

[No. 368]

AN ACT to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to provide for penalties and remedies; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

ARTICLE 1. PRELIMINARY PROVISIONS
PART 11. SHORT TITLE, GENERAL DEFINITIONS,
AND CONSTRUCTION

333.1101 Short title. [M.S.A. 14.15(1101)]

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

333.1103 Meanings of words and phrases. [M.S.A. 14.15(1103)]

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

333.1104 Definitions; A to G. [M.S.A. 14.15(1104)]

Sec. 1104. (1) “Administrative procedures act of 1969” means Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, or a successor act.

(2) “Adult” means an individual 18 years of age or older.

(3) “Code” means the public health code.

(4) “Department”, except as provided in article 15, means the state department of public health.

(5) “Director”, except as provided in article 15, means the state director of public health.

(6) “Governmental entity” means a government, governmental subdivision or agency, or public corporation.

333.1105 Definitions; I to M. [M.S.A. 14.15(1105)]

Sec. 1105. (1) “Individual” means a natural person.

(2) “Local health department” means:

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

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

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

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

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

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

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

333.1106 Definitions; P. [M.S.A. 14.15(1106)]

Sec. 1106. "Person" means an individual, partnership, cooperative, association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity. It does not include a governmental entity unless specifically provided.

333.1108 Definitions; R, S. [M.S.A. 14.15(1108)]

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

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

333.1111 Intent and construction of code. [M.S.A. 14.15(1111)]

Sec. 1111. (1) This code is intended to be consistent with applicable federal and state law and shall be construed, when necessary, to achieve that consistency.

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

333.1113 Headings or titles of code. [M.S.A. 14.15(1113)]

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

333.1114 Prohibited construction of code. [M.S.A. 14.15(1114)]

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

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

333.1115 Controlling provisions. [M.S.A. 14.15(1115)]

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

333.1117 References to repealed or rescinded provisions. [M.S.A. 14.15(1117)]

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

PART 12. GENERAL PROVISIONS**333.1201 Delaying promulgation of new rules. [M.S.A. 14.15(1201)]**

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

333.1203 Approval of certain plans or issuance of certain permits pursuant to code; effect. [M.S.A. 14.15(1203)]

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

333.1205 Contested case hearing; appeal. [M.S.A. 14.15(1205)]

Sec. 1205. (1) An applicant, licensee, or other person whose legal rights, duties, or privileges are required by this code to be determined by the department, after an opportunity for a hearing, has the right to a contested case hearing in the matter, which shall be conducted pursuant to the administrative procedures act of 1969 and authorized rules governing the hearing.

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

333.1211 Transfer of property, personnel, and funds to successor agency; expiration of section. [M.S.A. 14.15(1211)]

Sec. 1211. (1) The records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, used, held, employed, available, or to be made available to an agency which is succeeded by an agency created by this code, shall be transferred to the successor agency. Appropriations not so required shall be returned to the fund from which appropriated. A transfer of funds is not authorized by this section if it would result in the termination of a federal aid program.

(2) Existing license and permit forms, printed materials, and other supplies of a predecessor agency which bear its name may be used by the successor agency with or without a change of name until exhausted, and are considered to be the supplies of the successor agency.

(3) This section expires 3 years after its effective date.

333.1212 Members of predecessor agency; continuation in office. [M.S.A. 14.15(1212)]

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

333.1213 Members of successor agency; increase or decrease in number. [M.S.A. 14.15(1213)]

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

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

333.1214 New agency not succeeding former agency; terms of office. [M.S.A. 14.15(1214)]

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

333.1216 Travel or other expenses; payment. [M.S.A. 14.15(1216)]

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

333.1221 Extension of outstanding license, registration, certificate, or permit; expiration of section. [M.S.A. 14.15(1221)]

Sec. 1221. (1) A license, registration, certificate, or permit outstanding on the date set forth in section 25211 shall extend beyond the expiration date stated on its face or provided by applicable law under which it was issued until the next expiration date thereafter which is prescribed by this code. The intent of this section is not to shorten the term of an outstanding license, registration, certificate, or permit.

(2) This section expires 5 years after its effective date.

333.1222 Renewals; distribution of work; pro rata fee; waiver. [M.S.A. 14.15(1222)]

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

(a) Schedule expirations established under section 16194 or otherwise under law to spread them over each year of a biennium or longer term.

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

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

333.1291 Obstruction of person enforcing health law. [M.S.A. 14.15(1291)]

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

333.1299 Violation as misdemeanor; prosecution. [M.S.A. 14.15(1299)]

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

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

ARTICLE 2. ADMINISTRATION

PART 22. STATE DEPARTMENT OF PUBLIC HEALTH

333.2201 Department of public health and office of director of public health continued. [M.S.A. 14.15(2201)]

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

333.2202 Director of public health; appointment, term, and qualifications; designation and responsibility of chief medical executive; "administrative experience" defined. [M.S.A. 14.15(2202)]

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

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

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

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

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

333.2204 Director of public health; salary; full-time performance of functions; expenses. [M.S.A. 14.15(2204)]

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

333.2205 Assignment, vesting, and exercise of functions; internal organization of department; allocation and reallocation of duties and functions. [M.S.A. 14.15(2205)]

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

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

333.2208 Public health advisory council; creation; appointment, qualifications, and terms of members; removal; vacancy. [M.S.A. 14.15(2208)]

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

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

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

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

333.2209 Public health advisory council; election and terms of chairperson and vice-chairperson; quorum; reimbursement; staff support. [M.S.A. 14.15(2209)]

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

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

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

333.2210 Public health advisory council; powers and duties generally. [M.S.A. 14.15(2210)]

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

(2) The public health advisory council may:

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

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

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

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

(e) Provide other assistance the director reasonably requests.

333.2211 Coordination between local health departments and local health planning agencies; review; annual assessment; information. [M.S.A. 14.15(2211)]

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

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

333.2213 Task forces. [M.S.A. 14.15(2213)]

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

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

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

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

333.2215 Termination of advisory committee or task force; exception; review of advisory council, commission, board, task force, or body. [M.S.A. 14.15(2215)]

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

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

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

333.2221 Organized programs to prevent disease, prolong life, and promote public health; duties of department. [M.S.A. 14.15(2221)]

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

(2) The department shall:

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

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

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

(d) Make investigations and inquiries as to:

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

(ii) The causes of morbidity and mortality.

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

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

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

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

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

333.2224 Promotion of local health services; coordination and integration of public health services. [M.S.A. 14.15(2224)]

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

333.2226 Powers of department. [M.S.A. 14.15(2226)]

Sec. 2226. The department may:

- (a) Engage in research programs and staff professional training programs.
- (b) Advise governmental entities or other persons as to the location, drainage, water supply, disposal of solid waste, heating, and ventilation of buildings.
- (c) Enter into an agreement, contract, or arrangement with governmental entities or other persons necessary or appropriate to assist the department in carrying out its duties and functions.
- (d) Exercise authority and promulgate rules to safeguard properly the public health; to prevent the spread of diseases and the existence of sources of contamination; and to implement and carry out the powers and duties vested by law in the department.
- (e) Accept gifts, grants, bequests, and other donations in the name of this state. Funds or property accepted shall be used as directed by its donor and in accordance with the law, rules, and procedures of this state.
- (f) Either directly or by interagency contract, develop and deliver health services to vulnerable population groups.

333.2228 Heads of intra-departmental units and employees; appointment; salaries and expenses; liability for damages; quarters and facilities. [M.S.A. 14.15(2228)]

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

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

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

333.2231 Furnishing information relating to public health; report. [M.S.A. 14.15(2231)]

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

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

333.2233 Rules. [M.S.A. 14.15(2233)]

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

333.2235 Local health department; authorization to exercise power or function; primary organization as to services and programs; exceptions; summary reports. [M.S.A. 14.15(2235)]

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

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

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

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

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

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

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

333.2237 Duties of department as to health education; "health education" defined. [M.S.A. 14.15(2237)]

Sec. 2237. (1) The department shall:

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

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

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

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

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

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

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

333.2241 Inspection or investigation to assure compliance; application for warrant. [M.S.A. 14.15(2241)]

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

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

333.2242 Warrant; affidavit required for issuance. [M.S.A. 14.15(2242)]

Sec. 2242. Upon receipt of an affidavit made on oath establishing grounds for issuing a warrant pursuant to section 2243, a magistrate shall issue an inspection or investigation warrant authorizing the department applying for the warrant to conduct an inspection or investigation.

333.2243 Warrant; grounds for issuance. [M.S.A. 14.15(2243)]

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

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

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

333.2244 Warrant; finding of cause. [M.S.A. 14.15(2244)]

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

333.2245 Warrant; directing to law enforcement officer; contents. [M.S.A. 14.15(2245)]

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

333.2246 Warrant; execution. [M.S.A. 14.15 (2246)]

Sec. 2246. The officer to whom an inspection or investigation warrant is directed or a person assisting the officer may break an outer or inner door or window of a house or building, or anything therein, to execute the warrant, if,

after notice of his or her authority and purpose, the officer is refused admittance, or when necessary to liberate the officer or person assisting the officer in execution of the warrant.

333.2247 Warrant; procuring maliciously or without cause; misdemeanor. [M.S.A. 14.15(2247)]

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

333.2251 Imminent danger to health or lives; informing individuals affected; order; noncompliance; petition to restrain condition or practice; conditions constituting menace to public health; duty of director; "imminent danger" and "person" defined. [M.S.A. 14.15 (2251)]

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

(2) Upon failure of a person to comply promptly with a department order issued under this section, the department may petition the circuit court having jurisdiction to restrain a condition or practice which the director determines causes the imminent danger or to require action to avoid, correct, or remove the imminent danger.

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

(4) As used in this section:

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

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

333.2253 Epidemic; emergency order and procedures. [M.S.A. 14.15(2253)]

Sec. 2253. If the director determines that control of an epidemic is necessary to protect the public health, the director, by emergency order, may prohibit the gathering of people for any purpose and may establish procedures to be followed during the epidemic to insure continuation of essential public health services and enforcement of health laws. Emergency procedures shall not be limited to this code.

333.2255 Injunctive action. [M.S.A. 14.15(2255)]

Sec. 2255. Notwithstanding the existence and pursuit of any other remedy, the department, without posting bond, may maintain injunctive action in the name of the people of this state to restrain, prevent, or correct a violation of a law,

rule, or order which the department has the duty to enforce or to restrain, prevent, or correct an activity or condition which the department believes adversely affects the public health.

333.2261 Violation as misdemeanor; penalty. [M.S.A. 14.15(2261)]

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

333.2262 Violation; rules adopting schedule of monetary civil penalties; issuance, contents, and delivery of citation. [M.S.A. 14.15(2262)]

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

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

333.2263 Citation; petition for administrative hearing; decision of hearings officer; review; provisions governing hearings and appeals; civil penalty. [M.S.A. 14.15(2263)]

Sec. 2263. (1) Not later than 20 days after receipt of the citation, the alleged violator may petition the department for an administrative hearing, which shall be held within 60 days after receipt of the petition by the department. The administrative hearing may be conducted by a hearings officer who may affirm, dismiss, or modify the citation. The decision of the hearings officer shall be final, unless within 30 days after the decision the director grants a review of the citation. Upon review, the director may affirm, dismiss, or modify the citation.

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

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

PART 23. BASIC HEALTH SERVICES

333.2301 Identification of priority health problems; preparation and basis of proposed list of basic health services. [M.S.A. 14.15(2301)]

Sec. 2301. (1) The department, utilizing broad participation of, and providing ample opportunity for the submission of recommendations by, the individuals and organizations described in section 2302, annually shall identify the priority health problems of this state utilizing state health plans and an assessment

procedure based on data and statistics consistent with or provided for in sections 2616 and 2617. Identification of priority health problems related to mental health shall be made with the consultation and advice of the department of mental health. From these priorities, the department annually shall prepare a proposed list of basic preventive, personal, and environmental health services to be made available and accessible to all residents in need of the services in this state without regard for place of residence, marital status, sex, age, race, or inability to pay.

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

333.2302 Annual budget request to include proposed list of basic health services and proposed program statement; review and comment. [M.S.A. 14.15(2302)]

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

333.2305 Proposed program statement; contents. [M.S.A. 14.15(2305)]

Sec. 2305. The proposed program statement shall include:

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

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

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

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

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

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

333.2311 Proposed health services as basic health services; revision, publication, and dissemination of list and program statement. [M.S.A. 14.15(2311)]

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

333.2321 Availability and accessibility of basic health services; demonstration upon request; basic health service as required service; notice of nonavailability or nonaccessibility; investigation; notice to complainant. [M.S.A. 14.15(2321)]

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

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

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

PART 24. LOCAL HEALTH DEPARTMENTS

333.2401 Meanings of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(2401)]

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

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

333.2403 Definitions; A to D. [M.S.A. 14.15(2403)]

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

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

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

333.2406 Definitions; L. [M.S.A. 14.15(2406)]

Sec. 2406. "Local governing entity" means:

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

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

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

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

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

333.2408 Definitions; R to U. [M.S.A. 14.15(2408)]

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

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

333.2411 Division of powers and duties. [M.S.A. 14.15(2411)]

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

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

333.2413 County health department; county board of health. [M.S.A. 14.15(2413)]

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

333.2415 Creation of district health department; composition of district board of health. [M.S.A. 14.15(2415)]

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

333.2417 Claim against district health department; audit; allowance of claim; report; appeal; apportionment of allowed claims; formula; voucher. [M.S.A. 14.15(2417)]

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

333.2419 Employment of personnel; consolidation of functions. [M.S.A. 14.15(2419)]

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

333.2421 City health department; creation; powers and duties. [M.S.A. 14.15(2421)]

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

333.2422 Selection of option by city; notice of intent. [M.S.A. 14.15(2422)]

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

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

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

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

333.2423 Selection of option by city; failure to notify department; continuing local financial support for affected services. [M.S.A. 14.15(2423)]

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

333.2424 Selection of option by city; planning period; transition plan; responsibility for local cost of required services; approval of developed plan; disposition of federal funds. [M.S.A. 14.15(2424)]

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

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

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

(2) During the planning period the affected local governing entities shall develop and adopt a plan setting forth the arrangements, agreements, and contracts necessary to establish a local health department pursuant to the exercised option and prescribing a timetable for the indicated transition. The transition plan shall provide that a city shall assume full financial liability for the

local cost of services or programs provided by the city or transferred to the city by another local governing entity by virtue of the exercise of the option in section 2422(a). The plan shall include contracts providing that an employee transferred under the plan shall not lose any benefit or right as a result of the transfer. Upon completion of the transition period, a city exercising that option is solely responsible for the local cost of all required services under this part.

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

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

333.2426 Real and personal property of village or township board or department of health; title; use and administration. [M.S.A. 14.15(2426)]

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

333.2428 Local health officer; appointment; qualifications; powers and duties. [M.S.A. 14.15(2428)]

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

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

333.2431 Local health department; requirements; report; reviewing plan for organization of local health department; waiver; qualifications and certification of individual conducting investigation or inspection. [M.S.A. 14.15(2431)]

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

- (a) Have a plan of organization approved by the department.
- (b) Demonstrate ability to provide required services.
- (c) Demonstrate ability to defend and indemnify employees for civil liability sustained in the performance of official duties except for wanton and wilful misconduct.

(d) Meet the other requirements of this part.

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

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

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

(5) An individual conducting an investigation or inspection under part 129 shall possess the education, training, and experience and pass periodic examinations in food service sanitation and regulation as prescribed by the department with the advice of the advisory board established under part 129. An individual meeting these requirements shall be certified by the department.

333.2433 Local health department; powers and duties generally. [M.S.A. 14.15(2433)]

Sec. 2433. (1) A local health department shall continually and diligently endeavor to prevent disease, prolong life, and promote the public health through organized programs, including prevention and control of environmental health hazards; prevention and control of diseases; prevention and control of health problems of particularly vulnerable population groups; development of health care facilities and health services delivery systems; and regulation of health care facilities and health services delivery systems to the extent provided by law.

(2) A local health department shall:

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

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

(c) Make investigations and inquiries as to:

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

(ii) The causes of morbidity and mortality.

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

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

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

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

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

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

333.2435 Local health department; additional powers. [M.S.A. 14.15(2435)]

Sec. 2435. A local health department may:

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

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

(c) Enter into an agreement, contract, or arrangement with a governmental entity or other person necessary or appropriate to assist the local health department in carrying out its duties and functions unless otherwise prohibited by law.

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

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

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

(g) Provide services not inconsistent with this code.

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

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

333.2437 Exercise by department of public health of power vested in local health department. [M.S.A. 14.15(2437)]

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

333.2441 Adoption of regulations; purpose; approval; effective date; stringency; conflicting ordinances; violation; penalty. [M.S.A. 14.15(2441)]

Sec. 2441. (1) A local health department may adopt regulations necessary or appropriate to implement or carry out the duties or functions vested by law in the local health department. The regulations shall be approved or disapproved by the local governing entity. The regulations shall become effective 45 days after approval by the local health department's governing entity or at a time specified by the local health department's governing entity. The regulations shall be at least as stringent as the standard established by state law applicable to the same or similar subject matter. Regulations of a local health department supersede inconsistent or conflicting local ordinances.

(2) A person who violates a regulation is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than \$200.00, or both.

333.2442 Adoption of regulation; notice of public hearing. [M.S.A. 14.15(2442)]

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

333.2444 Fees for services; expenses and compensation. [M.S.A. 14.15(2444)]

Sec. 2444. (1) A local governing entity, or in case of a district the district board of health, may fix and require the payment of fees for services authorized

or required to be performed by the local health department. The local governing entity or district board may revoke, increase, or amend the fees. The fees charged shall not be more than the reasonable cost of performing the service.

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

333.2446 Inspection or investigation. [M.S.A. 14.15(2446)]

Sec. 2446. To assure compliance with laws enforced by a local health department, the local health department may inspect, investigate, or authorize an inspection or investigation to be made of, any matter, thing, premise, place, person, record, vehicle, incident, or event. Sections 2241 to 2247 apply to an inspection or investigation made under this section.

333.2448 Intergovernmental contracts; existing contracts not affected. [M.S.A. 14.15(2448)]

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

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

333.2451 Imminent danger to health or lives; informing individuals affected; order; noncompliance; petition to restrain condition or practice; "imminent danger" and "person" defined. [M.S.A. 14.15(2451)]

Sec. 2451. (1) Upon a determination that an imminent danger to the health or lives of individuals exists in the area served by the local health department, the local health officer immediately shall inform the individuals affected by the imminent danger and issue an order which shall be delivered to a person authorized to avoid, correct, or remove the imminent danger or be posted at or near the imminent danger. The order shall incorporate the findings of the local health department and require immediate action necessary to avoid, correct, or remove the imminent danger. The order may specify action to be taken or prohibit the presence of individuals in locations or under conditions where the imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove the imminent danger.

(2) Upon the failure of a person to comply promptly with an order issued under this section, the local health department may petition a circuit or district court having jurisdiction to restrain a condition or practice which the local health officer determines causes the imminent danger or to require action to avoid, correct, or remove the imminent danger.

(3) As used in this section:

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

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

333.2453 Epidemic; emergency order and procedures; involuntary detention and treatment. [M.S.A. 14.15(2453)]

Sec. 2453. (1) If a local health officer determines that control of an epidemic is necessary to protect the public health, the local health officer may issue an emergency order to prohibit the gathering of people for any purpose and may establish procedures to be followed by persons, including a local governmental entity, during the epidemic to insure continuation of essential public health services and enforcement of health laws. Emergency procedures shall not be limited to this code.

(2) A local health department or the department may provide for the involuntary detention and treatment of individuals with hazardous communicable disease in the manner prescribed in sections 5201 to 5238.

333.2455 Building or condition violating health laws or constituting nuisance, unsanitary condition, or cause of illness; order; noncompliance; warrant; assessment and collection of expenses; liability; judicial order; other powers not affected. [M.S.A. 14.15(2455)]

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

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

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

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

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

333.2458 Establishment of cemetery; requirements; determinations; approval; disposition of plats; vacating cemetery; removal and reinterment of bodies and remains. [M.S.A. 14.15(2458)]

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

on both plats. When the establishment of a cemetery is approved, 1 plat shall be returned to the proprietor and the other shall be retained and preserved by the local health department.

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

333.2461 Violation; schedule of monetary civil penalties; issuance, contents, and delivery of citation. [M.S.A. 14.15(2461)]

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

(2) If a local health department representative believes that a person has violated this code or a rule promulgated, regulation adopted, or order issued under this code which the local health department has the authority and duty to enforce, the representative may issue a citation at that time or not later than 90 days after discovery of the alleged violation. The citation shall be written and shall state with particularity the nature of the violation, including reference to the section, rule, order, or regulation alleged to have been violated, the civil penalty established for the violation, if any, and the right to appeal the citation pursuant to section 2462. The citation shall be delivered or sent by registered mail to the alleged violator.

333.2462 Citation; petition for administrative hearing; decision of local health officer; review; petition for judicial review; civil penalty. [M.S.A. 14.15(2462)]

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

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

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

333.2463 Appearance tickets. [M.S.A. 14.15(2463)]

Sec. 2463. In the manner prescribed in sections 2441 and 2442 a local governing entity may designate representatives of the local health department as

public servants authorized by law to issue and serve appearance tickets pursuant to sections 9a to 9g of chapter 4 of Act No. 175 of the Public Acts of 1927, as amended, being sections 764.9a to 764.9g of the Michigan Compiled Laws.

333.2465 Injunctive action; liability for damages. [M.S.A. 14.15(2465)]

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

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

333.2471 Program; establishment; objectives. [M.S.A. 14.15(2471)]

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

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

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

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

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

333.2472 Services eligible for cost sharing; criteria and procedures for additional services; minimum standards for delivery of services. [M.S.A. 14.15(2472)]

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

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

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

333.2473 Specific objectives of required services; demonstrating provision of service; contracts. [M.S.A. 14.15(2473)]

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

(a) Prevention and control of environmental health hazards.

(b) Prevention and control of diseases.

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

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

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

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

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

333.2475 Reimbursement for costs of services; equitable distribution; schedule; local expenditure in excess of prior appropriation. [M.S.A. 14.15(2475)]

Sec. 2475. (1) The department shall reimburse local governing entities for the reasonable and allowable costs of required and allowable health services delivered by the local governing entity as provided by this section. Subject to the availability of funds actually appropriated reimbursements shall be made in a manner to provide equitable distribution among the local governing entities and pursuant to the following schedule beginning in the second state fiscal year beginning on or after the effective date of this part:

- (a) First year, 20%.
- (b) Second year, 30%.
- (c) Third year, 40%.
- (d) Fourth year and thereafter, 50%.

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

333.2476 Reimbursement of certain expenditures prohibited. [M.S.A. 14.15(2476)]

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

- (a) Expenditures for required and allowable services to the extent the expenditures are reimbursed from another source such as fees for services or another state or federal program.
- (b) Direct capital expenditures for facilities.
- (c) Expenditures used to match other state funds.
- (d) Expenditures for other services specifically excluded in rules promulgated by the department.
- (e) Federal and state categorical health program funds.

333.2477 Local governing entity not to receive less than received under prior provisions; providing, designating, and reallocating funds; accountability. [M.S.A. 14.15(2477)]

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

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

333.2479 Criteria for determining costs for services. [M.S.A. 14.15(2479)]

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

333.2481 Condition for approval of funding. [M.S.A. 14.15(2481)]

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

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

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

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

333.2482 Minimum expenditure for health services; waiving maintenance of local funding; certain services considered health services. [M.S.A. 14.15(2482)]

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

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

333.2483 Conditions for reimbursement. [M.S.A. 14.15(2483)]

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

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

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

333.2484 Agreement implementing standards; basis for reimbursement; operating advance; adjustments. [M.S.A. 14.15(2484)]

Sec. 2484. (1) Standards of scope, quality, and administration promulgated under section 2495 shall be implemented through an agreement between the department and the local governing entity. An agreement under this subsection

shall specify at least the minimum activities agreed upon as necessary for substantial compliance with rules and shall be based upon findings in the annual program statement of the local health department.

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

333.2486 Notice of appeal; informal conference; reaffirming, modifying, or revoking decision; hearing; petition for redress. [M.S.A. 14.15(2486)]

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

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

333.2488 Appropriation request to include funds for reimbursement of local health departments; basis of sums requested. [M.S.A. 14.15(2488)]

Sec. 2488. A separate part of the department's annual health appropriation request shall include funds to reimburse local health departments for expenditures incurred to establish and maintain required and allowable health services. The sums requested shall be based on reasonable and allowable costs for required and allowable services at projected levels for the next fiscal period and shall be used for reimbursing local health departments which have complied with sections 2471 to 2498.

333.2490 Administration of §§333.2471 to 333.2498. [M.S.A. 14.15(2490)]

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

333.2492 Status report; appropriation for development and implementation of evaluation and related training. [M.S.A. 14.15(2492)]

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

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

333.2495 Rules; determinations; review and comment.**[M.S.A. 14.15(2495)]**

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

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

333.2497 Administrative compliance order. [M.S.A. 14.15(2497)]

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

333.2498 Petition for administrative hearing; finality of order or compliance date; reaffirming, modifying, or revoking order; modifying time for compliance; petition for writ of mandamus. [M.S.A. 14.15(2498)]

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

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

(3) If the local governing entity fails to correct a deficiency for which a final order has been issued within the period permitted for compliance, the department may petition the appropriate circuit court for a writ of mandamus to compel correction.

PART 26. DATA, INFORMATION, AND RESEARCH**333.2601 Applicability. [M.S.A. 14.15(2601)]**

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

333.2602 Meanings of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(2602)]

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

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

333.2603 Definitions; D. [M.S.A. 14.15(2603)]

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

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

333.2607 Definitions; R, S. [M.S.A. 14.15(2607)]

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

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

333.2611 Coordination of activities; establishment of policy; interests to be considered. [M.S.A. 14.15(2611)]

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

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

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

(b) The freedom of persons to do business.

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

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

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

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

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

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

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

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

333.2613 Nature of data to be defined by rule. [M.S.A. 14.15(2613)]

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

333.2614 Duties of department generally. [M.S.A. 14.15(2614)]

Sec. 2614. The department shall:

(a) Establish procedures to identify the circumstances under which, the places at which, the persons from whom, and the methods by which a person may

secure that data, including the procedures governing requests, and the review established pursuant to section 2639.

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

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

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

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

333.2615 Level of coverage; determination. [M.S.A. 14.15(2615)]

Sec. 2615. The department shall determine, not less than once each 2 years, the level of coverage of the people of this state for each basic public health service prescribed under section 2311. This determination may be made by scientific sampling of the population, but shall not be based upon indirect evidence, such as number of immunizations or other services delivered, chunk samples of conveniently accessible but unrepresentative segments of the population, or other methods not involving direct personal contact with a representative cross-section of the people of this state.

333.2616 Comprehensive health information system; establishment; provisions. [M.S.A. 14.15(2616)]

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

333.2617 Comprehensive health information system; statistics. [M.S.A. 14.15(2617)]

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

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

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

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

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

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

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

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

333.2618 Publications; annual report; summary report; statement of limitations of data used. [M.S.A. 14.15(2618)]

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

333.2621 Comprehensive policy for conduct and support of research and demonstration activities; conducting and supporting demonstration projects and scientific evaluations. [M.S.A. 14.15(2621)]

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

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

- (a) The causes, effects, and methods of prevention of illness.
- (b) The determinants of health, including behavior related to health.
- (c) The accessibility, acceptability, availability, organization, distribution, utilization, quality, and financing of health care, especially those services for the medically needy.

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

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

333.2623 Publication and dissemination of results and information obtained under §333.2621. [M.S.A. 14.15(2623)]

Sec. 2623. The department may:

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

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

333.2624 Grants and contracts to conduct or support research activities and scientific evaluations. [M.S.A. 14.15(2624)]

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

333.2631 Data concerning medical research project; confidentiality; use. [M.S.A. 14.15(2631)]

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

333.2632 Data concerning medical research project; inadmissible as evidence; exhibition or disclosure. [M.S.A. 14.15(2632)]

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

333.2633 Data concerning medical research project; liability for furnishing. [M.S.A. 14.15(2633)]

Sec. 2633. The furnishing of information, records, reports, statements, notes, memoranda, or other data voluntarily to the department, or to a person, agency, or organization designated as a medical research project does not subject a physician, hospital, sanatorium, rest home, nursing home, or other person or agency furnishing the information, records, reports, statements, notes, memoranda, or other data to liability in an action for damages or other relief, and is not considered to be the wilful betrayal of a professional secret or the violation of a confidential relationship.

333.2635 Power to demand or require data. [M.S.A. 14.15(2635)]

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

333.2637 Procedures protecting confidentiality and regulating disclosure of data and records. [M.S.A. 14.15(2637)]

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

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

(3) The procedures shall specify the data contained in a departmental data system or system of records which shall not be disclosed unless items identifying a person by name, address, number, symbol, or any other identifying particular are deleted.

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

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

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

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

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

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

333.2638 Violation; penalty. [M.S.A. 14.15(2638)]

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

333.2639 Review of personal records upon request; procedures for reviewing request; administrative hearing; records of requests. [M.S.A. 14.15(2639)]

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

(2) The department shall establish procedures for reviewing a request from a person concerning access to or the amendment of a record or data pertaining to the person, or from a researcher, other person, or governmental entity requesting information or access to information possessed by the department, including a method of making a determination on the request for access or amendment. A person or researcher aggrieved by a decision under this section may request an administrative hearing.

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

333.2641 Fees; disposition of collections. [M.S.A. 14.15(2641)]

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

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

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

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

333.2651 Anatomy board; creation; appointment, qualifications, and terms of members; compensation; chairperson; offices and procedures; member as funeral director. [M.S.A. 14.15(2651)]

Sec. 2651. (1) The anatomy board is created in the department. The anatomy board consists of the director, ex officio, 1 member from the department of human anatomy of each of the universities having medical schools in this state, and members from departments of human anatomy in other health professional schools in this state, who shall be appointed by and serve at the pleasure of the deans of the schools in which those departments are located.

(2) The members shall serve without compensation.

(3) Biennially the anatomy board shall select 1 of its members as chairperson. The department, with concurrence of the anatomy board, shall create other offices and adopt procedures.

(4) For the purposes of sections 2651 to 2663, an anatomy board member or a person acting under his or her direction may act as a funeral director.

333.2652 Receiving and allocating bodies or parts thereof; records of receipt and disposition. [M.S.A. 14.15(2652)]

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

333.2653 "Unclaimed body" defined; notice to relatives of deceased; availability of unclaimed body to anatomy board; request for notification concerning unclaimed body; time, manner, and contents of notice; release of body; notice and surrender of body to benevolent association. [M.S.A. 14.15(2653)]

Sec. 2653. (1) As used in sections 2651 to 2663, "unclaimed body" means a dead human body for which the deceased has not provided a disposition, an estate or assets to defray costs of burial do not exist, and the body is not claimed for burial by a person, relative, or court appointed fiduciary who has the right to control disposition of the body.

(2) An official of a public institution or a state or local officer in charge or control of an unclaimed body which would have to be buried at public expense shall use due diligence to notify the relatives of the deceased. In the absence of any known relative of the deceased or a special administrator of the estate of the deceased appointed by the probate court desiring to direct the disposition of the unclaimed body in a manner other than provided by sections 2653 to 2659, the unclaimed body shall become available to the anatomy board. Upon written request by the anatomy board for notification concerning unclaimed bodies coming under his or her jurisdiction, the officer, for the definite period specified in the request of the anatomy board, shall notify a member of the anatomy board by telegraph or telephone immediately following 72 hours after death, excluding Sundays and holidays, stating, when possible, the name, age, sex, religion, and

cause of death of the deceased, and shall release the body according to the regulations or instructions of the anatomy board.

(3) If the deceased was a member of a religious faith maintaining a benevolent association which will provide for the burial of the deceased in accordance with the tenets of the religion, the anatomy board shall notify the benevolent association of the death of the deceased by telephone or telegram collect, and shall surrender the body to the benevolent association upon request.

333.2655 Embalming and disposition of unclaimed body; standards; holding period; identification and claim by relative or special administrator for purpose of interment or other disposition. [M.S.A. 14.15(2655)]

Sec. 2655. An unclaimed body retained by the anatomy board for scientific or educational purposes shall be embalmed and disposed of in accordance with standards adopted under section 2678. The unclaimed body shall be held for 30 days by the person to whom it has been assigned for scientific or educational purposes. The body is subject during this period to identification and claim by an authenticated relative of the deceased or a special administrator appointed by the probate court of the deceased's estate for the purpose of interment or other disposition in accordance with the directions of the relative or special administrator.

333.2656 Receiving unclaimed body for educational purposes; expense; record; disposition. [M.S.A. 14.15(2656)]

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

333.2658 Postmortem examination of unclaimed body; certification of body unfit for scientific or educational purposes; interment of unclaimed body; expense. [M.S.A. 14.15(2658)]

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

333.2659 Adoption of standards for unclaimed bodies or parts. [M.S.A. 14.15(2659)]

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

333.2661 Autopsy upon unclaimed body; purpose; disposition of body. [M.S.A. 14.15(2661)]

Sec. 2661. The medical superintendent of a state institution for mentally diseased persons or the general superintendent of the Wayne county general hospital and infirmary, who controls an unclaimed body which is required to be

delivered to the anatomy board, may direct the performance of an autopsy upon the body by a medical officer of the institution for the sole purpose of the study of mental diseases and the advancement of the science relating thereto. Upon completion of the autopsy, the unclaimed body shall be disposed of in the same manner as any other unclaimed body in accordance with this part.

333.2663 Violations; misdemeanor. [M.S.A. 14.15(2663)]

Sec. 2663. A person who unlawfully disposes, uses, or sells an unclaimed body or who violates sections 2651 to 2661 is guilty of a misdemeanor.

333.2671 Public health and welfare dependent on humane use of animals for certain purposes. [M.S.A. 14.15(2671)]

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

333.2672 Animal research advisory board; creation; membership. [M.S.A. 14.15(2672)]

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

333.2673 Animal research advisory board; powers. [M.S.A. 14.15(2673)]

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

333.2674 Administration of §§333.2671 to 333.2675; expenses of members. [M.S.A. 14.15(2674)]

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

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

333.2675 Inspection of premises or property on which animals kept for experimental purposes; purpose. [M.S.A. 14.15(2675)]

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

333.2676 Registration for humane use of animals for experimental purposes; compliance with standards; grounds for suspension or revocation of registration; findings of fact conclusive; application for review of questions of law; orders. [M.S.A. 14.15(2676)]

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

333.2678 Rules. [M.S.A. 14.15(2678)]

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

333.2685 Use of live human embryo, fetus, or neonate for nontherapeutic research; prohibitions; presumption. [M.S.A. 14.15(2685)]

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

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

333.2686 Diagnostic, assessment, or treatment procedures not prohibited. [M.S.A. 14.15(2686)]

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

333.2687 Embryo, fetus, or neonate considered live. [M.S.A. 14.15(2687)]

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

333.2688 Research on dead embryo, fetus, or neonate; consent of mother; presumption; authorized transfer to medical research facilities; research standards. [M.S.A. 14.15(2688)]

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

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

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

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

333.2689 Abortion; consideration. [M.S.A. 14.15(2689)]

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

333.2690 Sale, transfer, distribution, or giving away of embryo, fetus, or neonate. [M.S.A. 14.15(2690)]

Sec. 2690. A person shall not knowingly sell, transfer, distribute, or give away an embryo, fetus, or neonate for a use which is in violation of sections 2685 to 2689.

