(b) Shall cooperate with the department in the enforcement of this part, and require that the physicians, dentists, and other personnel working in the hospital who are required to be licensed or registered are in fact currently licensed or registered.

(c) Shall ensure that physicians and dentists admitted to practice in the hospital are granted hospital privileges consistent with their individual training, experience, and other qualifications.

(d) Shall ensure that physicians and dentists admitted to practice in the hospital are organized into a medical staff to enable an effective review of the professional practices in the hospital for the purpose of reducing morbidity and mortality and improving the care provided in the hospital for patients. The review must include the quality and necessity of the care provided and the preventability of complications and deaths occurring in the hospital.

(e) Shall not discriminate because of race, religion, color, national origin, age, or sex in the operation of the hospital including employment, patient admission and care, room assignment, and professional or nonprofessional selection and training programs, and shall not discriminate in the selection and appointment of individuals to the physician staff of the hospital or its training programs on the basis of licensure or

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registration or professional education as doctors of medicine, osteopathic medicine and surgery, or podiatry.

(f) Shall ensure that the hospital adheres to medical control authority protocols according to section 20918.

(g) Shall ensure that the hospital develops and maintains a plan for biohazard detection and handling.

(h) Shall notify the department of health and human services if the owner, operator, or governing body of the hospital applies for designation as a rural emergency hospital.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1984, Act 327, Imd. Eff. Dec. 26, 1984;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1987, Act 178, Imd. Eff. Nov. 19, 1987;—Am. 1989, Act 27, Eff. Dec. 31, 1989;—Am. 1990, Act 179, Imd. Eff. July 2, 1990;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2002, Act 125, Imd. Eff. Apr. 1, 2002;—Am. 2022, Act 265, Imd. Eff. Dec. 22, 2022 .

Compiler's note: Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Popular name: Act 368

333.21515 Confidentiality of records, data, and knowledge.

Sec. 21515. The records, data, and knowledge collected for or by individuals or committees assigned a review function described in this article are confidential and shall be used only for the purposes provided in this article, shall not be public records, and shall not be available for court subpoena.

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

Popular name: Act 368

333.21521 Minimum standards and rules; practices.

Sec. 21521. A hospital shall meet the minimum standards and rules authorized by this article and shall endeavor to carry out practices that will further protect the public health and safety, prevent the spread of disease, alleviate pain and disability, and prevent premature death.

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

Popular name: Act 368

333.21523 Strictness of rules and standards.

Sec. 21523. (1) The rules for operation and maintenance of hospitals shall not be less strict than those required for certification of hospitals under part D of title XVIII of the social security act, chapter 531, 79 Stat. 313, 42 U.S.C. 1395x to 1395yy and 1395bbb to 1395ggg.

(2) The standards relating to construction, additions, modernization, or conversion of hospitals shall not be less strict than the standards contained in the document entitled "Minimum Design Standards for Health Care Facilities in Michigan" published by the department, dated March 1998.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 683, Imd. Eff. Dec. 30, 2002.

Popular name: Act 368

333.21527 Sexual medical forensic examination; administration of sexual assault evidence kit; payment provisions; "sexual assault evidence kit" defined.

Sec. 21527. (1) If an individual alleges to a physician or other member of the attending or admitting staff of a hospital that within the preceding 120 hours the individual has been the victim of criminal sexual conduct under sections 520a to 520*l* of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520*l*, the attending health care personnel responsible for examining or treating the individual immediately shall inform the individual of the availability of a sexual assault medical forensic examination, including the administration of a sexual assault evidence kit. If consented to by the individual, the attending health care personnel shall perform or have performed on the individual the sexual assault medical forensic examination, including the procedures required by the sexual assault evidence kit. The attending health care personnel shall also inform the individual of the provisions for payment for the sexual assault medical forensic examination under section 5a of 1976 PA 223, MCL 18.355a.

(2) As used in this section, "sexual assault evidence kit" means a standardized set of equipment and written procedures approved by the department of state police that have been designed to be administered to an individual principally for the purpose of gathering evidence of sexual conduct, which evidence is of the type offered in court by the forensic science division of the department of state police for prosecuting a case of criminal sexual conduct under sections 520a to 520*l* of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520*l*.

History: Add. 1988, Act 3, Imd. Eff. Feb. 5, 1988;—Am. 2014, Act 320, Eff. Jan. 1, 2015.

Popular name: Act 368

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333.21529 Repealed. 2010, Act 23, Eff. Apr. 1, 2012.

Compiler's note: The repealed section pertained to establishment of seasonal influenza immunization policy.

333.21530 Repealed. 2010, Act 21, Eff. Apr. 1, 2012.

Compiler's note: The repealed section pertained to influenza immunization for individual admitted to hospital.

333.21531 Repealed. 1988, Act 315, Eff. Mar. 30, 1989.

Compiler's note: The repealed section pertained to smoking policy.

Popular name: Act 368

333.21532 Acknowledgment of parentage.

Sec. 21532. (1) A hospital shall provide to an unmarried mother of a live child born in that hospital an acknowledgment of parentage form that can be completed by the child's mother and father to acknowledge paternity of the child as provided in the acknowledgment of parentage act. The hospital shall provide to the parents the information developed as required by subsection (2) on the purpose and completion of the form and on the rights and responsibilities of the parents. Execution of an acknowledgment of parentage as provided in the acknowledgment of parentage act establishes the child's legal paternity. The hospital shall forward a completed acknowledgment of parentage to the state register for recording.

(2) The department shall develop and distribute free of charge to hospitals the acknowledgment of parentage form, the information on the purpose and completion of the form, and the information on the rights and responsibilities of the parents. The hospital shall provide assistance and training to hospital staff assigned responsibility for obtaining the forms, as appropriate. The acknowledgment of parentage form and information shall clearly state that completion of the form is voluntary on the part of the mother and father, and shall include all of the notices as provided in section 7 of the acknowledgment of parentage act. The hospital shall provide each parent with a copy of the completed form.

(3) A hospital is immune from civil or criminal liability for providing the form required by this section, the information developed as required by this section, or otherwise fulfilling its duties under this section.

History: Add. 1993, Act 116, Eff. Jan. 21, 1993;—Am. 1996, Act 6, Eff. June 1, 1996;—Am. 1996, Act 307, Eff. June 1, 1997.

Popular name: Act 368

333.21533 Acknowledgment of paternity.

Sec. 21533. Upon request, the department shall provide to an unmarried mother of a child or to a putative father an acknowledgment of parentage form that can be completed by the child's mother and father to acknowledge the child's paternity as provided in the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013. The department shall provide to the mother and putative father the information developed as required by section 21532 on the purpose and completion of the form and on the parents' rights and responsibilities.

History: Add. 1998, Act 332, Imd. Eff. Aug. 10, 1998.

Popular name: Act 368

333.21534 Hospice care information provided by hospital.

Sec. 21534. Upon the request of a patient, a patient's physician, a member of the patient's family, the patient's designated patient advocate, or the patient's legal guardian, a hospital shall provide information orally and in writing to the requesting party regarding hospice and palliative care services and the availability of hospice care in the area in which the hospital is located. The hospital shall provide the information whether or not the hospital provides hospice care.

History: Add. 2001, Act 219, Imd. Eff. Dec. 28, 2001.

Popular name: Act 368

333.21535 Nonopioid directive form.

Sec. 21535. A hospital shall make available to the public the nonopioid directive form developed under section 9145 on the hospital's internet website.

History: Add. 2022, Act 44, Imd. Eff. Mar. 23, 2022.

Popular name: Act 368

333.21537 Insurance enrollment of newborn; informational document.

Sec. 21537. (1) If a live child born in a hospital is not covered under a health benefit plan, the hospital shall provide to a parent or guardian of the child the informational document on the insurance enrollment process

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developed under subsection (2).

(2) The department of insurance and financial services, in consultation with the department of health and human services, shall develop and make available to hospitals an informational document on the insurance enrollment process for coverage of a newborn.

History: Add. 2024, Act 250, Eff. Apr. 2, 2025.

Popular name: Act 368

333.21540 Use of aircraft transport vehicle or rotary aircraft ambulance; nonemergency patient; medically necessary; violation; liability.

Sec. 21540. (1) A nonemergency patient shall be transported by an ambulance that is a motor vehicle instead of an aircraft transport vehicle or ambulance that is a rotary aircraft, unless transporting the patient by an aircraft transport vehicle or ambulance that is a rotary aircraft is medically necessary for the patient.

(2) If it is determined that ordering an aircraft transport vehicle or ambulance that is a rotary aircraft to transport a nonemergency patient is medically necessary for the nonemergency patient, an aircraft transport vehicle from an aircraft transport operation, or an ambulance that is a rotary aircraft from an ambulance operation, that is a participating provider with the nonemergency patient's health benefit plan must be ordered before ordering an aircraft transport vehicle from an aircraft transport operation, or an ambulance that is a rotary aircraft from an ambulance operation, that is not a participating provider with the nonemergency patient's health benefit plan. This subsection does not apply if the hospital does not have electronic access to the information described in section 21541(1)(a)(*i*)(A) and (B).

(3) A hospital that violates this section is liable to the aircraft transport operation or ambulance operation for the reasonable cost of transporting the nonemergency patient, as negotiated between the hospital and the aircraft transport operation or ambulance operation, to the extent that the cost exceeds the amount covered by the patient's health benefit plan.

History: Add. 2018, Act 383, Eff. Mar. 19, 2019.

Popular name: Act 368

333.21541 Transportation of nonemergency patient by aircraft transport vehicle or rotary aircraft ambulance; disclosure required; notice; signature; immunity; violation; liability.

Sec. 21541. (1) Subject to section 21540, before an aircraft transport vehicle is ordered to transport a nonemergency patient or an ambulance that is a rotary aircraft is ordered to transport a nonemergency patient, a hospital shall do all of the following:

(a) Disclose to the nonemergency patient, or that patient's representative, all of the following information:

(*i*) Whether the aircraft transport operation or ambulance operation is a participating provider with the nonemergency patient's health benefit plan. This subparagraph does not apply if the hospital does not have electronic access to all of the following information:

(A) Whether the nonemergency patient's health benefit plan provides coverage for transportation by an aircraft transport vehicle or an ambulance that is a rotary aircraft.

(B) A list of all aircraft transport operations and ambulance operations that are fully contracted participating providers with the nonemergency patient's health benefit plan and do not participate with the health benefit plan on only a per claim basis.

(*ii*) That the nonemergency patient has a right to be transported by a method other than an aircraft transport vehicle or ambulance that is a rotary aircraft.

(b) Complete the notice described in subsection (2) and, after completing the notice, obtain on the notice the signature of the nonemergency patient, or that patient's representative, acknowledging that the nonemergency patient, or that patient's representative, has received, has read, and understands the notice. A hospital shall retain a copy of the notice required under this subdivision for not less than 7 years.

(2) The notice required under subsection (1)(b) must be in not less than 12-point type and in substantially the following form:

"Your physician has ordered transport by an aircraft transport vehicle or ambulance that is a rotary aircraft. Your health benefit plan may or may not provide coverage for this transportation. You may be responsible for the costs of the transportation that is not covered by your health benefit plan.

We have conducted a good-faith search to determine whether your health benefit plan provides coverage for this transportation and, if so, to order this transportation from a provider that participates with your health benefit plan.

You have a right to be transported by a method other than transport by an aircraft transport vehicle or ambulance that is a rotary aircraft.

The hospital and the ordering physician are immune from civil liability for injuries or damages arising out

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of your decision to use a form of transportation other than the one ordered by the ordering physician.

I have received, read, and understand this notice.

_____ _____

(Patient's or patient representative's signature) (Date)

_____

(Type or print patient's or patient representative's name)".

(3) A hospital and ordering physician are immune from civil liability for injuries or damages arising out of the decision of a patient or the patient's representative to use a form of transportation other than the one ordered by the ordering physician.

(4) Upon the request of a nonemergency patient's health benefit plan or third party administrator, the hospital shall provide a copy of the notice required under subsection (1)(b) to the person designated in the nonemergency patient's health benefit plan or by the third party administrator.

(5) A hospital that violates this section is liable to the aircraft transport operation or ambulance operation for the reasonable cost of transporting the nonemergency patient, as negotiated between the hospital and the aircraft transport operation or ambulance operation, to the extent that the cost exceeds the amount covered by the patient's health benefit plan.

History: Add. 2018, Act 384, Eff. Mar. 19, 2019.

Popular name: Act 368

333.21542 Granting right to land by hospital; violation; liability.

Sec. 21542. (1) If a hospital has the infrastructure necessary to allow an aircraft transport vehicle or ambulance that is a rotary aircraft to land at the hospital, the hospital shall grant the right to land at the hospital to an aircraft transport vehicle or ambulance that is a rotary aircraft, that is a participating provider with a patient's health benefit plan. If a hospital denies an aircraft transport vehicle or ambulance that is a rotary aircraft the right to land at the hospital, the hospital shall, within 10 days after the denial, provide to the person designated in the patient's health benefit plan written documentation explaining the reason for the denial. A hospital shall not deny an aircraft transport vehicle or ambulance that is a rotary aircraft the right to land at the hospital for the purpose of allowing an aircraft transport vehicle that is a contracted provider with the hospital or ambulance that is a rotary aircraft that is a contracted provider with the hospital to remain on standby.

(2) In addition to the sanctions set forth in section 20165, a hospital that violates this section is liable to the aircraft transport operation or ambulance operation for the cost of transporting the patient by that operation's aircraft transport vehicle or ambulance that is a rotary aircraft to the extent that the cost exceeds the amount covered by the patient's health benefit plan.

History: Add. 2018, Act 385, Eff. Mar. 19, 2019.

Popular name: Act 368

333.21551 Temporary delicensure of beds; extension; form and contents of application; amended application; alternative use of space; plans; relicensing of beds; automatic and permanent delicensing; bed inventory; transfer of beds; definitions.

Sec. 21551. (1) A hospital licensed under this article and located in a nonurbanized area may apply to the department to temporarily delicense the following:

(a) Not more than 50% of its licensed beds for not more than 5 years.

(b) If the hospital is a rural emergency hospital, 100% of its licensed beds for not more than 5 years.

(2) A hospital that is granted a temporary delicensure of beds under subsection (1) may apply to the department for an extension of temporary delicensure for those beds for up to an additional 5 years to the extent that the hospital actually met the requirements of subsection (6) during the initial period of delicensure granted under subsection (1). The department shall grant an extension under this subsection unless the department determines under part 222 that there is a demonstrated need for the delicensed beds in the hospital group in which the hospital is located. If the department does not grant an extension under this subsection, the hospital shall request relicensure of the beds under subsection (7) or allow the beds to become permanently delicensed under subsection (8).

(3) Except as otherwise provided in this section, for a period of 90 days after January 1, 1991, if a hospital is located in a distressed area and has an annual indigent volume consisting of not less than 25% indigent patients, the hospital may apply to the department to temporarily delicense not more than 50% of its licensed beds for a period of not more than 2 years. On the receipt of a complete application under this subsection, the department shall temporarily delicense the beds indicated in the application. The department shall not grant an extension of temporary delicensure under this subsection.

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(4) An application under subsection (1) or (3) must be on a form provided by the department. The form must contain all of the following information:

(a) The number and location of the specific beds to be delicensed.

(b) The period of time during which the beds will be delicensed.

(c) The alternative use proposed for the space occupied by the beds to be delicensed.

(5) A hospital that files an application under subsection (1) or (3) may file an amended application with the department on a form provided by the department. The hospital shall state on the form the purpose of the amendment. If the hospital meets the requirements of this section, the department shall so amend the hospital's original application.

(6) An alternative use of space made available by the delicensure of beds under this section does not result in a violation of this article or the rules promulgated under this article. Along with the application, an applicant for delicensure under subsection (1) or (3) shall submit to the department plans that indicate to the satisfaction of the department that the space occupied by the beds proposed for temporary delicensure will be used for 1 or more of the following:

(a) An alternative use that over the proposed period of temporary delicensure would defray the depreciation and interest costs that otherwise would be allocated to the space along with the operating expenses related to the alternative use.

(b) To correct a licensing deficiency previously identified by the department.

(c) Nonhospital purposes, including, but not limited to, community service projects, if the depreciation and interest costs for all capital expenditures that would otherwise be allocated to the space, as well as any operating costs related to the proposed alternative use, would not be considered as hospital costs for purposes of reimbursement.

(7) The department shall relicense beds that are temporarily delicensed under this section if all of the following requirements are met:

(a) The hospital files with the department a written request for relicensure not less than 90 days before the earlier of the following:

(*i*) The expiration of the period for which delicensure was granted.

(*ii*) The date upon which the hospital is requesting relicensure.

(*iii*) The last hospital license renewal date in the delicensure period.

(b) The space to be occupied by the relicensed beds is in compliance with this article and the rules promulgated under this article, including all licensure standards in effect at the time of relicensure, or the hospital has a plan of corrections that has been approved by the department.

(8) If a hospital does not meet all of the requirements of subsection (7) or if a hospital decides to allow beds to become permanently delicensed as described in subsection (2), then all of the temporarily delicensed beds must be automatically and permanently delicensed effective on the last day of the period for which the department granted temporary delicensure.

(9) The department of health and human services shall continue to count beds temporarily delicensed under this section in the department of health and human services' bed inventory for purposes of determining hospital bed need under part 222 in the hospital group in which the beds are located. The department of health and human services shall indicate in the bed inventory which beds are licensed and which beds are temporarily delicensed under this section. The department of health and human services shall not include a hospital's temporarily delicensed beds in the hospital's licensed bed count.

(10) A hospital that is granted temporary delicensure of beds under this section shall not transfer the beds to another site or hospital without first obtaining a certificate of need.

(11) As used in this section:

(a) "Distressed area" means a city that meets all of the following criteria:

(*i*) Had a negative population change from 2010 to the date of the 2020 federal decennial census.

(*ii*) From 1972 to 1989, had an increase in its state equalized valuation that is less than the statewide average.

(*iii*) Has a poverty level that is greater than the statewide average, according to the 1980 federal decennial census.

(*iv*) Was eligible for an urban development action grant from the United States Department of Housing and Urban Development in 1984 and was listed in 49 FR No. 28 (February 9, 1984) or 49 FR No. 30 (February 13, 1984).

(*v*) Had an unemployment rate that was higher than the statewide average for 3 of the 5 years from 1981 to 1985.

(b) "Indigent volume" means the ratio of a hospital's indigent charges to its total charges expressed as a percentage as determined by the department of health and human services after November 12, 1990, under

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chapter 8 of the department of health and human services guidelines titled "Medical Assistance Program Manual".

(c) "Nonurbanized area" means an area that is not an urbanized area.

(d) "Urbanized area" means that term as defined by the Office of Federal Statistical Policy and Standards of the United States Department of Commerce in the appendix entitled "General Procedures and Definitions", 45 FR p. 962 (January 3, 1980), which document is incorporated by reference.

History: Add. 1990, Act 259, Imd. Eff. Oct. 15, 1990;—Am. 1990, Act 331, Imd. Eff. Dec. 21, 1990;—Am. 2022, Act 265, Imd. Eff. Dec. 22, 2022.

Popular name: Act 368

333.21552 Hospital transition assistance program; purpose; elements; feasibility study; financing; advisory committee; report.

Sec. 21552. (1) The department, in cooperation with the state hospital finance authority, the office of health and medical affairs, and other state agencies considered appropriate by the department, shall develop recommendations regarding the appropriateness and feasibility of a state hospital transition assistance program to provide voluntary assistance to hospitals wanting to close, convert, or consolidate their facilities with another hospital, in order to eliminate excess capacity in a way that would maintain common access to critical health care services and assist displaced employees.

(2) The hospital transition assistance program described in subsection (1) shall include at least the following elements:

(a) Assistance in retiring all or some appropriate portion of the principal and interest applicable to the outstanding debt of a hospital applying to participate in the program.

(b) Assistance, through relocation or retraining, to workers displaced as a result of a hospital closure, conversion, or consolidation under the program.

(c) Maintenance of community access to critical health care services, especially for the uninsured and the underinsured, that might be endangered as a result of assistance provided under this program.

(d) As appropriate to hospitals wanting to close, convert, or consolidate, assistance with license termination, cessation of operations, and disposition of assets to help defray the outstanding indebtedness of a hospital applying to participate in the program.

(3) The state hospital finance authority, after consultation with experts knowledgeable about the approaches listed in this section, shall contract for a study of the feasibility of the hospital transition assistance program elements as described in subsection (2). The feasibility study shall include at least all of the following information:

(a) The outstanding hospital bonded indebtedness and associated interest for all the hospitals in this state and the amounts payable in principal and interest per year until the bonds are retired.

(b) The financial benefits and costs to the state, health care purchasers, and other hospitals of assisting in defraying portions of that indebtedness and interest according to the different possible options.

(c) Criteria for prioritizing assistance to hospitals applying to participate in the program.

(d) Options for, and estimated benefits and costs of, providing relocation and retraining assistance to workers displaced by a hospital closure, conversion, or consolidation assisted by the program.

(e) In cases of proposed conversions or consolidations, the possibility of including a requirement that the assistance will result in a net reduction of beds at least equal to the number licensed to the hospital applying to participate in the program.

(f) Interest among hospitals and purchasers regarding participation in the program.

(4) The state hospital finance authority may expend up to $250,000.00 from its operating fund to finance the feasibility study described in subsection (3) and to staff the advisory committee created in subsection (5).

(5) An advisory committee appointed by the director shall react to and comment on the feasibility study developed pursuant to subsection (3), and report to the governor and legislature on the appropriateness of pursuing the options described in the feasibility study. The committee shall be composed of 15 members equally divided among representatives of health consumers, health providers, and purchasers of health care.

(6) The feasibility study required under subsection (3) shall be completed within 9 months after the effective date of the contract for the feasibility study. The advisory committee established under subsection (5) shall submit its report to the governor and the legislature not later than 4 months after the advisory committee receives the feasibility study.

History: Add. 1990, Act 259, Imd. Eff. Oct. 15, 1990.

Compiler's note: For transfer of powers and duties of state hospital finance authority to Michigan finance authority, see E.R.O. No. 2010-2, compiled at MCL 12.194.

Popular name: Act 368

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333.21561 Application for designation as rural community hospital; use of term “rural community hospital”; definition.

Sec. 21561. (1) After the effective date of the rules required under section 21563, a hospital with fewer than 100 licensed beds located in a nonurbanized area that is either licensed on or before the effective date of this section or is licensed after the effective date of this section and is located in a county that did not have a hospital on the effective date of this section may apply to the department for designation as a rural community hospital.

(2) The term "rural community hospital" shall not be used to describe or refer to a health facility or agency unless the health facility or agency is designated as a rural community hospital by the department.

(3) As used in this section, "nonurbanized area" means that term as defined in section 21551.

History: Add. 1990, Act 252, Imd. Eff. Oct. 12, 1990.

Popular name: Act 368

333.21562 Rural community hospital as limited service hospital; delivery of basic acute care services; rules implementing part; agreement to participate in medicaid program; definition; participation in federal medicare program; appointment, membership, and purpose of ad hoc advisory committee; transfer agreement.

Sec. 21562. (1) A hospital designated as a rural community hospital under section 21561 shall be a limited service hospital directed toward the delivery of not more than basic acute care services in order to assure appropriate access in the rural area.

(2) The rules promulgated to implement this part shall require that a hospital designated as a rural community hospital under section 21561 shall provide no more than the following services:

(a) Emergency care.

(b) Stabilization care for transfer to another facility.

(c) Inpatient care.

(d) Radiology and laboratory services.

(e) Ambulatory care.

(f) Obstetrical services.

(g) Outpatient services.

(h) Other services determined as appropriate by the ad hoc advisory committee created in subsection (5).

(3) A rural community hospital shall enter into an agreement with the department of social services to participate in the medicaid program. As used in this subsection, "medicaid" means that term as defined in section 22207.

(4) A rural community hospital shall meet the conditions for participation in the federal medicare program under title XVIII of the social security act.

(5) Not later than 3 months after the effective date of this section, the director shall appoint an ad hoc advisory committee to develop recommendations for rules to designate the maximum number of beds and the services to be provided by a rural community hospital. In developing recommendations under this subsection, the ad hoc advisory committee shall review the provisions of the code pertaining to hospital licensure in order to determine those provisions that should apply to rural community hospitals. The director shall direct the committee to report its recommendations to the department within 12 months after the committee is appointed. The ad hoc advisory committee shall be appointed as follows:

(a) Twenty-five percent of the members shall be representatives from hospitals with fewer than 100 licensed beds.

(b) Twenty-five percent of the members shall be representatives from health care provider organizations other than hospitals.

(c) Twenty-five percent of the members shall be representatives from organizations whose membership includes consumers of rural health care services or members of local governmental units located in rural areas.

(d) Twenty-five percent of the members shall be representatives from purchasers or payers of rural health care services.

(6) A hospital designated as a rural community hospital under section 21561 shall develop and implement a transfer agreement between the rural community hospital and 1 or more appropriate referral hospitals.

History: Add. 1990, Act 252, Imd. Eff. Oct. 12, 1990.

Popular name: Act 368

333.21563 Rules for designation of rural community hospital, maximum number of beds, and

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services; showing designation on license; licensing and regulation of rural community hospital; applicable provisions of part 222; differential reimbursement.

Sec. 21563. (1) The department, in consultation with the ad hoc advisory committee appointed under section 21562, shall promulgate rules for designation of a rural community hospital, maximum number of beds, and the services provided by a rural community hospital. The director shall submit proposed rules, based on the recommendations of the committee, for public hearing not later than 6 months after receiving the report under section 21562(5).

(2) The designation as a rural community hospital shall be shown on a hospital's license and shall be for the same term as the hospital license. Except as otherwise expressly provided in this part or in rules promulgated under this section, a rural community hospital shall be licensed and regulated in the same manner as a hospital otherwise licensed under this article. The provisions of part 222 applicable to hospitals also apply to a rural community hospital and to a hospital designated by the department under federal law as an essential access community hospital or a rural primary care hospital. This part and the rules promulgated under this part do not preclude the establishment of differential reimbursement for rural community hospitals, essential access community hospitals, and rural primary care hospitals.

History: Add. 1990, Act 252, Imd. Eff. Oct. 12, 1990.

Popular name: Act 368

333.21564 Waiving applicability of specified licensure requirement; conditions; application for waiver; form; duration of waiver; definition.

Sec. 21564. (1) Upon request of a hospital with less than 100 beds located in a nonurbanized area, the department may waive the applicability of a specified licensure requirement if the department determines that strict compliance with the licensure requirement is not necessary to protect the public health, safety, and welfare in light of the health care provided by or in the hospital. The department may impose conditions upon a waiver under this section to protect the public health, safety, and welfare.

(2) An application for a waiver under this section shall be on a form provided by the department.

(3) A waiver granted by the department under this section shall not exceed 2 years, except that the department may renew the waiver for subsequent periods if the hospital continues to meet the requirements of this section.

(4) As used in this section, "nonurbanized area" means that term as defined in section 21551.

History: Add. 1990, Act 252, Imd. Eff. Oct. 12, 1990.

Popular name: Act 368

333.21565 Mental health crisis stabilization program.

Sec. 21565. A hospital that has entered into a contract with a community mental health board may establish a mental health crisis stabilization program for voluntary admission with a maximum length of stay not to exceed 72 hours.

History: Add. 1990, Act 252, Imd. Eff. Oct. 12, 1990.

Popular name: Act 368

333.21566 Essential access community hospital; designation; purpose; eligibility requirements; modification of requirements.

Sec. 21566. (1) The department shall designate an eligible hospital as an essential access community hospital in order to qualify the facility for the essential access community hospital program under section 1820(e) of title XVIII of the social security act, 42 U.S.C. 1395i-4.

(2) To be eligible for designation as an essential access community hospital, a hospital shall meet all of the following requirements:

(a) Be located outside of a metropolitan statistical area, as defined by the United States office of management and budget.

(b) Be located more than 35 miles from an essential access community hospital, or a facility classified by the secretary of health and human services as a rural referral center or a regional referral center under section 1886 (d)(5)(c) of title XVIII of the social security act, 42 U.S.C. 1395ww.

(c) Have at least 75 inpatient beds or be located more than 35 miles from any other hospital.

