PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

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 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 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 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 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.

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

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; 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.

(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 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 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.

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; “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.

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.

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.

(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 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 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:

(*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.

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

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.

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 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 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