333.2691 Violation; penalty. [M.S.A. 14.15(2691)]

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

333.2692 "Nontherapeutic research" defined. [M.S.A. 14.15(2692)]

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

PART 28. VITAL RECORDS

333.2801 Meanings of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(2801)]

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

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

333.2803 Definitions; D to F. [M.S.A. 14.15(2803)]

Sec. 2803. (1) "Dead body" means a human body, or parts thereof, in a condition from which it may reasonably be concluded that death has occurred.

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

(3) "File" means to present a certificate, report, or other record to the local registrar provided for in this part for registration by the state registrar.

(4) "Final disposition" means the burial, cremation, or other disposition of a dead human body or fetus.

333.2804 Definitions; I to R. [M.S.A. 14.15(2804)]

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

(2) "Live birth" means a term defined by departmental rule which shall conform as closely as possible to the definition of live birth recommended by the federal agency responsible for vital statistics.

(3) "Local registrar" means the county clerk or the clerk's deputy, or in the case of a city having a population of 40,000 or more the city clerk or city department designated by the governing body of the city. Population shall be determined by the latest available census bureau figures or estimates.

(4) "Registration" means the acceptance by the state registrar and the incorporation of certificates provided for in this part into the official vital records.

333.2805 Definitions; S to V. [M.S.A. 14.15(2805)]

Sec. 2805. (1) "State registrar" means the official appointed pursuant to section 2813 or his or her authorized representative.

(2) "System of vital statistics" means the collection, certification, compilation, amendment, coordination, and preservation of vital records, including the tabulation, analysis, and publication of vital statistics.

(3) "Vital record" means a certificate or registration of birth, death, marriage, divorce, or related data.

(4) "Vital statistics" means data derived from vital records and related reports.

333.2811 Form and content of vital records and certificates. [M.S.A. 14.15(2811)]

Sec. 2811. The department shall prescribe the form and content of vital records and certificates, which shall conform as nearly as possible to recognized national standardized forms.

333.2813 State registrar; appointment; duties. [M.S.A. 14.15(2813)]

Sec. 2813. (1) The director shall appoint, subject to civil service rules, a state registrar to administer the system of vital statistics.

(2) The state registrar shall:

(a) Administer and control the only system of vital statistics for this state, as authorized in this part and the rules promulgated pursuant to this part.

(b) Be the custodian of the system of vital statistics.

(c) Exercise superintending control over local registrars and administer and control the activities of local officials and all other persons as to the operation of the system of vital statistics.

(d) Issue instructions for the administration of the system of vital statistics and conduct training programs to promote uniformity of policy and procedures throughout the state in matters pertaining to the system of vital statistics.

(e) Prescribe, furnish, and distribute forms for vital records and vital statistics or prescribe other means of transmitting vital records and vital statistics information as required by this part and the rules promulgated pursuant to this part.

(f) Prepare and publish reports of vital statistics.

333.2815 Local registrar; duties. [M.S.A. 14.15(2815)]

Sec. 2815. (1) A county board of commissioners and the governing body of a city having a population of 40,000 or more may agree that the county clerk or the clerk's deputy shall act as the local registrar for the city.

(2) A local registrar shall:

(a) Record and transmit vital records and statistics as required by this part.

(b) Furnish blank forms and instructions provided by the state registrar to persons required to file vital records and vital statistics. A form or blank other than those provided by the state registrar shall not be used.

(c) Examine each vital record before accepting it for registration. If the record is incomplete or unsatisfactory, the local registrar shall require the submission of additional information necessary to complete the record before accepting it for registration.

(d) Affix his or her identification to each vital record accepted for registration and document the date of its acceptance.

(e) Transmit, in the manner prescribed by the state registrar, the vital record to the department. The local registrar shall preserve at the local registrar's office information prescribed by the state registrar.

(f) Issue a certificate of registration for a live birth on a form approved by the state registrar and issue certified copies of vital records documents on file in accordance with sections 2881, 2882, and 2891.

(g) Issue a permit for final disposition of a dead body upon receipt of sufficient evidence that death occurred within the local registrar's jurisdiction.

333.2821 Birth registration required; filing record of birth; time of registration. [M.S.A. 14.15(2821)]

Sec. 2821. (1) Birth registration is required for each individual born in this state.

(2) A record of birth for each live birth which occurs in this state shall be filed at the office of the local registrar not more than 5 days after the birth. The birth shall be registered when the filing is completed.

333.2822 Persons required to report live birth occurring in state. [M.S.A. 14.15(2822)]

Sec. 2822. The following persons shall report a live birth which occurs in this state:

(a) When a live birth occurs in an institution or enroute thereto, the individual in charge of the institution or his or her designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate, and file the certificate with the local registrar or as otherwise directed by the state registrar within 5 days after the birth. The physician or other individual in attendance shall provide the medical information required by the certificate and certify to the facts of birth not later than 72 hours after the birth. If the physician or other individual does not certify to the facts of birth within 72 hours, the individual in charge of the institution shall complete and sign the certification.

(b) When a live birth occurs outside an institution, the record shall be prepared, certified, and filed with the local registrar by 1 of the following individuals in the indicated order of priority:

(i) The physician in attendance at or immediately after the live birth.

(ii) Any other individual in attendance at or immediately after the live birth.

(iii) The father, the mother, or, in the absence of the father and the inability of the mother, the individual in charge of the premises where the live birth occurs.

333.2823 Registration of live birth occurring in moving conveyance. [M.S.A. 14.15(2823)]

Sec. 2823. (1) When a live birth occurs in a moving conveyance in the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state. The place where the child is first removed from the conveyance shall be shown as the place of birth.

(2) When a live birth occurs in a moving conveyance while in international waters or air space or a foreign country and the child is first removed from the conveyance in this state, the birth shall be registered in this state but the certificate shall show the actual place of birth insofar as the place can be determined.

333.2824 Registering name of husband as father of child; registering surname of child; consent required if mother not married at time of conception or birth; designating surname of child; entering name of father pursuant to court order; effect of not naming father on birth registration; effect of artificial insemination. [M.S.A. 14.15(2824)]

Sec. 2824. (1) The name of the husband at the time of conception or if none the husband at birth shall be registered as the father of the child, and the surname of the child shall be registered as designated by the child's parents.

(2) If the child's mother was not married at the time of conception or birth, the name of the father shall not be entered on the certificate without the written consent of the mother and the individual to be named as the father, in which case, upon the written request of both parents, the surname of the child shall be designated by the child's parents.

(3) If the name of the child's father cannot be shown pursuant to subsection (1) or (2), the child shall be given the surname designated by the mother.

(4) If the paternity of a child is determined by a court of competent jurisdiction, the name of the father shall be entered on the certificate of birth pursuant to the finding and order of the court. The surname of the child shall be entered on the certificate of birth pursuant to the designation of the child's mother.

(5) If the child's father is not named on the birth registration, no other information about the father shall be entered on the registration.

(6) A child born to a married woman as a result of artificial insemination, with consent of her husband, is considered to be the legitimate child of the husband and wife.

333.2825 Assuming custody of live born child of unknown parentage; form, contents, and filing of report; place of birth; report as birth registration; sealing and opening of report. [M.S.A. 14.15(2825)]

Sec. 2825. (1) A person who assumes custody of a live born child of unknown parentage shall report on a form and in a manner prescribed by the state registrar the following information:

- (a) The date and place of finding the child.
- (b) The sex and approximate birth date of the child.
- (c) The name and address of the person or institution with whom the child is placed for care.
- (d) The name given to the child by the custodian of the child.
- (e) Other data required by the state registrar.

(2) The report shall be filed in the manner prescribed by the state registrar not later than 5 days after the person assumes custody.

(3) The place where the child is found shall be entered as the place of birth.

(4) A report made under this section constitutes the birth registration for the child.

(5) If the child is identified and a birth registration is found or obtained, a report registered under this section shall be sealed and may be opened only by order of a court of competent jurisdiction or as provided by rule.

333.2827 Failure to register birth within time prescribed; filing certificate of birth; registration of birth subject to evidentiary requirements; marking certificate "delayed" and showing date of delayed registration; endorsing summary statement of evidence on certificate. [M.S.A. 14.15(2827)]

Sec. 2827. (1) When the birth of an individual born in this state has not been registered within the time period prescribed in section 2821, a certificate of birth may be filed in accordance with procedures established pursuant to section 2896. The certificate shall be registered subject to evidentiary requirements the department prescribes to substantiate the alleged facts of birth.

(2) A certificate of birth registered 1 year or more after the date of birth shall be marked "delayed" and show on its face the date of the delayed registration.

(3) A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate.

333.2828 Conditions prohibiting registration of delayed certificate of birth; advising applicant of reasons and right of appeal; dismissal of application; judicial findings and order; forwarding order to state registrar; registration of order as certificate of birth; forwarding copy of delayed registration to local registrar. [M.S.A. 14.15(2828)]

Sec. 2828. (1) If an applicant does not submit the minimum documentation required by rules for delayed registration of a birth or if the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statement or the documentary evidence, the state registrar shall not register the delayed certificate of birth and shall advise the applicant of the reasons for this action and of the applicant's right of appeal to the probate court of the county of residence or birth.

(2) The department may provide for the dismissal of an application which is not actively prosecuted.

(3) If, on the basis of the evidence presented, the court finds that the individual for whom a delayed certificate of birth is sought was born in this state, the court shall make findings as to the place and date of birth, parentage, and other findings required by the case and shall issue an order on a form prescribed and furnished by the state registrar to establish a certificate of birth. The order shall include the birth data to be registered, a description of the evidence presented, and the date of the court's action.

(4) The clerk of the court shall forward the order to the state registrar not later than the tenth day of the calendar month following the month in which the order was entered. The order shall be registered by the state registrar and shall constitute the certificate of birth.

(5) The state registrar shall forward a copy of a delayed registration to the local registrar of the district where the birth occurred.

333.2829 Report of adoption; form; contents; report when adoption order amended or annulled; duty of probate register or clerk; requirements of birth certificate issued to adopted individual. [M.S.A. 14.15(2829)]

Sec. 2829. (1) For each adoption ordered by the probate court in this state, the court shall prepare a report of adoption on a form prescribed and furnished by the state registrar. The report shall:

(a) Include the facts necessary to locate and identify the certificate of live birth of the individual adopted.

(b) Provide information necessary to establish a new certificate of live birth of the individual adopted.

(c) Identify the adoption order.

(d) Be certified by the probate register or clerk.

(2) When an adoption order is amended or annulled, the court shall prepare a report which shall include the facts necessary to identify the original adoption report and the facts amended in the adoption order necessary to properly amend the birth record.

(3) Not later than the tenth day of the calendar month, the probate register or clerk shall forward:

(a) To the state registrar, reports of adoption orders, and amendments and annulments thereof, entered during the preceding month for individuals born in this state.

(b) To the appropriate registration authority in another state, the United States department of state, or the United States immigration and naturalization service, reports of adoption orders, and amendments and annulments thereof, entered during the preceding month for individuals born outside this state.

(4) A birth certificate issued to an adopted individual shall conform to the requirements of section 67 of chapter 10 of Act No. 288 of the Public Acts of 1939, being section 710.67 of the Michigan Compiled Laws.

333.2830 Adoption of child born outside United States, territory of United States, or Canada; filing, form, and contents of delayed registration of birth; petition for issuance of delayed registration of birth. [M.S.A. 14.15(2830)]

Sec. 2830. (1) If a child whose birth occurred outside the United States, a territory of the United States, or Canada, is adopted by a resident of this state under the laws of this state, the probate court, on motion of the adopting parent, shall file a delayed registration of birth on a form provided by the department. The delayed registration shall contain the date and place of birth and other facts specified by the department.

(2) If the date and place of birth cannot be documented from foreign records or a medical assessment of the development of the child indicates that the date of birth as stated in the immigration records is not correct, the court shall determine the facts and establish a date and place of birth and may file a delayed registration of birth as provided in subsection (1).

(3) Upon the petition of a child adopted in this state whose birth occurred outside the United States, a territory of the United States, or Canada or a petition of the child's adoptive parents, the court which issued an order of adoption for that child before the effective date of this section may issue a delayed registration of birth for the adopted child as provided in subsection (1).

333.2831 New certificate of birth; establishment; requirements. [M.S.A. 14.15(2831)]

Sec. 2831. The state registrar shall establish a new certificate of birth for an individual born in this state when the registrar receives the following:

(a) A report of adoption as provided in section 2829, a report of adoption prepared and filed in accordance with the laws of another state or foreign country, or a certified copy of the adoption order, together with the information necessary to identify the original certificate of birth and to establish a new certificate of live birth. However, a new certificate of live birth shall not be established if so requested by the court ordering the adoption; the adopting parent; or, the adoptee, if the adoptee is an adult.

(b) A request that a new certificate be established and the evidence required by the department proving that the individual has been legitimated or a court determination of the individual's paternity has been made.

(c) A request that a new certificate be established to show a sex designation other than that designated at birth. The request shall be accompanied by an affidavit of a physician certifying that sex-reassignment surgery has been performed.

333.2832 New certificate of birth; actual place and date of birth to be shown; substitution for original certificate; inspection; restoration of original certificate upon notice of annulment of adoption; preparing new certificate on delayed birth certificate form; sealing or forwarding original certificate. [M.S.A. 14.15(2832)]

Sec. 2832. (1) When a new certificate of live birth is established, the actual place and date of birth shall be shown. The new certificate shall be substituted for the original certificate of live birth. Thereafter, the original certificate and the evidence of adoption, paternity, legitimation, or sex designation are not subject to inspection except upon a court order.

(2) Upon receipt of notice of annulment of adoption, the original certificate of live birth shall be restored to its place in the files. The certificate created under subsection (1) is not subject to inspection except upon a court order.

(3) If a certificate of live birth is not on file for the individual for whom a new live birth certificate is to be established under section 2831, a new live birth certificate may be prepared on the delayed birth certificate form in use at the time of adoption, legitimation, or paternity determination.

(4) When a new certificate of live birth is established by the state registrar, all copies of the original certificate of birth in the custody of a custodian of permanent records in this state shall be sealed from inspection or forwarded to the state registrar, as the state registrar directs.

333.2833 Recording death on decedent's birth certificate; notice; recordation by department or local registrar; recordation on face of copies of certificates; correction of record. [M.S.A. 14.15(2833)]

Sec. 2833. (1) The death of a person whose birth is registered under this code shall be recorded on the decedent's birth certificate in compliance with this section.

(2) Upon receipt of a certificate of death for a person under 6 years of age, the department shall notify the local registrar of the registration district in which a birth certificate for the decedent is maintained and, if a birth certificate for the decedent is maintained by the department, record the fact of death on the decedent's birth certificate.

(3) Upon receipt of a notice from the department that there is on file in the local registrar's office a birth certificate of a deceased person, the local registrar shall record the fact of death on the birth record of the decedent.

(4) A copy of a birth certificate or certificate of registration issued for records identified and marked in accordance with subsections (1) and (2) shall have recorded on the face of the copy or certificate of registration the fact that the individual is deceased.

(5) Upon receipt of a notice that a record identified and marked in accordance with subsections (1) and (2) has been marked in error, the record may be corrected in accordance with this part.

333.2834 Report of fetal death; time, form, and manner; prohibited information; report if dead fetus delivered in or outside institution; notice to medical examiner; investigation and report; use and disposition of statistical reports; disclosure identifying biological parents prohibited. [M.S.A. 14.15(2834)]

Sec. 2834. (1) A fetal death occurring in this state shall be reported to the state registrar within 5 days after delivery. The state registrar shall prescribe the form and manner for reporting fetal deaths. The reporting form shall not contain the name of the biological parents, common identifiers such as social security or drivers license numbers or other information identifiers that would make it possible to identify in any manner or in any circumstances the biological parents of the fetus. A state agency shall not compare data in an information system file with data in another computer system which would result in identifying in any way a woman or father involved in a fetal death. Statistical information which may reveal the identity of the biological parents involved in a fetal death shall not be maintained.

(2) If a dead fetus is delivered in an institution, the individual in charge of the institution or his or her authorized representative shall prepare and file the report.

(3) If a dead fetus is delivered outside an institution, the physician in attendance shall prepare and file the report.

(4) If a fetal death occurs without medical attendance at or after the delivery or if inquiry is required by the medical examiner, the attendant, mother, or other person having knowledge of the fetal death shall notify the medical examiner who shall investigate the cause and prepare and file the report.

(5) The reports required under this section are statistical reports to be used only for medical and health purposes and shall not be incorporated into the permanent official records of the system of vital statistics. A schedule for the disposition of these reports shall be provided for by the department.

(6) The department or any employee of the department shall not disclose to any person outside the department, the reports or the contents of the reports required by this section in any manner or fashion so as to permit the person or entity to whom the report is disclosed to identify in any way the biological parents.

333.2835 "Abortion" defined; report of abortion; form, transmittal, and contents of report; prohibited information; destruction of reports and records; annual statistical report; use of statistical reports; prohibited disclosures; violation; penalty. [M.S.A. 14.15(2835)]

Sec. 2835. (1) As used in this section "abortion" means the purposeful induced termination of a human pregnancy.

(2) A physician who performs an abortion shall report the performance of

that procedure to the department on forms prescribed and provided by the department. The reports shall be transmitted to the director within 7 days after the performance of the abortion.

(3) Each report of an abortion shall contain only the following information and no other information:

- (a) The age of the woman at the time of the abortion.
- (b) The marital status of the woman at the time of the abortion.
- (c) The city or township, county, and state in which the woman resided at the time of the abortion.
- (d) The location and type of facility in which the abortion was performed.
- (e) The source of referral to the physician performing the abortion.
- (f) The number of previous pregnancies carried to term.
- (g) The number of previous pregnancies ending in miscarriage or spontaneous abortion.
- (h) The number of previous pregnancies terminated by abortion.
- (i) The period of gestation in weeks of the present pregnancy and the first day of the last menstrual period.
- (j) The method used to perform the abortion.
- (k) The weight of the embryo or fetus, if determinable.
- (l) Whether the fetus showed evidence of life when separated, expelled, or removed from the woman.
- (m) The date of performance of the abortion.
- (n) The immediate complications of the abortion procedure.
- (o) The physician's signature and his state license number.

(4) The report shall not contain the name of the woman, common identifiers such as social security or drivers license numbers or other information or identifiers that would make it possible to identify in any manner or under any circumstances an individual who has obtained or seeks to obtain an abortion. A state agency shall not compare data in an information system file with data in another computer system which would result in identifying in any manner or under any circumstances an individual obtaining or seeking to obtain an abortion. Statistical information which may reveal the identity of a woman obtaining or seeking to obtain an abortion shall not be maintained.

(5) The department shall destroy the individual reports required by this section and any copies of the records after retaining them for 5 years.

(6) The department shall make available annually in aggregate a statistical report summarizing the information submitted in the individual reports required by this section.

(7) The reports required under this section are statistical reports to be used only for medical and health purposes and shall not be incorporated into the permanent official records of the system of vital statistics.

(8) The department or any employee of the department shall not disclose to any person outside the department, the reports or the contents of the reports required by this section in any manner or fashion so as to permit the person or entity to whom the report is disclosed to identify in any way the person about whom the report concerns.

(9) A person who discloses confidential information in violation of sections 2834-2835 is guilty of a felony, punishable by imprisonment for not more than 3

years, or a fine of not more than \$5,000.00, or both, and if the person is an employee of the department shall be subject to immediate dismissal.

333.2841 Death registration; required; place of death. [M.S.A. 14.15(2841)]

Sec. 2841. Death registration is required for each individual who dies in this state. If the place of death is unknown, but the body is found in this state, the death registration shall show this fact and shall be completed and filed in accordance with this section and section 2842. The place where the body is found shall be shown as the place of death.

333.2842 Death registration; death occurring in moving conveyance. [M.S.A. 14.15(2842)]

Sec. 2842. (1) When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death registration shall show this fact and be completed and filed in accordance with this part. The place where the body is first removed from the conveyance, shall be shown as the place of death.

(2) When death occurs in a moving conveyance while in international waters or air space or a foreign country and the body is first removed from the conveyance in this state, the death shall be registered in this state in accordance with this part, but the certificate shall show the actual place of death insofar as the place can be determined.

333.2843 Report of death by funeral director or authorized agent; personal data; medical certification; neglecting or refusing to sign death certificate as misdemeanor; penalty; filing of death record. [M.S.A. 14.15(2843)]

Sec. 2843. (1) A funeral director or his or her authorized agent who first assumes custody of a dead body shall report the death. The funeral director or the authorized agent shall obtain the necessary personal data from the next of kin or the best qualified person or source available and shall obtain medical certification as follows:

(a) The medical certification shall be completed and signed not later than 48 hours after death by the attending physician; or in the absence of the attending physician, by a physician acting as his or her authorized representative; or in the absence of an authorized representative, the county medical examiner; or in the absence of the county medical examiner, the county health officer or the deputy county medical examiner. If the death occurred in an institution, the medical certification shall be completed and signed not later than 48 hours after death by the attending physician; or in the absence of the attending physician, by a physician acting as his or her authorized representative; or in the absence of an authorized representative, by the chief medical officer of the institution in which death occurred, after reviewing pertinent records and making other investigation as considered necessary, or by a pathologist.

(b) A physician, as described in subdivision (a), who for himself or herself or as an agent or employee of another person neglects or refuses to sign a death certificate properly presented to him or her for signature by a funeral director or who refuses or neglects to furnish information in his or her possession, is guilty of a misdemeanor punishable by imprisonment for not more than 60 days, or a fine of not less than \$25.00 nor more than \$100.00, or both.

(2) The medical certification shall be completed and signed not later than 48 hours after the death by the physician, as described in subsection (1)(a).

(3) A death record shall be filed with the local registrar of the district where the death occurred not later than 72 hours after the death.

333.2844 Referral of case to county medical examiner; determining and certifying cause of death; investigation; completing and signing medical certification; notice to funeral director; final disposition. [M.S.A. 14.15(2844)]

Sec. 2844. (1) When death occurs more than 10 days after the deceased was last seen by a physician, if the cause of death appears to be other than the illness or condition for which the deceased was being treated, or if the attending physician cannot accurately determine the cause of death, the case shall be referred to the county medical examiner for investigation to determine and certify the cause of death. If the county medical examiner determines that the case does not fall within his or her jurisdiction, the county medical examiner shall refer the case back to the deceased's physician within 24 hours for completion of the medical certification.

(2) When an investigation is required under Act No. 181 of the Public Acts of 1953, as amended, being sections 52.201 to 52.216 of the Michigan Compiled Laws, the county medical examiner shall determine the cause of death and shall complete and sign the medical certification within 48 hours after taking charge of the case.

(3) If the cause of death cannot be determined within 48 hours after death, the medical certification may be completed as provided by the department. The attending physician or county medical examiner shall give the funeral director in custody of the body notice of the reason for the delay, and final disposition shall not be made until authorized by the attending physician or medical examiner.

333.2845 Inability to locate body; registration of death upon receipt of findings of probate court; marking death registration; extension of time periods. [M.S.A. 14.15(2845)]

Sec. 2845. (1) When a death is presumed to have occurred in this state but the body cannot be located, the state registrar may register the death upon receipt of the findings of the probate court, including the personal and medical data required to complete the death registration. The death registration shall be marked "presumptive" and shall show on its face the date of registration and identify the court and the date of decree.

(2) The state registrar may provide for the extension of time periods prescribed for the filing of death registrations in cases where compliance would result in undue hardship.

333.2846 Failure to register death within prescribed time period; filing, registering, and marking certificate; evidentiary requirements. [M.S.A. 14.15(2846)]

Sec. 2846. (1) When a death occurring in this state is not registered within the time period prescribed by section 2843, a certificate may be filed in accordance with department procedures. The certificate shall be registered subject to evidentiary requirements the department prescribes to substantiate the alleged facts of death.

(2) A certificate of death registered 1 year or more after the date of death shall be marked "delayed" and shall show on its face the date of the delayed registration.

333.2847 Death of individual in county in which individual not a resident; information; issuance of certified copy or certificate of registration prohibited. [M.S.A. 14.15(2847)]

Sec. 2847. When a death registration returned by a local registrar to the state registrar indicates that an individual died in a county in which the individual was

not a resident, the state registrar shall forward the necessary information monthly to the local registrar of the county in which the individual was a resident. A certified copy or certificate of registration based on this information shall not be issued by a local registrar receiving information under this section.

333.2848 Authorization for final disposition of dead body or fetus; time; form; retention of permit; cremation; moving body; permit issued by other state. [M.S.A. 14.15(2848)]

Sec. 2848. (1) Except as provided in sections 2844 and 2845, a funeral director or person acting as a funeral director, who first assumes custody of a dead body, not later than 72 hours after death or the finding of a dead body and before final disposition of the body, shall obtain authorization for the final disposition. The authorization shall be issued on a form prescribed by the state registrar and signed by the local registrar or the state registrar.

(2) Before final disposition of a dead fetus, irrespective of the duration of pregnancy, the funeral director or person assuming responsibility for the final disposition of the fetus shall obtain from the parents, or parent in case of an unmarried mother, an authorization for final disposition on a form prescribed and furnished or approved by the state registrar. The authorization may allow final disposition to be by a funeral director, the individual in charge of the institution where the fetus was delivered, or an institution or agency authorized to accept donated bodies or fetuses under this code. After final disposition, the funeral director, the individual in charge of the institution, or other person making the final disposition shall retain the permit for not less than 7 years.

(3) If final disposition is by cremation, the medical examiner of the county in which death occurred shall sign the authorization.

(4) A body may be moved from the place of death to be prepared for final disposition with the consent of the physician or medical examiner who certifies the cause of death.

(5) A permit for disposition issued under the law of another state which accompanies a dead body or dead fetus brought into this state is authorization for final disposition of the body or fetus in this state.

333.2850 Interment or other disposition of dead body or fetus; duty of individual in charge of premises; record of final disposition. [M.S.A. 14.15(2850)]

Sec. 2850. An individual in charge of premises in which interments or other disposition of dead bodies is made shall not inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by an authorization for final disposition. An individual in charge of a place for final disposition shall keep a record of a final disposition made in the premises under his or her charge. The record shall state the name of the deceased, date and place of death, date of final disposition, and the name and address of the funeral director or person acting as a funeral director.

333.2852 Weather conditions requiring storage of dead body; authorization for delayed interment; disinterment and reinterment permit not required. [M.S.A. 14.15(2852)]

Sec. 2852. When weather conditions prevent an immediate interment of a dead body and storage is necessary, the individual in charge of a cemetery shall obtain written authorization for delayed interment signed by the next of kin or authorized agent. The authorization shall specify the approximate hour and date of interment and place of temporary storage. This storage is not considered interment and a disinterment and reinterment permit is not required.

333.2853 Permit for disinterment and reinterment required; issuance; forms for permits and applications; retention of application; copy of permit as permanent record; petition for disinterment order. [M.S.A. 14.15(2853)]

Sec. 2853. (1) A permit for disinterment and reinterment is required before disinterment of a dead body. The local health department in whose jurisdiction the body is interred shall issue the permit upon proper application by a licensed funeral director or person acting as a funeral director in accordance with rules promulgated by the department.

(2) A person shall not disinter or permit the disinterment of a dead body in a cemetery and the body's reinterment in a cemetery or removal from the cemetery unless a disinterment and reinterment permit is issued by the local health department in the jurisdiction in which the cemetery is located.

(3) The department shall prepare and furnish to local health departments the forms for permits and applications therefor, which shall be used in the procedures prescribed by this section and section 2852.

(4) The local health department shall retain an application for a disinterment and reinterment permit for not less than 5 years. A duplicate copy of the permit shall be maintained in permanent records of the cemetery from which the body was disinterred.

(5) If a required consent cannot be obtained, a person may petition the circuit court of the county in which the cemetery is located for a disinterment order.

333.2855 Autopsy, postmortem, or dissection; physician to perform; consent; ordering of autopsies or postmortems; exceptions. [M.S.A. 14.15(2855)]

Sec. 2855. (1) Except as otherwise provided by law, an autopsy, postmortem, or dissection shall not be performed upon a dead body except by a physician, who has been granted written consent therefor by whichever 1 of the following assumes custody of the body for purposes of burial: parent, surviving spouse, guardian, next of kin, or a person charged by law with the responsibility for burial. If 2 or more such persons assume custody of the body, the consent of 1 is sufficient. This section does not prevent the ordering of autopsies or postmortems by a medical examiner or a local health officer.

(2) This section does not apply to a department of anatomy in a school of medicine in this state, or to an autopsy, postmortem, or dissection performed pursuant to and under the authority of other law.

(3) A local health officer may order an autopsy where necessary to carry out the functions vested in a local health department by this code.

333.2861 Original marriage license certificates; filing; incorporating information relating to marriages in system of vital statistics. [M.S.A. 14.15(2861)]

Sec. 2861. (1) A local registrar shall file with the state registrar original marriage license certificates, including applications and licenses, in accordance with Act No. 128 of the Public Acts of 1887, as amended, being sections 551.101 to 551.111 of the Michigan Compiled Laws, and Act No. 180 of the Public Acts of 1897, as amended, being sections 551.201 to 551.204 of the Michigan Compiled Laws.

(2) The state registrar shall incorporate the information relating to marriages in this state in the system of vital statistics.

333.2864 Report of divorce proceedings; filing; forms; specifying number of divorces granted; report by party petitioning for divorce; signing and filing report; incorporating divorce reports in system of vital statistics. [M.S.A. 14.15(2864)]

Sec. 2864. (1) Before the fifth day of each calendar month the clerk of a circuit court shall file with the state registrar a report of divorce proceedings in the court for the preceding month.

(2) The report shall be made on forms prescribed by the state registrar and shall specify the number of divorces granted.

(3) A party petitioning for a divorce shall file with the petition a report, on a form prescribed and furnished by the state registrar to the county clerk, which shall include the information prescribed by the state registrar. When a divorce is granted the clerk of the court shall sign and file the report with the state registrar together with the monthly reports required by this section.

(4) The state registrar shall incorporate the divorce reports in the system of vital statistics.

333.2867 Information necessary to complete birth, death, marriage, or divorce registration; furnishing on demand; attesting accuracy of personal data regarding live birth registration. [M.S.A. 14.15(2867)]

Sec. 2867. (1) Upon the demand of the state registrar, local registrar, or other person responsible for the filing of vital records, a person who has information necessary to complete a birth, death, marriage, or divorce registration shall furnish that information to the person making the demand, who shall forward the information to the state registrar.

(2) A parent of a child shall attest to the accuracy of the personal data provided for in a live birth registration in time to permit filing within the 5 days prescribed in section 2821.

333.2871 Amendment of certificate or record; procedures; requirements; rules. [M.S.A. 14.15(2871)]

Sec. 2871. (1) A certificate or record registered under this part may be amended only in accordance with this part or procedures adopted under section 2896.

(2) Except as provided in subsection (3) and section 2872(1), a certificate or record amended under this section, section 2872, or section 2873 shall:

- (a) Have the original information contained in the amended item expunged.
- (b) Be marked "amended".
- (c) Contain the date of the amendment.
- (d) Identify the item amended.

(3) The department shall promulgate rules to prescribe the conditions under which an addition or minor amendment may be made to a certificate or record not later than 1 year after the date of the event without the certificate or record being considered as amended.

333.2872 Acknowledgement of paternity; creating new certificate of birth; changing surname of child; sealing original certificate; addendum to certificate of live birth; creating new live birth certificate and sealing original. [M.S.A. 14.15(2872)]

Sec. 2872. (1) Upon written request and receipt of an acknowledgment of paternity from the probate court of a child born out of wedlock, the state registrar shall create a new certificate of birth to show paternity. Upon the written request

of the parents, the surname of the child shall be changed on the certificate to that designated by the parents. The certificate shall not be marked "amended". The original certificate of live birth shall be sealed in accordance with section 2832.

(2) Upon receipt of a certified copy of a court order changing the name of an individual born in this state and upon request of the individual or the individual's parents, guardian, or legal representative, the state registrar shall affix an addendum to the individual's certificate of live birth, which shall state the individual's new name and identify the court order. The state registrar shall create a new live birth certificate and seal the original certificate only if the court order changing the individual's name specifically directs the state registrar to do so or if the request relates to a minor whose name is changed pursuant to section 1 of chapter 11 of Act No. 288 of the Public Acts of 1939, as amended, being section 711.1 of the Michigan Compiled Laws.

333.2873 Conditions precluding amendment of vital record; reason for refusal; appeal; reporting amendment; preservation of original information. [M.S.A. 14.15(2873)]

Sec. 2873. (1) If an applicant does not submit the minimum documentation required by the department for amending a vital record or if the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statement or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise the applicant of the reason for the refusal. The applicant shall have the right to appeal to a circuit court.

(2) When a certificate is amended under this section or section 2871 or 2872, the state registrar shall report the amendment to the appropriate custodian of permanent local records who shall amend the record accordingly.

(3) The original information contained in a vital record which is amended shall be preserved by the state registrar in accordance with section 2876.

333.2876 Preservation of vital records and vital statistics; procedures. [M.S.A. 14.15(2876)]

Sec. 2876. The department shall provide by electronic, photographic, or other means for the preservation of vital records and vital statistics made or received by the department. Procedures shall be consistent with those established under the authority of part 26. The procedures shall require that vital records be stored in a manner reasonably calculated to assure the indefinite preservation of the information contained in the vital records against loss or destruction.

333.2881 Procedures applicable to system of vital statistics; verification of facts. [M.S.A. 14.15(2881)]

Sec. 2881. (1) The procedures established by the department pursuant to part 26 to protect the confidentiality of records and to regulate the disclosure of data contained in a departmental data system or system of records are applicable to the system of vital statistics.

(2) Upon written request and payment of the prescribed fee, the state registrar or local registrar shall verify for any person the following facts: the name or names of the individual to whom the vital record pertains, the nature of the event, the date of the event, the place of the event, and the date of filing.

333.2882 Issuance of certified copies; request; fee. [M.S.A. 14.15(2882)]

Sec. 2882. Upon written request and payment of the prescribed fee, the state registrar or local registrar shall issue:

(a) A certified copy of a live birth record or a certificate of registration containing the items indicated in section 2881(2) to the individual who is the subject of the live birth record, a parent named in the birth record, an heir, legal representative, or legal guardian of that individual, or a court of competent jurisdiction.