(d) Have a transfer agreement with at least a facility designated as a rural primary care hospital under section 1820(f) of title XVIII of the social security act, 42 U.S.C. 1395i-4.

(e) Meet other requirements established by the department with the approval of the secretary of health and human services.

(f) Be a nonprofit or public hospital.

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(3) The department may modify the requirements of subsection (2) in order to conform with changes in the federal requirements, or possible waivers, as provided in federal law or regulation for the designation of an essential access community hospital.

History: Add. 1990, Act 252, Imd. Eff. Oct. 12, 1990.

Popular name: Act 368

333.21567 Rural primary care hospital; designation; purpose; eligibility requirements; modification of requirements.

Sec. 21567. (1) The department shall designate an eligible hospital as a rural primary care hospital in order to qualify the facility for the essential access community hospital program, under section 1820(f) of title XVIII of the social security act, 42 U.S.C. 1395i-4.

(2) To be eligible for designation as a rural primary care hospital, a hospital shall meet all of the following requirements:

(a) Be located outside of a metropolitan statistical area, as defined by the United States office of management and budget.

(b) Make available 24-hour emergency services.

(c) Provide no more than 6 inpatient beds for providing inpatient care for a period not to exceed 72 hours to patients requiring stabilization before discharge or transfer to a hospital.

(d) Have a transfer agreement with at least an essential access community hospital designated under section 21566.

(e) Meet other requirements established by the department and approved by the secretary of health and human services.

(f) Be a nonprofit or public hospital.

(3) The department shall indicate preferential designation under this section for an eligible hospital that is located more than 30 minutes travel time away from the next closest hospital.

(4) The department may modify the requirements of subsection (2) in order to conform with changes in the federal requirements, or possible waivers, as provided in federal law or regulation for the designation of a rural primary care hospital.

History: Add. 1990, Act 252, Imd. Eff. Oct. 12, 1990.

Popular name: Act 368

333.21568 Rural health networks.

Sec. 21568. The center for rural health created under section 2612, as part of the development of the biennial rural health plan required under section 2223, shall develop a plan that provides for the creation of a set of rural health networks. Each rural health network shall consist, at a minimum, of 1 essential access community hospital, rural referral center, or regional referral center described in section 21566, and 1 rural primary care hospital as described in section 21567. Other rural health care providers including, but not limited to, primary care centers, community health centers, licensed nursing homes, and local public health departments may also be included in a rural health network for the purpose of developing a continuum of patient care.

History: Add. 1990, Act 252, Imd. Eff. Oct. 12, 1990.

Popular name: Act 368

333.21571 Rural hospital; eligibility requirements; definition.

Sec. 21571. (1) To be a rural hospital and qualify as an eligible hospital under the federal medicare rural hospital flexibility program, 42 USC 1395i-4, a hospital not located outside of a metropolitan statistical area as defined in 42 USC 1395ww shall be located in a city, village, or township with a population of no more than 12,000 and in a county with a population of no more than 110,000. Population is to be determined according to the official 2000 federal decennial census.

(2) A hospital that is determined to be a rural hospital under this section may be designated by the department as a critical provider to satisfy the eligibility requirements for certification as a critical access hospital.

(3) As used in this section, "rural hospital" means a hospital that is located outside of a metropolitan statistical area as defined in 42 USC 1395ww or that satisfies the criteria established under subsection (1).

History: Add. 2004, Act 444, Imd. Eff. Dec. 22, 2004.

PART 216
MOBILE DENTAL FACILITY

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333.21601 Definitions.

Sec. 21601. (1) As used in this part:

(a) "Active patient" means a person who has received any type of dental care in a mobile dental facility in the preceding 24 months.

(b) "Assessment of a patient" means a limited clinical inspection that is performed to identify possible signs of oral or systemic disease, malformation, or injury, and the potential need for referral for diagnosis and treatment.

(c) "Clinical evaluation" means a diagnostic service provided by a dentist that includes a complete intra- and extra-oral inspection, may include other modalities of examination to identify signs of oral or systemic disease, malformation, or injury, and may include the completion of diagnosis and treatment planning to determine the treatment needs of an individual patient.

(d) "Comprehensive dental services" means clinical evaluation, including diagnosis and treatment planning; imagery services; and indicated treatment that may include preventative, restorative, and surgical procedures that are considered necessary for an individual patient.

(e) "Dental home" means a network of individualized care based on risk assessment, that includes oral health education, dental screenings, preventative dental services, diagnostic services, comprehensive dental services, and emergency services.

(f) "Department" means the department of community health.

(g) "Imagery" means visualization of oral and facial structures using specialized instruments and techniques for diagnostic purposes.

(h) "Memorandum of agreement" means written documentation of an agreement between parties to work together cooperatively on an agreed-upon project or meet an agreed-upon objective. The purpose of a memorandum of agreement is to have a written understanding of the agreement between the parties. A memorandum of agreement serves as a legal document that is binding and holds the parties responsible to their commitment along with describing the terms and details of the cooperative agreement. A memorandum of agreement may be used between agencies, the public, the federal or state government, communities, and individuals.

(i) "Mobile dental facility" means either of the following:

(*i*) A self-contained, intact facility in which dentistry or dental hygiene is practiced that may be transported from 1 location to another.

(*ii*) A site used on a temporary basis to provide dental services using portable equipment.

(j) "Operator" means either of the following:

(*i*) An individual with a valid, current license to practice dentistry or dental hygiene in this state who utilizes and holds a permit under this part for a mobile dental facility.

(*ii*) A corporation, limited liability company, partnership, or any governmental agency contracting with individuals licensed to practice dentistry in this state or dental hygienists licensed in this state, that utilizes and holds a permit under this part for a mobile dental facility.

(k) "Preventative dental services" means dental services that include, but are not limited to, screening of a patient, assessment of a patient, prophylaxis, fluoride treatments, and application of sealants. Imagery studies are not preventative dental services.

(*l*) "Screening of a patient" means screening, including state- or federally mandated screening, to determine an individual's need to be seen by a dentist for diagnosis.

(2) In addition, article 1 contains general definitions and principles of construction applicable to this part.

History: Add. 2014, Act 100, Eff. Apr. 1, 2015.

333.21603 Mobile dental facility; permit; operator; contracting or employing other dentists, dental hygienists, or dental assistants; permit for 1 or more mobile dental facilities.

Sec. 21603. (1) An operator shall obtain a permit under this part for a mobile dental facility before offering dental services at the facility.

(2) A mobile dental facility shall have an operator in charge at all times.

(3) An operator may contract or employ other dentists, dental hygienists, or dental assistants to work in a mobile dental facility.

(4) An operator may hold a permit for 1 or more mobile dental facilities.

History: Add. 2014, Act 100, Eff. Apr. 1, 2015.

333.21605 Permit; application; fee; duration; renewal; late fee; compliance with requirements; transfer; interim permit; approval or denial within 60 days of application.

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Sec. 21605. (1) An individual or entity seeking a permit to operate a mobile dental facility shall submit an application on a form provided by the department.

(2) An application submitted to the department under subsection (1) shall include a registration fee in an amount determined by the department but not more than the cost of a dental license renewal fee.

(3) A permit is valid for 3 years and an application for renewal may be submitted not later than the last day of the month in which the permit expires upon submission of proof to the department of compliance with the requirements of this part. A permit application that is not timely filed is subject to a late fee in an amount determined by the department as the additional cost of processing the late renewal, but not more than a dental license late renewal fee.

(4) A permit shall not be issued unless the applying individual or entity is in compliance with all applicable requirements of this part.

(5) A permit issued under this part is not transferrable. If the operator of the mobile dental facility changes, the permit is no longer valid. However, if an application for a new permit to continue operating the mobile dental facility is submitted not later than 30 days after the change of operator, the former permit is valid as an interim permit until the application is approved or denied, but not longer than 90 days.

(6) The department shall either approve or deny an application for a permit under this part not later than 60 days after receiving the application.

History: Add. 2014, Act 100, Eff. Apr. 1, 2015.

333.21607 Information to be provided by applicant; compliance with certain requirements; functional equipment; services not requiring presence of dentist.

Sec. 21607. (1) An applicant shall provide with the application for a permit under this part, and subsequently, within 10 days after a request from the department, all of the following information, as applicable:

(a) A list of each dentist, dental hygienist, and dental assistant who will provide care at or within the mobile dental facility, including, at a minimum, each individual's name, address, telephone number, and state occupational license number.

(b) A written plan and procedure for providing emergency follow-up care to each patient treated at the mobile dental facility.

(c) If the operator does not provide for follow-up services at a site within a reasonable distance for the patient and is not exempt under section 21611, a signed memorandum of agreement between the operator and at least 1 dentist or party who can arrange for or provide follow-up services at a site within a reasonable distance for the patient. The memorandum of agreement shall state that the contracting dentist or party will accept referrals of patients treated at the mobile dental facility. The agreement to accept a referral does not require the dentist or party to treat the patient.

(d) If the operator provides only preventative dental services and is not exempt under section 21611, a signed memorandum of agreement for referral for comprehensive dental services between the operator and at least 1 dentist or party who can arrange for or provide comprehensive dental services to the patient within a reasonable distance for the patient.

(e) Proof of general liability insurance covering the mobile dental facility that is issued by a licensed insurance carrier authorized to do business in this state.

(2) An operator shall meet all of the following requirements:

(a) Comply with all federal, state, and local laws, regulations, and ordinances applicable to the operation of a mobile dental facility, including, but not limited to, those concerning radiographic equipment, flammability, sanitation, zoning, and construction standards, including standards relating to required access for persons with disabilities.

(b) Maintain continuously available at the mobile dental facility a communication device for making and receiving telephone calls and summoning emergency services.

(c) Make immediately available, upon request from any person, a copy of the license of each dentist, dental hygienist, or dental assistant working at the mobile dental facility.

(d) Make immediately available, at the mobile dental facility, upon request from any person, a copy of the permit required under this part.

(3) The operator of a mobile dental facility and the operator's agents and employees shall comply with all federal, state, and local laws, administrative rules, regulations, and ordinances applicable to the mobile dental facility and to the individuals and entities that provide the preventative dental services or comprehensive dental services at the mobile dental facility, including, but not limited to, those concerning sanitation, infectious waste management and disposal, occupational safety, and disease prevention.

(4) An operator shall not provide dental services at a mobile dental facility unless it is equipped with, or

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there is appropriate access to, all of the following functional equipment:

(a) An instrument sterilization system.

(b) Potable hot and cold water or hand sanitizer.

(c) Toilet facilities.

(d) Smoke and carbon monoxide detectors, as applicable.

(e) Radiographic equipment properly registered and inspected, as applicable, by the state.

(f) A communication device continuously available for making and receiving telephone calls and summoning emergency services.

(5) An operator shall not provide dental services at a mobile dental facility unless it is equipped with, or there is appropriate access to, all of the following:

(a) Proper lighting.

(b) Portable suction.

(c) Hand pieces.

(d) Dental instruments.

(e) Supplies.

(6) Except as provided in subsection (7) or (8), a dentist licensed under this act shall be present in the mobile dental facility at any time comprehensive dental services that are not preventative dental services are performed on a patient. A dentist licensed under this act need not be present at a mobile dental facility when only preventative dental services are being provided.

(7) If a mobile dental facility is part of a program that provides comprehensive dental services or is established under a memorandum of agreement that provides for referral for comprehensive dental services, imagery services may be provided at the mobile dental facility without a dentist present.

(8) If a mobile dental facility is part of a program that provides preventative dental services to a nursing home, assisted living center, or other similar setting, imagery services may be provided without a dentist present if the person taking the images obtains permission from the supervising dentist.

History: Add. 2014, Act 100, Eff. Apr. 1, 2015.

333.21609 Written treatment plan; written consent or doctor's order; information to be received by person receiving dental services; failure to comply with federal, state, or local laws and rules.

Sec. 21609. (1) The operator or his or her designee shall establish a written treatment plan for, and provide a copy to, each patient who receives dental services at a mobile dental facility. If a patient receives dental services in a nursing home, a written treatment plan shall be given to the nursing home for inclusion in the patient's health chart.

(2) The written treatment plan required under subsection (1) shall address comprehensive dental services to be provided either at the mobile dental facility or through an affiliated dentist, dental office, or party who can arrange for or provide those services under a memorandum of agreement with the operator of the mobile dental facility.

(3) If the written treatment plan required under subsection (1) will not be completed at the mobile dental facility, the operator or his or her designee shall make a reasonable attempt to refer the patient to a dentist or party who can arrange for or provide services under a memorandum of agreement until the treatment plan is completed or the patient ceases treatment. If the patient is a minor or incapacitated person, the operator or his or her designee shall also attempt to contact a parent or guardian and inform him or her of the referral. If the operator or his or her designee is unable to make arrangements for continued treatment, he or she shall place written documentation of the attempts in the patient record and make the documentation available to the department upon request. A copy of the documentation shall be sent to the patient. If a patient received dental services in a nursing home, a copy of the documentation shall be sent to the nursing home for inclusion in the patient's health chart. Failure of the operator or his or her designee to comply with this subsection is cause for disciplinary action by the department.

(4) The operator shall obtain the patient's written consent, or the consent of a parent or guardian of a patient who is a minor or legally incapable of consent, before providing any dental services to a patient at a mobile dental facility. However, if a patient receives dental services in a nursing home, the operator may obtain a doctor's order from the patient's attending physician or the medical director of the nursing home in lieu of any other required consent before providing any dental services to a patient at a mobile dental facility.

(5) The form for the written consent required under subsection (4) shall include, at a minimum, all of the following:

(a) The name of the operator.

(b) The permanent address of the operator.

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(c) The telephone number that a patient may call 24 hours a day for emergency calls.

(d) A list of the services to be provided.

(e) A statement indicating that the patient, parent, or guardian understands that treatment may be obtained at the patient's dental home rather than at a mobile dental facility and that obtaining duplicate services at a mobile dental facility may affect benefits that he or she receives from private insurance, a state or federal program, or other third-party provider of dental benefits.

(6) If the patient is a minor or incapacitated person, the written consent form required under subsection (4) shall also include a request for the name or contact information for the dentist or dental office that provided dental services in the past 12 months.

(7) Each person receiving dental services at a mobile dental facility shall receive all of the following information:

(a) The name of the dentist, dental hygienist, dental assistant, or party who arranged for or provided the dental services to the patient.

(b) The telephone number or emergency contact number to reach the mobile dental facility or operator in case of emergency.

(c) A list of the dental services rendered.

(d) A description of any further dental services that are advisable or that have been scheduled.

(e) A referral to a specialist, dentist, or party who can arrange for or provide comprehensive dental services if dental services cannot be provided at the mobile dental facility. Upon request of the dentist or party who accepts the referral, the operator shall transmit all imagery records taken of the patient at the mobile dental facility.

(f) A copy of the consent form required under this section authorizing additional treatment.

(8) An operator who fails to comply with federal, state, or local laws and rules applicable to the mobile dental facility or any of the requirements of this part is subject to disciplinary action by the department.

History: Add. 2014, Act 100, Eff. Apr. 1, 2015.

333.21611 Memorandum of agreement; exemption.

Sec. 21611. If the operator has a memorandum of agreement due to its status as a state of Michigan designated or funded oral health prevention program with oversight from the department, the operator is exempt from any requirement concerning a memorandum of agreement under this part.

History: Add. 2014, Act 100, Eff. Apr. 1, 2015.

333.21613 Occurrences requiring notification to department; cessation of operation.

Sec. 21613. (1) The operator or his or her designee shall notify the department not later than 30 days after any of the following occurrences:

(a) A change in the mobile dental facility operator.

(b) A change in a memorandum of agreement required under section 21607.

(c) A change in the address or telephone number of the mobile dental facility operator.

(d) Cessation of operation of a mobile dental facility.

(e) Any memorandum of agreement entered into after obtaining a permit under this part.

(2) Upon cessation of operation of a mobile dental facility, the operator shall do all of the following:

(a) Provide written notice to all treatment venues and, upon request, provide evidence of the written notice to the department.

(b) Provide for availability of each active patient's dental records by 1 of the following methods:

(*i*) Make the dental records available to the patient or the patient's parent or guardian for 180 days after the mobile dental facility ceases operation and, upon his or her request, transfer the records to the active patient, the patient's parent or guardian, or another dentist.

(*ii*) Transfer the records to another dentist.

(c) Notify each active patient or the patient's parent or guardian that the dental records are available as required under subdivision (b), including the name and contact information for the dentist if the records have been transferred.

(d) Upon request from the department, provide documentation that a reasonable attempt was made to contact each active patient or the active patient's parent or guardian to provide information concerning storage and retrieval of the patient's records.

History: Add. 2014, Act 100, Eff. Apr. 1, 2015.

333.21615 Exemption; conflict with federal law; rules.

Sec. 21615. (1) Any individual or entity owning, operating, or providing services at a mobile dental facility

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is exempt from this part if the mobile dental facility is used solely to provide services that are rendered without compensation.

(2) If a provision in this part conflicts with a federal law regulating nursing homes, the federal law prevails.

(3) The department may promulgate rules to implement this part.

History: Add. 2014, Act 100, Eff. Apr. 1, 2015.

333.21617 Third-party reimbursement or worker's compensation benefits.

Sec. 21617. This part does not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered at a mobile dental facility.

History: Add. 2014, Act 100, Eff. Apr. 1, 2015.

PART 217
NURSING HOMES

333.21701 Meanings of words and phrases; general definitions and principles of construction.

Sec. 21701. (1) For purposes of this part, the words and phrases defined in sections 21702 to 21703 have the meanings ascribed to them in those sections.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979.

Compiler's note: For transfer of powers and duties of the division of health facility licensing and certification in the bureau of health systems, division of federal support services, and the division of emergency medical services, with the exception of the division of managed care and division of health facility development, from the department of public health to the director of the department of commerce, 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 bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 368

333.21702 Definitions; D to P.

Sec. 21702. (1) "Discharge" means the voluntary or involuntary movement of a patient out of a nursing home regardless of the individual's destination or reason for the movement.

(2) "Full-time" means being usually present in the nursing home or conducting or participating in activities directly related to the nursing home during the normal 40-hour business week.

(3) "Involuntary transfer" means a transfer not agreed to in writing by the patient or, in the case of a plenary guardianship, by the patient's legal guardian.

(4) "Medicaid" means the program for medical assistance established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, and 1396i to 1396u, and administered by the department of social services under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.119b of the Michigan Compiled Laws.

(5) "Medical reasons" means a medical justification for either of the following:

(a) The transfer or discharge of a patient in accord with the written orders of the attending physician that is written into the patient's clinical record by the physician in the progress notes.

(b) The transfer or discharge of a patient who is a medicaid recipient due to a change in level of care required by the patient and the fact that the nursing home or nursing care facility is not certified to provide the needed level of care.

(6) "Medicare" means that term as defined in section 2701.

(7) "Modification of a license" means an action by the department to alter the number of beds, the levels of care, the portions of the physical plant that may be operated or maintained by a licensee in a particular nursing home, or to restrict the nursing home from engaging in activity that violates this article or a rule promulgated under this article.

(8) "Negative case action" means an action taken by the department of social services to deny an application for medical assistance, cancel medical assistance, or reduce medical assistance coverage.

(9) "Nonpayment" means:

(a) Failure to collect from the patient or any other source the full amount of the facility charges to a nonmedicaid patient based on a written contract signed on or after that patient's admission to the facility.

(b) Failure to collect a medicaid patient's stipulated contribution toward his or her care.

(10) "Private pay rate" means the amount charged by a nursing home for the care of a patient who is not entitled to state or federal benefits for that patient's nursing home care.

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History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1994, Act 73, Imd. Eff. Apr. 11, 1994.

Popular name: Act 368

333.21703 Definitions; P to W.

Sec. 21703. (1) "Patient" means a resident.

(2) "Patient's representative" or "resident's representative" means a person, other than the licensee or an employee or person having a direct or indirect ownership interest in the nursing home, designated in writing by a resident or a resident's guardian for a specific, limited purpose or for general purposes, or, if a written designation of a representative is not made, the guardian of the resident.

(3) "Relocation" means the movement of a resident from 1 bed to another or from 1 room to another within the same nursing home or within a certified distinct part of a nursing home.

(4) "Resident" means an individual who receives care or services at a nursing home.

(5) "Transfer" means the movement of a resident from 1 nursing home to another nursing home or from 1 certified distinct part of a nursing home to another certified distinct part of the same nursing home.

(6) "Welfare" means, with reference to a resident, the physical, emotional, or social well-being of a resident in a nursing home, including a resident awaiting transfer or discharge, as documented in the resident's clinical record by a licensed or certified health care professional.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2015, Act 155, Eff. Jan. 18, 2016.

Popular name: Act 368

333.21707 Prescribing course of medical treatment; limitations on authority.

Sec. 21707. (1) The course of medical treatment provided to a patient in a nursing home shall be prescribed by the patient's physician.

(2) This part does not:

(a) Authorize the supervision, regulation, or control of the practice of any method of healing.

(b) Authorize the medical supervision, regulation, or control of the remedial care or nonmedical nursing care of patients in a nursing home operated for the adherents of a bona fide church or religious denomination who rely upon treatment by prayer or spiritual means only in accordance with the creed or tenets of that church or denomination. The residents, patients, personnel, or employees, other than food handlers, of the home are not required to submit to a medical or physical examination. However, the nursing home shall be inspected and licensed under laws pertaining to fire, safety, sanitation, and building construction.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21711 License required; prohibited terms or abbreviations; license for formal or informal nursing care services; exception.

Sec. 21711. (1) A nursing home shall be licensed under this article.

(2) "Nursing home", "nursing center", "convalescent center", "extended care facility", or a similar term or abbreviation shall not be used to describe or refer to a health facility or agency unless the health facility or agency is licensed as a nursing home by the department under this article.

(3) A person shall not purport to provide formal or informal nursing care services of the kind normally provided in a nursing home without obtaining a license as provided in this article. This subsection does not apply to a hospital or a facility created by Act No. 152 of the Public Acts of 1885, as amended, being sections 36.1 to 36.12 of the Michigan Compiled Laws.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21712 Name of nursing home; change in name; prohibited terms; rehabilitation services.

Sec. 21712. (1) A nursing home shall use the name that appears on the license for its premises. A nursing home shall not change its name without the approval of the department.

(2) A nursing home shall not use the terms "hospital" or "sanitarium" or a term conveying a meaning that is substantially similar to those terms in the name of the nursing home. However, a nursing home may use the term "health center" or "health care center" or "rehabilitation center" or a term conveying a meaning substantially similar to those terms as long as those terms do not conflict with the terms prohibited by this subsection.

(3) If a nursing home uses the term "rehabilitation center" in its name as allowed under subsection (2), the nursing home shall have the capacity to provide rehabilitation services that include, at a minimum, all of the following:

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(a) Physical therapy services.

(b) Occupational therapy services.

(c) Speech therapy services.

(4) A nursing home shall not include in its name the name of a religious, fraternal, or charitable corporation, organization, or association unless the corporation, organization, or association is an owner of the nursing home.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2001, Act 273, Imd. Eff. Jan. 11, 2002.

Popular name: Act 368

333.21713 Owner, operator, and governing body of nursing home; responsibilities and duties generally.

Sec. 21713. The owner, operator, and governing body of a nursing home licensed under this article:

(a) Are responsible for all phases of the operation of the nursing home and quality of care rendered in the home.

(b) Shall cooperate with the department in the enforcement of this article and require that the physicians and other personnel working in the nursing home and for whom a license or registration is required be currently licensed or registered.

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

Popular name: Act 368

333.21715 Nursing home; programs of planned and continuing nursing and medical treatment required; employment of or contract with licensed or authorized individual; services; dental treatment.

Sec. 21715. (1) A nursing home shall provide:

(a) A program of planned and continuing nursing care under the charge of a registered nurse.

(b) A program of planned and continuing medical treatment under the charge of physicians. A nursing home, regardless of its status as a legal entity, may employ or contract with an individual licensed or otherwise authorized to engage in a health profession under part 170 or 175 to provide the program of planned and continuing nursing care and medical treatment under this subsection, which care and treatment include direct clinical services to residents.

(2) A nursing home shall provide nursing care and medical treatment that consist of services given to residents who are subject to prolonged suffering from illness or injury or who are recovering from illness or injury. A nursing home shall provide the care and treatment within the ability of the nursing home to provide and shall include the functions of medical treatment including the diagnosis and treatment of an illness; nursing care via assessment, planning, and implementation; evaluation of a resident's health care needs; and the carrying out of required treatment prescribed by a physician.

(3) A nursing home may provide dental treatment under the supervision of a dentist. A nursing home, regardless of its status as a legal entity, may employ or contract with a dentist who is licensed under part 166.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2015, Act 156, Eff. Jan. 18, 2016.

Popular name: Act 368

333.21716 Nursing home; influenza vaccination.

Sec. 21716. A nursing home shall offer each resident, or shall provide each resident with information and assistance in obtaining, an annual vaccination against influenza in accordance with the most recent recommendations of the advisory committee on immunization practices of the federal centers for disease control and prevention, as approved by the department of community health.

History: Add. 2000, Act 437, Imd. Eff. Jan. 9, 2001.

Popular name: Act 368

333.21717 Care of certain individuals in nursing home; approval of area and program; definitions.

Sec. 21717. (1) An individual shall not be admitted or retained for care in a nursing home if any of the following apply:

(a) The individual requires special medical or surgical treatment, or treatment for acute mental illness, developmental disability, communicable tuberculosis, or a communicable disease, unless the home is able to provide an area and a program for the care. The department shall approve both the area and the program.

(b) The individual has tested positive for coronavirus, is currently receiving treatment at a hospital, and has less than 72 hours remaining in the individual's overall isolation period as described in guidelines established

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by the federal Centers for Disease Control and Prevention. However, if the hospital determines that it has reached surge capacity, this subdivision does not apply.

(c) Except as otherwise provided in subsection (2), beginning November 15, 2020, the individual has tested positive for coronavirus unless any of the following apply:

(*i*) The individual has since recovered from coronavirus.

(*ii*) The nursing home is a care and recovery center.

(*iii*) The nursing home demonstrates to the department of health and human services that it meets the requirements described in section 5145(1)(e) to accept an individual who has tested positive for coronavirus within the approved designated area of the nursing home.

(2) If, by November 15, 2020, the department of health and human services has not implemented the process for the creation of care and recovery centers within nursing homes as described in section 5145(1)(d), a nursing home may admit or retain for care an individual who has tested positive for coronavirus until the date that the process is implemented by the department of health and human services and for up to 30 days thereafter.

(3) As used in this section:

(a) "Care and recovery center" means a care and recovery center described in section 5145.

(b) "Coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2014, Act 66, Imd. Eff. Mar. 28, 2014;—Am. 2020, Act 231, Imd. Eff. Oct. 22, 2020.

Popular name: Act 368

333.21718 Conditions of skilled nursing facility certification and participation in title 19 program; exception; exemption.

Sec. 21718. (1) Except as provided in subsections (3) and (4), as a condition of skilled nursing facility certification and participation in the title 19 program of the social security act, 42 USC 1396 to 1396w-5, a nursing home shall be concurrently certified for and give evidence of active participation in the title 18 program of the social security act, 42 USC 1395 to 1395kkk-1. A nursing facility that is not concurrently certified for the title 18 program on March 30, 1979 shall make application for concurrent certification not later than its next application for licensure and certification. A failure to make application shall result in the skilled nursing facility being decertified or refused certification as a provider in the title 19 program. Nursing home or nursing care facility participation in the title 18 program under the requirements for concurrent certification shall be effective not later than the beginning of the first accounting year following the home's or facility's title 18 certification.

(2) As a condition of skilled nursing facility certification, a nursing home shall obtain concurrent certification under title 19 of the social security act, 42 USC 1396 to 1396w-5, for each bed that is certified to provide skilled care under title 18 of the social security act, 42 USC 1395 to 1395kkk-1. Skilled care certification shall not be renewed unless the requirements of this subsection are met.

(3) An exception may be made from the requirements of subsection (1) for a nursing facility that is currently certified as a skilled nursing facility by the director for title 19 participation but has been determined, after making application, to be ineligible for title 18 certification by the secretary of the United States department of health and human services.

(4) A home or facility, or a distinct part of a home or facility, certified by the director as a special mental illness or a special developmental disability nursing home or nursing care facility is exempt from the requirements of subsection (1).

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2014, Act 66, Imd. Eff. Mar. 28, 2014.

Popular name: Act 368

333.21719 Immediate access to acute care facilities.

Sec. 21719. A nursing home shall not be licensed under this part unless the nursing home has formulated, and is prepared to implement, insofar as possible, a plan to provide immediate access to acute care facilities for the emergency care of patients.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21720 Nursing home administrator required.

Sec. 21720. (1) The department shall not license a nursing home under this part unless that nursing home is under the direction of a nursing home administrator licensed under article 15.

(2) Each nursing home having 50 beds or more shall have a full-time licensed nursing home administrator.

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If a nursing home changes nursing home administrators, the nursing home immediately shall notify the department of the change.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

Popular name: Act 368

333.21720a Director of nursing; nursing personnel; effective date of subsection (1); natural disaster or other emergency.

Sec. 21720a. (1) A nursing home shall not be licensed under this part unless that nursing home has on its staff at least 1 registered nurse with specialized training or relevant experience in the area of gerontology, who shall serve as the director of nursing and who shall be responsible for planning and directing nursing care. The nursing home shall have at least 1 licensed nurse on duty at all times and shall employ additional registered and licensed practical nurses in accordance with subsection (2). This subsection shall not take effect until January 1, 1980.

(2) A nursing home shall employ nursing personnel sufficient to provide continuous 24-hour nursing care and services sufficient to meet the needs of each patient in the nursing home. Nursing personnel employed in the nursing home shall be under the supervision of the director of nursing. A licensee shall maintain a nursing home staff sufficient to provide not less than 2.25 hours of nursing care by employed nursing care personnel per patient per day. The ratio of patients to nursing care personnel during a morning shift shall not exceed 8 patients to 1 nursing care personnel; the ratio of patients to nursing care personnel during an afternoon shift shall not exceed 12 patients to 1 nursing care personnel; and the ratio of patients to nursing care personnel during a nighttime shift shall not exceed 15 patients to 1 nursing care personnel and there shall be sufficient nursing care personnel available on duty to assure coverage for patients at all times during the shift. An employee designated as a member of the nursing staff shall not be engaged in providing basic services such as food preparation, housekeeping, laundry, or maintenance services, except in an instance of natural disaster or other emergency reported to and concurred in by the department. In a nursing home having 30 or more beds, the director of nursing shall not be included in counting the minimum ratios of nursing personnel required by this subsection.

(3) In administering this section, the department shall take into consideration a natural disaster or other emergency.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21720b Agreement with county community mental health program.

Sec. 21720b. A nursing home shall not be licensed under this part unless that nursing home has entered into an agreement with the county community mental health program, if available, that will service the mental health needs of the patients of the nursing home.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21721 Bond required.

Sec. 21721. (1) Before issuance or renewal of a nursing home license under this article, the owner, operator, or governing body of the nursing home shall give a bond and provide evidence of a patient trust fund in an amount consistent with subsection (2) and with the surety the department approves. The bond shall be conditioned that the applicant shall hold separately in the trust fund all patients' funds deposited with the applicant, shall administer the funds on behalf of the patient in the manner directed by the depositor, shall render a true and complete account to the patient not less than once each 3 months, to the depositor when requested, and to the department of public health and the department of social services, when requested. Upon termination of the deposit, the applicant shall account for all funds received, expended, and held on hand. The bond shall insure the department of public health, for the benefit of the patients.

(2) The bond shall be in an amount equal to not less than 1-1/4 times the average balance of patient funds held during the previous year. The department may require an additional bond, or permit the filing of a bond in a lower amount, if the department determines a change in the average balance has occurred or may occur. An applicant for a new license shall file a bond in an amount which the department estimates as 1-1/4 times the average amount of patient funds which the applicant, upon the issuance of the license, is likely to hold during the first year of operation.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

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333.21723 Individual responsible for receiving complaints and conducting investigations; posting information in nursing home; communication procedure; information posted on internet website; nursing home receiving medicaid reimbursement.

Sec. 21723. (1) A nursing home shall post in an area accessible to residents, employees, and visitors the name, title, location, and telephone number of the individual in the nursing home who is responsible for receiving complaints and conducting complaint investigations and a procedure for communicating with that individual.

(2) An individual responsible for receiving complaints and conducting complaint investigations in a nursing home shall be on duty and on site not less than 24 hours per day, 7 days a week.

(3) The individual described in subsection (2) who receives a complaint, inquiry, or request from a nursing home resident or the resident's surrogate decision maker shall respond using the nursing home's established procedures pursuant to R 325.20113 of the Michigan administrative code.

(4) To assist the individual described in subsection (2) in performing his or her duties, the department of consumer and industry services shall post on its internet website all of the following information:

(a) Links to federal and state regulations and rules governing the nursing home industry.

(b) The scheduling of any training or joint training sessions concerning nursing home or elderly care issues being put on by the department of consumer and industry services.

(c) A list of long-term care contact phone numbers including, but not limited to, the consumer and industry services complaint hotline, the consumer and industry services nursing home licensing division, any commonly known nursing home provider groups, the state long-term care ombudsman, and any commonly known nursing home patient care advocacy groups.

(d) When it becomes available, information on the availability of electronic mail access to file a complaint concerning nursing home violations directly with the department of consumer and industry services.

(e) Any other information that the department of consumer and industry services believes is helpful in responding to complaints, requests, and inquiries of a nursing home resident or his or her surrogate decision maker.

(5) A nursing home receiving reimbursement pursuant to the medicaid program shall designate 1 or more current employees to fulfill the duties and responsibilities outlined in this section. This section does not constitute a basis for increasing nursing home staffing levels. As used in this subsection, "medicaid" means the program for medical assistance created under title XIX of the social security act, chapter 53, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to 1396r-6, and 1396r-8 to 1396v.

History: Add. 2002, Act 11, Imd. Eff. Feb. 19, 2002.

Popular name: Act 368

333.21731 Licensee considered consumer of tangible personal property.

Sec. 21731. A licensee of a nursing home operated for profit is considered to be the consumer, and not the retailer, of the tangible personal property purchased and used or consumed in the operation of the home.

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

Popular name: Act 368

333.21733 Repealed. 2009, Act 188, Eff. May 1, 2010.

Compiler's note: The repealed section pertained to smoking policies in nursing homes.

333.21734 Nursing home; bed rails; provisions; peer-reviewed, evidence-based, best-practice resources; liability.

Sec. 21734. (1) Notwithstanding section 20201(2)(*l*), a nursing home shall give each resident who uses a hospital-type bed or the resident's legal guardian, patient advocate, or other legal representative the option of having bed rails. A nursing home shall offer the option to new residents on admission and to other residents on request. On the receipt of a request for bed rails, the nursing home shall inform the resident or the resident's legal guardian, patient advocate, or other legal representative of alternatives to and the risks involved in using bed rails. A resident or the resident's legal guardian, patient advocate, or other legal representative has the right to request and consent to bed rails for the resident. A nursing home shall provide bed rails to a resident only on the receipt of a signed consent form authorizing bed rail use and a written order from the resident's attending physician that contains statements and determinations regarding medical symptoms and that specifies the circumstances under which bed rails are to be used. For purposes of this subsection, "medical symptoms" includes the following:

(a) A concern for the physical safety of the resident.

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(b) Physical or psychological need expressed by a resident. A resident's fear of falling may be the basis of a medical symptom.

(2) A nursing home that provides bed rails under subsection (1) shall do all of the following:

(a) Document that the requirements of subsection (1) have been met.

(b) Monitor the resident's use of the bed rails.

(c) In consultation with the resident, resident's family, resident's attending physician, and individual who consented to the bed rails, periodically reevaluate the resident's need for the bed rails.

(3) The department shall maintain clear and uniform peer-reviewed, evidence-based, best-practice resources to be used in determining what constitutes each of the following:

(a) Acceptable bed rails for use in a nursing home in this state. The department shall consider the recommendations of the hospital bed safety work group established by the United States Food and Drug Administration, if those are available, in determining what constitutes an acceptable bed rail.

(b) Proper maintenance of bed rails.

(c) Properly fitted mattresses.

(d) Other hazards created by improperly positioned bed rails, mattresses, or beds.

(4) The department shall maintain the peer-reviewed, evidence-based, best-practice resources under subsection (3) in consultation with the long-term care stakeholders work group established under section 20155(18).

(5) A nursing home that complies with subsections (1) and (2) and the peer-reviewed, evidence-based, best-practices resources maintained under this section in providing bed rails to a resident is not subject to administrative penalties imposed by the department based solely on providing the bed rails. This subsection does not preclude the department from citing specific state or federal deficiencies for improperly maintained bed rails, improperly fitted mattresses, or other hazards created by improperly positioned bed rails, mattresses, or beds.

History: Add. 2000, Act 437, Imd. Eff. Jan. 9, 2001;—Am. 2015, Act 155, Eff. Jan. 18, 2016;—Am. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.21735 Requirement of emergency generator system in nursing home.

Sec. 21735. (1) A nursing home licensed under this article shall have, at a minimum, an emergency generator system that complies with existing state and federal law, including state and federal rules and regulations.

(2) A nursing home that fails to comply with this section is subject to a civil penalty as provided under existing state and federal law, including state and federal rules and regulations.

History: Add. 2004, Act 397, Eff. Apr. 15, 2005.

Popular name: Act 368

333.21741 Rules.

Sec. 21741. (1) The department of public health, after seeking advice and consultation from the department of social services, appropriate consumer and professional organizations, and concerned agencies, shall promulgate rules to implement and administer this part.

(2) Initial rules proposed under this part shall be submitted to a public hearing not later than 6 months after this section is enacted into law.

(3) In addition to the rules prescribed in section 20171, rules for nursing homes shall include the establishment of standards relating to:

(a) Complaint procedures.

(b) Discharges and transfers.

(c) Emergency procedures.

(d) Medical audit procedures.

(e) Patients' rights.

(f) Standards of patient care to be provided in nursing homes.

(g) Training, educational, and competency requirements of nursing home personnel other than licensed personnel.

(h) Utilization and quality control review procedures.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21743 Disclosures; public inspection.

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Sec. 21743. (1) In addition to public records subject to disclosure under section 20175, the following information is subject to disclosure from the department of public health or the department of social services:

(a) Ownership of nursing homes, ownership of buildings occupied by nursing homes, and the names and addresses of suppliers and the ownership of suppliers of goods and services to nursing homes required to be reported under section 20142.

(b) Records of license and certification inspections, surveys, and evaluations of nursing homes, other reports of inspections, surveys, and evaluations of patient care, and reports concerning a nursing home prepared pursuant to titles 18 and 19 of the social security act, 42 U.S.C. 1395 to 1396k.

(c) Cost and reimbursement reports submitted by a nursing home, reports of audits of nursing homes, and other public records concerning costs incurred by, revenues received by, and reimbursement of nursing homes.

(d) Complaints filed against a nursing home and complaint investigation reports. A complaint or complaint investigation report shall not be disclosed to a person other than the complainant or complainant's representative before it is disclosed to a nursing home under section 21799a and a complainant's or patient's name shall not be disclosed except as provided in section 21799a.

(2) The department of public health, the department of social services and the nursing home shall respect the confidentiality of a patient's clinical record as provided in section 20175 and shall not divulge or disclose the contents of a record in a manner which identifies a patient, except upon a patient's death to a relative or guardian, or under judicial proceedings. This subsection shall not be construed to limit the right of a patient or a patient's representative to inspect or copy the patient's clinical record.

(3) Confidential medical, social, personal, or financial information identifying a patient shall not be available for public inspection in a manner which identifies a patient.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21744 Professional advice and consultation.

Sec. 21744. The department shall provide to the applicant or licensee professional advice and consultation related to the quality of institutional or agency aspects of health care and services provided by the applicant or licensee.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21751 Emergency petition to place nursing home under control of receiver; appointment of receiver; use of income and assets; major structural alteration; consultation; termination of receivership; accounting; disposition of surplus funds.

Sec. 21751. (1) When the department has concluded a proceeding under sections 71 to 106 of the administrative procedures act of 1969, as amended, being sections 24.271 to 24.306 of the Michigan Compiled Laws, or when the department has suspended or revoked the license of a nursing home, the department, a patient in the facility, or a patient's representative may file an emergency petition with the circuit court to place the nursing home under the control of a receiver if necessary to protect the health or safety of patients in the nursing home. The court may grant the petition upon a finding that the health or safety of the patients in the nursing home would be seriously threatened if a condition existing at the time the petition was filed is permitted to continue.

(2) The court shall appoint as receiver the director of the department of social services, the director of the department of public health, or another state agency or person designated by the director of public health. The receiver appointed by the court shall use the income and assets of the nursing home to maintain and operate the home and to attempt to correct the conditions which constitute a threat to the patients. A major structural alteration shall not be made to the nursing home, unless the alteration is necessary to bring the nursing home into compliance with licensing requirements.

(3) To assist in the implementation of the mandate of the court, the receiver may request and receive reasonable consultation from the available personnel of the department.

(4) The receivership shall be terminated when the receiver and the court certify that the conditions which prompted the appointment have been corrected, when the license is restored, when a new license is issued, or, in the case of a discontinuance of operation, when the patients are safely placed in other facilities, whichever occurs first.

(5) Upon the termination of the receivership, the receiver shall render a complete accounting to the court and shall dispose of surplus funds as the court directs.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

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333.21755 Grounds for refusal to issue license.

Sec. 21755. The department may refuse to issue a license to establish or maintain and operate, or both, a nursing home to an applicant if any of the following are met:

(a) An occupational, professional, or health agency license held by the applicant was revoked during the 5 years before the date of application.

(b) The department finds that the applicant is not suitable to operate a nursing home because of financial incapacity or a lack of good moral character or appropriate business or professional experience. As used in this subdivision, "good moral character" means good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2020, Act 371, Eff. Apr. 4, 2021.

Popular name: Act 368

333.21757 Provisional license.

Sec. 21757. (1) The department may issue a 1-year provisional license, renewable for not more than 1 additional year, to an applicant whose services are needed in the community but who is temporarily unable to comply with the rules related to the physical plant of the facilities, excluding maintenance problems. At the time a provisional license is granted, specific deadlines for the correction of each physical plant violation shall be established.

(2) A provisional license shall not be issued for a nursing home constructed, established, or changing corporate ownership or management after the effective date of this section unless it is shown that unusual hardship would result to the public or to the applicant for the provisional license and the nursing home was licensed and operating under a prior licensing act for not less than 5 years.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21761 Certification of nondiscrimination; violation of rights; giving preference to members of religious or fraternal institution or organization.

Sec. 21761. (1) In addition to the requirements of section 20152, a licensee shall certify annually to the department, as part of its application for licensure and certification, that all phases of its operation, including its training program, are without discrimination against persons or groups of persons on the basis of race, religion, color, national origin, sex, age, disability, marital status, sexual preference, or the exercise of rights guaranteed by law, including freedom of speech and association. If the department finds a violation of rights enumerated in this section, the department shall direct the administrator of the nursing home to take the necessary action to assure that the nursing home is, in fact, operated in accordance with the rights listed in this section.

(2) This section shall not be construed to prevent a nursing home operated, supervised, or controlled by a religious or fraternal institution or organization from giving preference to applicants who are members of that religious or fraternal institution or organization.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1998, Act 88, Imd. Eff. May 13, 1998.

Popular name: Act 368

333.21763 Access to nursing home patients; purposes; requirements; termination of visit; confidentiality; complaint; determination; prohibited entry.

Sec. 21763. (1) A nursing home shall permit a representative of an approved organization, who is known by the nursing home administration to be authorized to represent the organization or who carries identification showing that the representative is authorized to represent the organization, a family member of a patient, or a legal representative of a patient, to have access to nursing home patients for 1 or more of the following purposes:

(a) Visit, talk with, and make personal, social, and legal services available to the patients.

(b) Inform patients of their rights and entitlements, and their corresponding obligations, under federal and state laws by means of the distribution of educational materials and discussion in groups and with individual patients.

(c) Assist patients in asserting their legal rights regarding claims for public assistance, medical assistance, and social services benefits, as well as in all matters in which patients are aggrieved. Assistance may be provided individually or on a group basis and may include organizational activity and counseling and litigation.

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(d) Engage in other methods of assisting, advising, and representing patients so as to extend to them the full enjoyment of their rights.

(2) Access as prescribed in subsection (1) must be permitted during regular visiting hours each day. A representative of an approved organization entering a nursing home under this section promptly shall advise the nursing home administrator or the acting administrator or other available agent of the nursing home of the representative's presence. A representative shall not enter the living area of a patient without identifying himself or herself to the patient and without receiving the patient's permission to enter. A representative shall use only patient areas of the home to carry out the activities described in subsection (1).

(3) A patient may terminate a visit by a representative permitted access under subsection (1). Communications between a patient and the representative are confidential, unless otherwise authorized by the patient.

(4) If a nursing home administrator or employee believes that an individual or organization permitted access under this section is acting or has acted in a manner detrimental to the health or safety of patients in the nursing home, the nursing home administrator or employee may file an anonymous complaint with department. On the receipt of a complaint, department staff shall investigate the allegations made in the complaint. The department shall make a determination regarding proper resolution of the complaint based on the results of the investigation. Written notification of the department's determination and recommendations shall be given to the complainant and the individual or organization against whom the complaint was made.

(5) An individual shall not enter upon the premises of a nursing home for the purpose of engaging in an activity that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes a nursing home employee, patient, or visitor to feel terrorized, frightened, intimidated, threatened, harassed, or molested. This subsection does not prohibit constitutionally protected activity or conduct that serves a legitimate purpose including, but not limited to, activities or conduct allowed under subsection (1).

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1996, Act 546, Eff. Mar. 31, 1997;—Am. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.21764 Approval or disapproval of nonprofit corporation rendering assistance without charge.

Sec. 21764. (1) The director shall approve or disapprove a nonprofit corporation which has as 1 of its primary purposes the rendering of assistance, without charge to nursing home patients for the purpose of obtaining access to nursing homes and their patients under section 21763.

(2) On the receipt of a written application for approval under subsection (1), the director shall notify all persons that have made a written request for notice of applications made under this section.

(3) The director shall approve the organization making the request if the organization is a bona fide community organization or legal aid program, is capable of providing 1 or more of the services listed in section 21763, and is likely to utilize the access provided under section 21763 to enhance the welfare of nursing home patients. The director shall approve or disapprove the organization within 30 days after receiving the application.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.21765 Policies and procedures; copy of rights enumerated in MCL 333.20201; reading or explaining rights; staff observance of rights, policies, and procedures.

Sec. 21765. (1) A nursing home shall establish written policies and procedures to implement the rights protected under section 20201. The policies shall include a procedure for the investigation and resolution of patient complaints. The policies and procedures shall be subject to approval by the department. The policies and procedures shall be clear and unambiguous, shall be printed in not less than 12-point type, shall be available for inspection by any person, shall be distributed to each patient and representative, and shall be available for public inspection.

(2) Each patient shall be given a copy of the rights enumerated in section 20201 at the time of admission to a nursing home. A patient of a nursing home at the time of the implementation of this section shall be given a copy of the rights enumerated in section 20201 as specified by rule.

(3) A copy shall be given to a person who executes a contract pursuant to section 21766 and to any other person who requests a copy.

(4) If a patient is unable to read the form, it shall be read to the patient in a language the patient understands. In the case of a developmentally disabled individual, the rights shall be explained in a manner

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that the person is able to understand and the explanation shall be witnessed by a third person. In the case of a minor or a person who has a legal guardian, both the patient and the parent or legal guardian shall be fully informed of the policies and procedures.

(5) A nursing home shall ensure that its staff is familiar with and observes the rights enumerated in section 20201 and the policies and procedures established under this section.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2014, Act 66, Imd. Eff. Mar. 28, 2014.

Popular name: Act 368

333.21765a Certain admission conditions prohibited; enforcement of contract provisions or agreements in conflict with subsections (1) and (2).

Sec. 21765a. (1) A nursing home shall not require an applicant, as a condition of admission, to waive his or her right to benefits under medicare or medicaid, to give oral or written assurance that the applicant is not eligible for medicare or medicaid, or to give oral or written assurance that the applicant will not apply for benefits under medicare or medicaid.

(2) A nursing home shall not require any of the following as a condition of an applicant's admission or a patient's continued residency at that nursing home:

(a) That an applicant or patient remain a private pay patient for a specified period of time before applying for medicaid.

(b) That a person pay on behalf of an applicant or patient the private pay rate for a specified period of time before the applicant or patient applies for medicaid.

(c) That an applicant, patient, or other person make a gift or donation on behalf of that applicant or patient.

(3) As of the effective date of this section, a contract provision or agreement in conflict with subsection (1) or (2), whether made before, on, or after the effective date of this section, is unenforceable.

(4) Not later than 30 days after the effective date of this section, a nursing home that participates in medicaid shall provide written notice to each private pay patient subject to a contract provision or agreement in conflict with subsection (1) or (2) that the contract provision or agreement is no longer a bar to the patient applying for medicaid.

History: Add. 1994, Act 73, Imd. Eff. Apr. 11, 1994.

Popular name: Act 368

333.21766 Written contract.

Sec. 21766. (1) A nursing home shall execute a written contract solely with an applicant or patient or that applicant's or patient's guardian or legal representative authorized by law to have access to those portions of the patient's or applicant's income or assets available to pay for nursing home care, at each of the following times:

(a) At the time an individual is admitted to a nursing home.

(b) At the expiration of the term of a previous contract.

(c) At the time the source of payment for the patient's care changes.

(2) A nursing home shall not discharge or transfer a patient at the expiration of the term of a contract, except as provided in section 21773.

(3) A nursing home shall specifically notify in writing an applicant or patient or that applicant's or patient's guardian or legal representative of the availability or lack of availability of hospice care in the nursing home. This written notice shall be by way of a specific paragraph located in the written contract described in subsection (1) and shall require the applicant or patient or that applicant's or patient's guardian or legal representative to sign or initial the paragraph before execution of the written contract. As used in this subsection, "hospice" means that term as defined in section 20106(4).

(4) A nursing home shall provide a copy of the contract to the patient, the patient's representative, or the patient's legal representative or legal guardian at the time the contract is executed.

(5) For a patient supported by funds other than the patient's own funds, a nursing home shall make a copy of the contract available to the person providing the funds for the patient's support.

(6) For a patient whose care is reimbursed with public funds administered by the department of community health, a nursing home shall maintain a copy of the contract in the patient's file at the nursing home and upon request shall make a copy of the contract available to the department of community health.

(7) The nursing home shall ensure that the contract is written in clear and unambiguous language and is printed in not less than 12-point type. The form of the contract shall be prescribed by the department.

(8) The contract shall specify all of the following:

(a) The term of the contract.

(b) The services to be provided under the contract, including the availability of hospice or other special

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care, and the charges for the services.

(c) The services that may be provided to supplement the contract and the charges for the services.

(d) The sources liable for payments due under the contract.

(e) The amount of deposit paid and the general and foreseeable terms upon which the deposit will be held and refunded.

(f) The rights, duties, and obligations of the patient, except that the specification of a patient's rights may be furnished on a separate document that complies with the requirements of section 20201.

(9) The nursing home may require a patient's or applicant's guardian or legal representative who is authorized by law to have access to those portions of the patient's or applicant's income or assets available to pay for nursing home care to sign a contract without incurring personal financial liability other than for funds received in his or her legal capacity on behalf of the patient.

(10) A nursing home employee may request the appointment of a guardian for an individual applicant or patient only if the nursing home employee reasonably believes that the individual meets the legal requirements for the appointment of a guardian.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1994, Act 73, Imd. Eff. Apr. 11, 1994;—Am. 2001, Act 243, Eff. July 1, 2002.

Popular name: Act 368

333.21767 Guardian, trustee, conservator, patient's representative, or protective payee for patient; receipt for money or property of patient; statement of funds.

Sec. 21767. (1) A nursing home, or an owner, administrator, employee, or representative of a nursing home shall not act as guardian, trustee, conservator, patient's representative, or protective payee for a patient, except as provided in subsection (2).

(2) Subject to the bonding requirements of section 21721, money or other property belonging or due a patient which is received by a nursing home shall be received as trust funds or property, shall be kept separate from the funds and property of the nursing home and other patients, and shall be disbursed only as directed by the patient. A written receipt shall be given to a patient whose money or other property is received by a nursing home. Upon request, but not less than once every 3 months, the nursing home shall furnish the patient a complete and verified statement of the funds or other property received by the nursing home. The statement shall contain the amounts and items received, the sources, the disposition, and the date of each transaction. The nursing home shall furnish a final statement not later than 10 days after the discharge of a patient.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21771 Abusing, mistreating, or neglecting patient; reports; investigation; retaliation prohibited; exception to report requirement.

Sec. 21771. (1) A licensee, nursing home administrator, or employee of a nursing home shall not physically, mentally, or emotionally abuse, mistreat, or harmfully neglect a patient.

(2) A nursing home employee who has reasonable suspicion of an act prohibited by this section shall report the suspicion to the nursing home administrator or nursing director and to the department as required by federal regulations. A nursing home administrator or nursing director who has reasonable suspicion of an act prohibited by this section shall report the suspicion by telephone to the department and 1 or more law enforcement entities as required by federal regulations.

(3) Any individual may report a violation of this section to the department.

(4) A physician or other licensed health care personnel who has reasonable suspicion of an act prohibited by this section shall report the suspicion to the department and 1 or more law enforcement entities as required by federal regulations.

(5) On the receipt of a report made under this section, the department shall make an investigation. The department may require the individual making the report to submit a written report or to supply additional information, or both.

(6) A nursing home employee, licensee, or nursing home administrator shall not evict, harass, dismiss, or retaliate against a patient, a patient's representative, or an employee who makes a report under this section.

(7) An individual required to report an act or a reasonable suspicion under subsection (2) or (4) is not required to report the act or suspicion to the department or 1 or more local law enforcement entities if the individual knows that another individual has already reported the act or suspicion as required by this section.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2012, Act 174, Imd. Eff. June 19, 2012;—Am. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

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333.21772 Interference with right to bring action or file complaint prohibited; retaliation prohibited.

Sec. 21772. The owner, administrator, employee, or representative of a nursing home shall not interfere with the right of a person to bring a civil or criminal action or to file a complaint with the department or other governmental agency with respect to the operation of the nursing home, nor discharge, harass, or retaliate against a person who does so or on whose behalf the action is taken.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21773 Involuntary transfer or discharge of patient; notice; form; request for hearing; copy of notice; commencement of notice period; nonpayment; redemption; explanation and discussion; counseling services; prohibition; notice of nonparticipation in state plan for medicaid funding.

Sec. 21773. (1) A nursing home shall not involuntarily transfer or discharge a patient except for 1 or more of the following purposes:

(a) Medical reasons.

(b) The patient's welfare.

(c) The welfare of other patients or nursing home employees.

(d) Nonpayment for the patient's stay, except as prohibited by title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(2) A licensed nursing home shall provide written notice at least 30 days before a patient is involuntarily transferred or discharged. The 30-day requirement of this subsection does not apply in any of the following instances:

(a) If an emergency transfer or discharge is mandated by the patient's health care needs and is in accord with the written orders and medical justification of the attending physician.

(b) If the transfer or discharge is mandated by the physical safety of other patients and nursing home employees as documented in the clinical record.

(c) If the transfer or discharge is subsequently agreed to by the patient or the patient's legal guardian, and notification is given to the next of kin and the person or agency responsible for the patient's placement, maintenance, and care in the nursing home.

(3) The notice required by subsection (2) shall be on a form prescribed by the department of consumer and industry services and shall contain all of the following:

(a) The stated reason for the proposed transfer.

(b) The effective date of the proposed transfer.

(c) A statement in not less than 12-point type that reads: "You have a right to appeal the nursing home's decision to transfer you. If you think you should not have to leave this facility, you may file a request for a hearing with the department of consumer and industry services within 10 days after receiving this notice. If you request a hearing, it will be held at least 7 days after your request, and you will not be transferred during that time. If you lose the hearing, you will not be transferred until at least 30 days after you received the original notice of the discharge or transfer. A form to appeal the nursing home's decision and to request a hearing is attached. If you have any questions, call the department of consumer and industry services at the number listed below."

(d) A hearing request form, together with a postage paid, preaddressed envelope to the department of consumer and industry services.