(b) A certified copy of a death record, including the cause of death, to any applicant.

(c) A certified copy of a marriage or divorce record to any applicant, except as provided by rule.

333.2883 Furnishing copies or data from system of vital statistics; requirements; availability of copies of certificates or reports. [M.S.A. 14.15(2883)]

Sec. 2883. (1) The department may furnish copies or data from the system of vital statistics to the federal agency responsible for national vital statistics if the federal agency shares in the cost of collecting, processing, and transmitting the data, and if the data is not used for other than statistical purposes by the federal agency unless authorized by the state registrar.

(2) The department may furnish copies or data from the system of vital statistics to federal, state, local, and other public or private agencies for statistical or administrative purposes upon terms or conditions prescribed by the department if the copies or data are used only for the purpose for which requested unless otherwise authorized by the state registrar.

(3) The department may make available copies of certificates or reports required under this part or data derived from the certificates or reports that the department determines are necessary to local health agencies for local health planning and program activities.

333.2884 Transmitting transcripts of records and other reports to offices of vital statistics outside state; agreement; return of transcripts; transcripts received from other jurisdictions. [M.S.A. 14.15(2884)]

Sec. 2884. The state registrar, by agreement, may transmit transcripts of records and other reports required by this part to offices of vital statistics outside this state when the records or other reports relate to residents of those jurisdictions or individuals born in those jurisdictions. The agreement shall require that the transcripts be used for statistical and administrative purposes only as specified in the agreement. The transcripts shall be returned by the other jurisdiction not later than 2 years after the date of the event or after the statistical tabulations have been accomplished, whichever is sooner. Transcripts received from other jurisdictions by the department in this state shall be handled in the same manner.

333.2886 Certified copies considered same as original; prima facie evidence. [M.S.A. 14.15(2886)]

Sec. 2886. A certified copy of a vital record, or any part thereof, or a certificate of registration issued in accordance with sections 2881 and 2882 is considered for all purposes the same as the original and is prima facie evidence of the facts stated in the original.

333.2888 Inspection of vital records, disclosure of information, and issuance of copies; procedures; appeal to state registrar. [M.S.A. 14.15(2888)]

Sec. 2888. (1) To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the system of vital

statistics, a person or governmental entity shall not permit inspection of, disclose information contained in vital records, or copy or issue a copy of all or part of a record except as authorized by this part, by rule, or by order of a court of competent jurisdiction. Procedures shall provide for adequate standards of security and confidentiality of vital records.

(2) The department may establish procedures for the disclosure of information contained in vital records for research purposes.

(3) An appeal from a decision of a custodian of permanent local records refusing to disclose information, or to permit inspection of or copying of records under the authority of this section and procedures adopted under section 2896, shall be made to the state registrar, whose decision is binding on the local custodian of permanent local records.

333.2891 Fees for vital statistic services; rules; prohibition; disposition of fees. [M.S.A. 14.15(2891)]

Sec. 2891. (1) The department shall promulgate rules to prescribe reasonable fees for:

(a) The filing, reproduction, duplication, amendment, certification, or authentication of vital records and vital statistics.

(b) A search of vital records or vital statistics files.

(c) Copies of vital statistics provided for research or statistical purposes.

(d) Other vital statistic services.

(2) The state registrar or a local registrar shall not charge a fee other than that prescribed.

(3) Fees collected under this section by the state registrar shall be deposited with the state treasury and credited to the general fund of this state.

(4) Fees collected under this section by a local registrar shall be deposited as the governing body of the city or county directs.

333.2894 Prohibited conduct. [M.S.A. 14.15(2894)]

Sec. 2894. (1) A person shall not:

(a) Wilfully and knowingly refuse to provide vital records information required by this part or the rules promulgated pursuant to this part.

(b) Wilfully and knowingly make a false statement in a vital record or report required to be filed under this code, or in an application for an amendment or for a certified copy of a vital record.

(c) Wilfully and knowingly supply false information intending that the information be used in the preparation of a vital record or amendment thereof.

(d) Wilfully and knowingly obtain, possess, use, sell, furnish, or attempt to obtain, possess, use, sell, or furnish to another person, for any purpose of deception, a counterfeit, altered, amended, or mutilated vital record or certified copy thereof.

(e) Wilfully and knowingly furnish or process a vital record or a certified copy of a vital record with the knowledge or intention that it be used for the purposes of deception.

(2) A person shall not make, counterfeit, alter, amend, or mutilate a vital record or report required to be filed under this part with the intent to deceive.

333.2895 Inspection or copying of information contained in system of vital statistics. [M.S.A. 14.15(2895)]

Sec. 2895. The state registrar or a local registrar or an agent or employee of the state or local registrar shall not disclose or permit the inspection or copying of

information contained in the system of vital statistics except as authorized by this part or the procedures adopted under section 2896.

333.2896 Rules; minimum requirements. [M.S.A. 14.15(2896)]

Sec. 2896. The department may promulgate rules necessary or appropriate to implement this part. The rules shall include, at a minimum, procedures relating to filings; form and content of vital records; minimum documentation required for the issuance or amendment of certificates or permits; inspection or disclosure of records and sealed files; fees; and the disposition of reports and applications not actively pursued.

333.2898 Violation; penalty. [M.S.A. 14.15(2898)]

Sec. 2898. A person who violates section 2894 or 2895 is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both.

333.2899 Reporting violation; statement; initiation of proceedings. [M.S.A. 14.15(2899)]

Sec. 2899. The state registrar may report a violation of this part or the rules promulgated pursuant to this part to the attorney general. A statement of the facts and circumstances of the violation shall be submitted with the report. Upon receipt of the report, the attorney general, either directly or through the prosecuting attorney of the county in which the violation occurred, may initiate appropriate proceedings against the person committing and responsible for the alleged violation.

PART 32. EMERGENCY MEDICAL SERVICES SYSTEM

333.3201 Meaning of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(3201)]

Sec. 3201. (1) For purposes of this part, the words and phrases defined in sections 3202 to 3206 have the meanings ascribed to them in those sections.

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

333.3202 Definitions; A to C. [M.S.A. 14.15(3202)]

Sec. 3202. (1) "Ambulance" means an ambulance as defined in section 20102.

(2) "Ambulance operation" means an ambulance operation as defined in section 20102.

(3) "Consumer" means a resident of this state who is a recipient or potential recipient of the services provided by an emergency medical services system, who does not receive direct or indirect personal, financial, or professional benefit as a result of an association with health care or emergency services other than that generally shared by the public at large, and who is not otherwise considered a provider under this part.

333.3203 Definitions; D to E. [M.S.A. 14.15(3203)]

Sec. 3203. (1) "Designated regional health planning agency" or "agency" means a health systems agency created under Public Law 93-641, 42 U.S.C. 217a nt, 229 nt, 291b nt, 300e-4, and 300k to 300t, or an organization or agency designated by a health systems agency or a regional comprehensive health planning agency created pursuant to 42 U.S.C. 246.

(2) "Emergency medical services system" means a comprehensive and integrated arrangement of the personnel, facilities, equipment, services, and

organizations necessary to provide emergency medical treatment to patients.

(3) "Emergency medical technician" means an emergency medical technician as defined in section 20304.

333.3206 Definitions; P to S. [M.S.A. 14.15(3206)]

Sec. 3206. (1) "Patient" means a patient as defined in section 20306.

(2) "Provider" means an individual or the spouse of an individual who individually or as a member of a profit or nonprofit corporation or organization, on a regular basis gives or offers for sale supplies, equipment, or professional or nonprofessional service, or is capable of giving or offering for sale supplies, equipment, or professional services vital for the provision of an organized emergency medical services system.

(3) "State health coordinating council" means the state health coordinating council created pursuant to Public Law 93-641, 42 U.S.C. 217a nt, 229 nt, 291b nt, 300e-4, and 300k to 300t.

(4) "State health planning and development agency" means the state health planning and development agency created pursuant to Public Law 93-641, 42 U.S.C. 217a nt, 229 nt, 291b nt, 300e-4, and 300k to 300t.

333.3209 Emergency medical services to individuals outside state; cooperative agreements. [M.S.A. 14.15(3209)]

Sec. 3209. This part shall not be construed to deny emergency medical services to individuals outside the boundaries of this state nor to limit, restrict, or prevent a cooperative agreement for the provision of emergency medical services between this state or a political subdivision of this state and another state or a political subdivision of another state, a federal agency, or the Dominion of Canada or a political subdivision of Canada.

333.3211 Duties of department. [M.S.A. 14.15(3211)]

Sec. 3211. The department shall:

(a) Be responsible for the planning, development, coordination, and administration of a statewide emergency medical services system. The statewide emergency medical services plan developed by the department shall be submitted to the state health planning and development agency for approval by the state health coordinating council and inclusion, upon approval, in the state health plan as prescribed in Public Law 93-641, 42 U.S.C. 217a nt, 229 nt, 291 nt, 300e-4, and 300k to 300t.

(b) Annually inventory or cause to be inventoried emergency medical services resources in this state for the purposes of determining the need for additional services and the effectiveness of existing services.

(c) Develop a standardized planning format for regional planning activities.

(d) Review, evaluate, and integrate regional emergency medical services plans developed by the designated regional health planning agencies pursuant to sections 3231 and 3232 and prepare a statewide emergency medical services plan. The statewide plan shall contain:

(i) A statement of specific measurable objectives for the delivery of emergency medical services.

(ii) The methods used to achieve the objectives.

(iii) A schedule for achievement of the objectives.

(iv) A method for evaluating the objectives.

(e) Update the statewide plan for the coordinated delivery of emergency medical services at least every 3 years.

(f) Develop an emergency medical services plan for a region if a plan is not submitted by a designated regional health planning agency pursuant to sections 3231 and 3232. The plan shall conform to sections 3231 and 3232.

333.3212 Additional duties of department. [M.S.A. 14.15(3212)]

Sec. 3212. The department shall:

(a) Develop and administer a statewide data collection system based on standardized forms and procedures. That system shall include uniform and continuous records for each patient. The record shall begin with the patient's initial entry into the emergency medical services system and continue through the patient's discharge from treatment programs. The department shall provide for the development of other data necessary for evaluation.

(b) Evaluate the availability and quality of emergency medical services under the emergency medical services system to assure a reasonable standard of performance by individuals and organizations providing the services.

(c) Develop and conduct a program of public information and education as to emergency medical services.

(d) Within 45 days after its receipt, review and comment on each grant and contract application for federal, state, or private funds concerning emergency medical services or related activities, and forward the application to the appropriate agency. An application not acted on by the department within 45 days is considered reviewed and favorably commented on.

(e) In case of disaster, assume command and control of emergency medical services and related transportation and communications operations consistent with the emergency preparedness plan of this state.

(f) Consistent with the rules of the federal communications commission, coordinate the development and assure the integration of the statewide radio communications facilities network for emergency medical services.

333.3215 Rules. [M.S.A. 14.15(3215)]

Sec. 3215. The department shall:

(a) After consultation with the statewide emergency medical service advisory council created in section 3221, promulgate rules to require and provide for the annual categorization, through the designated regional health planning agencies, of emergency facilities and services available at hospitals licensed under part 215. If a designated regional health planning agency is unwilling or unable to categorize emergency facilities and services in accordance with this subdivision, the department shall categorize hospital emergency facilities and services in that region.

(b) Promulgate rules to implement this part.

333.3221 Statewide emergency medical service advisory council; creation; membership. [M.S.A. 14.15(3221)]

Sec. 3221. (1) The statewide emergency medical service advisory council is created in the department and shall be composed of 19 members.

(2) Nine members shall be providers consisting of:

(a) Three licensed practicing physicians involved in emergency services, 1 of whom shall be a doctor of osteopathy.

(b) A law enforcement official involved in emergency medical services.

- (c) A fire official involved in emergency medical services.
- (d) A hospital representative.
- (e) An ambulance operator.
- (f) A nurse involved in emergency medical services.
- (g) An emergency medical technician.

(3) At least 1 provider member shall be appointed from each regional emergency medical service advisory council. The Michigan emergency services health council and other consumer and provider groups may recommend provider members to the governor.

(4) Ten members shall be consumers, at least 1 of whom shall be appointed from each regional emergency medical service advisory council created in this part.

(5) State agencies and private, nonprofit service agencies may participate as nonvoting ex officio members of the council.

333.3222 Statewide emergency medical service advisory council; appointment and terms of voting members; quorum; chairperson; meetings; compensation and expenses. [M.S.A. 14.15(3222)]

Sec. 3222. (1) The voting members of the statewide emergency medical service advisory council shall be appointed by the governor with the advice and consent of the senate. Of the members first appointed 10 shall be appointed for terms of 2 years and 9 for 3 years. Thereafter, members shall be appointed for terms of 3 years. Five consumer members and 5 provider members shall be selected for the first 2-year terms.

(2) Eleven members, 6 of whom shall be consumers, constitute a quorum for the transaction of business. The chairperson shall be a consumer elected annually from the council. The council shall meet at least 4 times annually at the call of the chairperson or the director. Meetings of the council shall be open to the public.

(3) The per diem compensation for the members and a schedule for reimbursement of expenses shall be established by the legislature.

333.3226 Statewide emergency medical service advisory council; duties. [M.S.A. 14.15(3226)]

Sec. 3226. The statewide emergency medical service advisory council shall:

(a) Approve or disapprove the proposed statewide emergency medical services plan. A plan not disapproved within 45 days is considered approved.

(b) Advise the department as to a standardized planning format pursuant to section 3211(c).

(c) Advise the department as to the development of a statewide data collection system pursuant to section 3212(a).

(d) Advise the department as to the development of a program of public information and education pursuant to section 3212(c).

(e) Advise the department as to the categorization of emergency facilities and services.

333.3231 Regional planning and coordinating agency; evaluation of emergency medical services; report; plan for delivery of emergency medical services. [M.S.A. 14.15(3231)]

Sec. 3231. (1) A designated regional health planning agency shall be the regional planning and coordinating agency for emergency medical services, shall provide continuous evaluation of emergency medical services for its geographic

area, and shall report its evaluations to the department. The agency shall annually develop a plan for the delivery of emergency medical services. The plan shall be consistent with the policies established for the statewide emergency medical services system and shall include:

(a) A statement of specific measurable objectives for the delivery of emergency medical services.

(b) Methods used to achieve the objectives.

(c) A schedule for achievement of the objectives.

(d) Estimated cost to achieve the objectives.

(e) Performance standards for evaluation of the objectives.

(f) Clearly described geographical regions to be served by each ambulance operation including cooperative arrangements with other providers and backup services.

(g) An adequate number of trained personnel for staffing of ambulances, communication facilities, hospital emergency rooms, and other emergency related services.

(h) Acquisition of necessary emergency equipment.

(i) A communications system that includes a central dispatch center, a central emergency resource coordination facility, links to the statewide emergency medical radio network, 2-way radio communication between the ambulance and the receiving hospital, and a universal emergency telephone number when that number is appropriate.

(j) A public education program stressing appropriate utilization of the emergency medical services system for that region, basic lifesaving techniques, and other necessary information.

333.3232 Cooperation in performing functions of agency; staff assistance; delegation of responsibility for local medical services planning; development of plan; subjects of plan; forwarding grant or contract application. [M.S.A. 14.15(3232)]

Sec. 3232. (1) An agency shall perform its functions in cooperation with the regional emergency medical services advisory council created by this part and shall provide necessary staff assistance to that council.

(2) The agency may delegate to local organizations willing to accept it, responsibility for local emergency medical services planning, and shall assist local organizations to develop a plan that will include the components enumerated in Public Law 93-154, 42 U.S.C. 300d to 300d-9. The plan shall deal with the following subjects:

(a) Manpower.

(b) Training.

(c) Communications.

(d) Transportation.

(e) Facilities.

(f) Critical care units.

(g) Public safety agencies.

(h) Consumer participation.

(i) Accessibility to care.

(j) Transfer of patients.

(k) Standard medical record keeping.

- (l) Evaluation.
- (m) Disaster linkage.
- (n) Mutual aid agreements.
- (o) Consumer information and education.

(3) The agency shall forward a grant or contract application to the department not less than 45 days before initiation of the funding agency's review process.

333.3235 Regional emergency medical services coordinator; appointment; responsibilities. [M.S.A. 14.15(3235)]

Sec. 3235. A designated regional health planning agency shall have a regional emergency medical services coordinator who shall be appointed by the designated regional health planning agency. The coordinator is responsible to the agency for:

- (a) Facilitating the work of the agency and the department in developing the plan for the coordination of emergency medical services in the region.
- (b) Assisting in implementation of the regional plan formulated by the agency pursuant to section 3231.
- (c) Continuous monitoring and evaluation of the emergency medical services in the region.
- (d) Making a complete inventory of personnel, facilities, and equipment in the region for the delivery of emergency medical services.

333.3237 Regional emergency medical service advisory council; creation; appointment and qualifications of members; organizational structure and council bylaws; meetings. [M.S.A. 14.15(3237)]

Sec. 3237. (1) A regional emergency medical service advisory council is created in a designated health planning region. Opportunity for membership shall be available to appropriate representatives from each of the following:

- (a) Local governments.
- (b) Fire officials.
- (c) Law enforcement officials.
- (d) Licensed practicing physicians and dentists involved in emergency services.
- (e) Emergency services nurses.
- (f) Mental health professionals.
- (g) Emergency medical technicians.
- (h) Allied health professionals.
- (i) Providers of ambulance services, including both paid and volunteer services.
- (j) Hospitals.

(2) Consumers shall comprise at least 51% of the council members. Council members shall be appointed by the designated regional health planning agency. An emergency medical service advisory council shall submit to the department information as to the organizational structure and council bylaws. Council meetings shall be open to the public.

333.3238 Regional emergency medical service advisory council; review of and comment on emergency medical service plan; disposition of plan. [M.S.A. 14.15(3238)]

Sec. 3238. (1) A regional emergency medical service advisory council, within 45 days of receipt of the plan, shall review and comment upon the designated

regional health planning agency's emergency medical service plan. If the plan is not reviewed within 45 days, it is considered reviewed and favorably commented on.

(2) After reviewing and commenting upon the regional emergency medical service plan, the regional emergency medical service advisory council shall forward the plan along with its comments to the governing body of the designated regional health planning agency, as described in Public Law 93-641, 42 U.S.C. 217a nt, 229 nt, 291b nt, 300e-4, and 300k to 300t. The governing body shall transmit to the department an approved plan together with the comments from the regional emergency medical service advisory council.

333.3249 Expiration. [M.S.A. 14.15(3249)]

Sec. 3249. This part expires June 30, 1981.

PART 36. NUTRITION SERVICES SYSTEM

333.3601 Meanings of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(3601)]

Sec. 3601. (1) For purposes of this part, the words and phrases defined in sections 3602 to 3606 have the meanings ascribed to them in those sections.

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

333.3602 Definitions; C. [M.S.A. 14.15(3602)]

Sec. 3602. (1) "Commission" means the statewide nutrition commission created in section 3611.

(2) "Consumer" means an individual other than a direct provider of nutrition services.

333.3604 Definitions; H to O. [M.S.A. 14.15(3604)]

Sec. 3604. (1) "Health service area" means an area designated by the secretary of the United States department of health, education, and welfare, pursuant to section 1511 of title 15 of the public health services act, 42 U.S.C. 300l.

(2) "Interagency committee" means the interagency committee created pursuant to section 3615.

(3) "Office" means the office of nutrition created in section 3609.

333.3606 Definitions; S. [M.S.A. 14.15(3606)]

Sec. 3606. (1) "Statewide health coordinating council" means the statewide health coordinating council created pursuant to section 1524 of title 15 of the public health services act, 42 U.S.C. 300m-3.

(2) "Statewide nutrition plan" means the plan developed by the office pursuant to section 3609.

333.3609 Office of nutrition; creation; duties; report. [M.S.A. 14.15(3609)]

Sec. 3609. (1) An office of nutrition is created within the central office of the director. Under the supervision of the director, the office shall:

(a) Coordinate the planning of a statewide nutrition system.

(b) Develop a statewide nutrition plan utilizing broad participation by health systems agencies, local health departments, local governmental entities, health professional associations, and the public. The plan shall be submitted, after approval by the commission, to the statewide health coordinating council for review, comment, and consideration in the development of the state health plan as prescribed in the national health planning and resource development act of

1974, 42 U.S.C. 217a nt, 229 nt, 291b nt, 300e-4, and 300k to 300t. The office shall update the statewide nutrition plan biennially. The statewide nutrition plan shall include:

- (i) A statement of nutrition problems and priorities.
- (ii) The methods used to address the problems and priorities.
- (iii) Measurable long-term and short-term objectives and a schedule for achievement.
- (iv) A method for evaluating the implementation of the plan.
- (c) Review and evaluate nutrition programs administered by state agencies, or funded in whole or in part by state funds or state administered federal funds, and report to the commission, the legislature, the governor, and the respective state agencies on performance relative to the considerations expressed in subdivision (b) (i)-(iii).
- (d) Review nutrition plans prepared by approved health departments pursuant to state law.
- (e) Serve as a clearinghouse and coordinator of information regarding nutrition activities and resources of the state and federal government, including a comprehensive itemization of nutrition related programs and activities of state agencies and participation rates and requirements.
- (f) Assist in the development of resources for nutrition related programs to meet the priorities specified in the statewide nutrition plan.
- (g) Promote and provide technical assistance to local agencies, including the development of local nutrition coordinating councils.
- (h) Advocate policies, resources, and programs, which improve the nutritional status of the residents of this state.

(2) Before April 1, 1979, and annually thereafter, the director and the commission shall submit a report to the legislature and governor. The report shall include:

- (a) An evaluation of the effectiveness of the office in the performance of its functions.
- (b) A proposed plan for the development of local nutrition coordinating councils, which shall include the functions, funding, and relationship of the local nutrition coordinating councils to the state.

333.3611 Statewide nutrition commission; creation; appointment and qualifications of members; reimbursement; chairperson; meetings; quorum; staff and technical assistance. [M.S.A. 14.15(3611)]

Sec. 3611. (1) A statewide nutrition commission is created within the executive office of the governor. The commission shall be composed of 15 members appointed by the governor with the advice and consent of the senate. At least 1 member shall be selected from each health service area. A majority of the commission members shall be consumers, including participants of federal and state nutrition programs.

(2) Commission members shall be reimbursed pursuant to section 1216.

(3) The chairperson shall be elected annually.

(4) The commission shall meet at least 4 times annually or at the call of the chairperson. A majority of the members appointed and serving shall constitute a quorum for the transaction of business.

(5) The department shall provide necessary staff assistance to the commission. Other state agencies shall provide technical assistance at the request of the commission.

333.3613 Statewide nutrition commission; duties. [M.S.A. 14.15(3613)]

Sec. 3613. The commission shall:

(a) Advise the office on the advocacy of nutrition policies, resources, and programs.

(b) Review and approve or disapprove the proposed statewide nutrition plan developed pursuant to section 3609. If the plan is not disapproved within 90 days after its receipt by the commission, it shall be considered approved. Upon disapproval, specific objections to the plan by the commission shall be transmitted to the office. The office shall revise the proposed plan and resubmit it to the commission within 30 days.

(c) Review budget projections for the nutrition component of state agencies to insure consistency with established nutrition priorities stated in the statewide nutrition plan.

(d) Make recommendations to the governor and the legislature regarding nutrition policies, services and programs, including legislation and appropriations for the implementation of the statewide nutrition plan.

333.3615 Interagency committee; creation; purpose; meetings; membership; chairperson; duties of committee. [M.S.A. 14.15(3615)]

Sec. 3615. (1) An interagency committee is created to assist the department and the commission and to promote interagency cooperation. The interagency committee shall meet at the call of the commission or the chairperson of the interagency committee.

(2) The interagency committee shall include the director, or the director's designee, of each of the following departments: public health; social services; mental health; corrections; agriculture; the bureau of community services in the department of labor; the office of health and medical affairs in the department of management and budget; the office of services to the aging in the department of management and budget; the cooperative extension of Michigan state university; and the superintendent of public instruction or the superintendent's designee.

(3) The director of public health or the director's designee shall serve as chairperson of the interagency committee.

(4) The interagency committee shall assist the department in the coordination of nutrition programs funded in whole or in part by state or state administered funds, and shall review and comment upon the statewide nutrition plan developed by the office.

333.3625 Expiration. [M.S.A. 14.15(3625)]

Sec. 3625. This part expires October 1, 1980.

**ARTICLE 5. PREVENTION AND CONTROL OF
DISEASES AND DISABILITIES****PART 51. GENERAL PROVISIONS****333.5101 Definitions and principles of construction.
[M.S.A. 14.15(5101)]**

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

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

(b) "Dangerous communicable disease" means a communicable disease which is so designated by the department pursuant to this part.

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

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

333.5111 Rules. [M.S.A. 14.15(5111)]

Sec. 5111. In carrying out its authority under this article, the department may promulgate rules to:

(a) Designate and classify communicable, dangerous communicable, chronic, other noncommunicable diseases, and disabilities.

(b) Establish requirements for reporting and other surveillance methods for measuring the occurrence of diseases and disabilities and the potential for epidemics.

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

(d) Establish procedures for control of diseases including immunization and environmental controls.

(e) Establish procedures for the prevention, detection, and treatment of disabilities and rehabilitation of individuals suffering from disabilities or disease, including nutritional problems.

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

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

333.5113 Medical treatment, testing, or examination as violative of personal religious beliefs; quarantine of individual affected by hazardous communicable disease; compliance with provisions regarding sanitation and reporting of diseases. [M.S.A. 14.15(5113)]

Sec. 5113. (1) Articles 5, 6, and 9 or the rules promulgated under those articles shall not be construed to require the medical treatment, testing, or examination of an individual who objects on the grounds that the medical treatment, testing, or examination violates the personal religious beliefs of the individual or of the parent, guardian, or person in loco parentis of a minor.

(2) Where there are reasonable grounds to believe that an individual exempted under subsection (1) is affected by a hazardous communicable disease, the department or a local health department may conduct examinations as provided by this code or rules promulgated under this code. If upon examination it appears that the individual is affected by a hazardous communicable disease, he or she may be quarantined in a manner approved by the local health department in which the individual resides.

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

PART 52. HAZARDOUS COMMUNICABLE DISEASES

**333.5201 Definitions and principles of construction.
[M.S.A. 14.15(5201)]**

Sec. 5201. (1) As used in this part:

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

(b) "Venereal disease" means syphilis, gonorrhea, chancroid, lymphogranuloma venereum, granuloma inguinale, and other sexually transmitted diseases which the department by rule may designate and require to be reported.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

333.5203 Declaration of hazardous communicable diseases. [M.S.A. 14.15(5203)]

Sec. 5203. This part applies to designated dangerous communicable diseases, tuberculosis, and venereal disease, all of which are declared to be hazardous communicable diseases.

333.5211 Control and elimination of hazardous communicable diseases; procedures. [M.S.A. 14.15(5211)]

Sec. 5211. The department may establish procedures for health officers and other persons charged with administration and enforcement of the laws of this state relating to the discovery and care of an individual having or suspected of having a hazardous communicable disease. The procedures shall be reasonably related to the control and elimination of hazardous communicable diseases and shall provide for the confinement of a recalcitrant or uncooperative patient who refuses to conduct himself or herself in accordance with health laws or the reasonable regulations of the facility or location in which the patient is receiving care.

333.5213 Report by physician of hazardous communicable disease; form; time. [M.S.A. 14.15(5213)]

Sec. 5213. A physician shall report in writing to agencies designated by the department every case of hazardous communicable disease that comes under the physician's professional observation. The report shall be submitted on a form furnished by the department, not more than 24 hours after the physician determines that a patient has a hazardous communicable disease.

333.5215 Furnishing care to individual having hazardous communicable disease; order; report; determining probable place of domicile; financial liability for care rendered. [M.S.A. 14.15(5215)]

Sec. 5215. (1) A local health department, which knows that an individual having a hazardous communicable disease, regardless of the individual's domicile, is in the local health department's jurisdiction and requires care, immediately shall furnish the necessary care in accordance with requirements established by the department pursuant to section 5269. In making the provision the local health department shall issue an order authorizing the care.

(2) The local health department promptly shall report the action taken under this section or sections 5219 and 5226 to the county department of social services of the individual's probable place of domicile.

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

(4) Financial liability for care rendered under this section shall be determined in accordance with sections 5231 and 5234.

333.5217 Failure or refusal to comply with rule or order; investigation; petition for order directing admission to facility or submission to care. [M.S.A. 14.15(5217)]

Sec. 5217. When a local health department or the department knows that an individual having a hazardous communicable disease has failed or refused to comply with a rule or proper order of a local health department or is unable or unwilling to conduct himself or herself and to live in a manner which will not expose members of his or her family or household, or other individuals with whom he or she may be associated or in contact, to the danger of infection, the local health department or department immediately shall investigate the circumstances. Upon finding that the individual is a source of danger to other individuals, and is unwilling voluntarily to enter a facility or submit to care, the local health department or department shall petition the probate court of the county in which the individual is domiciled or is found for an order directing admission of the individual to an appropriate facility or submission to care.

333.5218 Hearing; time; notice; waiver. [M.S.A. 14.15(5218)]

Sec. 5218. (1) Upon receipt of the petition, the probate court shall fix a date for hearing.

(2) Notice of the petition and the time and place of the hearing shall be served personally, not less than 3 days before the hearing, on the individual and the petitioner. The individual and the petitioner may waive notice of hearing, and upon filing of the waiver in writing, the probate court may hear the petition immediately.

333.5219 Order committing individual to facility or to submit to care; changing place of confinement or care; review. [M.S.A. 14.15(5219)]

Sec. 5219. If, upon hearing, it appears that the complaint of the petitioner is valid and that the individual is a source of danger to other individuals, the probate court shall order the individual committed to an appropriate facility or to submit to care. The order shall provide that the department may change the place of confinement or care for reasonable cause. If the patient applies for a review not more than 1 month after the patient is informed of the change, the probate court making the order shall review the change.

333.5220 Obedience to regulations of facility; placing individual apart from other patients. [M.S.A. 14.15(5220)]

Sec. 5220. A committed individual shall obey the regulations of the facility. The chief administrative officer of the facility may place an individual who neglects or refuses to obey the regulations apart from other patients, and may take measures necessary to insure the continued presence of the individual in the facility for the protection of the individual or the protection of the community from infection by the individual.

333.5221 Discharge of individual; statement; report. [M.S.A. 14.15(5221)]

Sec. 5221. The chief administrative officer of the facility to which the individual is committed, upon signing and placing in the permanent records of the facility a statement that in the chief administrative officer's judgment the individual may be discharged without danger to other individuals, or for any other reasons stated in full which the chief administrative officer considers adequate and sufficient, may discharge the individual. The chief administrative officer immediately shall report the discharge with a full statement of the reasons therefor to the probate court making the order and to the local health department of the jurisdiction in which the patient was domiciled or was found.

333.5225 Petition for order directing isolation or examination; grounds; place; conditions. [M.S.A. 14.15(5225)]

Sec. 5225. If a local health department has reasonable grounds to believe that an individual has a hazardous communicable disease and the individual is unwilling to submit to an examination, which may include x-ray studies, blood samples, or the collection of specimens for laboratory study, as requested by the local health department, or refuses to make the results of the studies available to that department, the local health department may petition the probate court of the county in which the individual is domiciled or is found for an order directing isolation or examination, or both, in a place and under conditions to prevent the conveyance of the disease or infectious agent to other individuals.

333.5226 Hearing; time; notice; order for examination or isolation; duration of order; notice of termination of commitment; petition by department; proceedings. [M.S.A. 14.15(5226)]

Sec. 5226. (1) Upon receipt of the petition, the probate court shall fix a date for hearing. Notice of the petition and the time and place of hearing shall be served personally, not less than 3 days before the hearing, on the individual suspected of having a hazardous communicable disease and on the petitioner.

(2) If, upon hearing, it appears that the complaint of the petitioner is valid, the probate court shall order the examination or isolation, or both, of the suspected individual in a facility. The order shall remain in effect not more than 60 days or until the chief administrative officer of the facility certifies to the petitioner that in the chief administrative officer's opinion the individual is not a danger to the public health, whichever occurs sooner, or the commitment is terminated in accordance with section 5221.

(3) Upon termination of the commitment, the chief administrative officer of the facility immediately shall notify the probate court making the order.

(4) If, within 60 days, the department petitions the court under section 5217, the matter shall proceed in accordance with sections 5217 to 5219. The order made under this section shall remain in effect until the further order of the probate court.

333.5229 Appeal for medical review board recommendation; appointment and qualifications of board members; continuation or termination of commitment. [M.S.A. 14.15(5229)]

Sec. 5229. A patient committed under section 5219 or 5226 may appeal through the committing court for a medical review board recommendation as to whether or not the patient's medical status permits termination of the commitment. The medical review board shall consist of 3 physicians appointed by the probate court from a list of physicians, submitted by the department, who have training and experience in the treatment of hazardous communicable disease. However, upon the request of the patient, the court shall appoint as 1 member a physician having training and experience in the treatment of hazardous communicable disease who is selected by the patient. Upon receipt of the findings of the medical review board, the court may continue or terminate the commitment.

333.5231 Expense of care; reimbursement; individuals considered domiciled in state; reasonableness of claims and accounts; appeal. [M.S.A. 14.15(5231)]

Sec. 5231. The county in which an individual receiving care under this part has a domicile is chargeable with the expense of the care, and this state shall

reimburse that county for all or a portion of the expense in the amounts the legislature appropriates therefor. An individual having tuberculosis who has not acquired a legal settlement in this state, in accordance with Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.121 of the Michigan Compiled Laws, or an individual who was honorably discharged from the military services of the United States and not otherwise hospitalized for the purpose of this part shall be considered to be domiciled in this state at large, and the expense of that individual's care under this part while the care continues with the approval of the department shall be paid by the state, on certification of the department. The reasonableness and propriety of all claims and accounts under this part shall be passed upon and determined by the department, subject to appeal to the circuit court for the county of Ingham as to questions of law.

333.5232 Providing care where individual found; expense of county of domicile; notice; return of individual; determining county of domicile; finality; care pending determination. [M.S.A. 14.15(5232)]

Sec. 5232. (1) Upon determination by the county department of social services that the place of domicile of an individual receiving care under this part is in another county in this state, care shall be provided where the individual is found at the expense of the county where the individual is domiciled. The county department of social services, not later than 1 month after the commencement of care, shall mail written notice that the care is being provided to the local department of social services of the individual's county of domicile. The local health department of the county of domicile, if it deems necessary, may provide for the return of the individual to, and care in, that county.

(2) If the domicile of the individual is not acknowledged by the alleged county of domicile within 1 month after mailing the notice, the question of domicile may be submitted for decision to the state department of social services. When a disputed or contested claim arises between 2 or more counties as to the county of domicile, the director of social services shall determine the county of domicile when so requested or on his or her own motion. The decision of the director of social services is final. However, pending determination, the county in which the individual is found shall provide the necessary care.