(e) The name, address, and telephone number of the responsible official in the department of consumer and industry services.

(4) A request for a hearing made under subsection (3) shall stay a transfer pending a hearing or appeal decision.

(5) A copy of the notice required by subsection (3) shall be placed in the patient's clinical record and a copy shall be transmitted to the department of consumer and industry services, the patient, the patient's next of kin, patient's representative, or legal guardian, and the person or agency responsible for the patient's placement, maintenance, and care in the nursing home.

(6) If the basis for an involuntary transfer or discharge is the result of a negative action by the department of community health with respect to a medicaid client and a hearing request is filed with that department, the 21-day written notice period of subsection (2) does not begin until a final decision in the matter is rendered by the department of community health or a court of competent jurisdiction and notice of that final decision is received by the patient and the nursing home.

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(7) If nonpayment is the basis for involuntary transfer or discharge, the patient may redeem up to the date that the discharge or transfer is to be made and then may remain in the nursing home.

(8) The nursing home administrator or other appropriate nursing home employee designated by the nursing home administrator shall discuss an involuntary transfer or discharge with the patient, the patient's next of kin or legal guardian, and person or agency responsible for the patient's placement, maintenance, and care in the nursing home. The discussion shall include an explanation of the reason for the involuntary transfer or discharge. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and made a part of the patient's clinical record.

(9) The nursing home shall provide the patient with counseling services before the involuntary transfer or discharge and the department shall assure that counseling services are available after the involuntary transfer or discharge to minimize the possible adverse effect of the involuntary transfer or discharge.

(10) If a nursing home voluntarily withdraws from participation in the state plan for medicaid funding, but continues to provide services, the nursing home shall not, except as provided in subsection (1), involuntarily transfer or discharge a patient, whether or not the patient is eligible for medicaid benefits, who resided in the nursing home on the day before the effective date of the nursing home's withdrawal from participation. The prohibition against transfer or discharge imposed by this subsection continues unless the patient falls within 1 or more of the exceptions described in subsection (1).

(11) If an individual becomes a patient of a nursing home after the date the nursing home withdraws from participation in the state plan for medicaid funding, the nursing home, on or before the date the individual signs a contract with the nursing home, shall provide to the patient oral and written notice of both of the following:

(a) That the nursing home is not participating in the state plan for medicaid funding.

(b) That the facility may involuntarily transfer or discharge the patient for nonpayment under subsection (1)(d) even if the patient is eligible for medicaid benefits.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2001, Act 137, Imd. Eff. Oct. 26, 2001.

Popular name: Act 368

333.21774 Involuntary transfer or discharge; request for hearing; informal hearing; decision; burden of proof; procedures; time for leaving facility.

Sec. 21774. (1) A patient subject to involuntary transfer or discharge from a licensed nursing home shall have the opportunity to file a request for a hearing with the department within 10 days following receipt of the written notice of the involuntary transfer or discharge by the nursing home.

(2) The department of public health, when the basis for involuntary transfer or discharge is other than a negative action by the department of social services with respect to a medicaid client, shall hold an informal hearing in the matter at the patient's facility not sooner than 7 days after a hearing request is filed, and render a decision in the matter within 14 days after the filing of the hearing request.

(3) In a determination as to whether a transfer or discharge is authorized, the burden of proof rests on the party requesting the transfer or discharge. The hearing shall be in accordance with fair hearing procedures prescribed by rule.

(4) If the department determines that a transfer or discharge is authorized under section 21773, the patient shall not be required to leave the facility before the thirty-fourth day following receipt of the notice required under section 21773(2), or the tenth day following receipt of the department's decision, whichever is later.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21775 Continuation of medicaid funding during appeal, transfer, or discharge period.

Sec. 21775. The department of social services shall continue medicaid funding during the appeal, transfer, or discharge period as provided in section 21774 for those medicaid patients affected by section 21773.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1994, Act 73, Imd. Eff. Apr. 11, 1994.

Popular name: Act 368

333.21776 Transfer or discharge of patient; plan; counseling services.

Sec. 21776. The licensee, with the approval of the department, shall develop a plan to effectuate the orderly and safe transfer or discharge of a patient. The patient and the patient's family or representative shall be consulted in choosing another facility. The patient shall receive counseling services before the move to minimize the adverse effects of transfer trauma. The department shall assure that counseling will be available if the patient requires counseling after transfer or discharge.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

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Popular name: Act 368

333.21777 Holding bed open during temporary absence of patient; option; title 19 patients.

Sec. 21777. (1) If a patient is temporarily absent from a nursing home for emergency medical treatment, the nursing home shall hold the bed open for 10 days for that patient in the patient's absence, if there is a reasonable expectation that the patient will return within that period of time and the nursing home receives payment for each day during the absent period.

(2) If a patient is temporarily absent from a nursing home for therapeutic reasons as approved by a physician, the nursing home shall hold the bed open for 18 days, if there is a reasonable expectation that the patient will return within that period of time and the nursing home receives payment for each day during the absent period. Temporary absences for therapeutic reasons are limited to 18 days per year.

(3) When a patient's absence is longer than specified under subsection (1) or (2), or both, the patient has the option to return to the nursing home for the next available bed.

(4) For title 19 patients, the department of community health shall continue funding for the temporary absence as provided under subsections (1) and (2) if the nursing home is at 98% or more occupancy except for any bed being held open under subsection (1) or (2).

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2004, Act 372, Imd. Eff. Oct. 11, 2004.

Popular name: Act 368

333.21781 Posting of license and other information.

Sec. 21781. A licensee shall conspicuously post in an area of its offices accessible to patients, employees, and visitors:

(a) A current license.

(b) A complete copy of the most recent inspection report of the nursing home received from the department.

(c) A description, provided by the department, of complaint procedures established under this act and the name, address, and telephone number of a person authorized by the department to receive complaints.

(d) A copy of a notice of a pending hearing or order pertaining to the nursing home issued by the department or a court under the authority of this article or rules promulgated under this article.

(e) A complete list of materials available for public inspection as required by section 21782.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21782 Retention of documents for public inspection.

Sec. 21782. A licensee shall retain for public inspection:

(a) A complete copy of each inspection report of the nursing home received from the department during the past 5 years.

(b) A copy of each notice of a hearing or order pertaining to the nursing home issued by the department or a court under the authority of this article or rules promulgated under this article after the effective date of this section. The copy of the notice or order shall be retained for not less than 3 years after its date of issuance or not less than 3 years after the date of the resolution of the subject matter of the notice or order, whichever is later.

(c) A description of the services provided by the nursing home and the rates charged for those services and items for which a patient may be separately charged.

(d) A list of the name, address, principal occupation, and official position of each person who, as a stockholder or otherwise, has a proprietary interest in the nursing home as required by section 20142, of each officer and director of a nursing home which is a corporation, and of each trustee or beneficiary of a nursing home which is a trust.

(e) A list of licensed personnel employed or retained by the nursing home.

(f) A copy of the standard form contract utilized under section 21766.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21784 Threatening medical condition; notice; emergency treatment; comfort of patient.

Sec. 21784. If a patient's life is threatened by his or her medical condition, the nursing home shall immediately notify the patient's next of kin, patient's representative, and physician. The nursing home shall secure emergency medical treatment for the patient when the patient's physician is not available. A nursing home shall take all reasonable measures to ensure the comfort of a patient in the terminal stages of an illness.

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History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21785 Discontinuance of operation; notice; relocation of patients.

Sec. 21785. (1) If a nursing home proposes to discontinue operation, the licensee shall notify the department of public health and the department of social services of the impending discontinuance of operation. The licensee shall notify the patient and the patient's next of kin, patient's representative, and the party executing the contract under section 21766 of the proposed date of the discontinuance. The notice shall be sufficient to make suitable arrangements for the transfer and care of the patient.

(2) The notices required by this section shall be given not less than 30 days before the discontinuance.

(3) The licensee and the department of social services shall be responsible for securing a suitable relocation of a patient who does not have a relative or legal representative to assist in his or her relocation before the discontinuance of operation. The licensee and the department of social services shall keep the department of public health informed of their efforts and activities in carrying out this responsibility. The department of social services shall make available to the licensee and the department of public health assistance necessary to assure the effectiveness of efforts to secure a suitable relocation.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21786 Emergency closing of nursing home.

Sec. 21786. In the case of an emergency closing of a nursing home, or when it is determined by the department that a nursing home is suddenly no longer able to provide adequate patient care, the department shall do both of the following:

(a) Assure that the department of social services has been notified to make arrangements for the orderly and safe discharge and transfer of the patients to another facility.

(b) Place a representative of the department in a facility on a daily basis to do each of the following:

(*i*) Monitor the discharge of patients to other facilities or locations.

(*ii*) Ensure that the rights of patients are protected.

(*iii*) Discuss the discharge and relocation with each patient and next of kin or legal guardian, person, or agency responsible for the patient's placement, maintenance, and care in the facility. The content of the explanation and discussion shall be summarized in writing and shall be made a part of the patient's clinical record.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21787 Michigan public health institute; consultation and contracts.

Sec. 21787. The department may consult and work with the Michigan public health institute created under section 2611 in performing the department's regulatory and disciplinary duties under this article. The department may also contract with the Michigan public health institute for the performance of specific functions required or authorized by this article, if determined necessary by the director of the department.

History: Add. 2000, Act 501, Imd. Eff. Jan. 11, 2001.

Popular name: Act 368

333.21791 Advertising; false or misleading information prohibited.

Sec. 21791. A licensee shall not use false or misleading information in the advertising of a nursing home or its name.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21792 Commission, bonus, fee, or gratuity; violation; penalty.

Sec. 21792. (1) An owner, administrator, employee, or representative of a nursing home shall not pay, or offer to pay, a commission, bonus, fee, or gratuity to a physician, surgeon, organization, agency, or other person for the referral of a patient to a nursing home.

(2) A person shall not offer or give a commission, bonus, fee, or gratuity to an owner, administrator, employee, or representative of a nursing home in return for the purchase of a drug, biological, or any other ancillary services provided for a patient of a nursing home.

(3) An owner, administrator, employee, or representative of a nursing home shall not accept a commission, bonus, fee, or gratuity in return for the purchase of a drug, biological, or any other ancillary services provided

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for a patient of a nursing home.

(4) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than $30,000.00, or both.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21794 Use of dining assistant to provide feeding assistance to nursing home patient.

Sec. 21794. (1) With the consent of the patient or the patient's representative a nursing home may use a dining assistant to provide feeding assistance to a patient who, based on the charge nurse's assessment of the patient and the patient's most recent plan of care, needs assistance or encouragement with eating and drinking, but does not have complicated feeding problems, including, but not limited to, difficulty swallowing, recurrent lung aspirations, tube or parenteral feedings, or behavioral issues that may compromise nutritional intake. The charge nurse's assessment and plan of care must be documented in the patient's medical record. For a patient who is assigned a dining assistant and experiences an emergent change in condition, the charge nurse shall perform a special assessment to monitor the appropriateness of continued utilization of the dining assistant.

(2) A nursing home that chooses to utilize dining assistants shall provide individuals with training through a department-approved training curriculum. The department and the long-term care stakeholder advisory workgroup designated under section 20155(18) shall develop a dining assistants training curriculum. The department shall approve a dining assistants training curriculum that meets the requirements of this subsection. In order to be approved by the department, the dining assistants training curriculum must include, at a minimum, 8 hours of course material that covers all of the following:

(a) Dining assistants program overview.

(b) Patient rights.

(c) Communication and interpersonal skills.

(d) Appropriate responses to patient behavior.

(e) Recognizing changes in patients.

(f) Infection control.

(g) Assistance with feeding and hydration.

(h) Feeding techniques.

(i) Safety and emergency procedures.

(j) End of life.

(3) An individual shall not provide feeding assistance as a dining assistant in a nursing home unless he or she has successfully completed a dining assistants training curriculum described in subsection (2). A nursing home shall not employ or allow an individual who is less than 17 years of age to provide feeding assistance as a dining assistant.

(4) A dining assistant shall work under the supervision of a nurse. A dining assistant's sole purpose is to provide feeding assistance to patients, and he or she shall not perform any other nursing or nursing-related services, such as toileting or transporting patients. A dining assistant is not nursing personnel and a nursing home shall not include a dining assistant in computing the ratio of patients to nursing personnel or use a dining assistant to supplement or replace nursing personnel. If approved by the charge nurse and subject to subsection (1), a dining assistant may provide feeding assistance in a patient's room if the patient is unable to go to or chooses not to dine in a designated dining area. A nurse is not required to be physically present within the patient's room during the feeding, but a nurse must be immediately available. A dining assistant who is providing feeding assistance to a patient in his or her room as provided under this subsection must not be assigned to assist another patient at the same time.

(5) Dining assistants are subject to the criminal history checks required under section 20173a.

(6) A nursing home that utilizes dining assistants shall maintain a written record of each individual used as a dining assistant. The nursing home shall include in the written record, at a minimum, the complete name and address of the individual, the date the individual successfully completed the dining assistants training curriculum, a copy of the written record of the satisfactory completion of the training curriculum, and documentation of the criminal history check.

(7) This section does not prohibit a family member or friend from providing feeding assistance to a patient within the nursing home or require a friend or family member to complete the training program prescribed under subsection (2). However, a nursing home may offer to provide the dining assistants training curriculum to family members and friends.

(8) As used in this section:

(a) "Dining assistant" means an individual who meets the requirements of this section and who is only paid

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to provide feeding assistance to nursing home patients by the nursing home or who is used under an arrangement with another agency or organization.

(b) "Immediately available" means being capable of responding to provide help if needed to the dining assistant at any time either in person or by voice or call light system, radio, telephone, pager, or other method of communication during a feeding.

(c) "Nurse" means an individual licensed as a registered professional nurse or a licensed practical nurse under article 15 to engage in the practice of nursing.

(d) "Under the supervision of a nurse" means that a nurse who is overseeing the work of a dining assistant is physically present in the nursing home and immediately available.

History: Add. 2014, Act 529, Imd. Eff. Jan. 14, 2015;—Am. 2022, Act 187, Imd. Eff. July 25, 2022.

333.21795 Education and training for unlicensed nursing personnel; criteria; competency examinations; rules.

Sec. 21795. (1) The department, in consultation and with the advice of the Michigan board of nursing and appropriate consumer and professional organizations, shall develop by rule minimum criteria for the education and training for unlicensed nursing personnel in facilities designated in this part.

(2) This section shall not be construed to be a prerequisite for employment of unlicensed nursing personnel in a nursing home.

(3) During the annual licensing inspection the department shall, and during other inspections the department may, conduct random competency examinations to determine whether the requirements of this section are being met. The department shall promulgate rules to administer this subsection.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21796 Insuring proper licensing of licensed personnel.

Sec. 21796. The nursing home administrator and licensee shall be responsible for insuring that all licensed personnel employed by the nursing home are properly licensed.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21799a Nursing home; violation; complaint; investigation; disclosure; determination; listing violation and provisions violated; copies of documents; public inspection; report of violation; penalty; request for hearing; notice of hearing; "priority complaint" defined.

Sec. 21799a. (1) A person who believes that this part, a rule promulgated under this part, or a federal certification regulation applying to a nursing home may have been violated may request an investigation of a nursing home. The person may submit the request for investigation to the department as a written complaint, or the department shall assist a person in reducing an oral request made under subsection (2) to a written complaint as provided in subsection (2). A person filing a complaint under this subsection may file the complaint on a model standardized complaint form developed and distributed by the department under section 20194(3) or file the complaint as provided by the department on the Internet.

(2) The department shall provide a toll-free telephone consumer complaint line. The complaint line shall be accessible 24 hours per day and monitored at a level to ensure that each priority complaint is identified and that a response is initiated to each priority complaint within 24 hours after its receipt. The department shall establish a system for the complaint line that includes at least all of the following:

(a) An intake form that serves as a written complaint for purposes of subsections (1) and (5).

(b) The forwarding of an intake form to an investigator not later than the next business day after the complaint is identified as a priority complaint.

(c) Except for an anonymous complaint, the forwarding of a copy of the completed intake form to the complainant not later than 5 business days after it is completed.

(3) The substance of a complaint filed under subsection (1) or (2) shall be provided to the licensee no earlier than at the commencement of the on-site inspection of the nursing home that takes place in response to the complaint.

(4) A complaint filed under subsection (1) or (2), a copy of the complaint, or a record published, released, or otherwise disclosed to the nursing home shall not disclose the name of the complainant or a patient named in the complaint unless the complainant or patient consents in writing to the disclosure or the investigation results in an administrative hearing or a judicial proceeding, or unless disclosure is considered essential to the investigation by the department. If the department considers disclosure essential to the investigation, the department shall give the complainant the opportunity to withdraw the complaint before disclosure.

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(5) Upon receipt of a complaint under subsection (1) or (2), the department shall determine, based on the allegations presented, whether this part, a rule promulgated under this part, or a federal certification regulation for nursing homes has been, is, or is in danger of being violated. Subject to subsection (2), the department shall investigate the complaint according to the urgency determined by the department. The initiation of a complaint investigation shall commence within the time frame consistent with federal guidelines for investigations of complaints against nursing homes.

(6) If, at any time, the department determines that this part, a rule promulgated under this part, or a federal certification regulation for nursing homes has been violated, the department shall list the violation and the provisions violated on the state and federal licensure and certification forms for nursing homes. The department shall consider the violations, as evidenced by a written explanation, when it makes a licensure and certification decision or recommendation.

(7) In all cases, the department shall inform the complainant of its findings unless otherwise indicated by the complainant. Subject to subsection (2), within 30 days after receipt of the complaint, the department shall provide the complainant a copy, if any, of the written determination, the correction notice, the warning notice, and the state licensure or federal certification form, or both, on which the violation is listed, or a status report indicating when these documents may be expected. The department shall include in the final report a copy of the original complaint. The complainant may request additional copies of the documents described in this subsection and upon receipt shall reimburse the department for the copies in accordance with established policies and procedures.

(8) The department shall make a written determination, correction notice, or warning notice concerning a complaint available for public inspection, but the department shall not disclose the name of the complainant or patient without the complainant's or patient's consent.

(9) The department shall report a violation discovered as a result of the complaint investigation procedure to persons administering sections 21799c to 21799e. The department shall assess a penalty for a violation, as prescribed by this article.

(10) A complainant who is dissatisfied with the determination or investigation by the department may request a hearing. A complainant shall submit a request for a hearing in writing to the director within 30 days after the mailing of the department's findings as described in subsection (7). The department shall send notice of the time and place of the hearing to the complainant and the nursing home.

(11) As used in this section, "priority complaint" means a complaint alleging an existing situation that involves physical, mental, or emotional abuse, mistreatment, or harmful neglect of a resident that requires immediate corrective action to prevent serious injury, serious harm, serious impairment, or death of a resident while receiving care in a facility.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2003, Act 3, Imd. Eff. Apr. 22, 2003;—Am. 2004, Act 189, Imd. Eff. July 8, 2004;—Am. 2015, Act 155, Eff. Jan. 18, 2016.

Popular name: Act 368

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333.21799b Noncompliance; notice of finding; correction notices; hearing; verification of compliance; investigation; action; definitions; annual report; presumption.

Sec. 21799b. (1) If, upon investigation, the department finds that a licensee is not in compliance with this part, a rule promulgated under this part, or a federal law or regulation governing nursing home certification under title XVIII or XIX, which noncompliance impairs the ability of the licensee to deliver an acceptable level of care and services, or in the case of a nursing home closure, the department shall notify the department of health and human services of the finding and may issue 1 or more of the following correction notices to the licensee:

(a) Suspend the admission or readmission of patients to the nursing home.

(b) Reduce the licensed capacity of the nursing home.

(c) Selectively transfer patients whose care needs are not being met by the licensee.

(d) Initiate action to place the home in receivership as prescribed in section 21751.

(e) Require appointment at the nursing home's expense of a department approved temporary administrative advisor or a temporary clinical advisor, or both, with authority and duties specified by the department to assist the nursing home management and staff to achieve sustained compliance with required operating standards.

(f) Require appointment at the nursing home's expense of a department approved temporary manager with authority and duties specified by the department to oversee the nursing home's achievement of sustained compliance with required operating standards or to oversee the orderly closure of the nursing home.

(g) Issue a correction notice to the licensee and the department of health and human services describing the violation and the statute or rule violated and specifying the corrective action to be taken and the period of time in which the corrective action is to be completed. Upon issuance, the director shall cause to be published in a

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daily newspaper of general circulation in an area in which the nursing home is located notice of the action taken and the listing of conditions upon which the director's action is predicated.

(2) Within 72 hours after receipt of a notice issued under subsection (1), the licensee must be given an opportunity for a hearing on the matter. The director's notice shall continue in effect during the pendency of the hearing and any subsequent court proceedings. The hearing must be conducted in compliance with the administrative procedures act of 1969.

(3) A licensee who believes that a correction notice has been complied with may request a verification of compliance from the department. Not later than 72 hours after the licensee makes the request, the department shall investigate to determine whether the licensee has taken the corrective action prescribed in the notice under subsection (1)(g). If the department finds that the licensee has taken the corrective action and that the conditions giving rise to the notice have been alleviated, the department may cease taking further action against the licensee, or may take other action that the director considers appropriate.

(4) The department shall report annually to the house of representatives and senate standing committees on senior issues on the number of times the department appointed a temporary administrative advisor, temporary clinical advisor, and temporary manager as described in subsection (1)(e) or (f). The report must include whether the nursing home closed or remained open. The department may include this report with other reports made to fulfill legislative reporting requirements.

(5) If the department determines that a nursing home's patients can be safeguarded and provided with a safe environment, the department shall make its decisions concerning the nursing home's future operation based on a presumption in favor of keeping the nursing home open.

(6) As used in this section:

(a) "Title XVIII" means title XVIII of the social security act, 42 USC 1395 to 1395*lll*.

(b) "Title XIX" means title XIX of the social security act, 42 USC 1396 to 1396w-6.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 2000, Act 437, Imd. Eff. Jan. 9, 2001;—Am. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.21799c Violations; penalties; computation of civil penalties; paying or reimbursing patient; rules for quality of care allowance formula.

Sec. 21799c. (1) A person who violates 1 of the following sections is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not less than $1,000.00, nor more than $10,000.00, or both:

(a) Section 21711.

(b) Section 21712.

(c) Section 21763(5).

(d) Section 21765a(1) or (2).

(e) Section 21771(1) or (6).

(f) Section 21791.

(2) A person who violates section 21765a(1) or (2) is liable to an applicant or patient in a civil action for treble the amount of actual damages or $1,000.00, whichever is greater, together with costs and reasonable attorney fees.

(3) For the purpose of computing administrative penalties under this section, the number of patients per day is based on the average number of patients in the nursing home during the 30 days immediately preceding the discovery of the violation.

(4) If the department finds a violation of section 20201 as to a particular nursing home patient, the department shall issue an order requiring the nursing home to pay to the patient $100.00, or to reimburse the patient for costs incurred or injuries sustained as a result of the violation, whichever is greater. The department also shall assess the nursing home an administrative penalty that is the lesser of the following:

(a) Not more than $1,500.00.

(b) $15.00 per patient bed.

(5) The department of community health shall promulgate rules for a quality of care allowance formula that is consistent with the recommendations of the fiscal incentives subcommittee to the committee on nursing home reimbursement established pursuant to Act No. 241 of the Public Acts of 1975, as described in the November 24, 1975 interim report, in the December 3, 1975 final report, and the November 24, 1976 report of the committee recommending appropriate changes in the procedures utilized.

(6) The department shall not assess an administrative penalty under subsection (4) for a violation of this part for which a nursing home's reimbursement is withheld under subsection (5).

History: Add. 1978, Act 493, Eff. Mar. 30, 1979;—Am. 1994, Act 73, Imd. Eff. Apr. 11, 1994;—Am. 1996, Act 546, Eff. Mar. 31,

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Popular name: Act 368

333.21799d Collection of civil penalty; noncompliance; order.

Sec. 21799d. A civil penalty assessed under this part shall be collected by the department. If the person or nursing home against whom a civil penalty has been assessed does not comply with a written demand for payment within 30 days, the department shall issue an order to do 1 of the following:

(a) Direct the department of treasury to deduct the amount of the civil penalty from amounts otherwise due from the state to the nursing home and remit that amount to the department.

(b) Add the amount of the civil penalty to the nursing home's licensing fee. If the licensee refuses to make the payment at the time of application for renewal of its license, the license shall not be renewed.

(c) Bring an action in circuit court to recover the amount of the civil penalty.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

333.21799e Penalties and remedies cumulative.

Sec. 21799e. (1) The penalties prescribed by this part or a rule promulgated under this part are cumulative and not exclusive. Neither the department nor any other party is limited to the remedies in this part.

(2) The remedies provided under section 20155 and sections 21799a to 21799d are independent and cumulative. Except as provided in section 21799(c)(5), the use of 1 remedy by a person shall not be considered a bar to the use of other remedies by that person or to the use of any remedy by another person.

History: Add. 1978, Act 493, Eff. Mar. 30, 1979.

Popular name: Act 368

PART 219
NURSE AIDE TRAINING AND REGISTRATION PROGRAM

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333.21901 General definitions and principles of construction.

Sec. 21901. (1) For purposes of this part, the words and phrases defined in sections 21903 to 21905 have the meanings ascribed to them in those sections.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code, and part 201 contains definitions applicable to this part.

History: Add. 2017, Act 172, Eff. Feb. 19, 2018.

Popular name: Act 368

333.21903 Definitions; C to N.

Sec. 21903. (1) "Certificate of permit" means a document issued by the department as evidence of a permit.

(2) "Certificate of registration" means a document issued by the department as evidence of registration.

(3) "Fund" means the nurse aide and medication aide registration fund created in section 21921.

(4) "Medication aide" means a nurse aide who holds a registration to engage in practice as a medication aide. A medication aide is not a health professional licensed under article 15, a registered dietitian, or someone who volunteers to provide nursing or nursing-related services without pay.

(5) "Medication aide trainer" means an individual who holds a permit to provide training to a medication aide candidate who is enrolled in a medication aide training program.

(6) "Medication aide training program" means an instructional program provided at a qualified educational institution that prepares a nurse aide with the knowledge and ability to engage in practice as a medication aide and that is offered by a person who holds a permit.

(7) "Nurse aide" means an individual who holds a registration to engage in practice as a nurse aide. A nurse aide is not a health professional licensed under article 15, a registered dietitian, or someone who volunteers to provide nursing or nursing-related services without pay.

(8) "Nurse aide trainer" means an individual who holds a permit to provide training to a nurse aide candidate who is enrolled in a nurse aide training program.

(9) "Nurse aide training program" means an instructional program that prepares a nurse aide candidate with the knowledge and ability to engage in practice as a nurse aide and that is offered by a person that holds a permit.

History: Add. 2017, Act 172, Eff. Feb. 19, 2018;—Am 2023, Act 274, Eff. Mar. 7, 2024.

Popular name: Act 368

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333.21905 Definitions; P to R.

Sec. 21905. (1) "Permit" means an authorization granted by the department under this part to conduct training or instruction of nurse aide candidates under the program described in section 21907(a) or medication aide candidates under the described in section 21907(b).

(2) "Practice as a medication aide" means administering regularly scheduled medications to residents of a nursing home or skilled nursing facility while under the supervision of a registered professional nurse licensed under article 15. Practice as a medication aide is not the practice of nursing as that term is defined in section 17201 and does not include administering controlled substances, administering medications in injectable forms, the initial administration of medications, or the administration of as needed medications including pro re nata medications.

(3) "Practice as a nurse aide" means providing nursing or nursing-related services to a patient or resident. Practice as a nurse aide is not the practice of nursing as that term is defined in section 17201.

(4) "Qualified educational institution" means a degree- or certificate-granting public or private college or university, junior college, or community college.

(5) "Registration" means an authorization granted by the department under this part granting permission to an individual to engage in practice as a nurse aide under the program described in section 21907(a) or engage in practice as a medication aide under the program described in section 21907(b).

History: Add. 2017, Act 172, Eff. Feb. 19, 2018;—Am 2023, Act 274, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21907 Nurse aide and medication aide training, registration, and permit program; administration by department.

Sec. 21907. The department shall do both of the following:

(a) Administer a nurse aide training, registration, and permit program in this state in conformance with this part, 42 USC 1396r, and 42 CFR parts 483 and 488.

(b) Administer a medication aide training and permit program as established in rules promulgated by the department under this part.

History: Add. 2017, Act 172, Eff. Feb. 19, 2018;—Am. 2023, Act 273, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21909 Practice as nurse aide; registration required; nurse aide trainer or program; permit required.

Sec. 21909. (1) An individual shall not engage in practice as a nurse aide unless the individual holds a registration to engage in practice as a nurse aide or is in compliance with 42 CFR 483.35.

(2) A person shall not offer a nurse aide training program or provide training or instruction to a nurse aide candidate unless the person holds a permit to offer that training program or provide that training or instruction.

History: Add. 2017, Act 172, Eff. Feb. 19, 2018;—Am. 2023, Act 273, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21911 Registration to engage in practice as nurse aide; requirements; permit as nurse aide trainer or training program; requirements.

Sec. 21911. (1) The department shall grant a registration to engage in practice as a nurse aide to an applicant who meets all of the following requirements:

(a) Submits an application on a form and in a manner prescribed by the department.

(b) Pays the fee prescribed in section 21919.

(c) Subject to subsection (4), demonstrates to the department that the applicant has met both of the following:

(*i*) Successfully completed a nurse aide training program approved by the department.

(*ii*) Is competent as demonstrated by successful completion of a nurse aide competency examination approved by the department.

(d) Meets the requirements for registration in rules promulgated under section 21923.

(2) The department shall grant a permit as a nurse aide trainer to an applicant who meets all of the following requirements:

(a) Submits an application on a form and in a manner prescribed by the department.

(b) Pays the fee prescribed in section 21919.

(c) Is a registered professional nurse licensed under article 15 who meets the requirements of 42 CFR

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483.152(a)(5)(i) and (ii), or who meets the requirements for a permit in rules promulgated under section 21923.

(3) The department shall grant a permit as a nurse aide training program to an applicant that meets all of the following requirements:

(a) Submits an application on a form and in a manner prescribed by the department.

(b) Pays the fee prescribed in section 21919.

(c) Meets the requirements for a permit in 42 CFR 483.152 and in rules promulgated under section 21923.

(d) Demonstrates to the department that the applicant's curriculum is consistent with other nurse aide training programs as provided by rules promulgated by the department under this part.

(4) Except as provided under subsection (6), the department shall allow an applicant to complete a nurse aide competency examination online or through remote means, or at a nursing care facility that proctors the examination under 42 CFR 483.154. The department shall allow the testing vendor to contract with the staff of the nursing care facility to proctor a nurse aide competency examination as provided under 42 CFR 483.154.

(5) Subject to subsection (6), the department shall not deny a person a permit under subsection (3) solely because the nurse aide training program allows individuals to complete curricula online or through remote means, or counts the time an individual has worked performing skills necessary of a nurse aide as time in training.

(6) The online option described under subsections (4) and (5) does not apply to training required under 42 CFR 483.152(a)(3) or to testing required under 42 CFR 483.154(b)(2).

History: Add. 2017, Act 172, Eff. Feb. 19, 2018;—Am. 2022, Act 79, Imd. Eff. May 19, 2022;—Am. 2023, Act 273, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21912 Nurse aide and nurse aide trainer registration or permit; nontransferable.

Sec. 21912. A registration or permit is not transferable. A certificate of registration or certificate of permit must state the persons to which it applies.

History: Add. 2023, Act 273, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21913 Applicant from another state; registration requirements.

Sec. 21913. The department may grant a registration to an applicant who is from another state and seeking a registration to practice as a nurse aide if the applicant meets any of the following requirements:

(a) The applicant passes a training program that the department determines is equivalent to or exceeds a nurse aide training program offered in this state and the applicant passes a competency examination approved by the department.

(b) The applicant's status as a nurse aide in the other state is in good standing, as verified by that state's nurse aide registry, and the department determines that the other state's training program is equivalent to or exceeds a nurse aide training program offered in this state.

History: Add. 2017, Act 172, Eff. Feb. 19, 2018;—Am. 2023, Act 273, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21915 Registration or permit; time period effective; application for renewal.

Sec. 21915. (1) A registration or permit is effective for no longer than 2 years after the date it was granted.

(2) A registration or permit is renewable if the applicant pays the fee prescribed in this part, submits an application for renewal to the department on a form and in a manner prescribed by the department, and demonstrates to the department that the applicant has met the requirements for renewal in rules promulgated under section 21923, including any requirement for the successful completion of continuing education.

History: Add. 2017, Act 172, Eff. Feb. 19, 2018;—Am. 2023, Act 273, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21916 Practice as nurse aide or training by nurse aide trainer prohibited until renewal of registration or permit.

Sec. 21916. If a nurse aide does not renew the nurse aide's registration, the nurse aide shall not engage in practice as a nurse aide until the nurse aide's registration is renewed by the department. If a nurse aide trainer does not renew the nurse aide trainer's permit, the nurse aide trainer shall not provide training to a nurse aide candidate until the nurse aide trainer's permit is renewed by the department. If a person does not renew its permit as a nurse aide training program, the nurse aide training program shall not provide instruction to a

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nurse aide candidate until the permit is renewed by the department.

History: Add. 2023, Act 273, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21917 Registration while individual in military service or United States Public Health Service.

Sec. 21917. The registration of an individual while in active service in the military service of the United States, an auxiliary branch of the military service of the United States, or the United States Public Health Service, who was registered at the time of induction or entering into service, continues in effect without further action by the individual until discharge or leaving the service as long as the individual remains in compliance with 42 USC 1396r(b)(5)(D).

History: Add. 2017, Act 172, Eff. Feb. 19, 2018.

Popular name: Act 368

333.21918 Fees; payable to department; revocation or denial; nonrefundable.

Sec. 21918. The fees prescribed in this part are payable to the department or the department's contractor at the time an application for an initial or renewal registration or permit is submitted to the department. If an application for registration or permit is denied, or if a registration or permit is revoked before its expiration date, the department shall not refund the fees paid to the department.

History: Add. 2023, Act 273, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21919 Fees.

Sec. 21919. (1) An applicant for registration to practice as a nurse aide or a permit to conduct training or instruction of a nurse aide candidate, or renewal of that registration or permit, shall pay the following biennial fees:

(a) Nurse aide	$40.00
(b) Nurse aide trainer	$60.00
(c) Except as otherwise provided in subdivision (d), nurse aide training program	$300.00, per site
(d) Nurse aide training program offered by a secondary education institution or a skilled nursing facility	$100.00, per site

(2) In addition to the fees prescribed in subsection (1), an applicant for registration to practice as a nurse aide shall pay a nurse aide competency examination fee of $175.00, per examination.

History: Add. 2017, Act 172, Eff. Feb. 19, 2018;—Am. 2023, Act 273, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21920 Practice as medication aide; registration required; medication aide trainer or program; permit required; applicant from another state; practice as medication aide prohibited until renewal of registration permit; renewal application; fees.

Sec. 21920. (1) An individual shall not engage in practice as a medication aide unless the individual holds a registration to engage in practice as a medication aide.

(2) A person shall not offer a medication aide training program or provide training or instruction to a medication aide candidate unless the person holds a permit to offer that training program or provide that training or instruction.

(3) The department may grant a registration to engage in practice as a medication aide to an applicant who meets all of the following requirements:

(a) Submits an application on a form and in a manner prescribed by the department.

(b) Pays the fee prescribed in this section.

(c) Demonstrates to the department that the applicant holds a current registration to engage in practice as a nurse aide and that the applicant has worked as a nurse aide in a nursing home or skilled nursing facility for at least 2,000 hours during the 2-year period immediately preceding the date of the applicant's application.

(d) Demonstrates to the department that the applicant has successfully completed a medication aide training program and a competency examination approved by the department.

(e) Meets the requirements for registration in rules promulgated under section 21923.

(4) The department may grant a permit as a medication aide trainer to an applicant who meets all of the following requirements:

(a) Submits an application on a form and in a manner prescribed by the department.

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(b) Pays the fee prescribed in this section.

(c) Is a registered professional nurse licensed under article 15 who meets the requirements for a permit in rules promulgated under section 21923.

(5) The department may grant a permit as a medication aide training program to an applicant that meets all of the following requirements:

(a) Submits an application on a form and in a manner prescribed by the department.

(b) Pays the fee prescribed in this section.

(c) Meets the requirements for a permit in rules promulgated under section 21923.

(d) Demonstrates to the department that the applicant's curriculum is consistent with other medication aide training programs, as provided by rules promulgated by the department under this part. However, a medication aide training program must incorporate the National Council of State Boards of Nursing medication assistant-certified model curriculum.

(6) The department may grant registration to an applicant who is from another state and seeking a registration to practice as a medication aide if the applicant demonstrates to the department that the applicant has successfully completed a medication aide training program from Indiana, Ohio, or Wisconsin, and the applicant passes a competency examination approved by the department.

(7) If a medication aide does not renew the medication aide's registration, the medication aide shall not engage in practice as a medication aide until the medication aide's registration is renewed by the department. If a medication aide trainer does not renew the medication aide trainer's permit, the medication aide trainer shall not provide training to a medication aide candidate until the medication aide trainer's permit is renewed by the department. If a person does not renew its permit as a medication aide training program, the medication aide training program shall not provide instruction to a medication aide candidate until the permit is renewed by the department.

(8) An applicant for registration to practice as a medication aide or a permit to conduct training or instruction of a medication aide candidate, or renewal of that registration or permit, shall pay the following biennial fees:

(a) Medication aide	$160.00
(b) Medication aide trainer	$200.00
(c) Medication aide training program	$500.00, per site

(9) In addition to the fees prescribed in subsection (8), an applicant for registration to practice as a medication aide shall pay a medication aide competency examination fee of $175.00, per examination.

History: Add. 2023, Act 273, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21921 Nurse aide and medication aide registration fund.

Sec. 21921. (1) The nurse aide and medication aide registration fund is created within the state treasury.

(2) The state treasurer shall credit the fees collected under this part to the fund and may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year must remain in the fund and does not lapse to the general fund.

(4) The department is the administrator of the fund for auditing purposes.

(5) The department shall expend money from the fund, upon appropriation, only to implement the programs described in section 21907.

History: Add. 2017, Act 172, Eff. Feb. 19, 2018;—Am. 2023, Act 273, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21923 Rules; scope; applicability to nursing homes or skilled nursing facilities.

Sec. 21923. (1) The department may promulgate and enforce rules to implement this part. The rules may include, but not be limited to, rules establishing the following:

(a) Requirements for surveying a nurse aide training program.

(b) Requirements for investigating allegations against a nurse aide and taking action against that nurse aide.

(c) Requirements for investigating allegations and taking action against a nurse aide trainer or nurse aide training program.

(d) Requirements for enforcing this part.

(e) Eligibility requirements to grant and renew a registration or permit under this part.

(f) Competency requirements.

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(g) Examination requirements for registration.

(h) Requirements for renewal.

(i) Requirements for surveying a medication aide training program, requirements for investigating allegations against a medication aide in a nursing home or skilled nursing facility where a medication aide engages in the practice of a medication aide and taking action against that medication aide, and requirements for investigating allegations and taking action against a medication aide trainer or medication aide training program.

(2) Rules promulgated under this part that are applicable to nursing homes or skilled nursing facilities must be uniform insofar as is reasonable.

History: Add. 2017, Act 172, Eff. Feb. 19, 2018;—Am. 2023, Act 273, Eff. Mar. 7, 2024.

Popular name: Act 368

333.21925 Contractual agreements.

Sec. 21925. The department may enter into 1 or more contractual agreements for the administration of this part.

History: Add. 2017, Act 172, Eff. Feb. 19, 2018.

Popular name: Act 368

PART 221.
FEDERAL CERTIFICATION OF NURSING HOMES

333.22101 Definitions.

Sec. 22101. (1) As used in this part:

(a) "Certification" means certification issued by the Centers for Medicare and Medicaid Services to a nursing home as evidence that the nursing home complies with requirements under federal law for participation in Medicare.

(b) "Consecutive days" means calendar days, but does not include Saturday, Sunday, or state- or federally recognized holidays.

(c) "Form CMS-2567" means the Centers for Medicare and Medicaid Services form for the statement of deficiencies and plan of correction or a successor form serving the same purpose.

(d) "Immediate jeopardy" means that term as defined in the "state operations manual" published by the Centers for Medicare and Medicaid Services.

(e) "Informal dispute resolution process" means the process described in section 22115.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

History: Add. 2022, Act 187, Imd. Eff. July 25, 2022.

Compiler's note: Former MCL 333.22101 - 333.22181 were repealed by Act 76 of 1981, Eff. Oct. 1, 1981 and Act 332 of 1988, Eff. Oct. 1, 1988.

Popular name: Act 368

333.22102 Administration of certification process; conflict of laws.

Sec. 22102. (1) The department shall administer the certification process in this state in conformance with 42 USC 1395aa and the "mission and priority document" and "state operations manual" published by the Centers for Medicare and Medicaid Services.

(2) To the extent that there is a conflict between this part and federal law, federal law controls.

History: Add. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.22103 Quality assurance monitoring process; surveys for certification; survey teams; quality assurance monitor; responsibilities.

Sec. 22103. (1) The department shall implement a quality assurance monitoring process for the purposes of conducting the surveys described in this part for the purpose of certification. The quality assurance monitoring process must include the quality assurance review of citations as described in this part. The department shall establish an advisory workgroup to provide recommendations to the department on the quality assurance monitoring process. Subject to subsection (2), the advisory workgroup established under this section must include a representative from the department, representatives from nursing home provider organizations, the state long-term care ombudsman, and any other representative that the department considers necessary or appropriate. The advisory workgroup shall identify and make recommendations on

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improvements to the quality assurance monitoring process to ensure ongoing validity, reliability, and consistency of nursing home survey findings.

(2) Representatives from each nursing home provider organization that does not own or operate a nursing home representing 30 or more nursing homes statewide and the state long-term care ombudsman or his or her designee are permanent members of the advisory workgroup established under subsection (1). The department shall issue survey certification memorandums to providers to announce or clarify changes in the interpretation of regulations.

(3) The department shall ensure that each nursing home survey team conducting a standard survey is composed of an interdisciplinary group of professionals, at least 1 of whom must be a registered professional nurse. Other members of the survey team may include social workers, therapists, dietitians, pharmacists, administrators, physicians, sanitarians, and others who may have the expertise necessary to evaluate specific aspects of nursing home operation.

(4) The nursing home surveyors conducting a standard survey shall designate a quality assurance monitor. The individual designated as the quality assurance monitor shall ensure all of the following:

(a) That survey protocols from the Centers for Medicare and Medicaid Services are followed.

(b) That interpretive regulatory guidance issued by the Centers for Medicare and Medicaid Services is applied consistently and noncompliance with the interpretive regulatory guidance is documented in a clear and concise manner.

(c) An entrance and exit conference is conducted in accordance with survey procedural guidelines established by the Centers for Medicare and Medicaid Services.

(d) That the survey complies with this part.

History: Add. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.22105 Limitation on number of nursing home surveyors; exception; length of standard survey.

Sec. 22105. (1) Except as otherwise provided in this subsection, the department shall limit the number of nursing home surveyors that conduct a standard survey to the recommended number of surveyors identified in survey procedural guidelines established by the Centers for Medicare and Medicaid Services. The department may exceed the recommended number of nursing home surveyors only for the reasons identified in the guidelines described in this subsection.

(2) The department shall limit the length of a nursing home standard survey to a reasonable duration. In determining what is a reasonable duration, the department shall consider the average length of surveys nationally.

History: Add. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.22107 Departmental responsibilities; standard surveys; plan of corrections; revisits; letter of compliance.

Sec. 22107. (1) When preparing to conduct any standard survey, the department shall determine if there is an open survey cycle and make every reasonable effort to confirm that substantial compliance has been achieved by implementing the nursing home's accepted plan of correction before initiating the standard survey while maintaining the federal requirement for a standard survey interval and the state survey average of 12 months.

(2) All abbreviated complaint surveys must be conducted on consecutive days until complete. All form CMS-2567 reports of survey findings must be released to the nursing home within 10 consecutive days after completion of the exit date of the survey.

(3) Departmental notifications of acceptance or rejection of a nursing home's plan of correction must be reviewed and released to the nursing home within 10 consecutive days after the receipt of the plan of correction.

(4) A nursing-home-submitted plan of correction in response to any survey must have a completion date not to exceed 40 days from the exit date of the survey. If a nursing home has not received additional citations before a revisit occurs, the department shall conduct the first revisit not more than 60 days from the exit date of the survey.

(5) A letter of compliance notification to a nursing home must be released to the nursing home within 10 consecutive days after the exit date of all revisits.

History: Add. 2022, Act 187, Imd. Eff. July 25, 2022.

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Popular name: Act 368

333.22109 Deficient practices; reevaluations.

Sec. 22109. If a deficient practice occurred at a nursing home after the most recent survey of the nursing home under this part and the deficient practice is no longer occurring in the nursing home, the department shall, on the request of the nursing home, evaluate the deficient practice. If the nursing home is not eligible for an evaluation based on requirements from the Centers for Medicare and Medicaid Services, the department shall provide written notice to the nursing home explaining the reason the evaluation cannot be not granted.

History: Add. 2022, Act 187, Imd. Eff. July 25, 2022.

Compiler's note: In this section, "evaluation cannot be not granted" evidently should read "evaluation cannot be granted."

Popular name: Act 368

333.22111 Issuance of citations for immediate jeopardy or substandard qualify of care; notification.

Sec. 22111. (1) The department shall maintain the process by which the director of the long-term care division of the department reviews and authorizes the issuance of a citation for immediate jeopardy or substandard quality of care before a statement of deficiencies is made final. The review must ensure the consistent and accurate application of federal and state survey protocols and defined regulatory standards.

(2) On the discovery of a potential immediate jeopardy, a nursing home surveyor shall communicate with the nursing home administrator, the director of nursing for the nursing home, or the medical director of the nursing home, if available, to review the issues of concern and to give the nursing home an opportunity to share any data or documentation that may have an impact on a decision by the department to authorize the issuance of a citation for immediate jeopardy. If a citation for immediate jeopardy is issued to a nursing home, the department shall do both of the following:

(a) Contact the nursing home, at least once per day, until the immediate jeopardy is abated.

(b) Ensure that at least 1 nursing home surveyor remains on-site at the nursing home until the immediate jeopardy is abated unless the department determines that having a nursing home surveyor on-site at the nursing home is not practical.

History: Add. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

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333.22113 Desk review of citations.

Sec. 22113. On the receipt of a request from a nursing home, the department shall conduct a desk review of a citation if the circumstances meet the requirements established by the Centers for Medicare and Medicaid Services for a desk review instead of an on-site revisit for a standard or abbreviated survey. If the department determines that the nursing home is not eligible for a desk review, the department shall notify the nursing home, in writing, with an explanation of why a desk review could not be conducted.

History: Add. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.22115 Citations; informal dispute resolution process.

Sec. 22115. (1) A nursing home that is issued a citation may request an appeal of the citation through an informal dispute resolution process from a peer review organization approved by the department. The department shall adopt the recommendations of the peer review organization on whether to support, amend, or delete the citation.

(2) Each quarter, the department shall do both of the following:

(a) Conduct a quality assurance review of amended or deleted citations with the peer review organization described in this section for the purposes of identifying whether there is a need for additional training of nursing home surveyors or peer review organization staff.

(b) Use the findings from the informal dispute resolution process for identifying training topics for the joint provider and surveyor training sessions described in section 20155.

History: Add. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.22117 Statewide reporting requirements for facility-reported incidents.

Sec. 22117. (1) Subject to subsection (2), the department shall develop and implement statewide reporting requirements for facility-reported incidents for any category required by federal regulations and at least all of

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the following additional categories:

(a) Elopements.

(b) Bruising.

(c) Repeated statements from residents with mental health behaviors.

(d) Resident-to-resident incidents with no harm.

(2) The reporting requirements developed by the department under this section must exclude the following:

(a) A resident-to-resident altercation if there is no change in emotional status or physical functioning of each resident involved in the altercation, including, but not limited to, no change in range of motion, toileting, eating, or ambulating.

(b) An injury of unknown origin if there is no change in emotional status or physical functioning of the resident with the injury, including, but not limited to, no change in range of motion, toileting, eating, or ambulating.

(c) An allegation made by a resident who has been diagnosed with a mental illness, including, but not limited to, psychosis or severe dementia, if the resident has a history of making false statements that are not based in reality and are documented in the resident's care plan, with interventions to protect the resident.

(d) An allegation if a thorough assessment does not substantiate the allegation.

(e) An allegation if the resident or the resident's legal guardian or other legal representative has been informed of the allegation, does not wish for the nursing home to report the allegation, and has received information on how to file a complaint with the department.

History: Add. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.22119 Annual report to legislature.

Sec. 22119. The department shall report by March 1 of each year to the standing committees on appropriations and the standing committees having jurisdiction over issues involving senior citizens in the senate and the house of representatives on all of the following:

(a) The number and percentage of nursing home citations that are appealed through the informal dispute resolution process and an independent informal dispute resolution process.

(b) The number and percentage of nursing home citations that are appealed and supported, amended, or deleted through the informal dispute resolution process and an independent informal dispute resolution process.

(c) A summary of the quality assurance review of the amended citations and related nursing home survey retraining efforts to improve consistency among nursing home surveyors and across the survey administrative unit that occurred in the year being reported.

(d) The number of nursing home complaints and facility reported incidents received by the department, grouped by county. The information described in this subdivision must be shared as part of the quality assurance monitoring process and reviewed by the advisory workgroup established under section 22103.

(e) The number of surveys conducted.

(f) The number requiring follow-up surveys.

(g) The average number of citations per nursing home.

(h) The number of night and weekend responses to complaints conducted by the department.

(i) The review of citation patterns developed under section 20155(7).

(j) The number of standard surveys of nursing homes that were conducted during a period of open survey or enforcement cycle.

(k) The number of abbreviated complaint surveys that were not conducted on consecutive surveyor workdays.

(*l*) The percentage of all form CMS-2567 reports of findings that were released to the nursing home within the 10-working-day requirement.

(m) The percentage of provider notifications of acceptance or rejection of a plan of correction that were released to the nursing home within the 10-working-day requirement.

(n) The percentage of first revisits that were completed within 60 days from the date of survey completion.

(o) The percentage of second revisits that were completed within 85 days from the date of survey completion.

(p) The percentage of letters of compliance notification to the nursing home that were released within 10 working days of the date of the completion of the revisit.

(q) A summary of the discussions from the meetings required in section 20155(18).

History: Add. 2022, Act 187, Imd. Eff. July 25, 2022.

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Popular name: Act 368

333.22121 Implementation of progressive discretionary enforcement actions.

Sec. 22121. To the extent permitted by federal law, the department shall establish and implement progressive discretionary enforcement actions for the purposes of this part that consider the least restrictive enforcement action if a nursing home does not have a history of receiving citations in past nursing home surveys under this part and increase in severity if a nursing home has a history of receiving similar citations in past nursing home surveys under this part.

History: Add. 2022, Act 187, Imd. Eff. July 25, 2022.

Popular name: Act 368

333.22190 Expired. 1979, Act 113, Eff. Dec. 31, 1979.

Popular name: Act 368

PART 222
CERTIFICATES OF NEED

333.22201 Meanings of words and phrases; principles of construction.

Sec. 22201. (1) For purposes of this part, the words and phrases defined in sections 22203 to 22208 have the meanings ascribed to them in those sections.

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

(3) The definitions in part 201 do not apply to this part.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 2022, Act 265, Imd. Eff. Dec. 22, 2022.

Compiler's note: For transfer of certain powers and duties of the division of health facility development in the bureau of health systems 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

333.22203 Definitions; A to F.

Sec. 22203. (1) "Addition" means adding patient rooms, beds, and ancillary service areas, including, but not limited to, procedure rooms or fixed equipment, surgical operating rooms, therapy rooms or fixed equipment, or other accommodations to a health facility.

(2) "Capital expenditure" means an expenditure for a single project, including cost of construction, engineering, and equipment that under generally accepted accounting principles is not properly chargeable as an expense of operation. Capital expenditure includes a lease or comparable arrangement by or on behalf of a health facility to obtain a health facility, licensed part of a health facility, or equipment for a health facility, if the actual purchase of a health facility, licensed part of a health facility, or equipment for a health facility would have been considered a capital expenditure under this part. Capital expenditure includes the cost of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, addition, conversion, modernization, new construction, or replacement of physical plant and equipment.

(3) "Certificate of need" means a certificate issued under this part authorizing a new health facility, a change in bed capacity, the initiation, replacement, or expansion of a covered clinical service, or a covered capital expenditure that is issued in accordance with this part.

(4) "Certificate of need review standard" or "review standard" means a standard approved by the commission.

(5) "Change in bed capacity" means 1 or more of the following:

(a) An increase in licensed hospital beds.

(b) An increase in licensed nursing home beds or hospital beds certified for long-term care.

(c) An increase in licensed psychiatric beds.

(d) A change from 1 licensed use to a different licensed use.

(e) The physical relocation of beds from a licensed site to another geographic location.

(6) "Clinical" means directly pertaining to the diagnosis, treatment, or rehabilitation of an individual.

(7) "Clinical service area" means an area of a health facility, including related corridors, equipment rooms, ancillary service and support areas that house medical equipment, patient rooms, patient beds, diagnostic, operating, therapy, or treatment rooms or other accommodations related to the diagnosis, treatment, or rehabilitation of individuals receiving services from the health facility.

(8) "Commission" means the certificate of need commission created under section 22211.

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(9) "Covered capital expenditure" means a capital expenditure of $2,500,000.00 or more, as adjusted annually by the department under section 22221(g), by a person for a health facility for a single project, excluding the cost of nonfixed medical equipment, that includes or involves the acquisition, improvement, expansion, addition, conversion, modernization, new construction, or replacement of a clinical service area.

(10) "Covered clinical service", except as modified by the commission under section 22215, means 1 or more of the following:

(a) Initiation or expansion of 1 or more of the following services:

(*i*) Neonatal intensive care services or special newborn nursing services.

(*ii*) Open heart surgery.

(*iii*) Extrarenal organ transplantation.

(b) Initiation, replacement, or expansion of 1 or more of the following services:

(*i*) Extracorporeal shock wave lithotripsy.

(*ii*) Megavoltage radiation therapy.

(*iii*) Positron emission tomography.

(*iv*) Surgical services provided in a freestanding surgical outpatient facility, an ambulatory surgery center certified under title XVIII, or a surgical department of a hospital licensed under part 215 and offering inpatient or outpatient surgical services.

(*v*) Cardiac catheterization.

(*vi*) Fixed and mobile magnetic resonance imager services.

(*vii*) Fixed and mobile computerized tomography scanner services.

(*viii*) Air ambulance services.

(c) Initiation or expansion of a specialized psychiatric program for children and adolescent patients utilizing licensed psychiatric beds.

(d) Initiation, replacement, or expansion of a service not listed in this subsection, but designated as a covered clinical service by the commission under section 22215(1)(a).

(11) "Fixed equipment" means equipment that is affixed to and constitutes a structural component of a health facility, including, but not limited to, mechanical or electrical systems, elevators, generators, pumps, boilers, and refrigeration equipment.

History: Add. 1988, Act 331, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2002, Act 619, Eff. Mar. 31, 2003 .

Popular name: Act 368

333.22205 Definitions; H to M.

Sec. 22205. (1) "Health facility", except as otherwise provided in subsection (2), means:

(a) A hospital licensed under part 215.

(b) A psychiatric hospital or psychiatric unit licensed under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(c) A nursing home licensed under part 217 or a hospital long-term care unit as defined in section 20106(6).

(d) A freestanding surgical outpatient facility licensed under part 208.

(e) A health maintenance organization issued a license or certificate of authority in this state.

(2) "Health facility" does not include the following:

(a) An institution conducted by and for the adherents of a church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing.

(b) A health facility or agency located in a correctional institution.

(c) A veterans facility operated by the state or federal government.

(d) A facility owned and operated by the department of community health.

(3) "Initiate" means the offering of a covered clinical service that has not been offered in compliance with this part or former part 221 on a regular basis at that location within the 12-month period immediately preceding the date the covered clinical service will be offered.