333.5233 Reimbursement of county where individual found. [M.S.A. 14.15(5233)]

Sec. 5233. Upon determination by the director of social services that the county where the individual is found is not the county of domicile, the county of domicile, as determined by that director of social services, shall reimburse the county where the individual is found for all expenses incurred less any reimbursements from the state or other source for the care.

333.5234 Expenditure for care considered expenditure for protection of public health; reimbursement; order; pro rata distribution of receipts and voluntary payments. [M.S.A. 14.15(5234)]

Sec. 5234. An expenditure of public funds for the care of an individual having a hazardous communicable disease is considered an expenditure for the protection of the public health, and not money advanced as welfare or relief. An individual is not legally obligated to reimburse the expense incurred, unless the department and the county of domicile, after reasonable notice and upon a hearing find that the individual hospitalized or treated, or the persons legally liable for the individual's support, are possessed of sufficient income or estate to enable them to make the reimbursement in whole or in part without materially affecting their reasonable economic security or support, in view of their

respective resources, obligations, and responsibilities to dependents and order reimbursement. The order shall not be made retroactive unless the department and the county of domicile find that the person to be charged is guilty of misrepresenting or withholding knowledge of facts material to the issue. Receipts under the order, and money voluntarily paid as reimbursement, shall be distributed pro rata to the funds out of which the expenditure was made.

333.5236 Violation as misdemeanor; leaving facility as contempt of court. [M.S.A. 14.15(5236)]

Sec. 5236. (1) A person who violates sections 5213 to 5232 or a rule promulgated to implement those sections is guilty of a misdemeanor.

(2) An individual determined by a probate court to be a source of danger to others because of unwillingness or inability to live in a manner to prevent the spread of the individual's hazardous communicable disease who is committed by the probate court to a facility and who leaves the facility before termination of the commitment as provided by law is guilty of a contempt of court, punishable as provided by law.

333.5238 Transferred records, files, and other property; preservation and maintenance. [M.S.A. 14.15(5238)]

Sec. 5238. The department shall preserve and maintain records, files, and other property transferred to the department by the tuberculosis sanatorium commission or a facility for the care and treatment of tubercular patients in the manner and for the time the department deems necessary.

333.5241 Examination for venereal disease as prerequisite for marriage license; order waiving examination; list of family planning centers and agencies; certificate or order required; scope of medical examination; tests free of charge. [M.S.A. 14.15(5241)]

Sec. 5241. (1) An individual applying for a marriage license shall either be examined as to the existence or nonexistence in each applicant of a venereal disease within 30 days before the application or secure a written order waiving the examination requirements pursuant to section 5242. An applicant may receive from the county clerk a list of family planning centers and agencies located in the county which has been prepared by the local health department.

(2) A county clerk shall not issue a marriage license to an individual who fails to present and file either a certificate setting forth that the individual is free from venereal disease or, if infected, is in a noncommunicable stage and will not endanger the health of the other party to the proposed marriage or the issue of the marriage or a written order waiving the examination requirement. To obtain the certificate, both parties to a proposed marriage, within 30 days before applying for a marriage license, shall submit to a medical examination by a physician for the presence of venereal disease in a communicable stage. The examination shall include laboratory tests including a serological test approved by the department, a dark field test when indicated, and an approved test for gonococci when indicated, the specimens for which shall be submitted in a manner prescribed by the department.

(3) The department or a licensed laboratory shall make the tests, which shall be free of charge when made by the department.

333.5242 Objection to certificate requirements as violative of personal religious beliefs; order waiving requirements. [M.S.A. 14.15(5242)]

Sec. 5242. When an applicant or prospective applicant for a marriage license files a written objection with the judge of a district court or circuit court for the

county in which the license is to be issued stating that the certificate requirements of section 5241(2) violate the personal religious beliefs of the applicant, the judge may issue a written order waiving the requirements for that applicant.

333.5245 Prohibited conduct; misdemeanor. [M.S.A. 14.15(5245)]

Sec. 5245. A person who commits any of the following acts is guilty of a misdemeanor:

(a) A county clerk who issues a license to marry to an individual who fails to present a certificate or written order required by section 5241.

(b) A person having knowledge of any matter relating or pertaining to the examination of an applicant for a marriage license or a clinical or laboratory test taken by any party to a proposed marriage, who discloses the matter or any portion thereof, except as required by law.

(c) A physician who knowingly and wilfully makes a false statement in a certificate given by the physician under section 5241.

333.5251 Test specimens of pregnant woman; venereal disease tests; record; availability of tests and records. [M.S.A. 14.15(5251)]

Sec. 5251. (1) A physician or an individual authorized by law to attend a pregnant woman shall take or cause to be taken, unless medically inadvisable, at the time of the woman's initial examination, test specimens of the woman and shall submit the specimens to a laboratory approved by the department for the purpose of performing standard venereal disease tests approved by the department.

(2) The physician shall make and retain a record showing the date the tests were made and the results of the tests, and if not made, the reason why.

(3) The tests and records are not public records but shall be available to local health departments and to physicians treating the woman.

333.5254 Treating eyes of infant with approved prophylaxes; report. [M.S.A. 14.15(5254)]

Sec. 5254. A health professional in charge of the care of a newborn infant, or if none, the health professional in charge at the birth of an infant, shall treat the eyes of the infant with 1 or more of the prophylaxes approved by the department within 1 hour after the birth of the infant, or as soon thereafter as the health professional is present. If any redness, swelling, inflammation, or gathering of pus appears in the eyes of the infant or upon the lids or about the eyes within 2 weeks after birth, a nurse, nurse-midwife, or other person having care of the infant shall report the condition to the physician in charge of the care of the child, or if none, to the local health department within 6 hours after its discovery.

333.5257 Consent executed by minor infected with venereal disease valid and binding; consent of other person unnecessary; information as to treatment given; legal responsibility for services. [M.S.A. 14.15(5257)]

Sec. 5257. (1) The consent to the provision of medical or surgical care, treatment, or services by a hospital, clinic, or physician executed by a minor who is or professes to be infected with a venereal disease is valid and binding as if the minor had achieved the age of majority. The consent is not subject to later disaffirmance by reason of minority. The consent of any other person, including a spouse, parent, or guardian, or person in loco parentis, is not necessary to authorize these services to be provided to a minor.

(2) For medical reasons a treating physician, and on the advice and direction of the treating physician, a physician, a member of the medical staff of a hospital

or clinic, or other health professional, may, but is not obligated to, inform the spouse, parent, guardian, or person in loco parentis as to the treatment given or needed. The information may be given to or withheld from these persons without consent of the minor and notwithstanding the express refusal of the minor to the providing of the information.

(3) A spouse, parent, guardian, or person in loco parentis of a minor is not legally responsible for service provided under this section.

333.5261 Prostitution; arrest and charge; examination; detention. [M.S.A. 14.15(5261)]

Sec. 5261. An individual arrested and charged with violating section 448, 449, 450, 452, or 455 of Act No. 328 of the Public Acts of 1931, as amended, being sections 750.448, 750.449, 750.450, 750.452, and 750.455 of the Michigan Compiled Laws, or a local ordinance prohibiting prostitution shall be examined by the local health department to determine whether the individual has venereal disease. The individual may be detained for not more than 5 days in an appropriate place designated by the law enforcement officer having custody of the individual until the local health department, after appropriate examination, testing, and therapy, if necessary, finds that the individual is noninfectious.

333.5267 Release of reports, records, and data pertaining to care and treatment of venereal disease. [M.S.A. 14.15(5267)]

Sec. 5267. The reports, records, and data of the department or a local health department pertaining to the care and treatment of venereal disease may be released only in accordance with procedures established under part 26, or when the department or a local health department has reasonable cause to suspect a case of child abuse as provided by Act No. 238 of the Public Acts of 1975, being sections 722.621 to 722.636 of the Michigan Compiled Laws.

333.5269 Rules. [M.S.A. 14.15(5269)]

Sec. 5269. The department may promulgate rules to implement this part including rules for the discovery, care, and reporting of an individual having or suspected of having a hazardous communicable disease and rules to establish approved tests under section 5251 and approved prophylaxes under section 5254.

PART 54. CHRONIC DISEASES

333.5401 "Chronic disease" defined; general definitions and principles of construction. [M.S.A. 14.15(5401)]

Sec. 5401. (1) As used in this part, "chronic disease" includes an impairment or deviation from normal having 1 or more of the following characteristics:

- (a) It is permanent.
- (b) It leaves residual disability.
- (c) It is caused by nonreversible pathological alterations.
- (d) It requires special training of the patient for rehabilitation.
- (e) It may be expected to require a long period of supervision, observation, or care.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

333.5411 Chronic disease prevention and control program; statewide program as to mental disabilities; establishment; scope; programs continued. [M.S.A. 14.15(5411)]

Sec. 5411. (1) The department shall establish a chronic disease prevention and control program which shall include arthritis, cancer, dental disease, diabetes, genetic disease, heart disease, hypertension, renal disease, and any other disease the department designates as chronic pursuant to section 5439. The department shall cooperate with the department of mental health in establishment of a statewide program for genetic screening and counseling in the area of mental disabilities.

(2) Programs established under this part shall continue, at a minimum, the programs established pursuant to Act No. 96 of the Public Acts of 1975, being sections 329.551 to 329.557 of the Michigan Compiled Laws, and Act No. 335 of the Public Acts of 1974, being sections 325.531 to 325.533 of the Michigan Compiled Laws.

333.5412 Scope of chronic disease program; availability of services subject to appropriation; contracts for programs; evaluation of program; recommending discontinuance of program. [M.S.A. 14.15(5412)]

Sec. 5412. (1) The chronic disease program shall include the prevention of chronic diseases; the early detection and reporting of cases; and surveillance, treatment, education, rehabilitation, and maintenance of patients suffering from chronic diseases. The availability of services under this program is subject to appropriations.

(2) The program may include the promotion, support, or conduct of studies or research on chronic diseases and their relation to the health and welfare of the people of this state; the promotion, support, and conduct of programs of community and professional education; the development or purchase and distribution of educational and informational material; the furnishing of laboratory services; and the promotion and establishment of cooperative relationships or programs with hospitals, clinics, social and health agencies, educational and research organizations, and other related groups.

(3) The department may contract with local health departments, other agencies of government, nonprofit corporations, and individuals for carrying out any of these programs.

(4) Periodically, but not less than each 3 years, the department shall evaluate the program to determine its effectiveness.

(5) The public health advisory council, based on appropriate data, may recommend discontinuance of a disease program established under this part.

333.5421 Chronic disease advisory committee; creation; appointment of members; committee subject to §333.2215. [M.S.A. 14.15(5421)]

Sec. 5421. The chronic disease advisory committee is created in the department. The governor shall appoint the members with the advice and consent of the senate. The committee is subject to section 2215.

333.5423 Chronic disease advisory committee; advising and assisting department; reimbursement for travel expenses. [M.S.A. 14.15(5423)]

Sec. 5423. (1) The chronic disease advisory committee shall advise and assist the department in the implementation of this part.

(2) The chronic disease advisory committee members shall be reimbursed for their necessary travel expenses for attendance at meetings pursuant to section 1216.

333.5425 Chronic disease advisory committee; creation and purpose of subcommittee; chairperson; membership. [M.S.A. 14.15(5425)]

Sec. 5425. The chronic disease advisory committee may create a subcommittee to advise it as to a specific chronic disease, determine the size of the subcommittee, and appoint its members, who need not all be members of the committee. The chairperson of a subcommittee shall be a member of the committee. The members of a subcommittee shall be individuals concerned with the prevention and control of the specific chronic disease.

333.5429 Renal disease subcommittee; former committee continued; termination of section. [M.S.A. 14.15(5429)]

Sec. 5429. (1) Until a renal disease subcommittee of the chronic disease advisory committee is created pursuant to section 5425, the committee created by section 3 of Act No. 96 of the Public Acts of 1975, being section 325.553 of the Michigan Compiled Laws, shall continue in effect notwithstanding the repeal of that act but shall act only in an advisory capacity to the chronic disease advisory committee.

(2) This section shall terminate when the renal disease subcommittee of the committee is appointed or 2 years after the effective date of this part, whichever occurs first.

333.5431 Test for phenylketonuria and other handicapping conditions; report; administration of test; violation as misdemeanor. [M.S.A. 14.15(5431)]

Sec. 5431. (1) A health professional in charge of the care of a newborn infant or, if none, the health professional in charge at the birth of an infant shall administer or cause to be administered to the infant a test for phenylketonuria and other handicapping conditions as designated by the department and report the results of a positive test to the infant's parents, guardian, or person in loco parentis. The test shall be administered within a time and under conditions prescribed by the department.

(2) A person who violates this section or a rule promulgated under this section is guilty of a misdemeanor.

333.5439 Rules. [M.S.A. 14.15(5439)]

Sec. 5439. The department may promulgate rules to implement this part including rules designating additional chronic diseases and the time and conditions under which tests required by section 5431 shall be administered.

PART 56. OCCUPATIONAL DISEASES**333.5601 "Occupational disease" defined; general definitions and principles of construction. [M.S.A. 14.15(5601)]**

Sec. 5601. (1) As used in this part, "occupational disease" means an illness of the human body arising out of and in the course of an individual's employment and having 1 or more of the following characteristics:

(a) It is caused by a frequently repeated or continuous exposure to a hazardous substance or agent or to a specific industrial practice which is hazardous and which has continued over an extended period of time.

(b) It is caused by an acute exposure to a hazardous substance or agent.

(c) It presents symptoms characteristic of an occupational disease known to have resulted in other cases from the same type of specific exposure.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

333.5611 Report of occupational disease or health condition aggravated by workplace exposures; time; contents; forms and instructions. [M.S.A. 14.15(5611)]

Sec. 5611. (1) A physician, hospital, clinic, or employer knowing of an individual having a case of occupational disease or a health condition aggravated by workplace exposures shall report the case to the department within 10 days after the discovery of the occupational disease or condition.

(2) A physician, hospital, clinic, or employer knowing of a suspected case of occupational disease or a health condition aggravated by workplace exposures shall report the case to the department within 10 days after the discovery of the occupational disease or condition.

(3) The report shall state the name and address of the individual, the name and business address of the employer, the business of the employer, the place of the individual's employment, the length of time of employment in the place where the individual became ill, the nature of the disease, and other information required by the department.

(4) The department shall prepare and furnish the report forms and instructions for their use to physicians, hospitals, clinics, and employers.

333.5613 Investigation; advising physician of nature of hazardous substance or agent and conditions of exposure; confidentiality. [M.S.A. 14.15(5613)]

Sec. 5613. (1) The department, upon receiving a report under section 5611 or believing that a case or suspected case of occupational disease exists in this state, may investigate to determine the accuracy of the report and the cause of the disease.

(2) To aid in the diagnosis or treatment of an occupational disease, the department shall advise the physician in charge of a patient of the nature of the hazardous substance or agent and the conditions of exposure of the patient as established by the investigation. In so doing the department shall protect the confidentiality of trade secrets or privileged information disclosed by the investigations in accordance with section 13 of Act No. 442 of the Public Acts of 1976, being section 15.243 of the Michigan Compiled Laws.

333.5621 Reports not public records; exemption from disclosure; access to record. [M.S.A. 14.15(5621)]

Sec. 5621. (1) Reports submitted to the department under section 5611 are not public records and are exempt from disclosure pursuant to section 13(1) (d) of Act No. 442 of the Public Acts of 1976.

(2) The bureau of worker's disability compensation and the compensation appeal board in the department of labor shall have access to the record of an actual case of occupational disease in a compensation case before it.

333.5623 Statistical summaries; dissemination of instructions and information. [M.S.A. 14.15(5623)]

Sec. 5623. (1) Not less than once each year, the department shall compile statistical summaries of all occupational diseases reported and accepted as covering true occupational diseases, and the kinds of employment leading to the occurrence of the diseases.

(2) The department shall disseminate to appropriate employers in this state appropriate instructions and information to prevent the occurrence of occupational diseases.

333.5639 Failure to make report or wilful false statement as misdemeanor; penalty. [M.S.A. 14.15(5639)]

Sec. 5639. A physician, hospital or clinic administrator, or employer who fails to make a report or who wilfully makes a false statement in a report required by section 5611(1) is guilty of a misdemeanor punishable by a fine of not more than \$50.00.

PART 58. CRIPPLED CHILDREN

333.5801 "Crippled child" or "child" defined; general definitions and principles of construction. [M.S.A. 14.15(5801)]

Sec. 5801. (1) As used in this part, "crippled child" or "child" means a single or married individual under 21 years of age whose activity is or may become so restricted by disease or deformity as to reduce the individual's normal capacity for education and self-support.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

333.5805 Services to be developed, extended, and improved; purpose. [M.S.A. 14.15(5805)]

Sec. 5805. (1) The department shall develop, extend, and improve services:

(a) For locating crippled children and children suffering from conditions which lead to crippling.

(b) For providing medical, surgical, corrective, nutritional, and other services and care, including aftercare when necessary, and facilities for diagnosis and hospitalization of crippled children.

(c) For preventing, insofar as possible, crippling conditions.

(2) The program shall be carried out for the purposes of providing medical and physical care for crippled children and for making them self-sustaining in whole or in part rather than dependent on the public for support.

333.5811 Crippled children's advisory committee; creation; appointment of members; successor to Michigan crippled children commission; subject to §333.2215; election of chairperson and vice-chairperson; meetings; traveling expenses; conferring with and advising department. [M.S.A. 14.15(5811)]

Sec. 5811. (1) The crippled children's advisory committee is created in the department. The committee consists of 5 members appointed by the governor, upon recommendation of the director.

(2) The committee is the successor to the Michigan crippled children commission and is subject to section 2215.

(3) The committee annually shall elect a chairperson and a vice-chairperson from its members and shall meet on call of the department.

(4) The members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary traveling expenses pursuant to section 1216.

(5) The committee shall confer with and advise the department as to its functions under this part.

333.5815 Program of services; establishment and administration; rules. [M.S.A. 14.15(5815)]

Sec. 5815. The department shall establish and administer a program of services for crippled children and children who are suffering from conditions which lead to crippling. In implementing this part, the department shall promulgate rules:

(a) To prescribe requirements for the approval of facilities and treatment centers, medical and surgical specialists, and other providers.

(b) To regulate the conduct of clinics; handling of cases; fixing of treatment fees, charges for correctional equipment, and institutional rates; and prescribing procedures for audit and payment of bills.

(c) To implement section 5841.

333.5817 Duties of department. [M.S.A. 14.15(5817)]

Sec. 5817. The department shall:

(a) Formulate and administer detailed plans to implement the policy stated in section 5805. The plans shall include provisions for:

(i) Financial participation by this state.

(ii) Administration of the plans including methods of administration necessary for efficient operation of the plans.

(iii) Maintenance of records and preparation of reports of services rendered.

(iv) Cooperation with medical, health, nursing, and welfare groups and organizations, and with any agency of this state charged with the administration of laws providing for vocational rehabilitation and special education of physically handicapped children.

(b) Expend in accordance with the plans funds made available to this state by the federal government for those purposes.

(c) Cooperate with the federal government, under title 5 of the social security act of 1935, 42 U.S.C. 701 to 716, through its appropriate agency or instrumentality, in developing, extending, and improving services, provided by this part and in the administration of the plans.

333.5821 Diagnostic clinics and services; availability of results of examinations. [M.S.A. 14.15(5821)]

Sec. 5821. (1) The department shall provide for diagnostic clinics for crippled children in places, at times, and under circumstances it determines. The department may purchase diagnostic services from outpatient departments of approved hospitals and other facilities.

(2) Results of examinations at clinics shall be available to parents and individuals and agencies providing social and remedial services to crippled children where they are residents, unless otherwise prohibited by law.

333.5823 Eligibility for services; application; financial investigation; medical evidence; copy of reports. [M.S.A. 14.15(5823)]

Sec. 5823. When a crippled child is found whose condition can be treated and whose parent or spouse is unable to provide proper care and treatment, a person authorized by rule shall apply to a designated representative of the department for eligibility for services under this part. The representative shall make a financial investigation and secure medical evidence as to the condition of the child. A copy of the report of the financial investigation and the report of a physician or dentist, if any, shall be sent to the department.

333.5825 Eligibility for services; determination; transportation; monitoring; transfers; referrals. [M.S.A. 14.15(5825)]

Sec. 5825. Upon receipt of the financial and medical reports, the department shall promptly consider the matter and make a determination of eligibility. The department shall authorize the transportation of an eligible crippled child to a provider of services approved and designated by the department. The department shall monitor the proper handling of the case and may transfer the crippled child to some other provider for treatment better adapted to the child's needs. In making referrals under this part the department shall not discriminate against health professionals qualified to render care.

333.5826 Approval of hospital, facilities, and specialists. [M.S.A. 14.15(5826)]

Sec. 5826. The department may approve for the rendering of services under this part a hospital maintaining clinical services and convalescent and educational facilities, including qualified instructional service, and attending medical and surgical specialists approved by the department.

333.5828 Hospital bed to be provided; assignment to bed for operation or treatment. [M.S.A. 14.15(5828)]

Sec. 5828. The administrator of a hospital shall provide a bed in the hospital to which a crippled child shall be assigned for operation or treatment, or both, of the child's disease or deformity. The physician or surgeon approved by the department shall proceed as promptly as necessary to perform or give a necessary operation or treatment.

333.5831 Reports from approved hospital; forms; contents; time. [M.S.A. 14.15(5831)]

Sec. 5831. (1) An approved hospital receiving crippled children shall send to the department written reports on forms furnished by the department which shall contain dates of admission and discharge, names of approved physicians and surgeons, and other information the department requires.

(2) The times for making the reports shall conform to applicable state and federal requirements.

333.5835 Educational services for convalescent crippled child; compliance; records. [M.S.A. 14.15(5835)]

Sec. 5835. (1) An approved hospital shall arrange with the local school district in which a child resides to provide or contract for educational services for a convalescent crippled child.

(2) Courses of study, attendance record systems, adequacy of methods of instruction, qualifications of teachers and conditions under which they are employed, and purchases of necessary equipment for the instruction of crippled children in the hospital shall comply with requirements prescribed by the department of education.

(3) A hospital shall keep daily records on the regular child accounting forms used in the public schools, listing all children actually receiving instruction.

333.5841 Charges for care and treatment of crippled child; agreement for payment; information; account; disposition of payments. [M.S.A. 14.15(5841)]

Sec. 5841. (1) All or part of the charges for the care and treatment of a crippled child where the child, parent, or spouse is of sufficient ability to pay shall

be paid to the department of treasury by those persons in the amount and at a rate determined by agreement with the department. Upon admission to service of the crippled child, the department of public health shall furnish the department of treasury information required to keep a correct account of the money due the state from the child, parent, or spouse. Payment of the costs by the child, parent, or spouse shall be made to the department of treasury in accordance with the agreement. The department of treasury shall credit the payments to the crippled children's fund.

(2) The department may modify or cancel an agreement made under this section based on economic or other factors and shall report that action to the department of treasury.

(3) The department of treasury may accept and issue a receipt for an amount due under an agreement or modification under this section.

333.5843 Cost of care and surgical and medical treatment; subrogation. [M.S.A. 14.15(5843)]

Sec. 5843. This state shall be subrogated to the rights of recovery which a child, parent, spouse, or guardian may have against a liable third party for the cost of care and surgical and medical treatment provided for a crippled child under this part to the extent that the state has spent moneys for that care and treatment.

333.5847 Payments not considered social services aid; individual not considered indigent. [M.S.A. 14.15(5847)]

Sec. 5847. Payments made by the state pursuant to this part are not considered social services aid, and an individual is not considered an indigent because of inability to pay for the care and treatment of a crippled child.

333.5861 Receiving and holding title to property; property as trust fund; disposition of property. [M.S.A. 14.15(5861)]

Sec. 5861. The department may receive and hold title to real and personal property by gift, devise, bequest, and conveyance to be used for the purpose of carrying out this part. The property accepted shall be held and used as a trust fund for the purposes for which received. The department of public health promptly shall send the money, securities, or like personal property received to the department of treasury to be credited to the fund of this state designated by the donor or the department. The income from securities shall be sent promptly to the department of treasury to be credited to the fund designated and shall be likewise disbursed.

333.5863 Duties of department of treasury. [M.S.A. 14.15(5863)]

Sec. 5863. The department of treasury shall:

(a) Receive money granted to this state by the federal government under this part.

(b) Keep the money in a special fund to be known as the "crippled children's fund".

(c) Disburse the fund on certification by the department of public health.

333.5871 Entering home or taking charge of crippled child; power to accept or refuse treatment. [M.S.A. 14.15(5871)]

Sec. 5871. (1) A department official, agent, or representative shall not enter a home or take charge of a crippled child over the objection of a parent, the person standing in loco parentis, or the person having custody of the child.

(2) This part does not limit the power of a parent, guardian, or person standing in loco parentis to accept or refuse the treatment offered under this part for a crippled child or by an agency employed for that purpose.

333.5874 Records confidential; disclosure. [M.S.A. 14.15(5874)]

Sec. 5874. Records as to crippled children are confidential to the extent required by state and federal statutes and rules. Disclosure of information shall be consistent with part 26.

333.5879 Unlawful conduct; misdemeanor. [M.S.A. 14.15(5879)]

Sec. 5879. (1) A person who wilfully makes a false statement or wilfully gives false information for the purpose of securing aid under this part is guilty of a misdemeanor.

(2) An official of a hospital or a physician or dentist who bills the state for the care of a crippled child in accordance with the fee schedules established under this part and also attempts to force a parent, relative, or guardian of the child to pay an additional sum for the care is guilty of a misdemeanor.

ARTICLE 6. SUBSTANCE ABUSE

PART 61. GENERAL PROVISIONS

333.6101 Meanings of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(6101)]

Sec. 6101. (1) For purposes of this article, the words and phrases defined in sections 6102 to 6107 have the meanings ascribed to them in those sections.

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

333.6102 Definitions; A. [M.S.A. 14.15(6102)]

Sec. 6102. (1) "Administrator" means the administrator of the office of substance abuse services.

(2) "Alcohol and drug abuse counseling" means the act of counseling, modification of substance abuse related behavior, and prevention techniques for substance abusers, their significant others, and potential substance abusers.

(3) "Approved service program" means a substance abuse treatment and rehabilitation service program licensed under section 6237 and designated by the administrator with the assistance of the department to deliver a service or combination of services for the treatment of incapacitated individuals.

333.6103 Definitions; C, D. [M.S.A. 14.15(6103)]

Sec. 6103. (1) "Chemotherapy" means use of a drug in the direct treatment of substance abuse.

(2) "Commission" means the advisory commission on substance abuse services.

(3) "Committee" means the state interdepartmental substance abuse service coordinating committee.

(4) "Coordinating agency" means a city, county, or regional agency designated by the administrator under section 6226 to develop and administer a comprehensive substance abuse plan.

(5) "Designated representative" means any of the following:

(a) A registered nurse or licensed practical nurse licensed or otherwise authorized under part 172.

(b) An advanced emergency medical technician licensed or otherwise authorized under part 203.

(c) A physician's assistant licensed or otherwise authorized under part 170 or 175.

(d) An individual qualified by education, training, and experience who performs acts, tasks, or functions under the supervision of a licensed physician.

333.6104 Definitions; E to I. [M.S.A. 14.15(6104)]

Sec. 6104. (1) "Emergency medical service" means either of the following:

(a) An organized emergency department located in and operated by a hospital licensed in accordance with article 17 and designated by the administrator.

(b) A facility designated by the administrator and routinely available for the general care of medical patients.

(2) "Emergency service unit" means either of the following:

(a) Advanced mobile emergency care service as defined in section 20102.

(b) Ambulance and attendant as defined in sections 20102 and 20302.

(3) "Incapacitated" means that an individual, as a result of the use of alcohol, is unconscious or has his or her mental or physical functioning so impaired that he or she either poses an immediate and substantial danger to his or her own health and safety or is endangering the health and safety of the public.

333.6106 Definitions; L to R. [M.S.A. 14.15(6106)]

Sec. 6106. (1) "Law enforcement officer" includes a police officer, sheriff, sheriff's deputy, or state conservation officer.

(2) "Office" means the office of substance abuse services.

(3) "Organization" includes a public or private partnership, corporation, association, or group.

(4) "Protective custody" means the temporary custody of an individual for the purpose of protecting that individual's health and safety or the health and safety of the public if the individual appears to be or is incapacitated. Protective custody is civil in nature and is not an arrest.

(5) "Rehabilitation" means the act of restoring an individual to a state of mental and physical health or useful activity through vocational or educational training, therapy, and counseling.

333.6107 Definitions; S to T. [M.S.A. 14.15(6107)]

Sec. 6107. (1) "Staff" means an individual working, with or without remuneration, in or for an approved service program or emergency medical service.

(2) "State administered funds" means revenues identified in section 6203(b) and other moneys appropriated by the state legislature exclusively for the purposes provided for in this article.

(3) "Substance abuse" means the taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard or to the extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or while habitually under the influence of alcohol or drugs, endangers public health, morals, safety, or welfare, or a combination thereof.

(4) "Substance abuse prevention services" means those services which reduce the risk of individuals developing problems that could require entry into the

substance abuse treatment system, including crisis intervention for potential substance abusers.

(5) "Substance abuse treatment and rehabilitation services" means the providing of identifiable services including:

(a) Crisis intervention counseling services for individuals who are current or former substance abusers.

(b) Referral services for individuals who are substance abusers, their families, and the general public.

(c) Planned treatment services, including chemotherapy, counseling, or rehabilitation for individuals physiologically or psychologically dependent upon or abusing alcohol or drugs.

(6) "Transfer facility" means a facility designated by the administrator which is physically located in a jail or lockup and which is staffed by at least 1 designated representative when in use pursuant to this article.

(7) "Treatment" means an emergency, outpatient, intermediate, or inpatient service and care, and may include diagnostic evaluation, medical, psychiatric, psychological, social service care, and referral services which may be extended to an individual who is or appears to be incapacitated.

333.6111 Records confidential; limitations on disclosure. [M.S.A. 14.15(6111)]

Sec. 6111. Records of the identity, diagnosis, prognosis, and treatment of an individual maintained in connection with the performance of a licensed substance abuse treatment and rehabilitation service, a licensed prevention service, an approved service program, or an emergency medical service authorized or provided or assisted under this article are confidential and may be disclosed only for the purposes and under the circumstances authorized by section 6112 or 6113.

333.6112 Disclosure of record with consent; revocation of authorization. [M.S.A. 14.15(6112)]

Sec. 6112. (1) An individual who is the subject of a record maintained under section 6111 may consent in writing to the disclosure of the content of the record to:

(a) Health professionals for the purpose of diagnosis or treatment of the individual.

(b) Governmental personnel for the purpose of obtaining benefits to which the individual is entitled.

(c) Any other person specifically authorized by the individual.

(2) The individual consenting under subsection (1) may revoke the authorization for the disclosure at any time, unless expressly prohibited by federal legislation on confidentiality of alcohol and drug abuse patient records, by giving written notice to the licensee of the substance abuse service.

(3) The authorization or revocation shall be in a form specified by the office in accordance with regulations specifying the form of the written consent issued by the United States department of health, education, and welfare and the special action office for drug abuse prevention.

333.6113 Disclosure of record without consent. [M.S.A. 14.15(6113)]

Sec. 6113. If an individual who is the subject of a record maintained under section 6111 does not give written consent, the content of the record may be disclosed only as follows:

(a) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(b) To qualified personnel for the purpose of conducting scientific statistical research, financial audits, or program evaluation, but the personnel shall not directly or indirectly identify an individual in a report of the research audit or evaluation or otherwise disclose an identity in any manner.

(c) Upon application, a court of competent jurisdiction may order disclosure of whether a specific individual is under treatment by an agency. In all other respects the confidentiality shall be the same as the physician-patient relationship provided by law.

333.6121 Consent by minor to treatment or services valid and binding; consent of other person unnecessary; information as to treatment; responsibility for service. [M.S.A. 14.15(6121)]

Sec. 6121. (1) The consent to the provision of substance abuse related medical or surgical care, treatment, or services by a hospital, clinic, or health professional authorized by law executed by a minor who is or professes to be a substance abuser is valid and binding as if the minor had achieved the age of majority. The consent is not subject to later disaffirmance by reason of minority. The consent of any other person, including a spouse, parent, guardian, or person in loco parentis, is not necessary to authorize these services to be provided to a minor.

(2) For medical reasons the treating physician, and on the advice and direction of the treating physician, a member of the medical staff of a hospital or clinic or other health professional may, but is not obligated to, inform the spouse, parent, guardian, or person in loco parentis as to the treatment given or needed. The information may be given to or withheld from these persons without consent of the minor and notwithstanding the express refusal of the minor to the providing of the information.

(3) A spouse, parent, guardian, or person in loco parentis of a minor is not legally responsible for service provided under this section.

333.6131 Contracts for prevention of substance abuse, counseling, and treatment. [M.S.A. 14.15(6131)]

Sec. 6131. The governing body of a county, city, village, or township may contract for and spend funds for the prevention of substance abuse and for the counseling and treatment of substance abusers. A county, city, village, or township may make contracts with the governing bodies of other counties, cities, villages, and townships and other persons for these purposes.

333.6141 Violation; misdemeanor. [M.S.A. 14.15(6141)]

Sec. 6141. (1) An individual or an agent, representative, or officer of an organization who violates this article is guilty of a misdemeanor.

(2) A conviction for a violation of this article is a sufficient ground for revocation of the license of the organization.

PART 62. SUBSTANCE ABUSE SERVICES

333.6201 Office of substance abuse services; creation; nature of agency; appointment, compensation, and service of administrator. [M.S.A. 14.15(6201)]

Sec. 6201. (1) The office of substance abuse services is created as an autonomous agency within the department and shall exercise its powers and

functions independently of the department except for budget, procurement, and housekeeping functions.

(2) The governor shall appoint an administrator for the office with the advice and consent of the senate. The administrator shall not be a member of the state classified civil service. The administrator shall receive compensation as provided by the legislature. The administrator shall serve as a special assistant to the governor on problems of substance abuse and shall serve as the chairperson of the interdepartmental committee on substance abuse.

333.6203 Office of substance abuse services; duties generally. [M.S.A. 14.15(6203)]

Sec. 6203. With the assistance of the department, the office shall:

(a) Administer and coordinate, through the comprehensive state plan required by subdivision (e) and interdepartmental contracts, as provided in section 6205(b), state administered public funds for substance abuse treatment and rehabilitation services and prevention services.

(b) Use appropriations of revenues from taxes imposed by Act No. 8 of the Public Acts of the Extra Session of 1933, as amended, being sections 436.1 to 436.58 of the Michigan Compiled Laws, and Act No. 213 of the Public Acts of 1972, being sections 436.131 to 436.133 of the Michigan Compiled Laws, exclusively for the purposes provided in those acts.

(c) Recommend directly to the governor, after review and comment by the commission, budget and grant requests for public funds to be allocated for substance abuse services including education, research, treatment, rehabilitation, and prevention activities.

(d) Provide technical assistance to substance abuse coordinating agencies and to treatment, rehabilitation, and prevention agencies in cooperation with the coordinating agencies for the purposes of program development, administration, and evaluation.

(e) Develop annually a comprehensive state plan through the use of federal, state, local, and private resources of adequate services and facilities for the prevention and control of substance abuse and the diagnosis, treatment, and rehabilitation of individuals who are substance abusers.

(f) Evaluate, in cooperation with appropriate state departments and agencies, the effectiveness of substance abuse services in the state funded by federal, state, local, and private resources, and annually during the month of November, report a summary of the detailed evaluation to the governor, legislature, commission, and committee.

333.6205 Office of substance abuse services; additional duties. [M.S.A. 14.15(6205)]

Sec. 6205. With the assistance of the department, the office shall:

(a) Cooperate with agencies of the federal government and receive and use federal funds for purposes authorized by the legislature.

(b) Make contracts necessary and incidental to the performance of its functions to provide for substance abuse treatment and rehabilitation services and prevention services. The contracts may be with state agencies, other public agencies, including community mental health and local public health agencies, private agencies, organizations, and individuals.

(c) Prior to the expenditure of funds appropriated to other state agencies receiving appropriations for substance abuse treatment and rehabilitation services

and prevention services, have a contract signed with the receiving agency. The office shall submit a copy of each agreement to the governor and the appropriations committees of the senate and house of representatives.

333.6207 Office of substance abuse services; additional duties. [M.S.A. 14.15(6207)]

Sec. 6207. With the assistance of the department, the office shall:

(a) Establish a statewide information system for the collection of statistics, management data, and other information required for the implementation of this article.

(b) Collect, analyze, and disseminate data concerning substance abuse treatment and rehabilitation services and prevention services.

(c) Prepare, publish, evaluate, and disseminate educational material as to the nature and effect of alcohol and drugs.

(d) Organize, sponsor, and fund training programs for persons directly or indirectly engaged in the treatment, rehabilitation, and prevention of substance abuse.

(e) Conduct and provide grant-in-aid funds to conduct research on the incidence, prevalence, causes, and treatment of substance abuse and disseminate this information to the public and to substance abuse services professionals.

333.6209 Review of office. [M.S.A. 14.15(6209)]

Sec. 6209. A thorough review of the functions of the office and the necessity to continue state involvement in substance abuse services and the effectiveness of parts 61 and 62 shall be completed each 3 years after the effective date of this article.

333.6211 Recommending criteria for formula basis for distribution of funds. [M.S.A. 14.15(6211)]

Sec. 6211. As early as possible, but not later than 2 years after the effective date of this article, the office shall recommend to the governor and legislature criteria for a formula basis for distribution of substance abuse state and federal funds for substance abuse treatment and prevention.

333.6213 Administrator; powers and duties generally. [M.S.A. 14.15(6213)]

Sec. 6213. (1) The administrator, with the advice and consent of a majority of the members of the commission appointed and serving, shall:

(a) Annually establish program priority for funding for the next fiscal year.

(b) Establish guidelines for project applications.

(c) Insure that applicants for state administered public funds are licensed, unless exempt, as substance abuse service organizations under this part.

(d) Promulgate rules concerning matching requirements for state alcoholism and drug abuse treatment grants. The rules shall be reviewed every 2 years.

(2) With the assistance of the department, the administrator may issue licenses; require reports; establish standards and procedures; and make inspections necessary to enforce this article and rules promulgated under this article; and provide technical assistance for the guidance of substance abuse service organizations in complying with the requirements of this article and rules promulgated under this article.

333.6215 State interdepartmental substance abuse service coordinating commission; creation; membership; chairperson. [M.S.A. 14.15(6215)]

Sec. 6215. (1) A state interdepartmental substance abuse service coordinating commission is created in the executive office of the governor.

(2) The commission consists of the following persons or designees authorized to speak on their behalf: the director of public health, the administrator of the office of substance abuse services, the director of mental health, the attorney general, the superintendent of public instruction, the director of the division of vocational rehabilitation of the department of education, the director of the department of state police, the executive director of the office of highway safety planning in the department of state police, the director of the department of corrections, the director of social services, the state personnel director, the director of labor, the secretary of the state board of pharmacy, the director of the office of health and medical affairs, the chairperson of the liquor control commission, the head of the office of criminal justice programs, and a representative of the executive office of the governor.

(3) The administrator shall serve as chairperson of the commission.

333.6217 State interdepartmental substance abuse service coordinating commission; duties generally. [M.S.A. 14.15(6217)]

Sec. 6217. The commission shall:

(a) Meet not less than twice annually at the call of the administrator.

(b) Provide for the coordination and exchange of information on programs relating to substance abuse and dependence.

(c) Act as a permanent liaison among the members in activities affecting persons abusing, addicted to, or dependent upon drugs or alcohol.

(d) Make recommendations to the administrator in the development of comprehensive plans for the treatment, rehabilitation, and prevention of substance abuse and dependence, particularly with reference to the client populations served by the agencies represented on the committee.

333.6221 Advisory commission on substance abuse services; creation; appointment and terms of members; vacancy; member employed in state funded substance abuse program. [M.S.A. 14.15(6221)]

Sec. 6221. (1) An advisory commission on substance abuse services is created in the executive office of the governor.

(2) The advisory commission consists of 11 members appointed by the governor by and with the advice and consent of the senate for terms of 2 years. An individual shall not serve more than 2 terms and a partial term, consecutive or otherwise. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment. An individual who is employed in a state funded substance abuse program is not precluded from membership on the advisory commission.

333.6222 Advisory commission on substance abuse services; officers; compensation and expenses; meetings; report; recommendations; evaluation. [M.S.A. 14.15(6222)]

Sec. 6222. (1) The governor shall designate a chairperson and other officers of the advisory commission.

(2) Members of the advisory commission shall receive per diem compensation as established annually by the legislature and shall be reimbursed for expenses incurred pursuant to section 1216.

(3) The advisory commission shall meet not less often than once each 3 months and report on its activities and make recommendations to the administrator, the governor, and the legislature not less often than annually. The

administrator shall include the commission's report and recommendations and the summary of the evaluation of substance abuse services as required by section 6228(g).

333.6223 Advisory commission on substance abuse services; duties generally. [M.S.A. 14.15(6223)]

Sec. 6223. The advisory commission shall:

(a) Advise and counsel the administrator as to the coordination and administration of substance abuse services.

(b) Appoint appropriate commission committees.

(c) In cooperation with the administrator, advise the governor and legislature of the nature and magnitude of substance abuse problems in this state.

(d) In cooperation with the administrator, recommend to the governor and legislature changes in state programs, statutes, and policies which will improve the state response to substance abuse problems.

(e) As designated by the governor or the administrator, represent this state in public or private meetings concerned with substance abuse.

(f) Review and comment on the budget request before submission to the governor.

333.6226 City, county, or regional coordinating agency; designation; functions; county community mental health board or public or private nonprofit agency as coordinating agency; continuation of certain coordinating agencies; local advisory council. [M.S.A. 14.15(6226)]

Sec. 6226. (1) The administrator shall designate, and may change the designation of, city, county or regional coordinating agencies in accordance with this section. When the administrator designates a county or regional coordinating agency, the designation shall be subject to the approval of the affected county board or boards of commissioners. In a city which has created a local health department or joined in a district health department under part 24, the administrator may designate a city coordinating agency or city-county regional coordinating agency which designation is subject to approval by the affected mayor, city council, and county board of commissioners. A city or regional coordinating agency appointed under this section shall have the same functions as a county coordinating agency.

(2) A coordinating agency may be a county community mental health board established under section 212 or 218 of Act No. 258 of the Public Acts of 1974, being sections 330.1212 and 330.1218 of the Michigan Compiled Laws, a local public health agency, or a public or private nonprofit agency licensed or organized to provide human services. A coordinating agency designated under Act No. 56 of the Public Acts of 1973, as amended, being sections 325.711 to 325.735 of the Michigan Compiled Laws, which is in existence on the effective date of this part shall continue as a coordinating agency under this part until superseded by a designation or redesignation made pursuant to subsection (1).

(3) A coordinating agency shall have a local advisory council consisting of representatives of public and private treatment and prevention programs and private individuals in accordance with guidelines established by the administrator.

333.6228 City, county, or regional coordinating agency; duties generally. [M.S.A. 14.15(6228)]

Sec. 6228. A city, county, or regional coordinating agency shall:

(a) Develop comprehensive plans for substance abuse treatment and rehabilitation services and prevention services consistent with guidelines established by the office.

(b) Review and comment to the office on applications for licenses submitted by local treatment, rehabilitation, and prevention organizations.

(c) Provide technical assistance for local substance abuse service organizations.

(d) Collect and transfer data and financial information from local organizations to the office.

(e) Submit an annual budget request to the office for use of state administered funds for its city, county, or region for substance abuse treatment and rehabilitation services and prevention services in accordance with guidelines established by the administrator.

(f) Make contracts necessary and incidental to the performance of the agency's functions. The contracts may be made with public or private agencies, organizations, associations, and individuals to provide for substance abuse treatment and rehabilitation services and prevention services.

(g) Annually evaluate and assess substance abuse services in the city, county, or region in accordance with guidelines established by the administrator.

333.6231 Rules. [M.S.A. 14.15(6231)]

Sec. 6231. (1) With the assistance of the department, and after consultation with the commission and the committee, the office shall promulgate rules for the administration of this article and the licensing of substance abuse service programs. The rules shall include reasonable criteria for the protection and well-being of individuals receiving services and the rights of recipients of services and shall define financial information. Rules governing recipient rights shall be promulgated not later than 1 year after the effective date of this section.

(2) The rules shall apply to a public or private firm, association, organization, or group offering or purporting to offer specific substance abuse treatment and rehabilitation services or prevention services, and which receives or requests public funds, patient fees, third party payments, or funds through public subscription for the treatment, rehabilitation, or prevention of substance abuse.

(3) The rules shall not apply to an individual currently licensed by this state to provide medical, psychological, or social services. The licensee may voluntarily apply for a license to provide substance abuse treatment and rehabilitation services or prevention services. To receive state or federal funds for substance abuse treatment and rehabilitation services or prevention services, a person shall obtain a license under this part.

333.6233 License required; licensing unit; exceptions. [M.S.A. 14.15(6233)]

Sec. 6233. (1) A person not otherwise licensed to provide psychological, medical, or social services shall not establish, conduct, or maintain a substance abuse service unless it is licensed under this article.

(2) The administrator shall establish a licensing unit in the office to administer the licensing functions of this article.

(3) This section shall not apply to private, nonprofit organizations exempt under section 501(c)(3) of the internal revenue code which have been in existence for more than 13 years prior to the enactment of this code and whose major purpose is to provide residential services for the redirection and improvement of drug abusers and other character disordered individuals.

333.6235 Application for license; form; authorization to obtain information; evidence of notice to churches, schools, and incorporated nonprofit civic organizations. [M.S.A. 14.15(6235)]

Sec. 6235. (1) An application for a license shall be in a form prescribed by the office and shall authorize the administrator or his or her representative to obtain from any source information as to the ability of the applicant to comply with this article and rules promulgated under this article.

(2) An applicant for an initial license shall include evidence of notice to churches, schools, and incorporated nonprofit civic organizations in the applicant's service delivery area of its intent to provide substance abuse treatment and rehabilitation services or prevention services.

333.6236 License; comments by local advisory council on substance abuse; basis of issuing or denying license; explanation of decision contrary to recommendations. [M.S.A. 14.15(6236)]

Sec. 6236. The local advisory council on substance abuse shall provide an opportunity for individuals in the applicant's service delivery area to comment before the issuance of a license to the applicant. The comments shall be included in the coordinating agency's comments to the office. However, the administrator shall make the decision to issue or deny a license based on the applicant's ability to comply with the requirements of this article and rules promulgated under this article. If the administrative decision on licensing is contrary to the local coordinating agency's recommendations, the administrator shall describe those reasons in writing to the local coordinating agency at the time the decision is rendered.

333.6237 License; issuance; compliance; display. [M.S.A. 14.15(6237)]

Sec. 6237. The office shall issue a license upon determining that the applicant has complied with this article and rules promulgated under this article. A licensee shall prominently display the license while it is in effect.

333.6238 Duration of standard or provisional license; renewal of provisional license; duration and purpose of temporary, nonrenewable permit. [M.S.A. 14.15(6238)]

Sec. 6238. A standard license is effective for 1 year after the date of issuance. A provisional license may be issued to an applicant temporarily unable to comply with the rules promulgated under this article and may be renewed or extended for not more than 1 year. A temporary, nonrenewable permit may be issued for not more than 90 days if additional time is needed to properly investigate or to undertake remedial action.

333.6241 Inspections. [M.S.A. 14.15(6241)]

Sec. 6241. The administrator, his or her agent, or the personnel of another department or agency acting at the request of the administrator may enter the premises of an applicant for a license or a licensee at any reasonable time to make an inspection to determine whether the applicant or licensee is complying with this article and rules promulgated under this article. A local health department may visit a facility at the request of the administrator to advise as to matters affecting health and the sanitation of the buildings used or other matters designated by the administrator. The inspections shall be conducted in accordance with standards established in rules.

333.6243 Denying, suspending, revoking, or refusing to renew license; grounds; hearing; appeal. [M.S.A. 14.15(6243)]

Sec. 6243. With the assistance of the department, the administrator may deny, suspend, revoke, or refuse to renew a license of an applicant or licensee who is in violation of this article or rules promulgated under this article after opportunity for a hearing. A hearing and an appeal in a contested case shall be conducted by the director or the director's authorized representative pursuant to the administrative procedures act of 1969.

333.6251 Injunction or other process. [M.S.A. 14.15(6251)]

Sec. 6251. Notwithstanding the existence of any other remedy, the office may maintain an action in the name of this state for an injunction or other process against a person to restrain or prevent the establishment, conduct, management, or operation of a substance abuse service program without a license or where operation of the licensee's service is likely to result in serious harm to recipients of the service.

PART 65. INCAPACITATED PERSONS

333.6501 Protective custody; transportation to approved service program or emergency medical service; exception; lawful force; protective steps; individual not under arrest; entry or other record; transfer facility; emergency service unit or staff; transportation by officer; custody; emergency treatment of individual arrested; criminal prosecution and administration of tests. [M.S.A. 14.15(6501)]

Sec. 6501. (1) An individual who appears to be incapacitated in a public place shall be taken into protective custody by a law enforcement officer and taken to an approved service program, or to an emergency medical service, or to a transfer facility pursuant to subsection (4) for subsequent transportation to an approved service program or emergency medical service. When requested by a law enforcement officer, an emergency service unit or staff shall provide transportation for the individual to an approved service program or an emergency medical service. This subsection shall not apply to an individual who the law enforcement officer reasonably believes will attempt escape or will be unreasonably difficult for staff to control.

(2) A law enforcement officer may take an individual into protective custody with that kind and degree of force which would be lawful were the officer effecting an arrest for a misdemeanor without a warrant. In taking the individual, a law enforcement officer may take reasonable steps to protect himself or herself. The protective steps may include a "pat down" search of the individual in his or her immediate surroundings, but only to the extent necessary to discover and seize any dangerous weapon which may on that occasion be used against the officer or other individuals present. These protective steps shall be taken by the law enforcement officer before an emergency service unit or staff provides transportation of an individual to an approved service program or emergency medical service.

(3) The taking of an individual to an approved service program, emergency medical service, or transfer facility under subsection (1) is not an arrest, but is a taking into protective custody with or without consent of the individual. The law enforcement officer shall inform the individual that he or she is being held in protective custody and is not under arrest. An entry or other record shall not be made to indicate that the individual was arrested or charged with either a crime or

being incapacitated. An entry shall be made indicating the date, time, and place of the taking, but the entry shall not be treated for any purpose as an arrest or criminal record.

(4) An individual taken into protective custody under subsection (1) may be taken to a transfer facility for not more than 8 hours, if there is neither an approved service program nor an emergency medical service in that county and if, due to distance or other circumstances, a law enforcement officer is unable to complete transport of the individual to an approved service program or emergency medical service. The law enforcement officer or agency shall immediately notify and request the nearest approved service program or emergency medical service to provide an emergency service unit or staff as soon as possible to transport the individual to that approved service program or emergency medical service. If neither an emergency service unit nor staff is available for transportation, a law enforcement officer may transport the individual to an approved service program or emergency medical service. If an emergency service unit or staff is to provide transportation, the designated representative of the transfer facility shall assume custody of the individual and shall take all reasonable steps to ensure the individual's health and safety until custody is transferred to the emergency service unit or staff of an approved service program or emergency medical service.

(5) An individual arrested by a law enforcement officer for the commission of a misdemeanor punishable by imprisonment for not more than 3 months, or by a fine of not more than \$500.00, or both, may be taken to an approved service program or an emergency medical service for emergency treatment if the individual appears to be incapacitated at the time of apprehension. This treatment is not in lieu of criminal prosecution of the individual for the offense with which the individual is charged, nor shall it preclude the administration of any tests as provided for by law.

333.6502 Examination and testing of individual in protective custody; informing individual of right to test; treatment; transportation. [M.S.A. 14.15(6502)]

Sec. 6502. (1) An individual who is taken to an approved service program or emergency medical service pursuant to section 6501(1) shall continue to be in protective custody and shall be examined by a licensed physician or his or her designated representative as soon as possible, but not longer than 8 hours. The licensed physician or designated representative may conduct a chemical test to determine the amount of alcohol in the bloodstream of the individual. The physician or designated representative shall inform the individual of his or her right to such a test and shall conduct a test at the request of the individual.

(2) An individual who, by medical examination, is found to be incapacitated shall then receive treatment from an approved service program or emergency medical service. An individual shall not be denied treatment solely because the individual has withdrawn from treatment against medical advice on a prior occasion or because the individual has relapsed after earlier treatment. An approved service program or the emergency medical service may arrange for necessary transportation.

(3) Approved service programs shall not be expected to provide treatment other than that for which they are licensed, nor shall an emergency medical service be required to provide treatment other than that routinely provided for other patients treated.

333.6503 Continuation of protective custody; detention; consent to remain in program; discharge. [M.S.A. 14.15(6503)]

Sec. 6503. (1) An individual who is taken to an approved service program or emergency medical service pursuant to section 6501(1) shall continue to be in protective custody. The individual shall not be detained once the individual is medically examined and found not to be incapacitated. An individual found by medical examination to be incapacitated shall be detained until the individual is no longer incapacitated or for not more than 72 hours after the individual is taken to the approved service program or emergency medical service. An individual may consent to remain in the program for as long as the physician in charge believes appropriate.

(2) An individual who is taken to an approved service program or emergency medical service pursuant to section 6501(5), shall be discharged to a law enforcement officer after the individual is no longer incapacitated. An individual who remains incapacitated at the expiration of 72 hours after the individual has been taken to the approved service program or emergency medical service shall be discharged to a law enforcement officer unless both of the following occur:

(a) The individual agrees to remain in the program longer than 72 hours.

(b) The physician in charge of the program believes it appropriate that the individual remain in the program longer than 72 hours.

333.6504 Release of individual; arrangement for transportation. [M.S.A. 14.15(6504)]

Sec. 6504. (1) An individual who is brought to an approved service program or emergency medical service pursuant to section 6501(1) and is found by medical examination not to be incapacitated shall be immediately released and transportation may be arranged by the approved service program or emergency medical service.

(2) An individual who is brought to an approved service program or emergency medical service pursuant to section 6501(5) and is found by medical examination not to be incapacitated shall be released to a law enforcement officer representing the agency which made the arrest.

333.6505 Notice to family, next of kin, or other person. [M.S.A. 14.15(6505)]

Sec. 6505. If an individual held in protective custody is admitted to an approved service program or emergency medical service, the individual's family, next of kin, or someone whom the individual designates shall be notified as promptly as possible.

333.6506 Voluntary admission; examination; chemical test; admission or referral; transportation; right to leave or remain; notice to family, next of kin, or other person. [M.S.A. 14.15(6506)]

Sec. 6506. (1) An individual may voluntarily seek admission at an approved service program or emergency medical service.

(2) The individual shall be examined by a licensed physician or his or her designated representative. The licensed physician at the request of the individual may order a chemical test to determine the amount of alcohol in the bloodstream of the individual.

(3) An individual who by medical examination is found to be incapacitated shall then be admitted or referred for treatment. Transportation may be provided to an individual admitted or referred for treatment through the approved service program or the emergency medical service.

(4) The voluntarily admitted individual may leave at any time or may consent to remain as long as the physician believes appropriate.

(5) If a voluntarily admitted individual is admitted to an approved service program or emergency medical service, the family, next of kin, or someone whom the individual designates, shall be notified as promptly as possible. If an adult requests that there be no notification, the request shall be respected.

333.6508 Liability; gross negligence or wilful and wanton misconduct. [M.S.A. 14.15(6508)]

Sec. 6508. (1) A law enforcement officer, a member of the emergency service unit, or staff member of an approved service program or an emergency medical service who acts in compliance with this part is acting in the course of his or her official duty and is not criminally or civilly liable therefor.

(2) Subsection (1) does not apply to a law enforcement officer, member of the emergency service unit, or staff member of an approved service program or an emergency medical service who, while acting in compliance with this part, engages in behavior involving gross negligence or wilful and wanton misconduct.

(3) Approved service programs, staff of approved service programs, emergency medical services, staff of emergency medical services, law enforcement officers, and emergency service units shall not be criminally or civilly liable for the subsequent actions of the apparently incapacitated individual who leaves the approved service program or emergency medical service.

333.6510 Possessions to be inventoried and held in secure place; return of possessions; contraband. [M.S.A. 14.15(6510)]

Sec. 6510. An individual taken, or seeking voluntary admission under section 6506, to emergency medical service, or transfer facility shall have his or her possessions inventoried and held in a secure place. These possessions shall be returned to the individual when the individual is released. Contraband discovered in the inventory shall not be returned to the individual.

333.6513 Payment for treatment or transportation; liability. [M.S.A. 14.15(6513)]

Sec. 6513. (1) If treatment or transportation, or both, is provided by an approved service program, emergency service unit, or emergency medical service, and the individual has not paid the charge therefor, the approved service program, emergency service unit, or emergency medical service is entitled to any payment received by the individual or to which the individual may be entitled because of the services rendered, or entitled to any payment from any public or private source available to the approved service program, emergency service unit, or emergency medical service because of the treatment or transportation, or both, provided to the individual.

(2) If an individual receives treatment or transportation, or both, from an approved service program, emergency service unit, or emergency medical service, the estate of the individual or an individual obligated to provide for the cost of treatment, or transportation, or both, is liable to the approved service program, emergency service unit, or emergency medical service for the cost of the treatment or transportation, or both, of that individual.

333.6521 Records confidential; disclosure. [M.S.A. 14.15(6521)]

Sec. 6521. Records of the diagnostic evaluation, psychiatric, psychological, social service care, and referral of an individual which are maintained in connection with the performance of an approved service program or emergency

medical service authorized or provided under this part are confidential and may only be disclosed in either of the following circumstances:

(a) For the purposes and under the circumstances expressly authorized under section 6112 or 6113.

(b) At the specific written request of a parole or probation officer seeking the information with regard to a parolee or probationer in the officer's charge who agrees to release this information.

333.6523 Local law, ordinance, resolution, or rule; interpretation or application of law by local unit of government; exceptions. [M.S.A. 14.15(6523)]

Sec. 6523. (1) After January 15, 1978, a city, county, township, or village may not adopt or enforce a local law, ordinance, resolution, rule, or portion thereof having the force of law that imposes a civil or criminal penalty for public intoxication, being a common drunkard, or being incapacitated, except as provided in subsection (3) or (4).

(2) A local unit of government may not interpret or apply any law of general application to circumvent subsection (1).

(3) This part does not affect a law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, snowmobile, aircraft, vessel, machinery, or other equipment, or motorized conveyance, or regarding the sale, purchase, dispensing, possession, transportation, consumption, or use of alcoholic beverages at stated times and places, or by a particular class of individuals.

(4) This act shall not prohibit a local unit of government from adopting an ordinance consistent with section 167 of Act No. 328 of the Public Acts of 1931, as amended, being section 750.167 of the Michigan Compiled Laws.

ARTICLE 7. CONTROLLED SUBSTANCES

PART 71. GENERAL PROVISIONS

333.7101 Meanings of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(7101)]

Sec. 7101. (1) For purposes of this article, the words and phrases defined in sections 7103 to 7109 have the meanings ascribed to them in those sections.

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

333.7103 Definitions; A. [M.S.A. 14.15(7103)]

Sec. 7103. (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or other means, to the body of a patient or research subject by a practitioner, or in the practitioner's presence by his or her authorized agent, or the patient or research subject at the direction and in the presence of the practitioner.

(2) "Administrator" means the Michigan board of pharmacy or its designated or established authority.

(3) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

333.7104 Definitions; B to D. [M.S.A. 14.15(7104)]

Sec. 7104. (1) "Bureau" means the drug enforcement administration, United States department of justice, or its successor agency.

(2) "Controlled substance" means a drug, substance, or immediate precursor enumerated in section 7212, 7214, 7216, 7218, or 7220.

(3) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(4) "Deleterious drug" means a drug, other than a proprietary medicine, likely to be destructive to adult human life in quantities of 60 grains or less.

333.7105 Definitions; D. [M.S.A. 14.15(7105)]

Sec. 7105. (1) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from 1 person to another of a controlled substance, whether or not there is an agency relationship.

(2) "Dispense" means to deliver or issue a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, or compounding necessary to prepare the substance for the delivery or issuance.

(3) "Dispenser" means a practitioner who dispenses.

(4) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(5) "Distributor" means a person who distributes.

(6) "Drug" means a substance recognized as a drug in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals; a substance other than food intended to affect the structure or any function of the body of human beings or animals; or, a substance intended for use as a component of any article specified in this subsection. It does not include a device or its components, parts, or accessories.

333.7106 Definitions; I to M. [M.S.A. 14.15(7106)]

Sec. 7106. (1) "Immediate precursor" means a substance which the administrator has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(2) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. It includes the packaging or repackaging of the substance or labeling or relabeling of its container, except that it does not include:

(a) The preparation or compounding of a controlled substance by an individual for his or her own use.

(b) The preparation, compounding packaging, or labeling of a controlled substance:

(i) By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of his or her professional practice.

(ii) By a practitioner, or by the practitioner's authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(3) "Marihuana" means all parts of the plant *Canabis sativa* L., growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

333.7107 Definitions; N. [M.S.A. 14.15(7107)]

Sec. 7107. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (a), but not including the isoquinoline alkaloids of opium.

333.7108 Definitions; O. [M.S.A. 14.15(7108)]

Sec. 7108. (1) "Opiate" means a substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 7212, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(2) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

333.7109 Definitions; P to U. [M.S.A. 14.15(7109)]

Sec. 7109. (1) "Person" means a person as defined in section 1106 or a governmental entity.

(2) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(3) "Practitioner" means:

(a) A prescriber or pharmacist, a scientific investigator as defined by rule of the administrator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

(b) A pharmacy, hospital, or other institution or place of professional practice licensed, registered, or otherwise permitted to distribute, prescribe, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

(4) "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(5) "Ultimate user" means an individual who lawfully possesses a controlled substance for personal use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household or by a person acting on his or her behalf.

333.7121 Application and construction of article. [M.S.A. 14.15(7121)]

Sec. 7121. (1) This article applies to violations of law, seizures and forfeitures, injunctive proceedings, administrative proceedings, and investigations which occur after its effective date.

(2) This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among those states which enact laws similar to it.

333.7123 Effect of article on rights and duties, penalties, proceedings, prosecutions, sentencing, civil seizures or forfeitures, injunctive proceedings, and administrative proceedings. [M.S.A. 14.15(7123)]

Sec. 7123. (1) Rights and duties which have matured, penalties which have been incurred, proceedings which have been commenced and prosecutions for violations of law occurring before the effective date of this article are not affected or abated by this article. If, before April 1, 1972, an individual committed an offense similar to an offense set forth in part 74 but has not been sentenced as of the effective date of this article, the sentencing judge shall not impose a sentence in excess of the penalty prescribed in part 74 for the similar offense.

(2) Civil seizures or forfeitures and injunctive proceedings commenced before the effective date of this article are not affected by this article.

(3) Administrative proceedings pending under Act No. 196 of the Public Acts of 1971, as amended, being sections 335.301 to 335.367 of the Michigan Compiled Laws, shall be continued and brought to a final determination in accordance with the laws and rules in effect before the effective date of this article.

333.7125 Continuation of order or rule. [M.S.A. 14.15(7125)]

Sec. 7125. An order or rule promulgated under a law affected by this article and in effect on the effective date of this article and not in conflict with this article shall continue in effect until modified, superseded, or rescinded.

PART 72. STANDARDS AND SCHEDULES

333.7201 Administration of article; adding, deleting, or rescheduling substances. [M.S.A. 14.15(7201)]

Sec. 7201. The administrator shall administer this article and may add substances to, or delete or reschedule all substances enumerated in the schedules in sections 7212, 7214, 7216, 7218, and 7220 pursuant to the procedures of the administrative procedures act of 1969.

333.7202 Considerations in making determination regarding substance. [M.S.A. 14.15(7202)]

Sec. 7202. In making a determination regarding a substance, the administrator shall consider all of the following:

- (a) The actual or relative potential for abuse.
- (b) The scientific evidence of its pharmacological effect, if known.
- (c) The state of current scientific knowledge regarding the substance.
- (d) The history and current pattern of abuse.

- (e) The scope, duration, and significance of abuse.
- (f) The risk to the public health.
- (g) The potential of the substance to produce psychic or physiological dependence liability.
- (h) Whether the substance is an immediate precursor of a substance already controlled under this article.

333.7203 Findings; rule controlling substance; substance as precursor of controlled precursor. [M.S.A. 14.15(7203)]

Sec. 7203. (1) After considering the factors enumerated in section 7202, the administrator shall make findings with respect thereto and promulgate a rule controlling the substance if the administrator finds the substance has a potential for abuse.

(2) If the administrator designates a substance as an immediate precursor, a substance which is a precursor of the controlled precursor is not subject to control solely because it is a precursor of the controlled precursor.

333.7204 Substance designated, rescheduled, or deleted as controlled substance under federal law; notice; similar control of substance by administrator; objection by administrator; publication of reasons for objection; hearing; decision; staying of control. [M.S.A. 14.15(7204)]

Sec. 7204. If a substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the administrator, the administrator shall similarly control the substance under this article after the expiration of 30 days following publication in the federal register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless within that 30-day period, the administrator objects to inclusion, rescheduling, or deletion. In that case, the administrator shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the administrator shall publish a decision, which shall be final unless altered by statute. Upon publication of the objection to inclusion, rescheduling, or deletion under this article by the administrator, control under this article is stayed until the administrator publishes the decision.

333.7206 Scientific advisory commission; creation; purpose; appointment and terms of members; recommendations. [M.S.A. 14.15(7206)]

Sec. 7206. (1) A 7 member scientific advisory commission is created to serve as a consultative and advisory body to the administrator in all matters relating to the classification, reclassification, addition to, or deletion from, all substances presently classified as controlled substances in schedules 1 to 5, or substances not presently controlled or yet to come into being. The scientific advisory commission shall be composed of 2 physicians to be appointed by the director of public health; 2 pharmacists to be appointed by the director of licensing and regulation; the chief of the crime detection laboratory of the department of public health; the director of mental health or his or her designee; and the director of the department of state police or his or her designee. The physician and pharmacist appointments shall be for 2-year terms.

(2) The administrator shall receive the recommendations of the scientific advisory commission pursuant to administration over the controlled substances for inclusion in or exclusion from schedules 1 to 5, especially in the implementation of scheduled substances changes as provided in section 7201, except that the administrator is not bound by recommendations of the scientific advisory commission.

333.7208 Exclusions from authority to control. [M.S.A. 14.15(7208)]

Sec. 7208. (1) Authority to control under this article, does not extend to distilled spirits, wine, malt beverages, or tobacco.

(2) The administrator shall exclude a nonnarcotic substance from a schedule if the substance, under the federal food, drug, and cosmetic act of 1938, 21 U.S.C. 301 to 392, and the laws of this state, may be lawfully sold over the counter without a prescription.

333.7210 Inclusion of controlled substances by whatever name designated. [M.S.A. 14.15(7210)]

Sec. 7210. The controlled substances listed or to be listed in the schedules in sections 7212, 7214, 7216, 7218, and 7220 are included by whatever official, common, usual, chemical, or trade name designated.

333.7211 Schedule 1; placement of substance. [M.S.A. 14.15(7211)]

Sec. 7211. The administrator shall place a substance in schedule 1 if it finds that the substance has high potential for abuse and has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

333.7212 Schedule 1; controlled substances included. [M.S.A. 14.15(7212)]

Sec. 7212. (1) The following controlled substances are included in schedule 1:

(a) Any of the following opiates, including their isomers, esters, the ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetylmethadol	Difenoxin	Noracymethadol
Allylprodine	Dimenoxadol	Norlevorphanol
Alpha-acetylmethadol	Dimepheptanol	Normethadone
Alphameprodine	Dimethylthiambutene	Norpipanone
Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
Benzethidine	Dipipanone	Phenampromide
Betacetylmethadol	Ethylmethylthiambutene	Phenomorphan
Betameprodine	Etonitazene	Phenoperidine
Betamethadol	Etoxidine	Piritramide
Betaprodine	Furethidine	Proheptazine
Clonitazene	Hydroxypethidine	Propерidine
Dextromoramide	Ketobemidone	Propiram
Diampromide	Levomoramide	Racemoramide
Diethylthiambutene	Levophenacymorphan	Trimeperidine
	Morpheridine	

(b) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine	Methyldesorphine
Acetyldihydrocodeine	Methyldihydromorphine
Benzylmorphine	Morphine methylbromide
Codeine methylbromide	Morphine methylsulfonate
Codeine-N-Oxide	Morphine-N-Oxide
Cyprenorphine	Myrophine

Desomorphine	Nicocodeine
Dihydromorphine	Nicomorphine
Drotebanol	Normorphine
Etorphine	Pholcodine
Heroin	Thebacon
Hydromorphenol	

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- 3, 4-methylenedioxy amphetamine
 - 5-methoxy-3, 4-methylenedioxy amphetamine
- 3, 4, 5-trimethoxy amphetamine
 - Bufotenine
 - Some trade and other names:
 - 3-(B-dimethylaminoethyl)-5 hydroxyindole
 - 3-(2-dimethylaminoethyl)-5 indolol
 - N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
 - Mappine
- 2, 5-Dimethoxyamphetamine
 - Some trade or other names:
 - 2, 5-dimethoxy-a-methylphenethylamine; 2,5-DMA
- 4- Bromo-2, 5-Dimethoxyamphetamine
 - Some trade or other names:
 - 4-bromo-2,5 dimethoxy-a-methylphenethylamine; 4-bromo 2,5-DMA
- Diethyltryptamine
 - Some trade and other names:
 - N,N-Diethyltryptamine; DET
- Dimethyltryptamine
 - Some trade or other names:
 - DMT
- 4-methyl-2, 5-dimethoxyamphetamine
 - Some trade and other names:
 - 4-methyl-2,5-dimethoxy-a-methyl-phenethylamine
 - DOM, STP
- 4-methoxyamphetamine
 - Some trade or other names:
 - 4-methoxy-a-methylphenethylamine; paramethoxy amphetamine; PMA
- Ibogaine
 - Some trade and other names:
 - 7-Ethyl-6,6a,7,8,9,10,12,13
 - Octahydro-2-methoxy-6,9-methano-5H-pyrido (1, 2:1, 2 azepino 4, 5-b) indole
 - tabernanthe iboga
- Lysergic acid diethylamide
- Marihuana
- Mecloqualone
- Mescaline
- Peyote
- N-ethyl-3 piperidyl benzilate

N-methyl-3 piperidyl benzilate

Psilocybin

Psilocyn

Thiophene analog of phencyclidine

Some trade or other names:

1-(1-(2-thienyl)cyclohexyl) piperidine)

2-thienyl analog of phencyclidine; TPCP

(d) Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of cannabis and synthetic substances, derivatives, and their isomers with similar chemical structure or pharmacological activity, or both, such as the following, are included in schedule 1:

(i) Δ^1 cis or trans tetrahydrocannabinol, and their optical isomers.