(4) "Medical equipment" means a single equipment component or a related system of components that is used for clinical purposes.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2000, Act 253, Imd. Eff. June 29, 2000;—Am. 2002, Act 619, Eff. Mar. 31, 2003.

Popular name: Act 368

333.22207 Definitions; M to S.

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Sec. 22207. (1) "Medicaid" means the program for medical assistance administered by the department under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

(2) "Modernization" means an upgrading, alteration, or change in function of a part or all of the physical plant of a health facility. Modernization includes, but is not limited to, the alteration, repair, remodeling, and renovation of an existing building and initial fixed equipment and the replacement of obsolete fixed equipment in an existing building. Modernization of the physical plant does not include normal maintenance and operational expenses.

(3) "New construction" means construction of a health facility where a health facility does not exist or construction replacing or expanding an existing health facility or a part of an existing health facility.

(4) "Person" means that term as defined in section 1106 and includes a governmental entity.

(5) "Planning area" means the area defined in a certificate of need review standard for determining the need for, and the resource allocation of, a specific health facility, service, or equipment. Planning area includes, but is not limited to, this state, a health facility service area, or a health service area or subarea within this state.

(6) "Proposed project" means a proposal to acquire an existing health facility or begin operation of a new health facility, make a change in bed capacity, initiate, replace, or expand a covered clinical service, or make a covered capital expenditure.

(7) "Rural county" means a county not located in a metropolitan statistical area or micropolitan statistical areas as those terms are defined under the "standards for defining metropolitan and micropolitan statistical areas" by the Statistical and Science Policy Office of the Office of Information and Regulatory Affairs of the United States Office of Management and Budget, 65 FR p. 82227 to 82238 (December 27, 2000).

(8) "Stipulation" means a requirement that is germane to the proposed project and has been agreed to by an applicant as a condition of certificate of need approval.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2002, Act 619, Eff. Mar. 31, 2003 ;—Am. 2022, Act 265, Imd. Eff. Dec. 22, 2022.

Popular name: Act 368

333.22208 Definitions; T.

Sec. 22208. (1) "Title XVIII" means title XVIII of the social security act, 42 USC 1395 to 1395*lll*.

(2) "Title XIX" means title XIX of the social security act, 42 USC 1396 to 1396w-6.

History: Add. 1988, Act 308, Eff. Oct. 1, 1988;—Am. 1990, Act 260, Imd. Eff. Oct. 15, 1990;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2011, Act 51, Eff. Dec. 6, 2011;—Am. 2022, Act 265, Imd. Eff. Dec. 22, 2022.

Popular name: Act 368

333.22209 Activities requiring certificate of need; exceptions; requirements; acquisition of existing health facility; relocation; "sharing agreement" defined.

Sec. 22209. (1) Except as otherwise provided in this part, a person shall not do any of the following without first obtaining a certificate of need:

(a) Acquire an existing health facility or begin operation of a health facility at a site that is not currently licensed for that type of health facility.

(b) Make a change in the bed capacity of a health facility.

(c) Initiate, replace, or expand a covered clinical service.

(d) Make a covered capital expenditure.

(2) A certificate of need is not required for a reduction in licensed bed capacity or services at a licensed site.

(3) Subject to subsection (9) and if the relocation does not result in an increase of licensed beds within that health service area, a certificate of need is not required for any of the following:

(a) The physical relocation of licensed beds from a hospital site licensed under part 215 to another hospital site licensed under the same license as the hospital seeking to transfer the beds if both hospitals are located within a 2-mile radius of each other.

(b) Subject to subsections (7) and (8), the physical relocation of licensed beds from a hospital licensed under part 215 to a freestanding surgical outpatient facility licensed under part 208 if that freestanding surgical outpatient facility satisfies each of the following criteria on December 2, 2002:

(*i*) Is owned by, is under common control of, or has as a common parent the hospital seeking to relocate its licensed beds.

(*ii*) Was licensed before January 1, 2002.

(*iii*) Provides 24-hour emergency care services at that site.

(*iv*) Provides at least 4 different covered clinical services at that site.

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(c) Subject to subsection (8), the physical relocation of licensed beds from a hospital licensed under part 215 to another hospital licensed under part 215 within the same health service area if the hospital receiving the licensed beds is owned by, is under common control of, or has as a common parent the hospital seeking to relocate its licensed beds.

(4) Subject to subsection (5), a hospital licensed under part 215 is not required to obtain a certificate of need to provide 1 or more of the covered clinical services listed in section 22203(10) in a federal veterans' health care facility or to use long-term care unit beds or acute care beds that are owned and located in a federal veterans' health care facility if the hospital satisfies each of the following criteria:

(a) The hospital has an active affiliation or sharing agreement with the federal veterans' health care facility.

(b) The hospital has physicians who have faculty appointments at the federal veterans' health care facility or has an affiliation with a medical school that is affiliated with a federal veterans' health care facility and has physicians who have faculty appointments at the federal veterans' health care facility.

(c) The hospital has an active grant or agreement with the state or federal government to provide 1 or more of the following functions relating to bioterrorism:

(*i*) Education.

(*ii*) Patient care.

(*iii*) Research.

(*iv*) Training.

(5) A hospital that provides 1 or more covered clinical services in a federal veterans' health care facility or uses long-term care unit beds or acute care beds located in a federal veterans' health care facility under subsection (4) may not utilize procedures performed at the federal veterans' health care facility to demonstrate need or to satisfy a certificate of need review standard unless the covered clinical service provided at the federal veterans' health care facility was provided under a certificate of need.

(6) If a hospital licensed under part 215 had fewer than 70 licensed beds on December 1, 2002, that hospital is not required to satisfy the minimum volume requirements under the certificate of need review standards for its existing operating rooms as long as those operating rooms continue to exist at that licensed hospital site.

(7) Before relocating beds under subsection (3)(b), the hospital seeking to relocate its beds shall provide the information requested by the department of licensing and regulatory affairs that will allow the department of licensing and regulatory affairs to verify the number of licensed beds that were staffed and available for patient care at that hospital as of December 2, 2002.

(8) The licensed beds relocated under subsection (3)(b) or (c) must not be included as new beds in a hospital or as a new hospital under the certificate of need review standards for hospital beds. One of every 2 beds transferred under subsection (3)(b) up to a maximum of 100 must be beds that were staffed and available for patient care as of December 2, 2002. A hospital relocating beds under subsection (3)(b) shall not reactivate licensed beds within that hospital that were unstaffed or unavailable for patient care on December 2, 2002 for a period of 5 years after the date of the relocation of the licensed beds under subsection (3)(b).

(9) Licensed beds must not be physically relocated under subsection (3) if 7 or more members of the commission, after the appointment and confirmation of the 6 additional commission members under section 22211 but before June 15, 2003, determine that relocation of licensed beds under subsection (3) may cause great harm and detriment to the access and delivery of health care to the public and the relocation of beds should not occur without a certificate of need.

(10) An applicant seeking a certificate of need for the acquisition of an existing health facility may file a single, consolidated application for the certificate of need if the project results in the acquisition of an existing health facility but does not result in an increase or relocation of licensed beds or the initiation, expansion, or replacement of a covered clinical service. Except as otherwise provided in this subsection, a person acquiring an existing health facility is subject to the applicable certificate of need review standards in effect on the date of the transfer for the covered clinical services provided by the acquired health facility. The department may except 1 or more of the covered clinical services listed in section 22203(10)(b), except the covered clinical service listed in section 22203(10)(b)(*iv*), from the minimum volume requirements in the applicable certificate of need review standards in effect on the date of the transfer, if the equipment used in the covered clinical service is unable to meet the minimum volume requirements due to the technological incapacity of the equipment. A covered clinical service excepted by the department under this subsection is subject to all the other provisions in the applicable certificate of need review standards in effect on the date of the transfer, except minimum volume requirements.

(11) An applicant seeking a certificate of need for the relocation or replacement of an existing health facility may file a single, consolidated application for the certificate of need if the project does not result in an increase of licensed beds or the initiation, expansion, or replacement of a covered clinical service. A person

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relocating or replacing an existing health facility is subject to the applicable certificate of need review standards in effect on the date of the relocation or replacement of the health facility.

(12) As used in this section, "sharing agreement" means a written agreement between a federal veterans' health care facility and a hospital licensed under part 215 for the use of the federal veterans' health care facility's beds or equipment, or both, to provide covered clinical services.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1990, Act 260, Imd. Eff. Oct. 15, 1990;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2002, Act 619, Eff. Mar. 31, 2003;—Am. 2022, Act 265, Imd. Eff. Dec. 22, 2022.

Popular name: Act 368

333.22210 Certificate of need for extended care services program; application; criteria; modification; fee prohibited; compliance; report; discrimination prohibited; exercise of rights; written acknowledgment; forms; additional rights; violation; penalty; certificate required; definitions.

Sec. 22210. (1) Subject to this section, a hospital that applies to the department for a certificate of need and meets all of the following criteria shall be granted a certificate of need for an extended care services program with up to 10 licensed hospital beds:

(a) Is eligible to apply for certification as a provider of extended care services through the use of swing beds under section 1883 of title XVIII, 42 USC 1395tt.

(b) Subject to subsection (2), has fewer than 100 licensed beds not counting beds excluded under section 1883 of title XVIII, 42 USC 1395tt.

(c) Does not have uncorrected licensing, certification, or safety deficiencies for which the department or the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or both, has not accepted a plan of correction.

(2) After October 1, 1990, the criteria set forth in subsection (1)(b) may be modified by the commission, using the procedure set forth in section 22215(3). The department shall not charge a fee for processing a certificate of need application to initiate an extended care services program.

(3) A hospital that is granted a certificate of need for an extended care services program under subsection (1) shall comply with all of the following:

(a) Not charge for or otherwise attempt to recover the cost of a length of stay for a patient in the extended care services program that exceeds the length of time allowed for post-hospital extended care under title XVIII.

(b) Admit patients to the extended care services program only under an admissions contract approved by the department.

(c) Subject to subdivision (f), not discharge or transfer a patient from a licensed hospital bed other than a hospital long-term care unit bed and admit that patient to the extended care services program unless the discharge or transfer and admission is determined medically appropriate by the attending physician.

(d) Permit access to a representative of an organization approved under section 21764 to patients admitted to the extended care services program, for all of the purposes described in section 21763.

(e) Not allow the number of patient days for the extended care services program to exceed the equivalent of 1,825 patient days for a single state fiscal year.

(f) Not provide extended care services in a swing bed if the hospital owns or operates a hospital long-term care unit that has beds available at the time a patient requires admission for extended care services.

(g) Not charge or collect from a patient admitted to the extended care services program, for services rendered as part of the extended care services program, an amount in excess of the reasonable charge for the services as determined by the secretary of the United States Department of Health and Human Services under title XVIII.

(h) Assist a patient who has been denied coverage for services received in an extended care services program under title XVIII to file an appeal with the Medicare recovery project operated by the office of services to the aging.

(i) Operate the extended care services program pursuant to this section and the provisions of section 1883 of title XVIII, 42 USC 1395tt, that are applicable to the extended care services program.

(j) As part of the hospital's policy describing the rights and responsibilities of patients admitted to the hospital, as required under section 20201, incorporate all of the following additional rights and responsibilities for patients in the extended care services program:

(*i*) A copy of the hospital's policy must be provided to each extended care services patient on admission, and the staff of the hospital must be trained and involved in the implementation of the policy.

(*ii*) Each extended care services patient may associate and communicate privately with persons of his or

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her choice. Reasonable, regular visiting hours, which must take into consideration the special circumstances of each visitor, must be established for extended care services patients to receive visitors. An extended care services patient may be visited by the patient's attorney or by representatives of the departments named in section 20156 during other than established visiting hours. Reasonable privacy must be afforded for visitation of an extended care services patient who shares a room with another extended care services patient. Each extended care services patient must have reasonable access to a telephone.

(*iii*) An extended care services patient is entitled to retain and use personal clothing and possessions as space permits, unless medically contraindicated, as documented by the attending physician in the medical record.

(*iv*) An extended care services patient is entitled to the opportunity to participate in the planning of his or her medical treatment, including the development of the discharge plan under subdivision (*l*). An extended care services patient must be fully informed by the attending physician of the extended care services patient's medical condition, unless medically contraindicated, as documented by a physician in the medical record. Each extended care services patient must be afforded the opportunity to discharge himself or herself from the extended care services program.

(*v*) An extended care services patient is entitled to be fully informed either before or at the time of admission, and during his or her stay, of services available in the hospital and of the related charges for those services. The statement of services provided by the hospital must be in writing and must include those services required to be offered on an as needed basis.

(*vi*) A patient in an extended care services program or a person authorized in writing by the patient may, on submission to the hospital of a written request, inspect and copy the patient's personal or medical records. The hospital shall make the records available for inspection and copying within a reasonable time, not exceeding 7 days, after the receipt of the written request.

(*vii*) An extended care services patient has the right to have his or her parents, if the extended care services patient is a minor, or his or her spouse, next of kin, or patient's representative, if the extended care services patient is an adult, stay at the hospital 24 hours a day if the extended care services patient is considered terminally ill by the physician responsible for the extended care services patient's care.

(*viii*) Each extended care services patient must be provided with meals that meet the recommended dietary allowances for that patient's age and sex and that may be modified according to special dietary needs or ability to chew.

(*ix*) Each extended care services patient has the right to receive a representative of an organization approved under section 21764, for all of the purposes described in section 21763.

(k) Achieve and maintain Medicare certification under title XVIII.

(*l*) Establish a discharge plan for each extended care services patient who is admitted to the extended care services program. In the discharge plan, the hospital shall emphasize patient choice in receiving extended care services in the most appropriate and least restrictive setting. The hospital shall provide to the patient or his or her authorized representative a copy of the discharge plan not later than 3 days after the patient is admitted to the extended care services program.

(4) Beginning January 1, 2021, a hospital that is granted a certificate of need for an extended care services program under subsection (1) shall submit a report to the department in a form and manner prescribed by the department that includes, but is not limited to, all of the following information:

(a) The total number of patients admitted to the hospital's extended care services program during the period specified by the department.

(b) The total number of extended care services patient days for the period specified by the department.

(c) Information that identifies the type of care to which patients in the extended care services program are released.

(d) Any other information considered necessary to the department to evaluate the extended care services program.

(5) A hospital or the owner, an administrator, an employee, or a representative of the hospital shall not discharge, harass, or retaliate or discriminate against an extended care services patient because the extended care services patient has exercised a right described in subsection (3)(j).

(6) In the case of an extended care services patient, the rights described in subsection (3)(j)(*iv*) may be exercised by the patient's representative, as that term is defined in section 21703.

(7) An extended care services patient must be fully informed, as evidenced by the extended care services patient's written acknowledgment, before or at the time of admission and during stay, of the rights described in subsection (3)(j). The written acknowledgment must provide that if an extended care services patient is adjudicated incompetent and not restored to legal capacity, a person designated by the extended care services patient shall exercise the rights and responsibilities set forth in subsection (3)(j). The hospital shall provide

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proper forms for the extended care services patient to provide for the designation of this person at the time of admission.

(8) Subsection (3)(j) does not prohibit a hospital from establishing and recognizing additional rights for extended care services patients.

(9) A hospital that violates subsection (3) is subject to the penalty provisions of section 20165.

(10) A person shall not initiate an extended care services program without first obtaining a certificate of need under this section.

(11) As used in this section:

(a) "Extended care services program" means a program by a hospital to provide extended care services to a patient through the use of swing beds under section 1883 of title XVIII, 42 USC 1395tt.

(b) "Hospital long-term care unit" means that term as defined in section 20106.

History: Add. 1988, Act 308, Eff. Oct. 1, 1988;—Am. 1990, Act 260, Imd. Eff. Oct. 15, 1990;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2006, Act 195, Imd. Eff. June 19, 2006;—Am. 2011, Act 51, Eff. Dec. 6, 2011;—Am. 2014, Act 165, Imd. Eff. June 12, 2014;—Am. 2020, Act 333, Imd. Eff. Dec. 29, 2020.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 368

333.22211 Certificate of need commission; creation; appointment, qualifications, and terms of members; vacancy; laws to which commission members subject.

Sec. 22211. (1) The certificate of need commission is created in the department. The commission consists of 11 members appointed by the governor with the advice and consent of the senate. The governor shall not appoint more than 6 members from the same major political party and shall appoint 5 members from another major political party. The commission consists of the following 11 members:

(a) Two individuals representing hospitals.

(b) One individual representing physicians licensed under part 170 to engage in the practice of medicine.

(c) One individual representing physicians licensed under part 175 to engage in the practice of osteopathic medicine and surgery.

(d) One individual who is a physician licensed under part 170 or 175 representing a school of medicine or osteopathic medicine.

(e) One individual representing nursing homes.

(f) One individual representing nurses.

(g) One individual representing a company that is self-insured for health coverage.

(h) One individual representing a company that is not self-insured for health coverage.

(i) One individual representing a nonprofit health care corporation operating pursuant to the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704, or a nonprofit mutual disability insurer into which a nonprofit health care corporation has merged as provided in section 5805(1) of the insurance code of 1956, 1956 PA 218, MCL 500.5805.

(j) One individual representing organized labor unions in this state.

(2) In making appointments, the governor shall, to the extent feasible, assure that the membership of the commission is broadly representative of the interests of all of the people of this state and of the various geographic regions.

(3) A member of the commission shall serve for a term of 3 years or until a successor is appointed. A vacancy on the commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(4) Commission members are subject to the following:

(a) 1968 PA 317, MCL 15.321 to 15.330.

(b) 1973 PA 196, MCL 15.341 to 15.348.

(c) 1978 PA 472, MCL 4.411 to 4.431.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 2002, Act 619, Eff. Mar. 31, 2003;—Am. 2014, Act 107, Imd. Eff. Apr. 10, 2014.

Popular name: Act 368

333.22213 Commission; bylaws; removal of member; election of chairperson and vice-chairperson; meetings; quorum; final action; compensation and expenses; duties of department; professional employees.

Sec. 22213. (1) The commission shall, within 2 months after appointment and confirmation of all members, adopt bylaws for the operation of the commission. The bylaws shall include, at a minimum, voting

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procedures that protect against conflict of interest and minimum requirements for attendance at meetings.

(2) The governor may remove a commission member from office for failure to attend 3 consecutive meetings in a 1-year period.

(3) The commission annually shall elect a chairperson and vice-chairperson.

(4) The commission shall hold regular quarterly meetings at places and on dates fixed by the commission. Special meetings may be called by the chairperson, by not less than 3 commission members, or by the department.

(5) A majority of the commission members appointed and serving constitutes a quorum. Final action by the commission shall be only by affirmative vote of a majority of the commission members appointed and serving. A commission member shall not vote by proxy.

(6) The legislature annually shall fix the per diem compensation of members of the commission. Expenses of members incurred in the performance of official duties shall be reimbursed as provided in section 1216.

(7) The department shall furnish administrative services to the commission, shall have charge of the commission's offices, records, and accounts, and shall provide at least 2 full-time administrative employees, secretarial staff, and other staff necessary to allow the proper exercise of the powers and duties of the commission. The department shall make available the times and places of commission meetings and keep minutes of the meetings and a record of the actions of the commission. The department shall make available a brief summary of the actions taken by the commission.

(8) The department shall assign at least 2 full-time professional employees to staff the commission to assist the commission in the performance of its substantive responsibilities under this part.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2002, Act 619, Eff. Mar. 31, 2003

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Popular name: Act 368

333.22215 Duties of commission; purpose; public hearing before final action; submission of proposed final action to joint committee; approval or disapproval; review standards; revision of fees.

Sec. 22215. (1) The commission shall do all of the following:

(a) If determined necessary by the commission, revise, add to, or delete 1 or more of the covered clinical services listed in section 22203. If the commission proposes to add to the covered clinical services listed in section 22203, the commission shall develop proposed review standards and make the review standards available to the public not less than 30 days before conducting a hearing under subsection (3).

(b) Develop, approve, disapprove, or revise certificate of need review standards that establish for purposes of section 22225 the need, if any, for the initiation, replacement, or expansion of covered clinical services, the acquisition or beginning the operation of a health facility, making changes in bed capacity, or making covered capital expenditures, including conditions, standards, assurances, or information that must be met, demonstrated, or provided by a person who applies for a certificate of need. A certificate of need review standard may also establish ongoing quality assurance requirements including any or all of the requirements specified in section 22225(2)(c). Except for nursing home and hospital long-term care unit bed review standards, by January 1, 2004, the commission shall revise all certificate of need review standards to include a requirement that each applicant participate in title XIX of the social security act, chapter 531, 49 Stat. 620, 1396r-6 and 1396r-8 to 1396v.

(c) Direct the department to prepare and submit recommendations regarding commission duties and functions that are of interest to the commission including, but not limited to, specific modifications of proposed actions considered under this section.

(d) Approve, disapprove, or revise proposed criteria for determining health facility viability under section 22225.

(e) Annually assess the operations and effectiveness of the certificate of need program based on periodic reports from the department and other information available to the commission.

(f) By January 1, 2005, and every 2 years thereafter, make recommendations to the joint committee regarding statutory changes to improve or eliminate the certificate of need program.

(g) Upon submission by the department approve, disapprove, or revise standards to be used by the department in designating a regional certificate of need review agency, pursuant to section 22226.

(h) Develop, approve, disapprove, or revise certificate of need review standards governing the acquisition of new technology.

(i) In accordance with section 22255, approve, disapprove, or revise proposed procedural rules for the certificate of need program.

(j) Consider the recommendations of the department and the department of attorney general as to the

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administrative feasibility and legality of proposed actions under subdivisions (a), (b), and (c).

(k) Consider the impact of a proposed restriction on the acquisition of or availability of covered clinical services on the quality, availability, and cost of health services in this state.

(*l*) If the commission determines it necessary, appoint standard advisory committees to assist in the development of proposed certificate of need review standards. A standard advisory committee shall complete its duties under this subdivision and submit its recommendations to the commission within 6 months unless a shorter period of time is specified by the commission when the standard advisory committee is appointed. An individual shall serve on no more than 2 standard advisory committees in any 2-year period. The composition of a standard advisory committee shall not include a lobbyist registered under 1978 PA 472, MCL 4.411 to 4.431, but shall include all of the following:

(*i*) Experts with professional competence in the subject matter of the proposed standard, who shall constitute a 2/3 majority of the standard advisory committee.

(*ii*) Representatives of health care provider organizations concerned with licensed health facilities or licensed health professions.

(*iii*) Representatives of organizations concerned with health care consumers and the purchasers and payers of health care services.

(m) In addition to subdivision (b), review and, if necessary, revise each set of certificate of need review standards at least every 3 years.

(n) If a standard advisory committee is not appointed by the commission and the commission determines it necessary, submit a request to the department to engage the services of private consultants or request the department to contract with any private organization for professional and technical assistance and advice or other services to assist the commission in carrying out its duties and functions under this part.

(o) Within 6 months after the appointment and confirmation of the 6 additional commission members under section 22211, develop, approve, or revise certificate of need review standards governing the increase of licensed beds in a hospital licensed under part 215, the physical relocation of hospital beds from 1 licensed site to another geographic location, and the replacement of beds in a hospital licensed under part 215.

(2) The commission shall exercise its duties under this part to promote and assure all of the following:

(a) The availability and accessibility of quality health services at a reasonable cost and within a reasonable geographic proximity for all people in this state.

(b) Appropriate differential consideration of the health care needs of residents in rural counties in ways that do not compromise the quality and affordability of health care services for those residents.

(3) Not less than 30 days before final action is taken by the commission under subsection (1)(a), (b), (d), (h), or (o), the commission shall conduct a public hearing on its proposed action. In addition, not less than 30 days before final action is taken by the commission under subsection (1)(a), (b), (d), (h), or (o), the commission chairperson shall submit the proposed action and a concise summary of the expected impact of the proposed action for comment to each member of the joint committee. The commission shall inform the joint committee of the date, time, and location of the next meeting regarding the proposed action. The joint committee shall promptly review the proposed action and submit its recommendations and concerns to the commission.

(4) The commission chairperson shall submit the proposed final action including a concise summary of the expected impact of the proposed final action to the governor and each member of the joint committee. The governor or the legislature may disapprove the proposed final action within 45 days after the date of submission. If the proposed final action is not submitted on a legislative session day, the 45 days commence on the first legislative session day after the proposed final action is submitted. The 45 days shall include not less than 9 legislative session days. Legislative disapproval shall be expressed by concurrent resolution which shall be adopted by each house of the legislature. The concurrent resolution shall state specific objections to the proposed final action. A proposed final action by the commission under subsection (1)(a), (b), (d), (h), or (o) is not effective if it has been disapproved under this subsection. If the proposed final action is not disapproved under this subsection, it is effective and binding on all persons affected by this part upon the expiration of the 45-day period or on a later date specified in the proposed final action. As used in this subsection, "legislative session day" means each day in which a quorum of either the house of representatives or the senate, following a call to order, officially convenes in Lansing to conduct legislative business.

(5) The commission shall not develop, approve, or revise a certificate of need review standard that requires the payment of money or goods or the provision of services unrelated to the proposed project as a condition that must be satisfied by a person seeking a certificate of need for the initiation, replacement, or expansion of covered clinical services, the acquisition or beginning the operation of a health facility, making changes in bed capacity, or making covered capital expenditures. This subsection does not preclude a requirement that each applicant participate in title XIX of the social security act, chapter 531, 49 Stat. 620, 1396r-6 and

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1396r-8 to 1396v, or a requirement that each applicant provide covered clinical services to all patients regardless of his or her ability to pay.

(6) If the reports received under section 22221(f) indicate that the certificate of need application fees collected under section 20161 have not been within 10% of 3/4 the cost to the department of implementing this part, the commission shall make recommendations regarding the revision of those fees so that the certificate of need application fees collected equal approximately 3/4 of the cost to the department of implementing this part.

(7) As used in this section, "joint committee" means the joint committee created under section 22219.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2002, Act 619, Eff. Mar. 31, 2003 .

Popular name: Act 368

333.22217 Repealed. 2002, Act 619, Eff. Mar. 31, 2003.

Compiler's note: The repealed section pertained to certificate of need review standards.

Popular name: Act 368

333.22219 Joint legislative committee.

Sec. 22219. (1) A joint legislative committee to focus on proposed actions of the commission regarding the certificate of need program and certificate of need standards and to review other certificate of need issues is created. The joint committee shall consist of 6 members as follows:

(a) The chairperson of the senate committee on health policy.

(b) The vice-chairperson of the senate committee on health policy.

(c) The minority vice-chairperson of the senate committee on health policy.

(d) The chairperson of the house of representatives committee on health policy.

(e) The vice-chairperson of the house of representatives committee on health policy.

(f) The minority vice-chairperson of the house of representatives committee on health policy.

(2) The joint committee shall be co-chaired by the chairperson of the senate committee on health policy and the chairperson of the house committee on health policy.

(3) The joint committee may administer oaths, subpoena witnesses, and examine the application, documentation, or other reports and papers of an applicant or any other person involved in a matter properly before the committee.

(4) The joint committee shall review the recommendations made by the commission under section 22215(6) regarding the revision of the certificate of need application fees and submit a written report to the legislature outlining the costs to the department to implement the program, the amount of fees collected, and its recommendation regarding the revision of those fees.

(5) The joint committee may develop a plan for the revision of the certificate of need program. If a plan is developed by the joint committee, the joint committee shall recommend to the legislature the appropriate statutory changes to implement the plan.

History: Add. 2002, Act 619, Eff. Mar. 31, 2003.

Popular name: Act 368

333.22221 Duties of department generally.

Sec. 22221. The department shall do all of the following:

(a) Subject to approval by the commission, promulgate rules to implement its powers and duties under this part.

(b) Report to the commission at least annually on the performance of the department's duties under this part.

(c) Develop proposed certificate of need review standards for submission to the commission.

(d) Administer and apply certificate of need review standards. In the review of certificate of need applications, the department shall consider relevant written communications from any person.

(e) Designate adequate staff or other resources to directly assist hospitals and nursing homes with less than 100 beds in the preparation of applications for certificates of need.

(f) By October 1 of each year, report to the commission regarding the costs to the department of implementing this part and the certificate of need application fees collected under section 20161 in the immediately preceding state fiscal year.