(ii) Δ^6 cis or trans tetrahydrocannabinol, and their optical isomers.

(iii) $\Delta^{3,4}$ cis or trans tetrahydrocannabinol, and their optical isomers.

(e) Compounds of structures of substances referred to in subdivision (d), regardless of numerical designation of atomic positions, are included.

(2) For purposes of subsection (1), "isomer" includes the optical, position, and geometric isomers.

333.7213 Schedule 2; placement of substance. [M.S.A. 14.15(7213)]

Sec. 7213. The administrator shall place a substance in schedule 2 if it finds all of the following:

(a) The substance has high potential for abuse.

(b) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions.

(c) The abuse of the substance may lead to severe psychic or physical dependence.

333.7214 Schedule 2; controlled substances included. [M.S.A. 14.15(7214)]

Sec. 7214. The following controlled substances are included in schedule 2:

(a) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(i) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate excluding nalaxone and its salts, and excluding naltrexone and its salts, but including the following:

Raw opium	Etorphine hydrochloride
Opium extracts	Hydrocodone
Opium Fluid-extracts	Hydromorphone
Powdered opium	Metopon
Granulated opium	Morphine
Tincture of opium	Oxycodone
Codeine	Oxymorphone
Ethylmorphine	Thebaine

(ii) A salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with a substance referred to in subdivision (a), except that these substances do not include the isoquinoline alkaloids of opium.

(iii) Opium poppy, poppy straw, and concentrate of poppy straw, the crude extract of poppy straw in either liquid, solid, or powder form, which contains the phenanthrine alkaloids of the opium poppy.

(iv) Coca leaves and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, except that the substances do not include decocainized coca leaves or extraction of coca leaves which extractions do not contain cocaine or ecgonine. The substances include cocaine, its salts, isomers, and salts of isomers.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Alphaprodine	Fentanyl
Anileridine	Isomethadone
Bezitramide	Levomethorphan
Dihydrocodeine	Levorphanol
Diphenoxylate	Metazocine

Methadone

Methadone-Intermediate, 4-cyano-2dimethylamino-4, 4-diphenyl butane
Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid

Pethidine

Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine
Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate
Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid

Phenazocine	Racemethorphan
Piminodine	Racemorphan

(c) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having potential for abuse associated with a stimulant effect on the nervous system:

(i) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(ii) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

(iii) Phenmetrazine and its salts.

(iv) Methylphenidate and its salts.

(d) Any material, compound, mixture, or preparation, including its salts, isomers and salts of isomers when the existence of the salts, isomers and salts of isomers is possible within the specific chemical designation as listed in schedule 2, which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: methaqualone, amobarbital, pentobarbital, or secobarbital; or, any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof in combination with itself, with another, or with 1 or more other controlled substances.

333.7215 Schedule 3; placement of substance. [M.S.A. 14.15(7215)]

Sec. 7215. The administrator shall place a substance in schedule 3 if it finds all of the following:

(a) The substance has a potential for abuse less than the substances listed in schedules 1 and 2.

(b) The substance has currently accepted medical use in treatment in the United States.

(c) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

333.7216 Schedule 3; controlled substances included. [M.S.A. 14.15(7216)]

Sec. 7216. (1) The following controlled substances are included in schedule 3:

(a) Unless listed in another schedule, any material, compound, mixture, or preparation, including its salts, isomers (whether optical, position, or geometric), and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation as listed in schedule 3, which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

Benzphetamine	Mediatric tabs
Chlorphentermine	Mediatric liquid
Clortermine	Phendimetrazine
Edrisal tabs	Special formula 711 tabs
Genegestic caps	Thora Dex No. 1 tab
Hovizyme tabs	Thora Dex No. 2 tab
Mazindol	

(b) Unless listed in another schedule, any material, compound, mixture, or preparation, including its salts, isomers (whether optical, position, or geometric), and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation as listed in schedule 3, which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

Chlorhexadol	Methyprylon
Glutethimide	Phencyclidine
Lysergic acid	Sulfondiethylmethane
Lysergic acid amide	Sulfonethylmethane

Sulfonmethane

(c) Nalorphine.

(d) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules.

(e) A compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof, and 1 or more other active medicinal ingredients which are not listed in a schedule.

(f) A suppository dosage form containing amobarbital, secobarbital, pentobarbital, or a salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository.

(g) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof:

(i) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(ii) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with 1 or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(iii) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(iv) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with 1 or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(v) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with 1 or more active nonnarcotic ingredients in recognized therapeutic amounts.

(vi) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with 1 or more ingredients in recognized therapeutic amounts.

(vii) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with 1 or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(viii) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with 1 or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(2) The administrator may promulgate rules to except a compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (1) (a) and (b) from the application of all or any part of this article if the compound, mixture, or preparation contains 1 or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

333.7217 Schedule 4; placement of substance. [M.S.A. 14.15(7217)]

Sec. 7217. The administrator shall place a substance in schedule 4 if it finds all of the following:

(a) The substance has a low potential for abuse relative to substances in schedule 3.

(b) The substance has currently accepted medical use in treatment in the United States.

(c) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in schedule 3.

333.7218 Schedule 4; controlled substances included. [M.S.A. 14.15(7218)]

Sec. 7218. (1) The following controlled substances are included in schedule 4:

Any material, compound, mixture, or preparation, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation as included in schedule 4, which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

Barbital	Flurazepam
Chloral Betaine	Lorazepam
Chloral Hydrate	Mebutamate
Chlordiazepoxide	Meprobamate
Clonazepam	Methohexital

Clorazepate	Methylphenobarbital
Dextropropoxyphene	Oxazepam
Diazepam	Paraldehyde
Ethchlorvynol	Petrichloral
Ethinamate	Phenobarbital
	Prazepam

(2) The following controlled substances are included in schedule 4:

Any material, compound, mixture, or preparation, including its salts, isomers (whether optical, position, or geometric), and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible, which contains any quantity of the following substances having a potential for abuse associated with a effect on the central nervous system:

Fenfluramine

(3) The following controlled substances are included in schedule 4:

Any material, compound, mixture, or preparation, including its salts, isomers, (whether optical, position, or geometric), and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation, which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

Diethylpropion

Phentermine

Pemoline, including organometallic complexes and chelates thereof.

(4) The administrator may except by rule any compound, mixture or preparation containing any substance listed in subsection (1), (2), or (3) from the application of all or any part of this article if the compound, mixture or preparation contains 1 or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and if the admixtures are included in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant or stimulant effect on the central nervous system.

333.7219 Schedule 5; placement of substance. [M.S.A. 14.15(7219)]

Sec. 7219. The administrator shall place a substance in schedule 5 if it finds all of the following:

(a) The substance has low potential for abuse relative to the controlled substances listed in schedule 4.

(b) The substance has currently accepted medical use in treatment in the United States.

(c) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in schedule 4 or the incidence of abuse is such that the substance should be dispensed by a practitioner.

333.7220 Schedule 5; controlled substances included. [M.S.A. 14.15(7220)]

Sec. 7220. The following controlled substances are included in schedule 5:

(a) The following drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

Loperamide

(b) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which includes 1 or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone, is included in schedule 5:

(i) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams and not more than 10 milligrams per dosage unit.

(ii) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams and not more than 5 milligrams per dosage unit.

(iii) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams and not more than 5 milligrams per dosage unit.

(iv) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(v) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams and not more than 5 milligrams per dosage unit.

333.7227 Substances excluded from schedules of controlled substances; excluded substance as deleterious drug; manufacturing, distributing, or dispensing excluded substance. [M.S.A. 14.15(7227)]

Sec. 7227. (1) A nonnarcotic substance which under the federal food, drug and cosmetic act may be lawfully dispensed without a prescription is excluded from all schedules pursuant to section 7208(2). A substance which contains 1 or more controlled substances in such a proportion or concentration to vitiate the potential for abuse is excluded.

(2) The following substances are excluded from all schedules of controlled substances:

Amodrine	Tedral anti-H
Bronkaid	Tedral one-half strength
Bronkolixir	Tedral pediatric suspension
Bronkotabs	Tedral suppositories double strength
Beckman buffer B-1	Tedral suppositories regular strength
Beckman buffer B-2	Verequad tablet
Primatene	Verequad suspension
Tedral	

(3) A preparation of similar quantitative composition or which is the same except that it contains a lesser quantity of a controlled substance or a substance which does not have a stimulant, depressant, or hallucinogenic effect and which may be dispensed without a prescription, is excluded from all schedules.

(4) An excluded substance is a deleterious drug and may be manufactured, distributed, or dispensed only by a person who is registered to manufacture, distribute, or dispense a controlled substance under section 7208(2).

333.7229 Excepted compound, mixture, or preparation; compliance. [M.S.A. 14.15(7229)]

Sec. 7229. A compound, mixture, or preparation containing a depressant or stimulant substance or of similar quantitative composition shown in federal regulations as an excepted compound or which is the same except that it contains a lesser quantity of a controlled substance or other substances which do not have a stimulant, depressant, or hallucinogenic effect, and which is restricted by law to dispensing on prescription is excepted from sections 7212, 7214, 7216, 7218, and 7220. Compliance with federal law respecting an excepted compound is considered compliance with this section.

333.7231 Notice of change in scheduling or rescheduling. [M.S.A. 14.15(7231)]

Sec. 7231. The administrator shall notify all registrants under this article, the secretary of the senate, the clerk of the house of representatives, the attorney general, and the director of the department of state police of any change in scheduling or rescheduling not later than 30 days before the change is effective.

PART 73. MANUFACTURE, DISTRIBUTION, AND DISPENSING**333.7301 Rules and fees relating to licensure and control. [M.S.A. 14.15(7301)]**

Sec. 7301. The administrator may promulgate rules and charge reasonable fees relating to the licensure and control of the manufacture, distribution, and dispensing of controlled substances in this state.

333.7302 Labeling controlled substances; contents of label; altering, defacing, or removing label. [M.S.A. 14.15(7302)]

Sec. 7302. (1) Controlled substances manufactured or distributed in this state shall have affixed upon each package and container in which the substances are contained, a label showing in legible English the name and address of the principal manufacturer or the distributor, and the name, quantity, kind, and form of controlled substance contained in the package or container.

(2) A person, except a practitioner for the lawful purpose of dispensing controlled substances under this article, shall not alter, deface, or remove a label affixed as required in subsection (1).

333.7303 License required; scope of authority; compliance; persons exempted; waiving or imposing requirement for licensure; separate license for each principal place of business or professional practice; inspection. [M.S.A. 14.15(7303)]

Sec. 7303. (1) A person who manufactures, distributes, prescribes, or dispenses a controlled substance in this state or who proposes to engage in the manufacture, distribution, prescribing, or dispensing of a controlled substance in this state shall obtain annually a license issued by the administrator in accordance with the rules.

(2) A person licensed by the administrator under this article to manufacture, distribute, prescribe, dispense, or conduct research with controlled substances may possess, manufacture, distribute, prescribe, dispense, or conduct research with those substances to the extent authorized by its license and in conformity with the other provisions of this article.

(3) The following persons need not be licensed and may lawfully possess controlled substances under this article:

(a) An agent or employee of a licensed manufacturer, distributor, or dispenser of a controlled substance if acting in the usual course of the agent's or employee's business or employment.

(b) A common or contract carrier or warehouseman, or an employee thereof, whose possession of a controlled substance is in the usual course of business or employment.

(c) An ultimate user or a person in possession of a controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a schedule 5 substance.

(4) The administrator may waive or include by rule the requirement for licensure of certain manufacturers, distributors, or dispensers, if it finds the waiver or inclusion is consistent with the public health and safety.

(5) A separate license is required at each principal place of business or professional practice where the applicant manufactures, distributes, prescribes, or dispenses controlled substances.

(6) As a requisite for licensure, the administrator may inspect the establishment of a licensee or applicant for licensure in accordance with the administrator's rule.

333.7304 Exemptions from licensure. [M.S.A. 14.15(7304)]

Sec. 7304. (1) The requirement of licensure is waived for the following persons in the circumstances described in this section:

(a) An officer or employee of the drug enforcement administration while engaged in the course of official duties.

(b) An officer of the United States customs service while engaged in the course of official duties.

(c) An officer or employee of the United States food and drug administration while engaged in the course of official duties.

(d) A federal officer who is lawfully engaged in the enforcement of a federal law relating to controlled substances, drugs, or customs and who is authorized to possess controlled substances in the course of that person's official duties.

(e) An officer or employee of this state, or a political subdivision or agency of this state who is engaged in the enforcement of a state or local law relating to controlled substances and who is authorized to possess controlled substances in the course of that person's official duties.

(2) An official exempted from licensure by this section, when acting in the course of that person's official duties, may possess a controlled substance and may transfer a controlled substance to any other official who is exempted and who is acting in the course of that person's official duties.

(3) An official exempted by this section may procure a controlled substance in the course of an administrative inspection or investigation or in the course of a criminal investigation involving the person from whom the substance was procured.

333.7305 Permitting certain persons to apply for license; application upon expiration of existing license. [M.S.A. 14.15(7305)]

Sec. 7305. The administrator shall initially permit a person who owns, or operates an establishment engaged in the manufacture, distribution, prescription, or dispensing of a controlled substance before the effective date of this article and who is licensed by this state to apply for a license pursuant to this article. However, a person who is licensed under existing state law with the administrator or department of licensing and regulation is not required to apply for a license pursuant to this article until the expiration of the person's existing license.

333.7306 License to be granted unless inconsistent with public interest; factors in determining public interest; scope of licensure; license to dispense, prescribe, or conduct research with controlled substances in schedules 2 to 5; registration under federal law to conduct research with schedule 1 substances; effect of compliance with federal law as to registration; limitation on licensure; fees. [M.S.A. 14.15(7306)]

Sec. 7306. (1) The administrator shall grant a license to an applicant to manufacture or distribute controlled substances included in sections 7212 to 7220, unless the administrator determines that the issuance of that license would be inconsistent with the public interest. In determining the public interest, the administrator shall consider all of the following factors:

(a) Maintenance of effective controls against diversion of controlled substances to other than legitimate and professionally recognized therapeutic, scientific, or industrial channels.

(b) Compliance with applicable state and local law.

(c) A conviction of the applicant under a federal or state law relating to a controlled substance.

(d) Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion.

(e) Furnishing by the applicant of false or fraudulent material in an application filed under this article.

(f) Suspension or revocation of the applicant's federal registration to manufacture or distribute controlled substances as authorized by federal law.

(g) Any other factor relevant to and consistent with the public health and safety.

(2) Licensure under subsection (1) does not entitle a licensee to manufacture and distribute controlled substances in schedules 1 or 2 other than those specified in the license.

(3) A practitioner shall be licensed to dispense or prescribe any controlled substances or to conduct research with controlled substances in schedules 2 to 5 if the practitioner is authorized to dispense, prescribe, or conduct research under the laws of this state. The administrator need not require separate licensure under this article for a practitioner engaging in research with nonnarcotic controlled substances in schedules 2 to 5 if the licensee is licensed under this article in another capacity. A practitioner registered under federal law to conduct research with schedule 1 substances may conduct research with schedule 1 substances in this state upon furnishing the administrator evidence of that federal registration.

(4) Compliance by a manufacturer or distributor with the provisions of the federal law as to registration, excluding fees, entitles the manufacturer or distributor to be licensed under this article.

(5) Licensure under subsection (1) does not authorize a licensee to dispense, manufacture, distribute, or prescribe a controlled substance if the dispensing, manufacture, distribution, or prescribing is not for legitimate and professionally recognized therapeutic, scientific, or industrial purposes or is not in the scope of practice of a practitioner-licensee.

(6) Fees for persons licensed or seeking to be licensed under this part are as follows:

(a) Pharmacist's license	\$20.00
(b) Pharmacy license	20.00
(c) Prescriber license.....	20.00
(d) Manufacturers or wholesalers license.....	20.00
(e) Research and instructional activities license	20.00

333.7311 Denial, suspension, or revocation of license; grounds; limitation; placing under seal or seizing controlled substances; disposition of controlled substances; judicial order for sale; deposit of proceeds; forfeiture of controlled substances; notice of orders and forfeitures. [M.S.A. 14.15(7311)]

Sec. 7311. (1) A license under section 7306 to manufacture, distribute, prescribe, or dispense a controlled substance may be denied, suspended, or

revoked by the administrator upon a finding that an applicant for licensure or a licensee is subject to any of the following:

(a) The applicant or licensee has furnished false or fraudulent material information in an application filed under this article.

(b) The applicant or licensee has been convicted of a felony under a state or federal law relating to a controlled substance.

(c) The applicant's or licensee's federal registration to manufacture, distribute, or dispense controlled substances has been surrendered, suspended, or revoked.

(d) The applicant or licensee has promoted a controlled substance to the general public.

(e) The applicant or licensee is not a practitioner, manufacturer, or distributor.

(f) The applicant or licensee has not maintained effective controls against diversion of controlled substances to other than legitimate and professionally recognized therapeutic, scientific, or industrial uses.

(g) The applicant or licensee is not in compliance with applicable federal, state, and local laws.

(h) The applicant or licensee has manufactured, distributed, or dispensed a controlled substance for other than legitimate or professionally recognized therapeutic, scientific, or industrial purposes or outside the scope of practice of the practitioner-licensee or applicant.

(i) The applicant or licensee has violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate this article or rules of the administrator promulgated under this article.

(2) The administrator may limit revocation or suspension of a license to the particular controlled substance as to which grounds for revocation or suspension exist.

(3) If the administrator suspends or revokes a license, all controlled substances owned or possessed by the licensee at the time of suspension or the effective date of the revocation order may be placed under seal or seized at the discretion of the administrator. A disposition may not be made of substances under seal or seizure until the time for taking an appeal has elapsed or until all appeals have been concluded, unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to this state.

(4) The administrator shall promptly notify the bureau of all orders suspending or revoking a license and all forfeitures of controlled substances.

333.7314 Denial, suspension, or revocation of license; order to show cause; service of order; conduct of proceedings; effect of proceeding on existing license; suspension of license on finding of imminent danger; duration of suspension. [M.S.A. 14.15(7314)]

Sec. 7314. (1) Before denying, suspending, or revoking a license, or denying a renewal of a license, the administrator shall serve on the applicant or licensee an order to show cause why the application or license should not be denied, revoked, or suspended, or why the renewal should not be denied. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or licensee to appear before the administrator at a time and place not less than 30 days after the date of service of the order. A show cause order for a denial of

renewal of a license shall be served not later than 30 days before expiration of the license. These proceedings shall be conducted in accordance with the administrative procedures act of 1969 without regard to any criminal prosecution or other proceeding. A proceeding to deny renewal of a license shall not abate the existing license which shall remain in effect pending the outcome of the administrative hearing.

(2) The administrator may suspend, without an order to show cause, a license simultaneously with the institution of proceedings under section 7311 or where renewal of licensure is refused, if the administrator finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until conclusion of the proceedings, including judicial review, unless sooner withdrawn by the administrator or dissolved by a court of competent jurisdiction.

333.7321 Records; inventories. [M.S.A. 14.15(7321)]

Sec. 7321. A person licensed to manufacture, distribute, prescribe, or dispense controlled substances under this article shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with any additional rules the administrator promulgates, unless exempted by those rules.

333.7331 Distribution of controlled substance in schedules 1 and 2; order form. [M.S.A. 14.15(7331)]

Sec. 7331. A controlled substance in schedules 1 and 2 shall be distributed by a licensee to another licensee only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

333.7333 Dispensing controlled substances; written or oral prescription; exception; refills; distributing or dispensing controlled substance in schedule 5. [M.S.A. 14.15(7333)]

Sec. 7333. (1) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, a controlled substance in schedule 2 may not be dispensed without the written prescription of a practitioner.

(2) In emergency situations, as defined by rule of the administrator, a schedule 2 drug may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained for not less than 5 years. A prescription for a schedule 2 substance may not be refilled.

(3) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, a controlled substance included in schedule 3 or 4, which is a prescription drug as determined under section 503(b) of the federal food, drug and cosmetic act of 1938, 21 U.S.C. 353(b), or section 17708 of this code, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled without specific refill instructions noted by the prescriber for more than 6 months after the date thereof or be refilled more than 5 times, unless renewed by the practitioner in accordance with rules promulgated by the administrator.

(4) A controlled substance included in schedule 5 shall not be distributed or dispensed other than for a medical purpose, nor in any manner except in accordance with rules promulgated by the administrator.

PART 74. OFFENSES AND PENALTIES

333.7401 Manufacturing, delivering, or possessing with intent to manufacture or deliver controlled substance; dispensing, prescribing, or administering controlled substance; violations; penalties. [M.S.A. 14.15(7401)]

Sec. 7401. (1) Except as authorized by this article, a person shall not manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance. A practitioner licensed by the administrator under this article shall not dispense, prescribe, or administer a controlled substance for other than legitimate and professionally recognized therapeutic or scientific purposes or outside the scope of practice of the practitioner, licensee, or applicant.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 which is either a narcotic drug or described in section 7214(a)(iv) and:

(i) Which is in an amount of 650 grams or more of any mixture containing that substance is guilty of a felony and shall be imprisoned for life.

(ii) Which is in an amount of 225 grams or more, but less than 650 grams, of any mixture containing that substance is guilty of a felony and shall be imprisoned for not less than 20 years nor more than 30 years.

(iii) Which is in an amount of 50 grams or more, but less than 225 grams, of any mixture containing that substance is guilty of a felony and shall be either imprisoned for not less than 10 years nor more than 20 years or placed on probation for life.

(iv) Which is in an amount less than 50 grams of any mixture containing that substance is guilty of a felony and may be imprisoned for not more than 20 years, or fined not more than \$25,000.00, or both.

(b) Any other controlled substance classified in schedule 1, 2, or 3, except marihuana, is guilty of a felony, punishable by imprisonment for not more than 7 years, or a fine of not more than \$5,000.00, or both.

(c) A substance classified in schedule 4 or marihuana, is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than \$2,000.00, or both.

(d) A substance classified in schedule 5, is guilty of a felony, punishable by imprisonment for not more than 2 years, or a fine of not more than \$2,000.00, or both.

(3) A term of imprisonment imposed pursuant to subsection (2)(a)(i), (ii), or (iii) or section 7403(2)(a)(i), (ii), or (iii) shall be imposed to run consecutively with any term of imprisonment imposed for the commission of another felony. An individual subject to a mandatory term of imprisonment under subsection (2)(a)(i), (ii), or (iii) or section 7403(2)(a)(i), (ii), or (iii) shall not be eligible for probation, suspension of that sentence, or parole during that mandatory term, except and only to the extent that those provisions permit probation for life.

333.7402 Creating, delivering, or possessing with intent to deliver counterfeit substance; violations; penalties. [M.S.A. 14.15(7402)]

Sec. 7402. (1) Except as authorized by this article, a person shall not create, deliver, or possess with intent to deliver, a counterfeit substance.

(2) A person who violates this section as to:

(a) A counterfeit substance classified in schedule 1 or 2 which is either a narcotic drug or described in section 7214(a)(iv), is guilty of a felony, punishable

by imprisonment for not more than 10 years, or a fine of not more than \$10,000.00, or both.

(b) Any other counterfeit substance classified in schedule 1, 2, or 3, is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$5,000.00, or both.

(c) A counterfeit substance classified in schedule 4, is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than \$2,000.00, or both.

(d) A counterfeit substance classified in schedule 5, is guilty of a felony, punishable by imprisonment for not more than 2 years, or a fine of not more than \$2,000.00, or both.

333.7403 Knowingly or intentionally possessing controlled substance; violations; penalties. [M.S.A. 14.15(7403)]

Sec. 7403. (1) A person shall not knowingly or intentionally possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this article.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 which is either a narcotic drug or described in section 7214(a)(iv), and:

(i) Which is in an amount of 650 grams or more of any mixture containing that substance is guilty of a felony and shall be imprisoned for life.

(ii) Which is in an amount of 225 grams or more, but less than 650 grams, of any mixture containing that substance is guilty of a felony and shall be imprisoned for not less than 20 years nor more than 30 years.

(iii) Which is in an amount of 50 grams or more, but less than 225 grams, of any mixture containing that substance is guilty of a felony and shall be either imprisoned for not less than 10 years nor more than 20 years or placed on probation for life.

(iv) Which is in an amount of less than 50 grams of any mixture containing that substance is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than \$2,000.00, or both.

(b) A controlled substance classified in schedule 1, 2, 3, or 4, except a controlled substance classified in schedule 1 for which a penalty is prescribed in subdivision (a), (c), or (d), is guilty of a felony, punishable by imprisonment for not more than 2 years, or a fine of not more than \$2,000.00, or both.

(c) Lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a controlled substance classified in schedule 5, is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both.

(d) Marihuana, is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both.

333.7404 Use of controlled substance; violations; penalties. [M.S.A. 14.15(7404)]

Sec. 7404. (1) A person shall not use a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this article.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 which is either a narcotic drug or described in section 7214(a)(iv), is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than \$2,000.00, or both.

(b) A controlled substance classified in schedule 1, 2, 3, or 4, except a controlled substance classified in schedule 1 for which a penalty is prescribed in subdivision (a), (c), or (d) is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both.

(c) Lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a controlled substance classified in schedule 5, is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than \$500.00, or both.

(d) Marihuana, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

333.7405 Prohibited conduct generally. [M.S.A. 14.15(7405)]

Sec. 7405. A person:

(a) Who is licensed by the administrator under this article shall not distribute, prescribe, or dispense a controlled substance in violation of section 7333.

(b) Who is a licensee shall not manufacture a controlled substance not authorized by his or her license or distribute, prescribe, or dispense a controlled substance not authorized by his or her license to another licensee or other authorized person, except as authorized by rules promulgated by the administrator.

(c) Shall not refuse or knowingly fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this article.

(d) Shall not refuse an entry into any premises for an inspection authorized by this article.

(e) Shall not knowingly keep or maintain a store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this article for the purpose of using these substances, or which is used for keeping or selling them in violation of this article.

333.7406 Violation of §333.7405; penalty. [M.S.A. 14.15(7406)]

Sec. 7406. A person who violates section 7405 may be punished by a civil fine of not more than \$25,000.00 in a proceeding in the circuit court. However, if the violation is prosecuted by a criminal indictment alleging that the violation was committed knowingly or intentionally, and the trier of the fact specifically finds that the violation was committed knowingly or intentionally, the person is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than \$25,000.00, or both.

333.7407 Prohibited conduct; violation as felony; penalty. [M.S.A. 14.15(7407)]

Sec. 7407. (1) A person shall not knowingly or intentionally:

(a) Distribute as a licensee a controlled substance classified in schedule 1 or 2, except pursuant to an order form as required by section 7331.

(b) Use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person.

(c) Acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

(d) Furnish false or fraudulent material information in, or omit any material information from, an application, report, or other document required to be kept or filed under this article, or any record required to be kept by this article.

(e) Make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon a drug or container or labeling thereof so as to render the drug a counterfeit substance.

(2) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than \$30,000.00, or both.

333.7408 Penalty cumulative. [M.S.A. 14.15(7408)]

Sec. 7408. A penalty imposed for violation of this article is in addition to, and not in lieu of, a civil or administrative penalty or sanction otherwise authorized by law.

333.7409 Conviction or acquittal under federal law or law of other state as bar to prosecution. [M. § A. 14.15(7409)]

Sec. 7409. If a violation of this article is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

333.7410 Violation by individual 18 years of age or over; distribution of marihuana; penalties. [M.S.A. 14.15(7410)]

Sec. 7410. (1) An individual 18 years of age or over who violates section 7401(2)(a)(iv) by distributing a controlled substance listed in schedule 1 or 2 which is either a narcotic drug or described in section 7214(a)(iv) to an individual under 18 years of age who is at least 5 years the distributor's junior may be punished by the fine authorized by section 7401(2)(a)(iv) or by a term of imprisonment of not more than twice that authorized by section 7401(2)(a)(iv), or both. An individual 18 years of age or over who violates section 7401(1) or (2) by distributing any other controlled substance listed in schedules 1 to 5 to an individual under 18 years of age who is at least 5 years the distributor's junior may be punished by the fine authorized by section 7401(2)(b), (c), or (d), or by a term of imprisonment not more than twice that authorized by section 7401(2)(b), (c), or (d), or both.

(2) A person who distributes marihuana without remuneration and not to further commercial distribution and who does not violate subsection (1) is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both, unless the distribution is in accordance with the federal law or the law of this state.

333.7411 Probation of individual with no previous conviction; entering adjudication of guilt upon violation of probation; discharge and dismissal without adjudication of guilt; nonpublic record of arrest and discharge and dismissal; requiring individual to attend course of instruction or rehabilitation program; failure to complete instruction or program as violation of probation. [M.S.A. 14.15(7411)]

Sec. 7411. (1) When an individual who has not previously been convicted of an offense under this article or under any statute of the United States or of any state relating to narcotic drugs, coca leaves, marihuana, or stimulant, depressant,

or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under section 7403(2)(a)(iv), (b), (c), or (d) or of use of a controlled substance under section 7404, the court, without entering a judgment of guilt with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions under section 7413. There may be only 1 discharge and dismissal under this section as to an individual. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this section. This record shall be furnished to a court or police agency upon request for the purpose of showing that a defendant in a criminal action involving the use of a controlled substance covered in this article has already once utilized this section.

(2) If an individual is convicted of a violation of this article, other than a violation of section 7401(2)(a)(i) to (iii) or section 7403(2)(a)(i) to (iii), the court as part of the sentence, during the period of confinement or the period of probation, or both, may require the individual to attend a course of instruction or rehabilitation program approved by the department on the medical, psychological, and social effects of the misuse of drugs. The court may order the individual to pay a fee, as approved by the director, for the instruction or program. Failure to complete the instruction or program shall be considered a violation of the terms of probation.

333.7413 Conviction of second or subsequent offense; penalty. [M.S.A. 14.15(7413)]

Sec. 7413. (1) An individual who was convicted previously for a violation of any of the following offenses and is thereafter convicted of a second or subsequent violation of any of the following offenses shall be imprisoned for life and shall not be eligible for probation, suspension of sentence, or parole during that mandatory term:

- (a) A violation of section 7401(2)(a)(ii) or (iii).
- (b) A violation of section 7403(2)(a)(ii) or (iii).
- (c) Conspiracy to commit an offense proscribed by section 7401(2)(a)(ii) or (iii) or section 7403(2)(a)(ii) or (iii).

(2) Except as otherwise provided in subsection (1), an individual convicted of a second or subsequent offense under this article may be imprisoned for a term not more than twice the term otherwise authorized or fined an amount not more than twice that otherwise authorized, or both.

(3) For purposes of subsection (2), an offense is considered a second or subsequent offense, if, before conviction of the offense, the offender has at any time been convicted under this article or under any statute of the United States or of any state relating to a narcotic drug, marihuana, depressant, stimulant, or hallucinogenic drug.

333.7415 Dismissal of case; reduction of charge; plea of guilty, guilty but mentally ill, or nolo contendere. [M.S.A. 14.15(7415)]

Sec. 7415. (1) After the arraignment of a defendant on a warrant charging the defendant with the commission of any of the offenses specified in section

7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii), or with conspiracy to commit an offense specified in section 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii), the examining magistrate shall not dismiss the case upon motion of the prosecuting attorney unless the dismissal is with prejudice, nor shall the examining magistrate permit the prosecuting attorney to reduce the charge if it appears to the examining magistrate at the conclusion of the preliminary examination that 1 or more of the aforementioned offenses was committed and that there is probable cause for charging the defendant therewith.

(2) At or after the arraignment of a defendant on an indictment or information charging the defendant with the commission of any of the offenses specified in section 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii), or with conspiracy to commit an offense specified in section 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii), the court in which the indictment or information is filed shall not dismiss the case upon motion of the prosecuting attorney unless the dismissal is with prejudice, and the court shall not accept a plea of guilty, guilty but mentally ill, or nolo contendere unless, with the consent of the prosecuting attorney on the record, the defendant enters a plea of guilty, guilty but mentally ill, or nolo contendere to not less than 1 of the following felonies:

- (a) An offense described in section 7401(2)(a)(i), (ii), or (iii).
- (b) An offense described in section 7403(2)(a)(i), (ii), or (iii).
- (c) Conspiracy to commit an offense described in subdivision (a) or (b).

PART 75. ENFORCEMENT AND ADMINISTRATION

333.7501 Arrest without warrant. [M.S.A. 14.15(7501)]

Sec. 7501. A sheriff, deputy sheriff, or local or state police officer who has reasonable cause to believe that a violation of this article punishable by imprisonment for 1 year or more has taken place or is taking place and reasonable cause to believe that an individual has committed or is committing the violation, may arrest that individual without a warrant for that violation whether or not the violation was committed in the law enforcement officer's presence.

333.7502 Inspection or investigating agent; powers. [M.S.A. 14.15(7502)]

Sec. 7502. An inspection or investigatory agent of the administrator or of the department of licensing and regulation may do any of the following:

- (a) Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state.
- (b) Seize property pursuant to this article.
- (c) Perform other law enforcement duties the administrator or the department of licensing and regulation designates.

333.7504 Administrative inspection warrants; issuance; execution; oath or affirmation showing probable cause; seizure of property; existence of probable cause; affidavit; contents of warrant. [M.S.A. 14.15(7504)]

Sec. 7504. (1) Administrative inspection warrants shall be issued and executed as prescribed in this part.

(2) A magistrate within the magistrate's jurisdiction, upon proper oath or affirmation showing probable cause, may issue a warrant for the purpose of conducting an administrative inspection authorized by this article or the rules promulgated under this article and seizures of property appropriate to the inspection. Probable cause exists upon showing a valid public interest in the

effective enforcement of this article or the rules promulgated under this article sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant.

(3) A warrant shall issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the magistrate and establishing the grounds for issuing the warrant. The magistrate, if satisfied that the grounds for the application exist or that there is probable cause to believe they exist, shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected.

333.7505 Contents, execution, and return of warrant; copy of warrant and receipt for property seized; inventory of property taken; delivering copy of inventory; filing warrant with copy of return and papers returnable. [M.S.A. 14.15(7505)]

Sec. 7505. (1) The warrant shall:

(a) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof.

(b) Be directed to a person described in section 7502.

(c) Command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified.

(d) Identify the item or types of property to be seized, if any.

(e) Designate the magistrate to whom it shall be returned.

(2) A warrant issued pursuant to this section shall be executed and returned within 10 days after its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least 1 credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(3) The magistrate who issues a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the magistrate's court in which the inspection was made.

333.7507 Administrative inspections of controlled premises. [M.S.A. 14.15(7507)]

Sec. 7507. (1) The department of licensing and regulation may make administrative inspections of controlled premises in accordance with this section.

(2) When authorized by an administrative inspection warrant, an officer or employee designated by the department of licensing and regulation, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the department of licensing and regulation may:

- (a) Inspect and copy records required to be kept by this article.
- (b) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found therein and, except as provided in subsection (5) all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this article.
- (c) Inventory any stock of a controlled substance therein and obtain samples thereof.
- (4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with law, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:
 - (a) If the owner, operator, or agent in charge of the controlled premises consents.
 - (b) In situations presenting imminent danger to health or safety.
 - (c) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant.
 - (d) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking.
 - (e) In any other situation in which a warrant is not constitutionally required.
- (5) An inspection authorized by this section shall not extend to financial data or sales data, other than shipment data or pricing data, unless the owner, operator, or agent in charge of the controlled premises consents in writing.
- (6) For purposes of this section only, "controlled premises" means:
 - (a) A place where a person licensed or exempted from licensure requirements under this article is required to keep records.
 - (b) A place including a factory, warehouse, establishment, and conveyance in which a person licensed or exempted from licensure requirements under this article is permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of a controlled substance.

333.7511 Restraining or enjoining violation; trial by jury.

[M.S.A. 14.15(7511)]

Sec. 7511. (1) The circuit court of a county having jurisdiction over an alleged violator of this article has jurisdiction to restrain or enjoin a violation of this article.

(2) The defendant may demand a trial by jury for an alleged violation of an injunction or restraining order issued under this section.

333.7515 Cooperation with federal and other state agencies; relying and acting upon results, information, and evidence. [M.S.A. 14.15(7515)]

Sec. 7515. (1) The administrator may cooperate with federal and other state agencies in discharging its responsibilities as to traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, the administrator may:

- (a) Arrange for the exchange of information among governmental officials as to the use and abuse of controlled substances.
- (b) Coordinate and cooperate in training programs as to controlled substance law enforcement at local and state levels.
- (c) Cooperate with the bureau by establishing a centralized unit to accept,

catalogue, file, and collect statistics, including records of drug dependent individuals and other controlled substance law offenders in this state, and make the information available for federal, state, and local law enforcement purposes. The administrator shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under section 7516.

(d) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(2) Results, information, and evidence received from the bureau relating to the regulatory functions of this article, including results of inspections conducted by it, may be relied and acted upon by the administrator in the exercise of its regulatory functions under this article.

333.7516 Name or identity of patient, research, or individual. [M.S.A. 14.15(7516)]

Sec. 7516. A practitioner engaged in professional practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the practitioner's licensing agency, and may not be compelled in any state or local civil, criminal, administrative, legislative, or other proceeding to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

333.7521 Property subject to forfeiture; enumeration. [M.S.A. 14.15(7521)]

Sec. 7521. The following are subject to forfeiture:

(a) A controlled substance which has been manufactured, distributed, dispensed, possessed, or acquired in violation of this article.

(b) A raw material, product, or equipment of any kind which is used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting a controlled substance in violation of this article.

(c) Property which is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) A conveyance, including an aircraft, vehicle, or vessel used or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in subdivision (a) or (b), but:

(i) A conveyance used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this article.

(ii) A conveyance is not subject to forfeiture by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent.

(iii) A conveyance is not subject to forfeiture for a violation of section 7403(2)(c) or (d), or section 7404.

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party who neither had knowledge of nor consented to the act or omission.

(e) Books, records, and research products and materials, including formulas, microfilm, tapes, and data used, or intended for use, in violation of this article.

333.7522 Property subject to forfeiture; seizure; process; seizure without process. [M.S.A. 14.15(7522)]

Sec. 7522. Property subject to forfeiture under this article may be seized by the department of licensing and regulation upon process issued by the circuit

court having jurisdiction over the property. Seizure without process may be made in any of the following cases:

(a) The seizure is incident to an arrest or a search warrant or an inspection under an administrative inspection warrant.

(b) The property subject to seizure has been the subject of a prior judgment in favor of this state in an injunction or forfeiture proceeding based upon this article.

(c) The department of licensing and regulation has probable cause to believe that the property is directly or indirectly dangerous to health or safety.

(d) The department of licensing and regulation has probable cause to believe that the property was used or is intended to be used in violation of this article.

333.7523 Seizure pursuant to §333.7522; institution of proceedings; property subject only to order and judgment of court; powers of department of licensing and regulation. [M.S.A. 14.15(7523)]

Sec. 7523. (1) In case of a seizure pursuant to section 7522, proceedings under subsection (2) shall be instituted promptly.

(2) Property taken or detained under this article shall not be subject to an action to recover personal property, but is deemed to be in the custody of the department of licensing and regulation subject only to the order and judgment of the court having jurisdiction over the forfeiture proceedings. When property is seized under this article, the department of licensing and regulation may do any of the following:

(a) Place the property under seal.

(b) Remove the property to a place designated by it.

(c) Require the administrator to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

333.7524 Disposition of forfeited property. [M.S.A. 14.15(7524)]

Sec. 7524. When property is forfeited under this article, the administrator may do any of the following:

(a) Retain it for official use.

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. The balance of the proceeds shall be paid to the general fund of this state.

(c) Require the administrator to take custody of the property and remove it for disposition in accordance with law.

(d) Forward it to the bureau for disposition.

333.7525 Controlled substance as contraband; seizure and summary forfeiture; seizure and forfeiture of species of plants. [M.S.A. 14.15(7525)]

Sec. 7525. (1) A controlled substance listed in schedule 1 that is possessed, transferred, sold, or offered for sale in violation of this article is contraband and shall be seized and summarily forfeited to this state. A controlled substance listed in schedule 1 which is seized or comes into the possession of this state, the owner of which is unknown, is contraband and shall be summarily forfeited to this state.

(2) Species of plants from which controlled substances in schedules 1 and 2 may be derived which have been planted or cultivated in violation of this article, or of which the owner or cultivator is unknown, or which are wild growths, may be seized and summarily forfeited to this state.

(3) The failure, upon demand by the administrator or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate license or proof that he or she is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

333.7531 Burden of proof of exemption or exception; presumption as to license or order form; burden of rebutting presumption; liability not imposed for lawful performance of duties. [M.S.A. 14.15(7531)]

Sec. 7531. (1) It is not necessary for this state to negate any exemption or exception in this article in a complaint, information, indictment, or other pleading or in a trial, hearing, or other proceeding under this article. The burden of proof of an exemption or exception is upon the person claiming it.

(2) In the absence of proof that a person is the authorized holder of an appropriate license or order form issued under this article, the person is presumed not to be the holder of the license or order form. The burden of proof is upon the person to rebut the presumption.

(3) A liability is not imposed by this article or an authorized state, county, or local officer, engaged in the lawful performance of the officer's duties.

333.7533 Judicial review. [M.S.A. 14.15(7533)]

Sec. 7533. Judicial review of a final determination, finding, or conclusion of the administrator shall be governed by the administrative procedures act of 1969.

333.7541 Educational programs; powers of administrator. [M.S.A. 14.15(7541)]

Sec. 7541. The administrator, if funds are appropriated therefor, may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs the administrator may:

(a) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances.

(b) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances.

(c) Consult with interested groups and organizations to aid them in solving administrative and organizational problems.

(d) Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances.

(e) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them.

(f) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

333.7543 Research and enforcement; duties of administrator. [M.S.A. 14.15(7543)]

Sec. 7543. The administrator shall encourage research on misuse and abuse of controlled substances. In connection with the research and furtherance of the enforcement of this article, the administrator may:

(a) Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse.

- (b) Make studies and undertake programs of research to:
- (i) Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this article.
 - (ii) Determine patterns of misuse and abuse of controlled substances and the social effects thereof.
 - (iii) Improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances.
- (c) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

333.7544 Authorization to withhold names and other identifying characteristics of individuals who are subjects of research; authorization of persons engaged in research to possess and distribute controlled substances; exemption from prosecution. [M.S.A. 14.15(7544)]

Sec. 7544. (1) The administrator may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in a civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(2) The administrator may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

333.7545 Contracts for educational and research activities. [M.S.A. 14.15(7545)]

Sec. 7545. The administrator may enter into contracts for educational and research activities without performance bonds.

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. [M.S.A. 14.15(9101)]

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 employ-

ment 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.

333.9105 Examinations or health services provided on equal basis to school children. [M.S.A. 14.15(9105)]

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.

333.9111 Pharmaceuticals for use in prevention and control of diseases and disabilities; manufacturing, purchasing, or receiving as gift; research; distribution. [M.S.A. 14.15(9111)]

Sec. 9111. The department may manufacture, purchase, and receive by gift pharmaceuticals, including biological products, antimicrobial agents, and antitumor compounds for use in the prevention and control of diseases and disabilities. The department, when necessary, may engage in research to improve these pharmaceuticals or develop new ones to protect the public health. The department shall provide and distribute these pharmaceuticals throughout this state when deemed necessary for such use. Local health departments, hospitals, and physicians may request the pharmaceuticals from the department. The department may distribute the pharmaceuticals outside this state for compensation adequate to cover all costs in connection therewith, if the distribution will not impair any program in this state. Distribution outside this state may be made without cost if approved by the governor in emergency situations and if the pharmaceuticals are available and are not required for immediate needs in this state.

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. [M.S.A. 14.15(9121)]

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 such as corneas, bones, or organs for the purpose of injecting, transfusing, or transplanting into a human body, is declared to be, for all purposes, the rendition of a service by a person participating therein and, whether or not remuneration is paid therefor, is declared not to be a sale thereof for any purpose.

(3) An express, implied, or other warranty does not attach to these services. A person involved in the rendition of the service is not liable as a result thereof, except for the person's own negligence or wilful misconduct.

333.9131 Family planning services; publicity; request by medically indigent individual; clinical abortions. [M.S.A. 14.15(9131)]

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.

333.9133 Rules. [M.S.A. 14.15(9133)]

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.

PART 92. IMMUNIZATION

333.9201 Definitions and principles of construction. [M.S.A. 14.15(9201)]

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 thereof 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.

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

333.9203 Free immunization treatments; free periodic immunization clinics for children; publicity; mass immunization programs; liability. [M.S.A. 14.15(9203)]

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.

333.9204 Administration of immunizing agent. [M.S.A. 14.15(9204)]

Sec. 9204. A health professional other than a physician may administer an immunizing agent when authorized by a local health department and when the agent is administered under the direction of a physician.

333.9205 Immunization of child required. [M.S.A. 14.15(9205)]

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.

333.9206 Certificate required; form; contents. [M.S.A. 14.15(9206)]

Sec. 9206. Upon administration of each dose of an immunizing agent to a child, the health professional, the local health department, clinic, or other agency shall present the person bringing the child a written certificate, or make an entry thereof on a certificate in the person's possession. Certificate shall be in a form approved by the department and shall indicate the diseases for which the child has been immunized, the number of doses given, the dates when administered, and whether further immunizations are indicated.

333.9208 Certificate of immunization or statement of exemption; presentation to school officials; minimum doses of immunizing agent; updated certificate. [M.S.A. 14.15(9208)]

Sec. 9208. A parent, guardian, or person in loco parentis applying to have a child registered for the first time 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 immunization or statement of exemption under section 9215. 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.

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. [M.S.A. 14.15(9209)]

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.

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. [M.S.A. 14.15(9211)]

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.

333.9215 Exemptions. [M.S.A. 14.15(9215)]

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.

333.9221 Enforcement; cooperation. [M.S.A. 14.15(9221)]

Sec. 9221. The departments of education and social services shall cooperate with the department in the administration and enforcement of this part.

333.9227 Rules. [M.S.A. 14.15(9227)]

Sec. 9227. The department shall promulgate rules to implement this part, including specification of the diseases against which children shall be immunized, age periods for immunizations, the minimum ages at which immunization may be commenced, the minimum number of doses required during a specified time period, and minimum levels of immunization for children in school.

333.9229 Violation as misdemeanor. [M.S.A. 14.15(9229)]

Sec. 9229. A person who violates this part or a rule promulgated under this part is guilty of a misdemeanor.

PART 93. HEARING AND VISION

333.9301 Free hearing and vision testing and screening programs; publicity. [M.S.A. 14.15(9301)]

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.

333.9302 Duty of parent, guardian, or person in loco parentis; time and frequency of testing and screening. [M.S.A. 14.15(9302)]

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.

333.9303 Program to assist local health departments; establishment and administration. [M.S.A. 14.15(9303)]

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.

333.9305 Follow-up treatment; statement; information. [M.S.A. 14.15(9305)]

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.

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; records. [M.S.A. 14.15(9307)]

Sec. 9307. (1) A parent, guardian, or person in loco parentis applying to have a child registered for the first time in a 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 shall be made on forms provided or approved by the department.

(3) Records of testing and screening administered and conducted shall be made and preserved as provided by the department. The records shall be available to health agencies and other persons to assist in obtaining proper and necessary health and educational care, attention, and treatment as permitted by the department. Individual testing and screening records shall be confidential as required by section 2637.

333.9309 Individual testing and screening to determine hearing efficiency. [M.S.A. 14.15(9309)]

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.

333.9311 Exemption. [M.S.A. 14.15(9311)]

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.

333.9315 Advisory committee; appointment of members; duties; cooperation of department. [M.S.A. 14.15(9315)]

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 handicapped children, 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.

333.9321 Rules. [M.S.A. 14.15(9321)]

Sec. 9321. The department may promulgate rules to implement this part, including the age and frequency for testing and screening under section 9302 and the maintenance and disclosure of records under section 9307.

333.9329 Violation as misdemeanor. [M.S.A. 14.15(9329)]

Sec. 9329. A person who violates this part or a rule promulgated under this part is guilty of a misdemeanor.

PART 96. STATE LABORATORIES

333.9601 Laboratories; establishment, operation, and maintenance; services; continuation of existing laboratories; location; agreements and contracts. [M.S.A. 14.15(9601)]

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.

333.9611 Agreements relating to laboratory services. [M.S.A. 14.15(9611)]

Sec. 9611. Before an existing agreement relating to laboratory services between the state and a 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.

333.9621 Microbiological examination and analysis; container for sample; statement; no charge. [M.S.A. 14.15(9621)]

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.

ARTICLE 10. ANATOMICAL GIFTS

PART 101. UNIFORM ANATOMICAL GIFT LAW

333.10101 Definitions. [M.S.A. 14.15(10101)]

Sec. 10101. As used in this part:

(a) "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or physical parts thereof.

(b) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(c) "Donor" means an individual who makes a gift of all or a physical part of his or her body.

(d) "Hospital" means a hospital licensed, accredited, or approved under the laws of any state. It includes a hospital operated by the United States government, a state or a subdivision thereof, although not required to be licensed under state laws.

(e) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(f) "Physical part" means organs, tissues, eyes, bones, arteries, blood, other fluids, and any other portions of a human body.

(g) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.

(h) "State medical school" means the university of Michigan school of medicine, the Michigan state university college of human medicine, the Michigan state university college of osteopathic medicine, or the Wayne state university school of medicine.

333.10102 Gift of all or any physical part of individual's body; gift effective upon death; authorized persons; priority; notice of contrary indications; notice of opposition; time of making gift; examination; rights of donee. [M.S.A. 14.15(10102)]

Sec. 10102. (1) An individual of sound mind and 18 years of age or more may give all or any physical part of the individual's body for any purpose specified in section 10103, the gift to take effect upon death.

(2) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual

notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any physical part of the decedent's body for any purpose specified in section 10103:

- (a) The spouse.
- (b) An adult son or daughter.
- (c) Either parent.
- (d) An adult brother or sister.
- (e) A guardian of the person of the decedent at the time of the death.
- (f) Any other person authorized or under obligation to dispose of the body.

(3) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (2) may make the gift after or immediately before death.

(4) A gift of all or a physical part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(5) The rights of the donee created by the gift are paramount to the rights of others except as provided by section 10108(4).

333.10103 Authorized donees. [M.S.A. 14.15(10103)]

Sec. 10103. The following persons may become donees of gifts of bodies or physical parts thereof for the purposes stated:

- (a) Any hospital, surgeon, or physician for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation.
- (b) Any accredited medical or dental school, college, or university for education, research, advancement of medical or dental science, or therapy.
- (c) Any bank or storage facility for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation.
- (d) Any specified individual for therapy or transplantation needed by that individual.
- (e) Any approved or accredited school of optometry, nursing, or veterinary medicine.

333.10104 Gift by will or document other than will. [M.S.A. 14.15(10104)]

Sec. 10104. (1) A gift of all or a physical part of the body under section 10102(1) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(2) A gift of all or a physical part of the body under section 10102(1) may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, shall be signed by the donor in the presence of 2 witnesses who shall sign the document in the donor's presence. If the donor cannot sign, the document may be signed for the donor at his or her direction and in his or her presence in the presence of 2 witnesses who shall sign the document in the donor's presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid. A document which conforms substantially to the following form is sufficient for the purposes of this subsection:

Uniform Donor Card

of.....

Print or type name of donor

In the hope that I may help others, I hereby make this anatomical gift if medically acceptable, to take effect upon my death. The words and marks below indicate my desires.

I give: (a) any needed organs or physical parts
 (b) only the following organs or physical parts

Specify the organ(s) or physical part(s)

For the purposes of transplantation, therapy, medical research or education;
 (c) my body for anatomical study if needed.

Limitations or special wishes, if any: _____

Signed by the donor and the following 2 witnesses in the presence of each other:

 Signature of donor

 Date of birth of donor

 Date signed

 City and state

 Witness

 Witness

(3) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a physical part.

(4) Notwithstanding section 10108(4), the donor may designate in his or her will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(5) Any gift by a person designated in section 10102(2) shall be made by a document signed by the person or made by the person's telegraphic, recorded telephonic, or other recorded message.

(6) A document of gift executed in another state or foreign country and in accord with the laws of that state or country is valid as a document of gift in this state, although the document does not conform substantially to the form set forth in subsection (2).

333.10105 Excising eye or physical part thereof; operation and placement of gift in eye bank; persons qualified to perform operation. [M.S.A. 14.15(10105)]

Sec. 10105. In the absence of designation of a physician or surgeon by either the donor or the donee of an eye or a physical part thereof of a decedent, or because the physician or surgeon is not readily available to excise the eye or physical part thereof as specified in a donor card or will, a licensed physician or a

person who is certified by a state medical school may perform the operation and arrange for placement of the gift in the nearest eye bank. A state medical school may certify a person as qualified to perform the operation required for the removal of an eye or a physical part thereof only after successfully completing a comprehensive course in eye enucleation organized and conducted by the state medical school or who has successfully completed a similar course offered by a nationally accredited medical school located outside this state.

333.10106 Gift to specified donee; delivery and deposit of will, card, or other document, or executed copy thereof; examination of document. [M.S.A. 14.15(10106)]

Sec. 10106. If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

333.10107 Methods of amending or revoking gift. [M.S.A. 14.15(10107)]

Sec. 10107. (1) If the will, card, or other document or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by any of the following methods:

- (a) The execution and delivery to the donee of a signed statement.
- (b) An oral statement made in the presence of 2 persons and communicated to the donee.
- (c) A statement during a terminal illness or injury addressed to an attending physician and communicated to the donee.
- (d) A signed card or document found on the donor's person or in the donor's effects.

(2) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (1), or by destruction, cancellation, or mutilation of the document and all executed copies thereof.

(3) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (1).

333.10108 Acceptance or rejection of gift by donee; embalming and use of body in funeral services; custody of remainder of body after removal of physical part; liability of funeral director, embalmer, or person licensed to practice mortuary science; determining time of death; restriction on attending or certifying physician; immunity of person acting in good faith; applicability of laws with respect to autopsies. [M.S.A. 14.15(10108)]

Sec. 10108. (1) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, the surviving spouse, next of kin, or other persons having authority to direct and arrange for the funeral and burial or other disposition of the body, subject to the terms of the gift, may authorize embalming and the use of the body in funeral services. If the gift is a physical part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the physical part to be removed without unnecessary mutilation. After removal of the physical part, custody of the remainder of the body vests in the surviving spouse, next of kin, or such other persons having authority to direct and arrange for the funeral

and burial or other disposition of the remainder of the body. A funeral director, embalmer, or person licensed to practice mortuary science under Act No. 268 of the Public Acts of 1949, as amended, being sections 338.861 to 338.875 of the Michigan Compiled Laws, who acts pursuant to the directions of persons alleging to have authority to direct and arrange for the funeral and burial or other disposition of the remainder of the body, is relieved of any liability for the funeral and for the burial or other disposition of the remainder of the body. A funeral director, embalmer, or person licensed to practice mortuary science under that act may rely on the instructions and directions of any person alleging to be either a donee or a person authorized under this part to donate a body or any physical part thereof. A funeral director, embalmer, or person licensed to practice mortuary science under that act is not liable for removal of any physical part of a body donated under this part.

(2) The time of death shall be determined by a physician who attends the donor at the death, or, if none, the physician who certifies the death. The attending or certifying physician shall not participate in the procedures for removing or transplanting a physical part.

(3) A person who acts in good faith in accord with the terms of this part or with the anatomical gift laws of another state or a foreign country is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his or her act.

(4) The provisions of this part are subject to the laws of this state prescribing powers and duties with respect to autopsies.

333.10109 Construction. [M.S.A. 14.15(10109)]

Sec. 10109. This part shall be construed to effectuate its general purpose to make uniform the law of those states which enact it.

ARTICLE 12. ENVIRONMENTAL HEALTH

PART 121. GENERAL PROVISIONS

333.12101 “Environmental health” defined; general definitions and principles of construction. [M.S.A. 14.15(12101)]

Sec. 12101. (1) As used in this article, “environmental health” means the area of activity which deals with the protection of human health through the management, control, and prevention of environmental factors which may adversely affect the health of individuals. This activity is concerned with the existence of substances, conditions, or facilities in quantities, of characteristics, and under conditions, circumstances, or duration which are or can be injurious to human health.

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

333.12103 Department as environmental health agency; purpose; duties. [M.S.A. 14.15(12103)]

Sec. 12103. The department shall serve as the environmental health agency for this state to facilitate a uniform approach to environmental health by the various public and private entities involved in that field and shall:

(a) Advise the governor, boards, commissions, and state agencies on matters of the environment as those matters affect the health of the people of this state.

(b) Cooperate with and provide environmental health resource support to

state and local health planning agencies and other state, district, and local agencies mandated by law or otherwise designated to develop, maintain, or administer state and local health programs and plans, and other public and private entities involved in environmental health activities.

(c) Develop and maintain the capability to monitor and evaluate conditions which represent potential and actual environmental health hazards, reporting its findings to appropriate state departments and local jurisdictions, and to the public as necessary.

(d) Provide an environmental health policy for the state and an environmental health services plan to include environmental health activities of local health jurisdictions.

(e) Serve as the central repository and clearinghouse for the collection, evaluation, and dissemination of data and information on environmental health hazards, programs, and practices.

(f) Compile, distribute, and revise annually a handbook of state statutes and rules related to environmental health.

333.12104 Statutes which impact on environmental health; review; recommendations; state programs related to lead-based paint poisoning and rodent control. [M.S.A. 14.15(12104)]

Sec. 12104. (1) The department shall continually review all statutes which impact on environmental health and may recommend the updating or incorporation of those statutes into this code. Recommendations for inclusion of environmental health statutes in this code shall take cognizance of the alternative preventive health and engineering approaches to environmental health issues and fully consider the roles of local health departments and local governing and planning entities in the implementation of authorized programs and assure their participation in the consideration of their roles.

(2) Not later than 12 months after the effective date of this section, the director shall make recommendations to the governor and legislature for state programs related to lead-based paint poisoning and rodent control.

333.12105 Organizational structure; creation; purpose. [M.S.A. 14.15(12105)]

Sec. 12105. The director shall create an organizational structure within the department to carry on the functions required by this part.

333.12106 Delegation of license inspection function to local health department; denial or granting of license; explanatory statement. [M.S.A. 14.15(12106)]

Sec. 12106. If the state department of public health delegates a license inspection function under this article to a local health department and the local health department recommends denial of the license, based on a local inspection, the license shall be denied unless the state department of public health upon prompt inspection determines that the license shall be granted. The state department of public health shall issue an explanatory statement when granting a license not recommended by a local health department.

333.12195 Alternative waste disposal systems. [M.S.A. 14.15(12195)]

Sec. 12195. This article shall not limit the exploration of alternative waste disposal systems in a manner consistent with state and federal law.

PART 122. HOUSING

333.12201 Meanings of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(12201)]

Sec. 12201. (1) For purposes of this part, the words and phrases defined in sections 12202 and 12203 have the meanings ascribed to them in those sections.

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

333.12202 Definitions; D to M. [M.S.A. 14.15(12202)]

Sec. 12202. (1) "Dwelling" means an enclosed space wholly or partly used or intended to be used for living, sleeping, cooking, and eating. Temporary housing shall not be classified as a dwelling. Industrial housing or modular construction which conforms to nationally accepted industry standards and used or intended for use for living, sleeping, cooking, and eating purposes shall be classified as a dwelling.

(2) "Dwelling unit" means a room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single family for living, sleeping, cooking, and eating purposes.

(3) "Family" means 1 or more individuals living together and sharing common living, sleeping, cooking, and eating facilities.

(4) "Guest" means an individual who shares a dwelling unit in a nonpermanent status for not more than 30 days.

(5) "Household" means 1 or more individuals living together in a single dwelling unit and sharing common living, sleeping, cooking, and eating facilities.

(6) "Multiple dwelling" means a dwelling containing 3 or more dwelling units.

333.12203 Definitions; O to T. [M.S.A. 14.15(12203)]

Sec. 12203. (1) "Occupant" means an individual 1 year of age or older who lives, sleeps, cooks, or eats in or has possession of a dwelling unit or a rooming unit except that a guest shall not be considered an occupant of a dwelling unit.

(2) "Operator" means a person who has charge, care, control, or management of a building, or part thereof, in which dwelling units or rooming units are let.

(3) "Owner" means a person who, alone or with others:

(a) Has title to premises or a dwelling, or dwelling unit, with or without accompanying actual possession thereof.

(b) Has charge, care, or control of premises, or a dwelling or dwelling unit, as owner or an agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. A person who represents the actual owner shall comply with this part and rules promulgated under this part to the same extent as if the representative were the owner.

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

(5) "Single-family dwelling" means a dwelling containing 1 dwelling unit.

(6) "Temporary housing" means a tent, trailer, mobile home, or any other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to a utility system on the same premises for more than 30 consecutive days.

(7) "Two-family dwelling" means a dwelling containing 2 dwelling units.

333.12211 Minimum housing standards; rules. [M.S.A. 14.15(12211)]

Sec. 12211. (1) The department, with local health department input and cooperation, shall promulgate rules to prescribe minimum housing standards to promote the health, safety, and welfare of the people of this state including the regulation of light, maintenance, occupancy, plumbing and electrical facilities, sanitation, thermal conditions and ventilation of dwellings; the requirement of means of fire and accident prevention; and the regulation of toxic substances in building materials and in the housing structure itself. The department shall promulgate rules for the establishment of responsibilities for owners, operators, and occupants of dwellings.

(2) In promulgating rules under this section, the department may adopt standards and recommendations or parts thereof of the American public health association, the United States department of health, education, and welfare, the public health service proposed housing maintenance and occupancy ordinances, or reports of the commission on housing law revision or other national organizations.

(3) The rules promulgated under this part shall include:

(a) Procedures which a local health department shall follow if it wishes to provide for variances from these standards.

(b) Procedures which a local health department shall follow for appeals relating to the enforcement of these standards.

(4) The minimum housing standards promulgated under this part, to the extent practicable, shall relate to and be consistent with the state construction code, and shall be not less stringent than the state plumbing code or the state electrical code.

333.12212 Minimum housing standards; application. [M.S.A. 14.15(12212)]

Sec. 12212. The minimum housing standards promulgated under this part shall apply to single-family, 2-family, and multiple dwellings in this state, including mobile homes, but excluding dwellings licensed under other parts of this code.

333.12213 Minimum housing standards; inspection; enforcement; variances; appeal procedures; delegation of functions and duties. [M.S.A. 14.15(12213)]

Sec. 12213. (1) The minimum housing standards may contain provisions for inspection of dwellings and dwelling units and enforcement. The standards shall be enforced by local health departments and shall have the force and effect of a regulation adopted by a local health department under section 2441.

(2) A local health department may provide for variances from the minimum housing standards and, to the extent authorized by rules, shall provide for appeal procedures relating to the enforcement of standards promulgated pursuant to this part.

(3) A local health department may delegate its functions and duties under this part to another local government agency with the concurrence of the department.

333.12214 Notice of violation; contents. [M.S.A. 14.15(12214)]

Sec. 12214. Upon a finding that this part or a rule promulgated under this part has been violated, a local health department shall give written notice to the owner, operator, and in the discretion of the enforcing agency the occupant, of the existence of the violation. The notice shall state the date of the inspection, the

name of the inspector, the nature of the violation, an order to correct the violation, and the time within which the correction shall be completed.

333.12215 Notice of violation; service. [M.S.A. 14.15(12215)]

Sec. 12215. (1) The notice of violation shall be served personally upon the owner, occupant, operator, or agent of the dwelling or dwelling unit or by certified mail addressed to the owner, occupant, operator, or agent.

(2) If, 15 days or more after date of the violation notice, 1 or more persons to whom notice is addressed cannot be found, service may be made upon the person by posting the notice in or about the dwelling or dwelling unit described in the notice, or by causing the notice to be published in a newspaper of general local circulation for 5 consecutive publication days.

333.12216 Failure to comply with order; action to enforce order; serving copy of complaint and summons; filing notice of pendency of action. [M.S.A. 14.15(12216)]

Sec. 12216. (1) If the owner or occupant fails to comply with the order contained in the notice of violation, the enforcing agency may bring an action to enforce the order.

(2) When an action is brought under this part or part 22 or 24 to enforce this part or the rules promulgated under this part, the dwelling or dwelling unit owners and lienholders of record, or who are found by the petitioner upon the exercise of reasonable diligence, shall be served with a copy of the complaint and a summons. The petitioner may file a notice of the pendency of the action in the office of the register of deeds for the county in which the premises are located.

333.12217 Unsafe, unsanitary, or unhealthful conditions; notice to owner; failure to make corrections; action for damages; injunction and other relief; occupant misuse, neglect, or wilful destruction; remedies cumulative and concurrent; ordering relief where several remedies available. [M.S.A. 14.15(12217)]

Sec. 12217. (1) When the owner of a dwelling or dwelling unit regulated by the standards permits unsafe, unsanitary, or unhealthful conditions to exist unabated for more than 30 days in any portion of the dwelling unit, whether a portion designated for the exclusive use and occupation of residents or a part of the common areas, and the condition exists in violation of this part, any occupant, after notice to the owner and a failure thereafter to make the necessary corrections, may bring an action against the owner for damages the occupant has actually suffered as a consequence of the condition. When the condition is a continuing interference with the use and occupation of the premises, the occupant may seek injunctive and other relief appropriate to the abatement of the condition under state law. When unsafe, unsanitary, or unhealthful conditions exist due to occupant misuse, neglect, or wilful destruction, the owner may seek injunctive and other relief appropriate to the abatement of the condition under state law.

(2) Remedies under this section shall be in addition to other relief which may be obtained by seeking enforcement of the section authorizing actions by a local enforcement agency. The remedies shall be concurrent. When several remedies are available, the court may order any relief not inconsistent with the objectives of this part calculated to achieve compliance with it.

333.12221 Rights of action under common law or other statutes. [M.S.A. 14.15(12221)]

Sec. 12221. The enumeration of rights of action under this part shall not limit or derogate rights of action under common law or other statutes.

333.12222 Construction; ordinances. [M.S.A. 14.15(12222)]

Sec. 12222. This part shall be construed to supplement and not to supersede any powers otherwise vested in local governments. Local governments may adopt ordinances deemed necessary or appropriate to promote the health, safety, and welfare of the people of this state. The ordinances shall not be less stringent than this part or rules promulgated under this part applicable to the same or similar subject matter.

PART 124. AGRICULTURAL LABOR CAMPS**333.12401 Definitions and principles of construction. [M.S.A. 14.15(12401)]**

Sec. 12401. (1) As used in this part:

- (a) "Advisory board" means the board appointed pursuant to section 12421.
 - (b) "Agricultural labor camp" means a tract of land and all tents, vehicles, buildings, or other structures pertaining thereto, part of which is established, occupied, or used as living quarters for 5 or more migratory laborers engaged in agricultural activities, including related food processing.
 - (c) "Camp operator" means a person who owns, establishes, operates, conducts, manages, or maintains an agricultural labor camp or who causes or permits the occupancy or use of an agricultural labor camp whether or not rent is charged for housing and facilities.
 - (d) "Fund" means the migratory labor housing fund.
 - (e) "Migratory laborer" means a person working, or available for work, who moves seasonally 1 or more times from 1 place to another from within or without the state for the purpose of such employment or availability or who is employed in the growing of mushrooms.
 - (f) "Person" means a person as defined in section 1106 or a governmental entity.
 - (g) "Remodeling" means the remodeling, improving, or reconstruction of existing housing or facilities which are incidental or appurtenant thereto for migratory laborers or the construction of new housing or facilities which are incidental or appurtenant thereto for migratory laborers.
- (2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

333.12411 License for operation of agricultural labor camp required; posting license or license placard; notice of construction, enlargement, or conversion. [M.S.A. 14.15(12411)]

Sec. 12411. (1) A person shall not operate an agricultural labor camp or cause to be operated or allow an agricultural labor camp to be occupied and used as an agricultural labor camp, without a license. The agricultural labor camp shall be operated only while the license remains in effect. The camp operator shall post the license or the license placard issued by the department in a conspicuous place in the agricultural labor camp to which it applies. The license or placard shall continue to remain posted during the entire time the agricultural labor camp is operated.