(g) Annually adjust the $2,500,000.00 threshold set forth in section 22203(9) by an amount determined by the state treasurer to reflect the annual percentage change in the Consumer Price Index, using data from the immediately preceding period of July 1 to June 30. As used in this subdivision, "Consumer Price Index"

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means the most comprehensive index of consumer prices available for this state from the Bureau of Labor Statistics of the United States Department of Labor.

(h) Annually review the application process, including all forms, reports, and other materials that are required to be submitted with the application. If needed to promote administrative efficiency, revise the forms, reports, and any other materials required with the application.

(i) By October 1, 2003, create a consolidated application for a certificate of need for the relocation or replacement of an existing health facility.

(j) In consultation with the commission, define single project as it applies to capital expenditures.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2002, Act 619, Eff. Mar. 31, 2003 ;—Am. 2022, Act 265, Imd. Eff. Dec. 22, 2022.

Popular name: Act 368

333.22223 Application for certificate of need; statement addressing review criteria.

Sec. 22223. An applicant for a certificate of need shall include as part of the application a statement addressing each of the review criteria listed in section 22225. This section does not apply to an application for a certificate of need made under section 22210.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988.

Popular name: Act 368

333.22224 Repealed. 2023, Act 209, Eff. Feb. 13, 2024.

Compiler's note: The repealed section pertained to an exception for a certificate of need requirements for freestanding surgical outpatient facilities that perform abortions.

Popular name: Act 368

333.22224a Magnetic resonance image units.

Sec. 22224a. (1) A person seeking to initiate, expand, replace, relocate, or acquire a fixed or mobile magnetic resonance imager service within a county that has a population of more than 160,000 but does not have at least 2 magnetic resonance imager units may file a letter of intent with the department prior to the initiation, expansion, replacement, relocation, or acquisition of a fixed or mobile magnetic resonance imager unit within that county instead of obtaining a certificate of need.

(2) Within 30 days after receiving the letter of intent, if the department verifies that the county has a population of more than 160,000 and that the county does not already have 2 magnetic resonance imager units, the department shall send a written acknowledgment to the person approving the initiation, expansion, replacement, relocation, or acquisition of a fixed or mobile magnetic resonance imager unit.

(3) A person shall not initiate, expand, replace, relocate, or acquire a fixed or mobile magnetic resonance imager unit under this section without a certificate of need unless that person receives a written acknowledgment of approval from the department under subsection (2).

(4) A person seeking to initiate, expand, replace, relocate, or acquire a fixed or mobile magnetic resonance imager service under this section shall be a nonprofit organization and shall demonstrate that the service shall be accessible to all patients regardless of his or her ability to pay and shall participate in title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-8 to 1396v.

History: Add. 2002, Act 619, Eff. Mar. 31, 2003.

Popular name: Act 368

333.22224b Positron emission tomography scanner services pilot project.

Sec. 22224b. (1) The department may approve a pilot project that meets the requirements under subsection (2) and authorize that pilot project to provide positron emission tomography scanner services without obtaining a certificate of need under this part.

(2) The department may approve a pilot project under subsection (1) if the department determines that the pilot project meets all of the following requirements:

(a) The positron emission tomography scanner is located in the same facility as a radiopharmacy that meets all of the following requirements:

(*i*) Is equipped with a fixed cyclotron.

(*ii*) Provides cyclotron-produced radionuclide tracers with pharmaceutical components for on-site patient administration.

(*iii*) Develops radiopharmaceuticals for use in diagnostic and theranostic applications.

(*iv*) Is licensed under part 177.

(b) The positron emission tomography scanner services will be provided using not more than 2 fixed

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positron emission tomography scanners.

(c) The pilot project demonstrates it will become accredited by the American College of Radiology or the Intersocietal Accreditation Commission, or will receive an equivalent accreditation from another body that is approved by the department.

(3) If the commission under section 22215 adopts standards that are equivalent to the requirements under subsection (2) to apply for a certificate of need to initiate, replace, or expand positron emission tomography scanner services, a pilot project authorized to provide positron emission tomography scanner services under this section shall, not more than 6 months after the standards are adopted, apply for a certificate of need to continue to provide positron emission tomography scanner services.

History: Add. 2021, Act 35, Imd. Eff. June 24, 2021.

Popular name: Act 368

333.22224c Exception for freestanding birth center.

Sec. 22224c. A freestanding birth center as that term is defined in section 20701 is not required to obtain a certificate of need.

History: Add. 2024, Act 252, Eff. Apr. 2, 2025.

Popular name: Act 368

333.22225 Demonstration of need for proposed project; additional requirements.

Sec. 22225. (1) In order to be approved under this part, an applicant for a certificate of need shall demonstrate to the satisfaction of the department that the proposed project will meet an unmet need in the area proposed to be served. An applicant shall demonstrate the need for a proposed project by credible documentation of compliance with the applicable certificate of need review standards. If no certificate of need review standards are applicable to the proposed project or to a portion of a proposed project that is otherwise governed by this part, the applicant shall demonstrate to the satisfaction of the department that an unmet need for the proposed project or portion of the proposed project exists by credible documentation that the proposed project will be geographically accessible and efficiently and appropriately utilized, in light of the type of project and the existing health care system. Whether or not there are applicable certificate of need review standards, in determining compliance with this subsection, the department shall consider approved projects that are not yet operational, proposed projects under appeal from a final decision of the department, or proposed projects that are pending final department decision.

(2) If, and only if, the requirements of subsection (1) are met, in order for an application to be approved under this part, an applicant shall also demonstrate to the reasonable satisfaction of the department all of the following:

(a) With respect to the method proposed to meet the unmet need identified under subsection (1), that the applicant has considered alternatives to the proposed project and that, in light of the alternatives available for consideration, the chosen alternative is the most efficient and effective method of meeting that unmet need.

(b) With respect to the financial aspects of the proposed project, that each of the following is met:

(*i*) The capital costs of the proposed project will result in the least costly total annual operating costs.

(*ii*) Funds are available to meet the capital and operating needs of the proposed project.

(*iii*) The proposed project utilizes the least costly method of financing, in light of available alternatives.

(*iv*) In the case of a construction project, the applicant stipulates that the applicant will competitively bid capital expenditures among qualified contractors or alternatively, the applicant is proposing an alternative to competitive bidding that will achieve substantially the same results as competitive bidding.

(c) The proposed project will be delivered in compliance with applicable operating standards and quality assurance standards approved under section 22215(1)(b), including 1 or more of the following:

(*i*) Mechanisms for assuring appropriate utilization of the project.

(*ii*) Methods for evaluating the effectiveness of the project.

(*iii*) Means of assuring delivery of the project by qualified personnel and in compliance with applicable safety and operating standards.

(*iv*) Evidence of the current and historical compliance with federal and state licensing and certification requirements in this state by the applicant or the applicant's owner, or both, to the degree determined appropriate by the commission in light of the subject of the review standard.

(*v*) Other criteria approved by the commission as appropriate to evaluate the quality of the project.

(d) The health services proposed in the project will be delivered in a health facility that meets the criteria, if any, established by the commission for determining health facility viability, pursuant to this subdivision. The criteria shall be proposed by the department and the office, and approved or disapproved by the commission. At a minimum, the criteria shall specify, to the extent applicable to the applicant, that an

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applicant shall be considered viable by demonstrating at least 1 of the following:

(*i*) A minimum percentage occupancy of licensed beds.

(*ii*) A minimum percentage of combined uncompensated discharges and discharges under title XIX in the health facility's planning area.

(*iii*) A minimum percentage of the total discharges in the health facility's planning area.

(*iv*) Evidence that the health facility is the only provider in the health facility's planning area of a service that is considered essential by the commission.

(*v*) An operating margin in an amount determined by the commission.

(*vi*) Other criteria approved by the commission as appropriate for statewide application to determine health facility viability.

(e) In the case of a nonprofit health facility, the health facility is in fact governed by a body composed of a majority consumer membership broadly representative of the population served. In the case of a health facility sponsored by a religious organization, or if the nature of the nonprofit health facility is such that the legal rights of its owners or sponsors might be impaired by a requirement as to the composition of its governing body, an advisory board with majority consumer membership broadly representative of the population served may be construed by the department to be equivalent to the governing board described in this subdivision, if the advisory board meets all of the following requirements:

(*i*) The role assigned to the advisory board is meaningful, as determined by the department.

(*ii*) The functions of the advisory board are clearly prescribed.

(*iii*) The advisory board is given an opportunity to influence policy formulation by the legally recognized governing body, as determined by the department.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993.

Popular name: Act 368

333.22226 Regional certificate of need review agency; standards; designation of person for specific review area; requirements; duration and termination of agency; local certificate of need review agency; application or other information; review; recommendations; decision; convening consumers, providers, purchasers, or payers of health care; public hearing; meetings; "review area" defined.

Sec. 22226. (1) The commission shall develop standards for the designation by the department of a regional certificate of need review agency for each review area to develop advisory recommendations for proposed projects. The standards shall be based on the requirements for a regional certificate of review agency set forth in subsection (3).

(2) The department, with the concurrence of the commission, shall designate a person to be a regional certificate of need review agency for a specific review area, according to procedures approved by the commission, if the person meets the standards approved under subsection (1), and if a regional certificate of need review agency has not already been designated for that specific review area.

(3) A regional certificate of need review agency shall meet all of the following requirements:

(a) Be an independent nonprofit organization that is not a subsidiary of, or otherwise controlled by, any other person.

(b) Be governed by a board that is broadly representative of consumers, providers, payers, and purchasers of health care in the review area, with a majority of the board being consumers, payers, and purchasers of health care.

(c) Demonstrate a willingness and ability to conduct reviews of all proposed projects requiring a certificate of need that would be located within the review area served by the regional certificate of need review agency.

(d) Avoid conflict of interest in its review of all applications for a certificate of need.

(e) Provide data to the department to enable the department to evaluate the regional certificate of need review agency's performance. The data provided under this subdivision shall be reviewed at periodic meetings between the department and the regional certificate of need review agency.

(f) Not receive more than a designated proportion of its financial support from health facilities and health professionals, as determined by the commission.

(g) Meet other requirements established by the commission that are relevant to the functions of a regional certificate of need review agency, under this part.

(4) The designation of a regional certificate of need review agency shall be operative for a period of time approved by the commission, but not for more than 24 months. The designation of a regional certificate of need review agency may be terminated by the department with the concurrence of the commission at any time for noncompliance with the standards approved under subsection (1). In addition, the designation may be

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terminated by the regional certificate of need review agency upon the expiration of 60 days after the department receives written notice of the termination.

(5) A local certificate of need review agency that was designated pursuant to a designation agreement authorized under former section 22124 and effective on October 1, 1988 is designated as the regional certificate of need review agency for its review area until the expiration of 1 year after the date of final approval of the standards developed under subsection (1), unless the designation is terminated by either the department under subsection (4) or the regional certificate of need review agency before that time.

(6) A person applying for a certificate of need under this part shall simultaneously provide a copy of any letter of intent, application, or additional information required by the department to the regional certificate of need review agency designated by the department for the review area in which the proposed project would be located, unless the regional certificate of need review agency determines that it will not review the application or other information, and notifies both the applicant and the department in writing of its determination. The regional certificate of need review agency may review the application and submit its recommendations to the department. If the regional certificate of need review agency determines that it will not review the application, then the regional certificate of need review agency shall notify both the applicant and the department in writing of its determination. In developing its recommendations, the regional certificate of need review agency shall utilize the review procedures and time frames specified for regional certificate of need review agencies in the rules continued or promulgated under this part, and shall also utilize certificate of need review standards, statutory criteria, and forms identical to those used by the department.

(7) Before developing a proposed decision on an application, the department shall review the recommendations of the regional certificate of need review agency for the review area in which the proposed project would be located, if the recommendations are submitted to the department within the time frames required under subsection (6). If the director makes a final decision that is inconsistent with the recommendations of the regional certificate of need review agency, the department shall promptly provide the regional certificate of need review agency with a detailed statement of the reasons for the director's decision. The statement shall address each instance in which the director's decision is inconsistent with the recommendation of the regional certificate of need review agency regarding a specific certificate of need review standard or criterion.

(8) A regional certificate of need review agency may convene consumers, providers, purchasers, or payers of health care, or representatives of all of those groups, related to activities in its review area for the purpose of achieving the objectives of this part.

(9) Before developing a recommendation on a certificate of need application, a regional certificate of need review agency shall hold a public hearing on the proposed project. If the department determines that local interest merits a public hearing and a regional certificate of need review agency has not been designated for the review area in which the proposed project will be located, then the department shall hold a public hearing on the proposed project.

(10) A regional certificate of need review agency shall conduct all meetings regarding its activities for the purpose of achieving the objectives of this part in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(11) As used in this section, "review area" means a geographic area established for a health systems agency pursuant to former section 1511 of the public health service act, or a geographic area otherwise established by the commission for a regional certificate of need review agency.

History: Add. 1988, Act 331, Eff. Oct. 1, 1988;—Am. 2002, Act 619, Eff. Mar. 31, 2003.

Popular name: Act 368

Administrative rules: R 325.9101 et seq. of the Michigan Administrative Code.

333.22227 Health maintenance organization; purposes for which certificate of need required; capital expenditures; considerations and criteria.

Sec. 22227. (1) A health maintenance organization is required to obtain a certificate of need only for 1 or more of the following purposes:

(a) The acquisition of, purchase of, new construction of, modernization of, replacement of, or addition to a hospital or other health facility providing inpatient services, if a covered capital expenditure is required.

(b) The initiation, replacement, or expansion of a covered clinical service.

(2) A covered capital expenditure proposed to be undertaken by a health maintenance organization that is not intended principally to serve the needs of the enrollees of the health maintenance organization, as determined by the department, is subject to this part.

(3) In making determinations and conducting reviews for certificates of need for health maintenance

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organizations, the department shall consider the special needs and circumstances of health maintenance organizations, and shall apply all of the following criteria:

(a) The availability of the proposed service from a provider of health care other than the health maintenance organization on a long-term basis, at reasonable terms, and in a cost-effective manner consistent with the health maintenance organization's basic method of operation.

(b) The long-term needs of the health maintenance organization, and its current and expected future membership.

(c) The long-term impact of the proposed service on health care costs in the health maintenance organization's service area.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993.

Popular name: Act 368

333.22229 Projects and services subject to comparative review; exceptions; establishment of comparative review or alternative procedure; proposed site for project; utilization and financing of covered clinical services.

Sec. 22229. (1) The following proposed projects are subject to comparative review:

(a) Proposed projects specified as subject to comparative review in a certificate of need review standard.

(b) New beds in a health facility that is a hospital, hospital long-term care unit, or nursing home if there are multiple applications to meet the same need for projects that, when combined, exceed the need of the planning area as determined by the applicable certificate of need review standards.

(2) Replacement beds in a hospital that are proposed for construction on the original site, on a contiguous site, within a 5-mile radius of the original site if the hospital is located in a county with a population of less than 200,000, or within a 2-mile radius of the original site if the hospital is located in a county with a population of 200,000 or more, are not subject to comparative review.

(3) Replacement beds in a nursing home that is located in a nonrural county that are proposed for construction on the original site, on a contiguous site, or within a 2-mile radius of the original site are not subject to comparative review. Replacement beds in a nursing home that is located in a rural county that are proposed for construction on the original site, on a contiguous site, or within the same planning area are not subject to comparative review.

(4) The commission may approve certificate of need review standards that establish comparative review or an alternative procedure for determining whether 1 or more of several qualified applicants may be approved if the level of need is not sufficient to justify approval of all qualified applicants. If an applicant involves more than 1 health facility, the applicant shall indicate on the application the proposed site or sites for the project and arrangements for the utilization and financing of the covered clinical services.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993.

Popular name: Act 368

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333.22230 Participation in medicaid program as distinct criterion.

Sec. 22230. In evaluating applications for a health facility as defined under section 22205(1)(c) in a comparative review, the department shall include participation in title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v, as a distinct criterion, weighted as very important, and determine the degree to which an application meets this criterion based on the extent of participation in the medicaid program.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 2002, Act 619, Eff. Mar. 31, 2003.

Popular name: Act 368

333.22231 Decision to grant or deny application for certificate of need; conditions; single decision for all applications; proposed decision; final decision; notice of reversal; hearing; judicial review; effect of exceeding time frames.

Sec. 22231. (1) The decision to grant or deny an application for a certificate of need shall be made by the director. A decision shall be proposed to the director by a bureau within the department designated by the director as responsible for the certificate of need program. A decision shall be in writing and shall indicate 1 of the following:

(a) Approval of the application.

(b) Disapproval of the application.

(c) Subject to subsection (2), approval of the application with conditions.

(d) If agreed to by the department and the applicant, approval of the application with stipulations.

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(2) If an application is approved with conditions under subsection (1)(c), the conditions shall be explicit, shall be related to the proposed project or to the applicable provisions of this part, and shall specify a time, not to exceed 1 year after the date the decision is rendered, within which the conditions shall be met.

(3) If the department is conducting a comparative review, the director shall issue only 1 decision for all of the applications included in the comparative review.

(4) Before a final decision on an application is made, the bureau of the department designated by the director as responsible for the certificate of need program shall issue a proposed decision with specific findings of fact in support of the proposed decision with regard to each of the criteria listed in section 22225. The proposed decision also shall state with specificity the reasons and authority of the department for the proposed decision. The department shall transmit a copy of the proposed decision to the applicant.

(5) The proposed decision shall be submitted to the director on the same day the proposed decision is issued.

(6) If the proposed decision is other than an approval without conditions or stipulations, the director shall issue a final decision not later than 60 days after the date a proposed decision is submitted to the director unless the applicant has filed a request for a hearing on the proposed decision. If the proposed decision is an approval, the director shall issue a final decision not later than 5 days after the proposed decision is submitted to the director.

(7) The director shall review the proposed decision before a final decision is rendered.

(8) If a proposed decision is an approval, and if, upon review, the director reverses the proposed decision, the director immediately shall notify the applicant of the reversal. Within 15 days after receipt of the notice of reversal, the applicant may request a hearing under section 22232. After the hearing, the applicant may request the director to reconsider the reversal of the proposed decision, based on the results of the hearing.

(9) Within 30 days after the final decision of the director, the final decision of the director may be appealed only by the applicant and only on the record directly to the circuit court for the county where the applicant has its principal place of business in this state or the circuit court for Ingham county. Judicial review is governed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) If the department exceeds the time set forth in this section for other than good cause, as determined by the commission, upon the written request of an applicant, the department shall return to the applicant all of the certificate of need application fee paid by the applicant under section 20161.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2002, Act 619, Eff. Mar. 31, 2003

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Popular name: Act 368

333.22232 Hearing; written request; appointment and duties of hearing officer; governing law.

Sec. 22232. (1) The applicant may, within 15 days after receipt by the applicant of the bureau's proposed decision to deny the application or receipt of notice of reversal by the director of a proposed decision that is an approval, submit a written request for a hearing to demonstrate that the application filed by the applicant meets the requirements for approval under this part.

(2) The department shall appoint a hearing officer for a hearing held under this section. The hearing officer shall establish a schedule for the hearing, control the presentation of proofs, and take such other action determined by the hearing officer to be necessary to ensure that the hearing is conducted in an expeditious manner and completed within a reasonable period of time. The hearing officer shall convene the hearing within 90 days after receipt of a request for a hearing under this section. Upon written request by a party, a hearing officer may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. The department shall establish appropriate qualifications for hearing officers appointed under this section.

(3) If a hearing is requested under this section, chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws, governs.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993.

Popular name: Act 368

333.22233 Waiver of criteria and procedures.

Sec. 22233. If the department determines that a proposed project is nonsubstantive in nature and does not warrant a full review, the department may waive certain criteria and procedures otherwise required under this part.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988.

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Popular name: Act 368

333.22235 Waiver of law and procedural requirements and criteria for review; affidavit; emergency certificate of need.

Sec. 22235. (1) The department may waive otherwise applicable provisions of this part and procedural requirements and criteria for review upon a showing by the applicant, by affidavit, of all of the following:

(a) The necessity for immediate or temporary relief due to natural disaster, fire, unforeseen safety consideration, or other emergency circumstances.

(b) The serious adverse effect of delay on the applicant and the community that would be occasioned by compliance with the otherwise applicable requirements of this part and rules promulgated under this part.

(c) The lack of substantial change in facilities or services that existed before the emergency circumstances established under subdivision (a).

(d) The temporary nature of the construction of facilities or the services that will not preclude different disposition of longer term determinations in a subsequent application for a certificate of need not made under this section.

(2) The department may issue an emergency certificate of need after necessary and appropriate review. A record of the review shall be made, including copies of affidavits and other documentation. Findings and conclusions shall be made as to an application for an emergency certificate of need, whether the emergency certificate of need is issued or denied.

(3) An emergency certificate of need issued under this section is a final decision and the applicant is not required to submit a formal application for a second review. A certificate of need issued under this section may be subject to special limitations and restrictions, in regard to duration and right of extension or renewal and other factors, imposed by the department.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 2002, Act 619, Eff. Mar. 31, 2003.

Popular name: Act 368

333.22237 Data and statistics as condition precedent to issuance of certificate of need.

Sec. 22237. As a condition precedent to the issuance of a certificate of need, the department may require that a health facility provide the department with data and statistics determined necessary by the department to carry out departmental duties required under this part, if the data and statistics have not already been reported to the department in a usable format.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988.

Popular name: Act 368

333.22239 Stipulation.

Sec. 22239. (1) If the certificate of need approval was based on a stipulation that the project would participate in title XIX and the project has not participated in title XIX for at least 12 consecutive months within the first 2 years of operation or continued to participate annually thereafter, the department shall revoke the certificate of need. A stipulation described in this section is germane to all health facility projects.

(2) The department shall monitor the participation in title XIX of each certificate of need applicant approved under this part. Except as otherwise provided in subsection (3), the department shall require each applicant to provide verification of participation in title XIX with its application and annually thereafter.

(3) The department shall not revoke or deny a certificate of need for a nursing home licensed under part 217 if that nursing home does not participate in title XIX on the effective date of the amendatory act that added this subsection but agrees to participate in title XIX if beds become available. This section does not prohibit a person from applying for and obtaining a certificate of need to acquire or begin operation of a nursing home that does not participate in title XIX.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2002, Act 619, Eff. Mar. 31, 2003
.

Popular name: Act 368

333.22241 "New technology" defined; new technology review period; conditions to acquisition of new technology before end of review period; appointment, composition, and purpose of standing new medical technology advisory committee.

Sec. 22241. (1) For purposes of this section and section 22243, "new technology" means medical equipment that requires, but has not yet been granted, the approval of the federal food and drug administration for commercial use.

(2) The period ending 12 months after the date of federal food and drug administration approval of new

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technology for commercial use shall be considered the new technology review period. A person shall not acquire new technology before the end of a new technology review period, unless 1 of the following occurs:

(a) The department, with the concurrence of the commission, issues a public notice that the new technology will not be added to the list of covered medical equipment during the new technology review period. The notice may apply to specific new technology or classes of new technology.

(b) The person complies with the requirements of section 22243.

(c) The commission approves the addition of the new technology to the list of covered medical equipment, and the person obtains a certificate of need for that covered medical equipment.

(3) To assist in the identification of new medical technology or new medical services that may be appropriate for inclusion as a covered clinical service in the earliest possible stage of its development, the commission shall appoint a standing new medical technology advisory committee. A majority of the new medical technology advisory committee shall be representatives of health care provider organizations concerned with licensed health facilities or licensed health professions and other persons knowledgeable in medical technology. The commission also shall appoint representatives of health care consumer, purchaser, and third party payer organizations to the committee. The commission shall also appoint faculty members from schools of medicine, osteopathy, and nursing in this state.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2002, Act 619, Eff. Mar. 31, 2003

.

Popular name: Act 368

333.22243 Acquisition of new technology before approval of federal food and drug administration; notice; requirements; deactivation and removal of new technology from service; conditions to utilizing new technology beyond specified period.

Sec. 22243. (1) Unless the commission provides otherwise in a standard approved under section 22215(1)(h), a person may acquire new technology before the new technology is approved by the federal food and drug administration if the person notifies the department before acquiring the new technology, and the acquisition of the new technology continuously meets all of the following requirements:

(a) Has been authorized by the federal food and drug administration under an investigational device exemption and approved research project pursuant to 21 C.F.R. part 812.

(b) Is operated consistently with the research protocols established and approved by the federal food and drug administration for the investigational device exemption.

(c) Is solely related to research and testing for purposes of determining the safety and effectiveness of the new technology for use on human subjects.

(d) Is funded so that there will be no recovery of either capital or operating expenses for the use of the new technology either from patients or from third party payers. However, usual and customary charges or other payment arrangements for related services rendered to patients that are consistent with standard nonexperimental treatment, including, but not limited to, room, board, ancillary services, and outpatient services may be charged to patients or third party payers, or both, in accordance with normal billing practices. Each patient upon whom the new technology is used shall be informed of the requirements of this subdivision.

(e) Is maintained under a separate cost center that includes overhead costs, for expenditure reporting related to the research project.

(f) Is developed so that capital funding for the research project will be obtained from sources other than the Michigan state hospital finance authority or any other governmentally supported financing source. This subdivision does not prohibit a person from using grants for research activities.

(g) Is operated so as to provide, upon request of the department, data obtained from the research project that the department may use in developing certificate of need review standards relative to the new technology. Aggregate data obtained as part of a federally approved data set shall meet the requirements of this part, except that supplemental data may be requested by the department.

(h) Is not marketed or advertised to other health care providers or the public.

(2) A person acquiring new technology under this section shall deactivate and remove the new technology from service on the date of notice that federal approval under the investigational device exemption for the new technology acquired under 21 C.F.R. part 812 has expired or been withdrawn, or the date of receipt of a department compliance order alleging a violation of this section.

(3) A person may continue to utilize new technology acquired under this section beyond the period specified in subsection (2) if any 1 of the following applies:

(a) The continued use is in compliance with section 22243(1)(d) to (h).

(b) The department issues a notice that the new technology will not be added to the list of covered medical

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equipment pursuant to section 22241(2)(a).

(c) The commission adds the new technology to the list of covered medical equipment, and the continued use is consistent with applicable certificate of need review standards, if any.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988.

Popular name: Act 368

333.22247 Monitoring compliance with certificates of need; investigating allegations of noncompliance; violation; sanctions; refund of charges.

Sec. 22247. (1) The department shall monitor compliance with all certificates of need issued under this part and shall investigate allegations of noncompliance with a certificate of need or this part.

(2) If the department determines that the recipient of a certificate of need under this part is not in compliance with the terms of the certificate of need or that a person is in violation of this part or the rules promulgated under this part, the department shall do 1 or more of the following:

(a) Revoke or suspend the certificate of need.

(b) Impose a civil fine of not more than the amount of the billings for the services provided in violation of this part.

(c) Take any action authorized under this article for a violation of this article or a rule promulgated under this article, including, but not limited to, issuance of a compliance order under section 20162(5), whether or not the person is licensed under this article.

(d) Request enforcement action under section 22253.

(e) Take any other enforcement action authorized by this code.

(f) Publicize or report the violation or enforcement action, or both, to any person.

(g) Take any other action as determined appropriate by the department.

(3) A person shall not charge to, or collect from, another person or otherwise recover costs for services provided or for equipment or facilities that are acquired in violation of this part. If a person has violated this subsection, in addition to the sanctions provided under subsection (2), the person shall, upon request of the person from whom the charges were collected, refund those charges, either directly or through a credit on a subsequent bill.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2002, Act 619, Eff. Mar. 31, 2003
.

Popular name: Act 368

333.22249 Agreement authorizing hospital to lease space and operate beds in another hospital; conditions.

Sec. 22249. (1) Subject to subsection (2), if a hospital has a high occupancy rate, as determined by the department, and if the hospital applies for and is issued a certificate of need for an increase in licensed bed capacity, the department may enter into an agreement with the hospital that would authorize the hospital to lease space and operate beds in another hospital in the same planning area, if the other hospital has a low occupancy rate, as determined by the department.

(2) The department may enter into an agreement authorized under subsection (1) only if all of the following apply:

(a) The hospital issued a certificate of need has a documented history of high occupancy.

(b) The alternative of redistributing the beds within the hospital's licensed bed capacity does not exist.

(c) The agreement will not change the overall supply of beds within the planning area.

(d) New construction is not required.

(e) The department determines that the agreement is necessary to protect the public health, safety, and welfare.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988.

Popular name: Act 368

333.22251 Repealed. 1993, Act 88, Imd. Eff. July 9, 1993.

Compiler's note: The repealed section pertained to plans for reduction of excess hospital beds.

Popular name: Act 368

333.22253 Injunction or other process to restrain or prevent violation.

Sec. 22253. Notwithstanding the existence and pursuit of any other remedy, the department may request the attorney general or prosecuting attorney of the jurisdiction where a capital expenditure is proposed to be or was made to bring an action in the name of the people of this state for an injunction or other process

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against a person to restrain or prevent a violation of this part or the rules promulgated under this part.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988.

Popular name: Act 368

333.22255 Procedural rules.

Sec. 22255. The department, with the approval of the commission, may promulgate procedural rules to implement this part.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 2002, Act 619, Eff. Mar. 31, 2003.

Popular name: Act 368

333.22257 Certificate of need issued under former part 221.

Sec. 22257. A certificate of need issued under former part 221 has the same effect as a similar certificate of need issued under this part. The holder of the certificate of need is subject to all of the conditions, stipulations, and agreements pertaining to the certificate of need and to the same authority of the department to limit, suspend, revoke, or reinstate the certificate of need as a holder of a certificate of need issued under this part.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988.

Popular name: Act 368

333.22260 Reports of reviews; preparation and publication; statements; recommendations; public examination of applications and written materials on file; providing copies.

Sec. 22260. (1) The department shall prepare and publish monthly reports of reviews conducted under this part. The reports shall include a statement on the status of each pending review and a statement as to each review completed, including statements of the findings and decisions made in the course of the reviews since the last report, and the recommendations of regional certificate of need review agencies.

(2) The department shall make available to the public for examination during all business hours the applications received by them and pertinent written materials on file.

(3) The department, upon request, shall provide copies of an application or part of an application. The department may charge a reasonable fee for the copies.

History: Add. 1988, Act 332, Eff. Oct. 1, 1988;—Am. 1993, Act 88, Imd. Eff. July 9, 1993;—Am. 2002, Act 619, Eff. Mar. 31, 2003
.

Popular name: Act 368

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ARTICLE 18
SURPRISE MEDICAL BILLING

333.24501 Meaning of words and phrases; principles of construction.

Sec. 24501. (1) For purposes of this article, the words and phrases defined in sections 24502 to 24504 have the meanings ascribed to them in those sections.

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

History: Add. 2020, Act 234, Imd. Eff. Oct. 22, 2020.

Popular name: Act 368

333.24502 Definitions; C to I.

Sec. 24502. (1) "Carrier" means any of the following:

(a) A person that issues a health benefit plan in this state, including an insurer, health maintenance organization, or any other person providing a plan of health benefits, coverage, or insurance subject to state insurance regulation.

(b) An entity that contracts with this state or a local unit of government to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services provided under a self-funded plan established or maintained by the state or local unit of government for its employees.

(2) "Department" means the department of insurance and financial services.

(3) "Director" means the director of the department or his or her designee.

(4) "Emergency patient" means an individual with a physical or mental condition that manifests itself by acute symptoms of sufficient severity, including, but not limited to, pain such that a prudent layperson, possessing average knowledge of health and medicine, could reasonably expect to result in 1 or more of the following:

(a) Placing the health of the individual or, in the case of a pregnant woman, the health of the woman or the

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unborn child, or both, in serious jeopardy.

(b) Serious impairment of bodily function.

(c) Serious dysfunction of a body organ or part.

(5) "Health benefit plan" means an individual or group expense-incurred hospital, medical, or surgical policy or certificate, an individual or group health maintenance organization contract, or a self-funded plan established or maintained by this state or a local unit of government for its employees. Health benefit plan does not include accident-only, credit, dental, or disability income insurance; long-term care insurance; coverage issued as a supplement to liability insurance; coverage only for a specified disease or illness; worker's compensation or similar insurance; or automobile medical-payment insurance.

(6) "Health care service" means a diagnostic procedure, medical or surgical procedure, examination, or other treatment.

(7) "Health facility" means any of the following:

(a) A hospital.

(b) A freestanding surgical outpatient facility as that term is defined in section 20104.

(c) A skilled nursing facility as that term is defined in section 20109.

(d) A physician's office or other outpatient setting, that is not otherwise described in this subsection.

(e) A laboratory.

(f) A radiology or imaging center.

(8) "Health maintenance organization" means that term as defined in section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501.

(9) "Hospital" means that term as defined in section 20106.

(10) "Insurer" means that term as defined in section 106 of the insurance code of 1956, 1956 PA 218, MCL 500.106.

History: Add. 2020, Act 234, Imd. Eff. Oct. 22, 2020.

Popular name: Act 368

333.24503 Definitions; L to N.

Sec. 24503. (1) "Local unit of government" means that term as defined in section 1 of 2006 PA 495, MCL 550.1951.

(2) "Nonemergency patient" means an individual whose physical or mental condition is such that the individual may reasonably be suspected of not being in imminent danger of loss of life or of significant health impairment.

(3) "Nonparticipating health facility" means a health facility that is not a participating health facility.

(4) "Nonparticipating provider" means a provider who is not a participating provider.

History: Add. 2020, Act 234, Imd. Eff. Oct. 22, 2020.

Popular name: Act 368

333.24504 Definitions; P.

Sec. 24504. (1) "Participating health facility" means a health facility that, under contract with a carrier, or with the carrier's contractor or subcontractor, agrees to provide health care services to individuals who are covered by health benefit plans issued or administered by the carrier and to accept payment by the carrier, contractor, or subcontractor for the services covered by the health benefit plans as payment in full, other than coinsurance, copayments, or deductibles.

(2) "Participating provider" means a provider who, under contract with a carrier, or with the carrier's contractor or subcontractor, agrees to provide health care services to individuals who are covered by health benefit plans issued or administered by the carrier and to accept payment by the carrier, contractor, or subcontractor for the services covered by the health benefit plans as payment in full, other than coinsurance, copayments, or deductibles.

(3) "Patient's representative" means any of the following:

(a) A person to whom a nonemergency patient has given express written consent to represent the patient.

(b) A person authorized by law to provide consent for a nonemergency patient.

(c) A provider who is treating a nonemergency patient, but only if the patient is unable to provide consent.

(4) "Provider" means an individual who is licensed, registered, or otherwise authorized to engage in a health profession under article 15, but does not include a dentist licensed under part 166.

History: Add. 2020, Act 234, Imd. Eff. Oct. 22, 2020.

Popular name: Act 368

333.24507 Nonparticipating provider; emergency patient; limitation on charges; payment in

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full.

Sec. 24507. (1) Subsection (2) applies to a nonparticipating provider who is providing a health care service if any of the following apply:

(a) The health care service is provided to an emergency patient, is covered by the emergency patient's health benefit plan, and is provided to the emergency patient by the nonparticipating provider at a participating health facility or nonparticipating health facility.

(b) All of the following apply:

(*i*) The health care service is provided to a nonemergency patient.

(*ii*) The health care service is covered by the nonemergency patient's health benefit plan.

(*iii*) The health care service is provided to the nonemergency patient by the nonparticipating provider at a participating health facility.

(*iv*) Either of the following:

(A) The nonemergency patient does not have the ability or opportunity to choose a participating provider.

(B) The nonemergency patient has not been provided the disclosure required under section 24509.

(c) The health care service is provided by the nonparticipating provider at a hospital that is a participating health facility to an emergency patient who was admitted to the hospital within 72 hours after receiving a health care service in the hospital's emergency room.

(2) Except as otherwise provided in section 24511 or 24513 and subject to subsection (4), if any of the circumstances described in subsection (1) apply, the nonparticipating provider shall submit a claim to the patient's carrier within 60 days after the date of the health care service and shall accept from the patient's carrier, as payment in full, the greater of the following:

(a) Subject to section 24510, the median amount negotiated by the patient's carrier for the region and provider specialty, excluding any in-network coinsurance, copayments, or deductibles. The patient's carrier shall determine the region and provider specialty for purposes of this subdivision.

(b) One hundred and fifty percent of the Medicare fee for service fee schedule for the health care service provided, excluding any in-network coinsurance, copayments, or deductibles.

(3) If the circumstance described in subsection (1)(c) applies, this section applies to any health care service provided by a nonparticipating provider to the emergency patient during his or her hospital stay.

(4) A patient's carrier shall pay the amount described in subsection (2) to the nonparticipating provider within 60 days after receiving the claim from the nonparticipating provider under subsection (2). The nonparticipating provider shall not collect or attempt to collect from the patient any amount other than the applicable in-network coinsurance, copayment, or deductible.

History: Add. 2020, Act 234, Imd. Eff. Oct. 22, 2020.

Popular name: Act 368

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333.24509 Nonparticipating provider; nonemergency patient; disclosure requirements; limitation on charges imposed; payment in full.

Sec. 24509. (1) Subject to subsection (2), a nonparticipating provider who is providing a health care service to a nonemergency patient shall provide the disclosure described in subsection (3) to the nonemergency patient at the earliest of the following:

(a) If the health care service was scheduled and is being provided in a health facility described in section 24502(7)(a), (b), (c), (e), or (f), at least 14 days before providing the health care service or, if the health care service will be provided within 14 days after scheduling the health care service, within 14 days.

(b) If the health care service is being provided in a health facility described in section 24502(7)(d), at the time of the nonparticipating provider's first contact with the nonemergency patient regarding the health care service.

(c) During 1 of the following:

(*i*) A presurgical consultation for the health care service.

(*ii*) A scheduling or intake call for the health care service.

(*iii*) A preoperative review for the health care service.

(*iv*) Any other contact occurring before a health care service that is similar to a contact described in subparagraph (*i*), (*ii*), or (*iii*).

(2) A nonparticipating provider shall not provide the disclosure described in subsection (3) to a nonemergency patient at the time of the nonemergency patient's admittance to a health facility described in section 24502(7)(a), (b), (c), (e), or (f), or at the time of preparing the nonemergency patient for a surgery or another medical procedure.

(3) The disclosure required under subsection (1) must be in not less than 12-point type and in substantially the following form:

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"Your health benefit plan may or may not provide coverage for all of the health care services you are scheduled to receive or the providers providing those services. You may be responsible for the costs of the services that are not covered by your health benefit plan.

The nonparticipating provider must provide a good-faith estimate of the cost of the health care services to be provided. A good-faith estimate does not take into account unforeseen circumstances, which may affect the cost of the health care services provided.

You also have a right to request that the health care services be performed by a provider that participates with your health benefit plan, and may contact your carrier to arrange for those services to be provided at a lower cost and to receive information on in-network providers who can perform the health care services that you need.

I have received, read, and understand this disclosure.

_____ _____

(Patient or patient's representative's signature) (Date)

_____

(Type or print name of patient or patient's representative)".

(4) A nonparticipating provider shall do all of the following:

(a) Complete the disclosure described in subsection (3) and, after completing the disclosure, obtain on the disclosure the signature of the nonemergency patient, or that patient's representative, acknowledging that the nonemergency patient, or that patient's representative, has received, has read, and understands the disclosure.

(b) Retain a copy of the disclosure required under this section for not less than 7 years.

(c) Provide the nonemergency patient or that patient's representative with a good-faith estimate of the cost of the health care services to be provided to the nonemergency patient.

(5) Except as otherwise provided in section 24513 and subject to subsection (6), a nonparticipating provider who fails to provide the disclosure as required under this section shall submit a claim to the nonemergency patient's carrier within 60 days after the date of the health care service and shall accept from the nonemergency patient's carrier, as payment in full, the greater of the following:

(a) Subject to section 24510, the median amount negotiated by the nonemergency patient's carrier for the region and provider specialty, excluding any in-network coinsurance, copayments, or deductibles. The nonemergency patient's carrier shall determine the region and provider specialty for purposes of this subdivision.

(b) One hundred and fifty percent of the Medicare fee for service fee schedule for the health care service provided, excluding any in-network coinsurance, copayments, or deductibles.

(6) A nonemergency patient's carrier shall pay the amount described in subsection (5) to the nonparticipating provider within 60 days after receiving the claim from the nonparticipating provider under subsection (5). The nonparticipating provider shall not collect or attempt to collect from the nonemergency patient any amount other than the applicable in-network coinsurance, copayment, or deductible.

History: Add. 2020, Act 235, Imd. Eff. Oct. 22, 2020.

Popular name: Act 368

333.24510 Request for review of calculation of charges; treatment of data, documents, materials and other information.

Sec. 24510. (1) Beginning July 1, 2021, if a nonparticipating provider believes that the amount described in section 24507(2)(a) or 24509(5)(a) was incorrectly calculated, the nonparticipating provider may make a request to the department for a review of the calculation. The request must be made on a form and in a manner required by the department.

(2) The department may request data on the median amount negotiated by the patient's carrier with participating providers or any documents, materials, or other information that the department believes is necessary to assist the department in reviewing the calculation described in subsection (1) and may consult an external database that contains the negotiated rates under the patient's health benefit plan for the applicable health care service. For purposes of conducting a review under this section, any data, documents, materials, or other information requested by the department must only be submitted to the department.

(3) If, after conducting its review under this section, the department determines that the amount described in section 24507(2)(a) or 24509(5)(a) was incorrectly calculated, the department shall determine the correct amount. A nonparticipating provider shall not file a subsequent request for a review under subsection (1) if the request involves the same rate calculation for a health care service for which the nonparticipating provider has previously received a determination from the department under this section.

(4) All of the following apply to any data, documents, materials, or other information described in subsection (2) that are in the possession or control of the department and that are obtained by, created by, or

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disclosed to the director or a department employee for purposes of this section:

(a) The data, documents, materials, or other information is considered proprietary and to contain trade secrets.

(b) The data, documents, materials, or other information are confidential and privileged and are not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) The data, documents, materials, or other information are not subject to subpoena and are not subject to discovery or admissible in evidence in any private civil action.

(5) The director or a department employee who receives data, documents, materials, or other information under this section shall not testify in any private civil action concerning the data, documents, materials, or information.

History: Add. 2020, Act 234, Imd. Eff. Oct. 22, 2020.

Popular name: Act 368

333.24511 Increased reimbursement claim for health care service involving a complicating factor; required documentation; denial; binding arbitration; "complicating factor" defined.

Sec. 24511. (1) A nonparticipating provider who provides a health care service involving a complicating factor to an emergency patient described in section 24507(1)(a) or (c) may file a claim with a carrier for a reimbursement amount that is greater than the amount described in section 24507(2). The claim must be accompanied by both of the following:

(a) Clinical documentation demonstrating the complicating factor.

(b) The emergency patient's medical record for the health care service, with the portions of the record supporting the complicating factor highlighted.

(2) A carrier shall do 1 of the following within 30 days after receiving the claim described in subsection (1):

(a) If the carrier determines that the documentation submitted with the claim demonstrates a complicating factor, make 1 additional payment that is 25% of the amount provided under section 24507(2)(a).

(b) If the carrier determines that the documentation submitted with the claim does not demonstrate a complicating factor, issue a letter to the nonparticipating provider denying the claim.

(3) If a carrier denies a claim under subsection (2), beginning July 1, 2021, the nonparticipating provider may file a written request for binding arbitration with the department on a form and in a manner required by the department. The department shall accept the request for binding arbitration if the department receives all of the following from the nonparticipating provider:

(a) The documentation that the nonparticipating provider submitted to the carrier under subsection (1).

(b) The contact information for the emergency patient's health benefit plan.

(c) The denial letter described in subsection (2).

(4) If the request for binding arbitration under subsection (3) is accepted by the department, the department shall notify the carrier. Within 30 days after receiving the department's notification under this subsection, the carrier shall submit written documentation to the department either confirming the carrier's denial or providing an alternative payment offer to be considered in the arbitration process.

(5) The department shall create and maintain a list of arbitrators approved by the department who are trained by the American Arbitration Association or American Health Lawyers Association for purposes of providing binding arbitration under this section. The parties to the arbitration shall agree on an arbitrator from the department's list. The arbitration must include a review of written submissions by both parties, including alternative payment offers, and the arbitrator shall provide a written decision within 45 days after receiving the documentation submitted by the parties. In making a determination, the arbitrator shall consider documentation supporting the use of a procedure code or modifier for care provided beyond the usual health care service and any of the following:

(a) Increased intensity, time, or technical difficulty of the health care service.

(b) The severity of the patient's condition.

(c) The physical or mental effort required in providing the health care service.

(6) The nonparticipating provider and the carrier shall each pay 1/2 of the total costs of the arbitration proceeding. A nonparticipating provider participating in arbitration under this section shall not collect or attempt to collect from the patient any amount other than the applicable in-network coinsurance, copayment, or deductible.

(7) This section does not limit any other review process provided under this article.

(8) As used in this section, "complicating factor" means a factor that is not normally incident to a health care service, including, but not limited to, the following:

(a) Increased intensity, time, or technical difficulty of the health care service.

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(b) The severity of the patient's condition.

(c) The physical or mental effort required in providing the health care service.

History: Add. 2020, Act 234, Imd. Eff. Oct. 22, 2020.

Popular name: Act 368

333.24513 Nonparticipating provider and carrier payment agreement; limitation.

Sec. 24513. This article does not prohibit a nonparticipating provider and a carrier from agreeing, through private negotiations or an internal dispute resolution process, to a payment amount that is greater than the amounts described in section 24507(2) or 24509(5). A nonparticipating provider entering into an agreement authorized under this section shall not collect or attempt to collect from the patient any amount other than the applicable in-network coinsurance, copayment, or deductible.

History: Add. 2020, Act 234, Imd. Eff. Oct. 22, 2020.

Popular name: Act 368

333.24515 Annual report.

Sec. 24515. (1) Subject to subsection (3), the department shall prepare an annual report that, except as otherwise provided in subsection (2), includes, but is not limited to, the following information for the immediately preceding calendar year:

(a) The number of out-of-network billing complaints received by the department from enrollees or their authorized representatives.

(b) The number of complaints received by the department from enrollees or their authorized representatives, separated by provider specialty.

(c) For each health plan, the ratio of out-of-network billing complaints to the total number of enrollees in the health plan.

(d) Carrier network adequacy by provider specialty.

(e) The number of requests made to the department under section 24510(1).

(f) The number of requests for binding arbitration filed under section 24511(3).

(2) The department shall not consider insurance rates when preparing the report required under this section.

(3) By July 1 of the year following the year of the effective date of the amendatory act that added this article, and by every July 1 thereafter, the department shall prepare the report required under this section and provide the report to the senate and house of representatives standing committees on health policy and insurance. The department shall also post the report on the department's website.

History: Add. 2020, Act 234, Imd. Eff. Oct. 22, 2020.

Popular name: Act 368

333.24517 Rules.

Sec. 24517. The department may promulgate rules to implement sections 24510 and 24511. However, the department or another department of this state shall not promulgate rules to implement any other section in this article.

History: Add. 2020, Act 234, Imd. Eff. Oct. 22, 2020.

Popular name: Act 368

ARTICLE 19
REPEALS, SAVINGS CLAUSES, AND EFFECTIVE DATES

PART 251
REPEALS

333.25101 Repeal of acts and parts of acts.

Sec. 25101. The following acts and parts of acts, as amended, are repealed:

(a) Public Acts:

PUBLIC ACT NUMBER	YEAR OF ACT	SECTION NUMBERS	COMPILED LAW NUMBERS (1970)
44	1899	9 to 10	24.9 to 24.10
327	1947	10a and 120 to 126	29.210a and 29.320 to 29.326
43	1950 (Extra Session)		30.151 to 30.153
287	1919	2 and 6	32.232 and 32.236

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3	1895	47 to 54 of chapter 7	67.47 to 67.54
215	1895	1 to 8 of chapter 14	94.1 to 94.8
288	1972		123.281 to 123.287
172	1958		125.741 to 125.745
55	1915		128.21
297	1929	7	128.57
201	1911		128.91 to 128.93
330	1976		257.1221 to 257.1238
197	1970		286.611 to 286.616
289	1965		286.621 to 286.634
152	1956		287.451 to 287.474
151	1975		287.481 to 287.488
344	1917		289.201 to 289.203
58	1959		323.221 to 323.226
146	1919		325.1 to 325.14
109	1907		325.21 to 325.24
164	1915		325.31 to 325.33
105	1927		325.41 to 325.42
308	1927		325.51 to 325.53
235	1968		325.81 to 325.92
62	1941		325.101 to 325.103
15	1952		325.121 to 325.123
39	1957		325.131 to 325.134
13	1959		325.141 to 325.147
26	1959		325.151 to 325.157
41	1959		325.161 to 325.164
346	1968		325.191 to 325.192
294	1965		325.221 to 325.239
136	1881		325.251 to 325.252
273	1939		325.271 to 325.274
210	1909		325.302 to 325.307
241	1947		325.401 to 325.406
305	1972		325.451 to 325.462
278	1949		325.501 to 325.505
341	1965		325.511
119	1965		325.521 to 325.524
335	1974		325.531 to 325.533
231	1955		325.551 to 325.556
7	1956 (Extra Session)		325.561 to 325.562
230	1966		325.601 to 325.620
218	1967		325.631 to 325.635
171	1970		325.651 to 325.665
56	1973		325.711 to 325.735
339	1974		325.751 to 325.766
269	1968		325.801 to 325.813
124	1977		325.871 to 325.877
288	1976		325.3001 to 325.3012

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343	1925	1 to 8a and 9 to 21	326.1 to 326.8a and 326.9 to 326.21
35	1931		326.31 to 326.37
9	1897		326.51 to 326.52
170	1921		326.61 to 326.62
120	1903		327.101 to 327.111
137	1883		327.151 to 327.153
157	1879		327.171
306	1927		327.201 to 327.208a
248	1911		327.251 to 327.261
37	1917		327.311 to 327.315
138	1958		328.11 to 328.23
115	1925		328.101 to 328.102
95	1953		328.151
189	1969		328.261 to 328.270
95	1970		328.281 to 328.289
230	1885		329.1 to 329.7
293	1909		329.51 to 329.55
146	1879		329.81
306	1909		329.101 to 329.108
116	1903		329.121
272	1919		329.151 to 329.158
6	1942 (Second Extra Session)		329.201 to 329.208
238	1969		329.221
276	1941		329.251 to 329.255
353	1919		329.271 to 329.272
314	1927		329.401 to 329.405
164	1949		329.501 to 329.505
169	1966		329.521 to 329.526
96	1975		329.551 to 329.557
263	1913		331.401 to 331.406
17	1968		331.411 to 331.430
256	1972		331.451 to 331.462
274	1974		331.471 to 331.493
176	1973		331.551 to 331.556
139	1956		331.651 to 331.660
115	1929		332.1 to 332.7
254	1905		332.51 to 332.70
343	1917		332.101 to 332.118
252	1951		332.201 to 332.204
5	1951 (Extra Session)		332.231 to 332.239
139	1952		332.251 to 332.255
146	1909		335.1 to 335.10
3	1971		335.21
60	1954		335.201 to 335.214
241	1970		335.231

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196	1971		335.301 to 335.367
56	1905		338.71 to 338.72
151	1899		338.81
162	1903		338.101a to 338.121
145	1933		338.151 to 338.159
122	1939	1 to 9 and 10 to 21	338.201 to 338.209 and 338.210 to 338.221
71	1909		338.251 to 338.262
115	1915		338.301 to 338.308a
164	1965		338.321 to 338.338
7	1925		338.381 to 338.385
277	1921		338.391 to 338.393
257	1959		338.1001 to 338.1019
151	1962		338.1101 to 338.1131
149	1967		338.1151 to 338.1175
147	1963		338.1301 to 338.1315
185	1973		338.1801 to 338.1827
290	1976		338.1921 to 338.1938
420	1976		338.1951 to 338.1978
119	1911		419.1 to 419.3
85	1923		446.301 to 446.306
176	1927		469.161 to 469.165
207	1937		551.151 to 551.154
17	1963	3	691.1503
174	1967		691.1511 to 691.1512
158	1937	1 to 29 and 31 to 44	722.201 to 722.229 and 722.231 to 722.244
283	1939		722.301 to 722.325
138	1881		722.401 to 722.406
183	1972		722.591 to 722.594
328	1931	470 and 472 to 477	750.470 and 750.472 to 750.477

(b) Revised Statutes of 1846:

CHAPTER	SECTION NUMBERS	COMPILED LAW NUMBERS (1970)
35	1 to 49	327.1 to 327.49

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

Popular name: Act 368

333.25103 Repeal of MCL 125.401 to 125.543; time.

Sec. 25103. Act No. 167 of the Public Acts of 1917, as amended, being sections 125.401 to 125.543 of the Compiled Laws of 1970, is repealed when all or the principal part of the rules promulgated under section 12211 take effect.

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

Compiler's note: Sec. 12211, which authorized the promulgation of rules on minimum housing standards, was repealed by Act 431 of 1980, Eff. Mar. 31, 1981, prior to the promulgation of any rules.

Popular name: Act 368

333.25105 Repeal of MCL 325.901 to 325.947; time.

Sec. 25105. Act No. 264 of the Public Acts of 1974, being sections 325.901 to 325.947 of the Compiled Laws of 1970, is repealed 1 year after the date set forth in section 25211.

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

Popular name: Act 368

333.25107 Repeal of MCL 722.230; time.

Sec. 25107. Section 30 of Act No. 158 of the Public Acts of 1937, being section 722.230 of the Compiled Laws of 1970, is repealed 2 years after the effective date set forth in section 25211.

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

Popular name: Act 368

333.25109 Repeal of MCL 338.209a; effective date of section.

Sec. 25109. (1) Section 9a of Act No. 122 of the Public Acts of 1939, being section 338.209a of the Compiled Laws of 1970, is repealed.

(2) This section shall not take effect until rules regulating the practice of a dental assistant under part 166 are promulgated.

History: 1978, Act 368, Eff. July 3, 1984.

Compiler's note: R 338.11401 et seq. of the Michigan Administrative Code, regulating the practice of a dental assistant, were promulgated on July 3, 1984.

Popular name: Act 368

PART 252
SAVINGS CLAUSES AND EFFECTIVE DATES

333.25201 Continuation of statutory provisions and rules; submission of proposed rules to public hearing; nomination and appointment of agency members.

Sec. 25201. (1) Where a section of this code authorizes or directs the promulgation of rules, including rules fixing fees, but rules dealing with the subject matter do not exist when the section takes effect, a statutory provision covering the matter, which is repealed by this code, shall nevertheless continue in effect until rules covering the matter take effect or for 3 years, whichever is sooner.

(2) Rules in effect on the effective date of this code shall continue to the extent that they do not conflict with this code, and shall be considered as rules promulgated under this code.

(3) An agency which is required to promulgate rules under this code shall submit the proposed rules to public hearing within 2 years after the effective date of this code.

(4) Rules and regulations adopted by a district or county board of health which are in effect on the effective date prescribed in section 25211 continue to the extent that they do not conflict with this code, and are considered as local health department regulations promulgated under this code.

(5) On the date this code is enacted into law procedures for the nomination and appointment of members of agencies created or continued by this code may be commenced, but the appointments shall not take effect before the effective date of the section providing for the appointment.

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

Popular name: Act 368

333.25205 Section 8.4a inapplicable to code; action or other proceeding not abated.

Sec. 25205. Section 4a of chapter 1 of the Revised Statutes of 1846, being section 8.4a of the Michigan Compiled Laws, is applicable to this code. In addition, an action or other proceeding lawfully commenced by or against an agency or an officer of this state, in his or her official capacity in relation to the discharge of official duties, including a proceeding against a licensee, registrant, or permittee, does not abate because the agency or officer is superseded by another agency or office created by this code. The court may allow the action or other proceeding to be maintained by or against the successor of the agency or officer.

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

Popular name: Act 368

333.25211 Effective date of code; exceptions; promulgation of rules authorized by code.

Sec. 25211. (1) Except as specific provisions of this code may provide otherwise, this code takes effect on September 30, 1978.

(2) On the date this code is enacted into law, procedures and actions required for the rule-making process pursuant to the administrative procedures act of 1969 may be commenced, but the rules authorized by this code shall not be promulgated until on or after the effective date set forth in subsection (1) or the effective date applicable to the section of this code under which the rules are promulgated.

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

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Popular name: Act 368

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