(2) A person shall not construct or alter for occupancy or use, an agricultural labor camp or any portion or facility thereof, or convert a property for use or occupancy as an agricultural labor camp, without giving written notice of the intent to do so to the department at least 30 days before the date of beginning the

construction, enlargement, or conversion. The notice shall give the name of the city, village, or township in which the property is located, the location of the property within that area, a brief description of the proposed construction, enlargement, or conversion, the name and mailing address of the person giving the notice, and the person's telephone number, if any.

333.12412 License for operation of agricultural labor camp; form, contents, and time of application. [M.S.A. 14.15(12412)]

Sec. 12412. (1) A person desiring to operate an agricultural labor camp in this state shall make application to the department on the forms and in the manner prescribed by the department.

(2) The application shall include:

(a) The full name and address of the applicant. If the applicant is a corporation, partnership, firm, or association, the name and address of the principal officers or partners shall be stated.

(b) The location of the agricultural labor camp.

(c) The maximum number of people who will occupy the camp at any time.

(d) The months during which the camp will be used or occupied.

(e) A brief description of the tents, vehicles, buildings, or other structures in which individuals will be housed.

(f) A brief description of the sanitary, water, cooking, and sewage facilities available.

(g) Other information required by the department.

(3) An application for a license to operate an agricultural labor camp shall be made at least 30 days before the first day that the proposed camp is to be operated.

333.12413 License for operation of agricultural labor camp; issuance; duration; recital on face of license; transferability or assignability. [M.S.A. 14.15(12413)]

Sec. 12413. (1) The department shall issue a license for the operation of the agricultural labor camp, if after investigation and inspection, it finds that the camp and its proposed operation conforms or will conform to the minimum standards of construction, health, sanitation, sewage, water supply, plumbing, garbage and rubbish disposal, and operation set forth in the rules promulgated under section 12421. The license shall be valid for the balance of the calendar year during which it is issued.

(2) The license shall recite on its face that the camp operator shall comply with this part and the rules promulgated under this part.

(3) The license is not transferable or assignable, except with the express written consent of the department.

333.12414 Temporary license; renewal application. [M.S.A. 14.15(12414)]

Sec. 12414. (1) A temporary license may be issued for not more than 3 months pending the results of an inspection or pending the correction of certain designated items. Not more than 2 temporary licenses pending correction of the same violation shall be issued for a camp.

(2) A renewal application shall be filed after January of each year to operate the agricultural labor camp during the year, but at least 30 days before the agricultural labor camp is to commence operation.

333.12415 Denial of application for license; notice; hearing. [M.S.A. 14.15(12415)]

Sec. 12415. When the department denies an application for a license to operate an agricultural labor camp, it shall give written notice of the denial by certified mail to the applicant stating reasons for the denial. An applicant denied a license may request a hearing before the department on the denial not later than 4 days after receipt of the denial. The department shall hold the hearing on the denial not later than 7 days after receipt of the request.

333.12416 Suspension or revocation of license; grounds; notice; hearing; appeal. [M.S.A. 14.15(12416)]

Sec. 12416. (1) The department may suspend or revoke the license of a camp operator, after due notice and hearing, upon a finding that the camp operator is in violation of this part or the rules promulgated pursuant to this part. If the department believes that a camp operator is violating this part or the rules, the department shall set a hearing, give written notice thereof by certified mail at least 4 days before the date of the hearing, and set forth in writing the charges against the camp operator. The hearing shall be conducted according to the administrative procedures act of 1969.

(2) After a hearing, the department may suspend the license of the camp operator for a fixed period of time or until the camp operator meets the requirements of this part and the rules or may revoke the license.

(3) A camp operator aggrieved by the decision of the department to suspend or revoke the license may appeal as provided by the administrative procedures act of 1969.

333.12421 Rules. [M.S.A. 14.15(12421)]

Sec. 12421. (1) The department shall promulgate rules for the protection of the health, safety, and welfare of migratory laborers and their families who occupy agricultural labor camps.

(2) The rules shall include provisions for:

(a) The appointment by the director of an advisory board representing, among others, growers, processors, local health departments, and religious or fraternal organizations. The advisory board shall advise the department on the allocation of the fund and any matter which pertains to this part and shall make recommendations to the department as to legislation or other measures necessary or advisable to alleviate a migratory farm labor housing problem.

(b) The collection, treatment, and disposal of human wastes and sewage at agricultural labor camps.

(c) The supply and maintenance of safe water at agricultural labor camps.

(d) The temporary storage and removal of food wastes and rubbish at agricultural labor camps.

(e) The housing of seasonal laborers and their families, including adequate and safe construction and repair, fire protection, facilities for laborers and their families to keep and prepare food, and other necessary matters relating to their good health, safety, and welfare.

(f) For the administration of migratory labor housing remodeling grants.

333.12425 Enforcement; inspection and investigation of premises; assistance; payments to local health departments. [M.S.A. 14.15(12425)]

Sec. 12425. (1) The department shall enforce this part and rules promulgated under this part.

(2) An authorized representative of the department may enter upon the premises of an agricultural labor camp at reasonable times to inspect and investigate the premises to ascertain whether the camp operator is in compliance with this part and the rules promulgated under this part.

(3) The department may utilize the services of other state agencies and offices to assist in conducting investigations. The department may use the services of a local health department to inspect the premises before licensing the camp operator and to conduct investigations under rules promulgated under this part. The department may approve payments of \$15.00 to local health departments for each licensed agricultural labor camp.

333.12426 Action for injunction or other process. [M.S.A. 14.15(12426)]

Sec. 12426. Notwithstanding the existence and pursuit of any other remedy, the department may maintain an action in the name of this state for an injunction or other process against a person to restrain or prevent the establishment, conduct, management, maintenance, or operation of an agricultural labor camp without a license.

333.12431 Migratory labor housing fund; creation; appropriation; amount and basis of grant; prohibition. [M.S.A. 14.15(12431)]

Sec. 12431. (1) A migratory labor housing fund is created and shall receive funds appropriated by the legislature.

(2) An employer of migratory farm laborers may receive a grant from the fund of not more than 50% of the costs of an extensive remodeling which costs shall not exceed \$10,000.00.

(3) A grant pursuant to subsection (2) may be made on the basis of a matching payment, grant, or other aid from a person or the federal government.

(4) A grant shall not be made if the remodeling does not meet the requirements of a law or rule.

333.12432 Filing claim for grant; approval; priority list. [M.S.A. 14.15(12432)]

Sec. 12432. (1) A person who qualifies for a grant shall file a claim with the department following completion of construction. The department, after approving the claim, shall make payment to the claimant from the fund.

(2) If the fund is insufficient to cover all applications for grants approved by the department, the department shall establish a priority list which may be funded from subsequent allocations.

333.12433 Powers of department. [M.S.A. 14.15(12433)]

Sec. 12433. The department may:

(a) Contract or execute other instruments necessary to implement this part.

(b) Agree and comply with any condition for receiving federal financial assistance for purposes of remodeling migratory housing.

(c) Survey and investigate migratory labor housing conditions and needs and recommend to the governor and the legislature legislation or other measures necessary or advisable to alleviate an existing housing shortage in the state for migratory laborers.

(d) Encourage community organizations or private employers to assist in initiating remodeling projects as provided in this part.

(e) Enforce compliance with any law or rule regarding health or construction standards for remodeling projects which utilize grants made pursuant to this part.

(f) Provide inspection of remodeling projects to determine if they comply with this part and the rules promulgated under this part.

(g) Accept gifts, grants, or other aid from a person or the federal government for purpose of implementing this part.

(h) Enter into agreements with a recipient of a grant to insure that the purposes of this part are effectuated.

333.12434 Violation as misdemeanor; each day of violation as separate violation; wilful damage or destruction of camp. [M.S.A. 14.15(12434)]

Sec. 12434. (1) A person who violates this part or the rules promulgated under this part is guilty of a misdemeanor. Each day of the violation is considered a separate violation.

(2) A person who wilfully damages or destroys any part of a licensed agricultural labor camp is guilty of a misdemeanor.

PART 125. CAMPGROUNDS, SWIMMING AREAS,
AND SWIMMERS' ITCH

**333.12501 Definitions and principles of construction.
[M.S.A. 14.15(12501)]**

Sec. 12501. (1) As used in sections 12501 to 12516:

(a) "Campground" means a parcel or tract of land under the control of a person in which sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for 5 or more recreational units.

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

(c) "Recreational unit" means a tent or vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Recreational unit includes the following:

(i) Travel trailer, which is a vehicular portable structure, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a vehicle, primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use.

(ii) Camping trailer, which is a vehicular portable structure mounted on wheels and constructed with collapsible partial sidewalls of fabric, plastic, or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

(iii) Motor home, which is a vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping, or travel use.

(iv) Truck camper, which is a portable structure designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping, or travel use. Truck campers are of 2 basic types:

(A) Slide-in camper, which is a portable structure designed to be loaded onto and unloaded from the bed of a pickup truck, constructed to provide temporary living quarters for recreational, camping, or travel use.

(B) Chassis-mount camper, which is a portable structure designed to be affixed to a truck chassis, and constructed to provide temporary living quarters for recreational, camping, or travel use.

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

333.12505 Construction permit for campground; application; contents; campground owned or operated by state. [M.S.A. 14.15(12505)]

Sec. 12505. (1) A person shall not begin to construct, alter, or engage in the development of a campground without first obtaining a construction permit from the department. Applications for a construction permit shall be submitted to the local health department which shall forward the application to the department. The application shall contain:

- (a) A description of the proposed project.
- (b) The name and address of the applicant.
- (c) The location of the proposed project.

(2) A construction permit is not required for a campground owned or operated by the state, but the other requirements of sections 12501 to 12516 and rules specified for other campground owners shall apply.

333.12506 Campground license required; application; contents; fee; exemption; expiration; campground owned or operated by state. [M.S.A. 14.15(12506)]

Sec. 12506. (1) A person shall not operate a campground without a campground license issued by the department. An application for a campground license shall be submitted to the local health department which shall forward the application to the department. The application shall contain:

- (a) The name and address of the applicant.
- (b) The location of the campground.
- (c) Information regarding physical facilities.

(2) A fee of \$25.00 shall accompany each application for a campground license. The license fee shall be deposited in the city or county general fund or other authorized fund. A governmental entity is exempt from payment of the license fee.

(3) The license shall expire on December 31 of each year.

(4) A campground license is not required for a campground owned or operated by the state, but the other requirements of sections 12501 to 12516 and rules governing other campground owners shall apply.

333.12507 Campground facilities to meet requirements prescribed under §333.12511. [M.S.A. 14.15(12507)]

Sec. 12507. Before an application for a campground license is approved, the department or the local health department shall determine that the campground contains facilities which meet the requirements prescribed under section 12511.

333.12508 Campground license; issuance; display; notice of denial; statement of reasons; reconsideration; hearing; appeal. [M.S.A. 14.15(12508)]

Sec. 12508. (1) Upon approval of the application, the department shall issue a campground license which shall be displayed in a conspicuous place on the campground.

(2) If the application is not approved, the department shall give written notice of its denial to the applicant stating reasons for the denial. The applicant may request reconsideration of the application after correction of the reasons for the denial or may request a hearing before the director, or an authorized representative of the director, on the denial within 10 days after receipt of the denial. The hearing shall be held not later than 20 days after receipt of the request.

(3) A person aggrieved by the decision of the director may appeal to the courts as provided by the administrative procedures act of 1969.

333.12509 Campground license; transfer. [M.S.A. 14.15(12509)]

Sec. 12509. A campground license shall not be transferred to another person except where the transferee complies with all the requirements to be licensed under sections 12501 to 12516 and the department expressly consents in writing to the transfer.

333.12511 Rules. [M.S.A. 14.15(12511)]

Sec. 12511. The department, with the advice, assistance, and approval of the advisory board, shall promulgate rules regarding sanitation and safety standards for campgrounds and public health. The rules shall recognize and provide controls for different types of campgrounds.

333.12512 Notice of noncompliance; specifying particular violations; time for compliance; revocation of license; notice of hearing; charges; hearing; decision; appeal. [M.S.A. 14.15(12512)]

Sec. 12512. (1) The department shall give written notice to a licensee who fails to comply with sections 12501 to 12516 or a rule promulgated under those sections. The notice shall specify the particular violations and a date by which the licensee shall comply. The time given for compliance shall depend upon the nature of the violation.

(2) If the licensee does not comply within the time specified, the department may revoke the license.

(3) Before revocation the director, or an authorized representative of the director, shall hold a hearing and give written notice thereof by certified mail at least 14 days before the date of the hearing, and shall set forth in writing the charges against the licensee. The hearing shall be held according to the administrative procedures act of 1969. After the hearing, the director shall decide whether the license shall be revoked.

(4) A licensee aggrieved by a decision of the director to revoke the license may appeal to the courts as provided by the administrative procedures act of 1969.

333.12513 Advisory board; purpose; appointment, qualifications, and terms of members. [M.S.A. 14.15(12513)]

Sec. 12513. (1) The director shall appoint an advisory board with broad geographical distribution of members to advise on the administration of sections 12501 to 12516 and the preparation and administration of rules promulgated under those sections.

(2) The board shall consist of 11 members as follows: 1 representing the Michigan mobile home and recreational vehicle institute; 2 representing consumers, including 1 who represents a recognized campground users association; 2 campground owners, including 1 who represents a primitive type of campground; 2 representing counties; 2 representing local health departments; the director of the department of natural resources or his or her authorized representative; and the director or his or her authorized representative.

(3) Except for the directors of the departments, or their authorized representatives, the members shall serve for a term of 3 years. However, of the members first appointed, 3 members shall serve for a 1-year term, 3 members shall serve for a 2-year term, and 3 members shall serve for a 3-year term.

333.12514 Access to campground; purpose. [M.S.A. 14.15(12514)]

Sec. 12514. An authorized representative of the department shall have access during all reasonable hours to a campground for the purpose of inspection or otherwise carrying out sections 12501 to 12516.

333.12515 Application and construction of §§333.12501 to 333.12516. [M.S.A. 14.15(12515)]

Sec. 12515. (1) Sections 12501 to 12516 do not apply to a campground used solely as a children's camp licensed by the department of social services or to properties owned by a person licensed pursuant to part 124, and used for housing seasonal agricultural workers employed by that person. A campground licensed under sections 12501 to 12516 shall not be used for the housing of seasonal agricultural workers unless also licensed under part 124.

(2) Sections 12501 to 12516 shall not be construed to interfere in any way with the enforcement of sanitary controls by a health officer having jurisdiction in the area.

(3) Sections 12501 to 12516 do not relieve a person from complying with local ordinances governing building permits or with a code, regulation, or ordinance not in conflict with sections 12501 to 12516.

333.12516 Violation as misdemeanor; action for injunction. [M.S.A. 14.15(12516)]

Sec. 12516. (1) A person who violates sections 12501 to 12515 is guilty of a misdemeanor.

(2) Notwithstanding the existence of any other remedy, the department or the local health department may maintain an action in the name of the state for an injunction against a person to restrain or prevent the construction, enlargement, or alteration of a campground without a permit, or the operation or conduct of a campground without a license.

333.12521 Definitions used in §§333.12521 to 333.12534. [M.S.A. 14.15(12521)]

Sec. 12521. As used in sections 12521 to 12534:

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

(b) "Public swimming pool" means an artificial body of water used collectively by a number of individuals primarily for the purpose of swimming, wading, recreation, or instruction and includes related equipment, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool such as equipment, dressing, locker, shower, and toilet rooms. Public swimming pools include those which are for parks, schools, motels, camps, resorts, apartments, clubs, hotels, mobile home parks, subdivisions, and the like. A pool or portable pool located on the same premises with a 1-, 2-, 3-, or 4-family dwelling and for the benefit of the occupants and their guests, a natural bathing area such as a stream, lake, river, or man-made lake, an exhibitor's swimming pool built as a model at the site of the seller and in which swimming by the public is not permitted, or a pool serving not more than 4 motel units is not a public swimming pool.

333.12522 Public swimming pool; review of design, construction, and operation; rules. [M.S.A. 14.15(12522)]

Sec. 12522. (1) The department shall review the design, construction, and operation of public swimming pools to protect the public health, prevent the spread of disease, and prevent accidents or premature deaths.

(2) The department shall promulgate rules to carry out sections 12521 to 12534.

333.12523 Construction and operation of public swimming pools; supervisory and visitorial power; control. [M.S.A. 14.15(12523)]

Sec. 12523. The department has supervisory and visitorial power and control as limited in sections 12521 to 12534 over persons engaged in the construction and operation of public swimming pools.

333.12524 Public swimming pools; periodic inspections; right of entry. [M.S.A. 14.15(12524)]

Sec. 12524. (1) The department, its agents or representatives, or representatives of a designated local health department shall make periodic inspections of public swimming pools.

(2) The department, its agents or representatives, or representatives of a designated local health department may enter upon the swimming pool premises and other property of a person at all reasonable times for the purpose of inspecting the swimming pool and carrying out the authority vested in the department under sections 12521 to 12534.

333.12525 Construction or modification of public swimming pool; review and approval of plans and specifications; fee; permit; responsibility of applicant or owner; nuisance or hazard to health or safety; description of swimming pool system and auxiliary structures. [M.S.A. 14.15(12525)]

Sec. 12525. (1) A person intending to construct a public swimming pool or intending to modify an existing public swimming pool shall submit plans and specifications for the proposed installation accompanied by a fee of \$50.00 to the department for review and approval and shall secure a permit for the construction. A person shall not start or engage in the construction of a public swimming pool or modify an existing public swimming pool until the permit for its construction is issued by the department.

(2) Sections 12521 to 12534 or an action of the department shall not relieve the applicant or owner of a public swimming pool from responsibility for securing a building permit or complying with applicable local codes, regulations, or ordinances not in conflict with sections 12521 to 12534. Compliance with an approved plan shall not authorize the owner constructing or operating a public swimming pool to create or maintain a nuisance or a hazard to health or safety.

(3) Plans and specifications submitted for the purpose of obtaining a construction permit shall include a true description of the entire swimming pool system and auxiliary structures or parts thereof as they are proposed to be constructed and operated.

333.12526 Examination of plans and specifications; determination; issuance of permit; notice of deficiencies; resubmission of documents; duration of permit; written approval of change. [M.S.A. 14.15(12526)]

Sec. 12526. (1) The department shall examine the plans and specifications and determine whether the swimming pool facilities, if constructed in accordance therewith, are or would be sufficient and adequate to protect the public health

and safety. If the plans and specifications are approved, the department shall issue a permit for construction. If the plans and specifications are not approved, the department shall notify the applicant or the applicant's representative of the deficiencies. The applicant may have the plans and specifications amended to remedy the deficiencies and resubmit the documents, without additional fee, for further consideration.

(2) A construction permit shall be valid for not more than 2 years after the date of issuance unless a written time extension is granted by the department.

(3) Each public swimming pool shall be constructed or modified in accordance with the approved plans and specifications unless written approval of a change is granted by the department.

333.12527 Operation permit required; fee; display; expiration; renewal; replacement. [M.S.A. 14.15(12527)]

Sec. 12527. (1) A public swimming pool shall not be operated without an operation permit.

(2) A person engaged in the operation of a public swimming pool shall obtain a permit to operate the swimming pool from the department and shall pay an initial operation permit fee of \$50.00.

(3) An operation permit shall be displayed by the owner in a conspicuous place on the premises.

(4) An operation permit shall expire December 31 of each year.

(5) An operation permit shall be renewed upon receipt of a proper application, an annual renewal fee of \$20.00, and evidence that the public swimming pool is being operated and maintained in accordance with sections 12521 to 12534 and the rules and regulations.

(6) An operation permit shall not be transferred to another person but it may be replaced by another operation permit upon receipt of a proper application and a \$20.00 fee.

333.12528 Denial of operation permit; grounds; notice; failure to correct deficiencies or noncomplying items. [M.S.A. 14.15(12528)]

Sec. 12528. If upon investigation, the department or designated local health department finds that a public swimming pool was not constructed or modified in accordance with the approved plans and specifications, the department or designated local health department shall give written notice to the applicant that the operation permit will not be issued, citing the deficiencies or noncomplying items that constitute the reasons for not issuing the operation permit. An applicant who fails to correct the deficiencies or noncomplying items shall be denied an operation permit.

333.12529 Revocation of operation permit; grounds; hearing; reissuance. [M.S.A. 14.15(12529)]

Sec. 12529. The department may revoke the operation permit upon a finding that the pool is not being operated or maintained in accordance with sections 12521 to 12534 or the rules. A person aggrieved by a decision of the department shall be granted a hearing. A permit that has been revoked shall be reissued only when the department determines the deficiencies are corrected.

333.12530 Periodic reports covering operation of public swimming pools. [M.S.A. 14.15(12530)]

Sec. 12530. The department shall provide for a system of periodic reports covering the operation of the public swimming pool so that the department may readily determine compliance with sections 12521 to 12534 and the rules.

333.12531 Ordering owner or operator to prohibit use of swimming pool. [M.S.A. 14.15(12531)]

Sec. 12531. If the department, its agent or representative, or a representative of a designated local health department considers that conditions warrant prompt closing of a swimming pool until sections 12521 to 12534 and the rules are complied with for the protection of the public health and safety, the department or designated local health department may order the owner or operator of the swimming pool to prohibit an individual from using it until corrections are made to protect adequately the public health and safety.

333.12532 Payments to local health department. [M.S.A. 14.15(12532)]

Sec. 12532. The department may approve payments of \$50.00 for each swimming pool granted an initial operation permit and \$20.00 for each renewal operation permit to a designated local health department when the fees are collected by the state from its respective area. The state treasurer shall make the payments upon receipt of approval from the department.

333.12533 Violation as misdemeanor; each day of violation as separate violation; prosecution. [M.S.A. 14.15(12533)]

Sec. 12533. A person who violates sections 12521 to 12531 or a rule promulgated under those sections is guilty of a misdemeanor. Each day upon which a violation occurs is a separate violation. The attorney general or local prosecuting attorney shall be responsible for prosecuting a person who violates sections 12521 to 12531.

333.12534 Action for injunction or other process. [M.S.A. 14.15(12534)]

Sec. 12534. Notwithstanding the existence and pursuit of any other remedy, the department, its agent or representative, or a representative of a designated local health department may maintain an action in the name of the state for injunction or other process against a person to restrain or prevent the construction or modification of a public swimming pool without a construction permit, or the operation of a public swimming pool without an operation permit, or in a manner contrary to law.

333.12541 Testing and evaluating quality of water at bathing beaches open to public; purpose; injunction. [M.S.A. 14.15(12541)]

Sec. 12541. The local health officer or an authorized representative of the local health department having jurisdiction may test and otherwise evaluate the quality of water at bathing beaches open to the public to determine whether the water is safe for bathing purposes. If, based upon the standards prescribed by the rules promulgated under section 12544, the health officer or the authorized representative determines the water is unsafe for bathing, he or she may petition the circuit court of the county in which the beach is located for an injunction ordering the person owning or operating the bathing beach to close the beach for use by bathers or other measures that the court deems proper to keep persons from entering thereon. The court may grant an injunction if circumstances warrant it.

333.12542 Public bathing beach; safety and rescue equipment; communication with outside sources of assistance. [M.S.A. 14.15(12542)]

Sec. 12542. The owner or person in charge of a public bathing beach shall provide and maintain suitable and adequate safety and rescue equipment and suitable and adequate means of communication with outside sources of assistance, which shall be available and accessible at the public bathing beach when it is open to bathers.

333.12543 Consulting and cooperating with local health officers; training for employees; assistance. [M.S.A. 14.15(12543)]

Sec. 12543. The department or an authorized representative of the department shall consult and cooperate with local health officers and shall provide training for employees thereof and otherwise assist in the effective administration of sections 12541 to 12545.

333.12544 Rules. [M.S.A. 14.15(12544)]

Sec. 12544. The department, in cooperation with local health departments, shall promulgate rules which shall contain minimum sanitation standards for determining water quality at bathing beaches open to the public. The rules shall be used by a local health department to establish the safety of the water for swimming. Water quality standards adopted under this section shall be in conformity with the official state water quality standards adopted by the water resources commission under the authority of Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.13 of the Michigan Compiled Laws.

333.12545 Violation as misdemeanor. [M.S.A. 14.15(12545)]

Sec. 12545. A person who violates sections 12541 to 12543 is guilty of a misdemeanor.

333.12546 Local regulations. [M.S.A. 14.15(12546)]

Sec. 12546. Sections 12541 to 12544 shall not change the authority of local health departments or county boards of commissioners to enact local regulations governing public bathing beaches.

333.12561 Suppression of swimmers' itch and other nuisance-producing organisms; supervising chemical treatment of waters; experiments; equipment and materials; rules. [M.S.A. 14.15(12561)]

Sec. 12561. (1) The department of natural resources shall supervise the chemical treatment of the waters of the state for the suppression of swimmers' itch, and other nuisance-producing organisms, including aquatic plants, in accordance with sections 12561 to 12563.

(2) The department of natural resources may conduct experiments to ascertain the best methods for control, and may purchase equipment and materials for control.

(3) The department of natural resources may promulgate rules describing the type of chemicals to be used, the type of solutions to be used, the manner of applying the chemicals, the time of application, and public notice and permit granting procedures.

333.12562 Application of chemicals lawful; permit to conduct control work; times, conditions, and safeguards; providing chemicals, equipment, and services. [M.S.A. 14.15(12562)]

Sec. 12562. (1) The application of necessary chemicals in powder, crystal, or solution form to the waters of this state for the control of aquatic nuisances, such as swimmers' itch and aquatic plants, is lawful and not in contravention of the private or public rights to the use and enjoyment of abutting property by the owners or occupants of that property when the application is made in accordance with sections 12561 to 12563 and rules promulgated under section 12561.

(2) The necessary control work may be conducted by the state or a political subdivision or by an organized lake or improvement association on behalf of its members, or by the owner of property abutting on the waters of the state, or by an aquatic pest control applicator licensed under Act No. 171 of the Public Acts of

1976, being sections 286.551 to 286.581 of the Michigan Compiled Laws, after obtaining a permit from the department of natural resources. The permit shall be issued at no charge to the applicant, and, unless revoked, shall expire on December 31 of the calendar year in which issued.

(3) The necessary work shall be conducted at those times, under those conditions, and with those safeguards, as the department of natural resources requires. The department of natural resources may provide permits for the suppression of swimmers' itch and aquatic plants, if applicants provide at their own expense chemicals and other equipment and services called for in the rules promulgated by the department of natural resources.

333.12563 Failure to obtain permit; violation of rule or condition of permit; misdemeanor; revocation of permit. [M.S.A. 14.15(12563)]

Sec. 12563. A person who fails to obtain the necessary permit in advance of undertaking the control work, or who violates a rule of the department of natural resources or a condition of the valid permit is guilty of a misdemeanor. A permit issued under section 12562 shall automatically be revoked when the holder of the permit violates sections 12561 to 12563 or a rule promulgated under section 12561.

PART 127. WATER SUPPLY AND SEWER SYSTEMS

**333.12701 Definitions used in §§333.12701 to 333.12715.
[M.S.A. 14.15(12701)]**

Sec. 12701. (1) As used in sections 12701 to 12715:

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

(b) "Pump" means a mechanical equipment or device used to remove water from a well.

(c) "Pump installer" means a person who is qualified to engage in the installation, removal, alteration, or repair of water well pumping equipment in connection with a water well.

(d) "Well" means an opening in the surface of the earth for the purpose of removing fresh water or a test well, recharge well, waste disposal well, or a well used temporarily for dewatering purposes during construction.

(e) "Well drilling contractor" means a person qualified to engage in well construction, well alteration, or well repair and pump installation, who supervises the construction of water wells and the installation of pumps, and who owns, rents, or leases equipment used in the construction of water wells.

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

**333.12703 Applicability of §§333.12701 to 333.12715.
[M.S.A. 14.15(12703)]**

Sec. 12703. (1) Sections 12701 to 12715 shall not apply to:

(a) A well, pump, or other equipment used temporarily for dewatering purposes during construction when the well is not more than 2 inches in diameter and not more than 25 feet in total depth below the natural ground surface or is used in the relief of artesian pressure at hydroelectric projects or is used with the drilling of oil or gas wells.

(b) A brine, test, storage, or disposal well regulated pursuant to Act No. 315 of the Public Acts of 1969, being sections 319.211 to 319.236 of the Michigan Compiled Laws.

(2) Sections 12701 to 12715 shall not prevent a person from constructing a well or installing a pump on property owned or leased by the person which is intended for use only in a single family house which is that person's permanent residence, or intended for use only for farming purposes on that person's farm, and where the waters to be produced are not intended for use by the public or in any residence other than his or her own. The person shall submit the drilling record required by section 12707 and comply with the rules and construction code promulgated under section 12714.

(3) Sections 12701 to 12715 shall not restrict a master plumber licensed under Act No. 266 of the Public Acts of 1929, as amended, being sections 338.901 to 338.917 of the Michigan Compiled Laws, from engaging in the licensee's legally recognized trade. A licensed master plumber may perform the work of a pump installer prescribed in sections 12701 to 12715 or rules and construction code promulgated under section 12714 without a certificate of registration as a pump installer.

333.12704 Certificate of registration as well drilling contractor, pump installer, water well drilling contractor, or dewatering well pump installer; application; fees; exemption. [M.S.A. 14.15(12704)]

Sec. 12704. (1) Before engaging in the business of well drilling or pump installing, a person shall obtain a certificate of registration annually as a well drilling contractor or pump installer, using an application prepared by the department.

(2) Before engaging in the business of constructing dewatering wells or installing dewatering well pumps, a person shall obtain a certificate of registration annually as a water well drilling contractor limited to the construction of dewatering wells or as a dewatering well pump installer, using an application prepared by the department.

(3) The applicant shall pay a registration fee with the application. The initial registration fee and the annual renewal registration fee for a well drilling contractor is \$40.00 and for a pump installer is \$25.00. A well drilling contractor shall pay an additional annual fee of \$10.00 for each additional drilling machine. A registered well drilling contractor may do any of the work of a pump installer without payment of the fee for a pump installer.

(4) A county, city, village, township, or other governmental unit engaged in well drilling or pump installing shall be registered under sections 12701 to 12715, but shall be exempt from paying the registration fees if the drilling or installing is done by regular employees of, and with equipment owned by, the governmental unit and the work is on wells or pumps intended for use by the governmental unit.

333.12705 Certificate of registration; issuance; nontransferable; expiration; renewal; examination; eligibility; reciprocity. [M.S.A. 14.15(12705)]

Sec. 12705. (1) The department shall issue certificates of registration to well drilling contractors and pump installers who meet the requirements of sections 12701 to 12715.

(2) A certificate of registration is not transferable and expires on April 30 of each year. After July 1 of each year a certificate of registration may be renewed only upon application for renewal and payment of a fee of 50% of the basic registration fee in addition to the regular registration fee.

(3) A new applicant for a certificate of registration shall be examined in accordance with the rules and construction code promulgated under section 12714. The advisory board created by section 12711 shall determine and advise the department as to the eligibility of a well drilling contractor or pump installer

for registration. A well drilling contractor or pump installer which is a firm, partnership, or corporation shall designate at least 1 partner, officer, or responsible full-time employee to take the examination on its behalf.

(4) The department, upon application and payment of the prescribed fees, may issue a certificate of registration as a well drilling contractor or a pump installer to a person who holds a similar certificate of registration in another state or a foreign country, if the requirements for the registration of a well drilling contractor and pump installer under which the certificate of registration was issued do not conflict with this part, are of a standard not lower than that specified by the rules and construction code promulgated under section 12714, and if equal reciprocal privileges are granted to a registrant of this state.

333.12706 Numbers, seal, and words to be placed on well drilling machine. [M.S.A. 14.15(12706)]

Sec. 12706. A well drilling contractor shall place the registration number, including the county code number for the business location, in figures not less than 2 inches high in a conspicuous location on both sides of the contractor's well drilling machine. A seal furnished by the department designating the year the certificate of registration was issued or renewed and the words "Michigan registered water well drilling contractor" shall be affixed directly adjacent to the registration number.

333.12707 Record required; contents; copies; forms; sufficiency of record for drive point well. [M.S.A. 14.15(12707)]

Sec. 12707. Not later than 60 days after the completion of a well, a well drilling contractor shall provide the owner with a copy and the department, or local health department, with 2 copies of a record indicating the well owner's name, location of the well, well depth, geologic materials and thicknesses of materials penetrated, amount of casing, static water levels, and any other information which may be required by the rules and construction code promulgated under section 12714. The department or local health department shall send 1 copy of the record to the director of the department of natural resources not later than 30 days after its receipt from the well drilling contractor. Standard forms for the record shall be provided by the department or the contractor's forms may be used if approved by the department. A record for a drive point well where no earth materials are removed from the well bore is sufficient if the owner's name, well location, depth, casing, static water level, and screen data are stated.

333.12708 Entering and inspecting installation. [M.S.A. 14.15(12708)]

Sec. 12708. The department or local health department may enter and inspect, at reasonable hours, an installation on public or private property for the development or abandonment of ground water supplies.

333.12709 Inspection of violation; order; notice of suspension of certificate of registration; petition for hearing; revocation of certificate of registration. [M.S.A. 14.15(12709)]

Sec. 12709. (1) When the department or local health department determines that there are reasonable grounds to believe there has been a violation of sections 12701 to 12715 or a rule or the construction code promulgated under section 12714, the department or the local health department shall investigate the violation. If the department or local health department establishes that a violation has been committed, the department or the local health department shall order the responsible person to make the proper corrections.

(2) When the department finds that the holder of a certificate of registration

has engaged in a practice in violation of sections 12701 to 12715 or a rule, construction code, or order issued pursuant to those sections, the department may give written notice to the holder of the certificate of registration that the certificate of registration is suspended. A person who receives notice from the department that his or her certificate of registration is suspended, upon request, shall be granted a hearing before the department or an authorized representative of the department. If a petition for a hearing is not filed within 30 days after the day on which the certificate of registration was suspended, the certificate of registration is automatically revoked.

333.12711 Advisory board; creation; appointment and qualifications of members. [M.S.A. 14.15(12711)]

Sec. 12711. An advisory board of 9 members is created in the department composed of the following: 5 members who are residents of this state registered under sections 12701 to 12715, at least 4 of whom are well drilling contractors, and who shall be appointed by the governor with the advice and consent of the senate; an employee of the bureau of environmental and occupational health of the department, and a representative of a local health department, each to be appointed by the director; an employee of the geological survey section of the department of natural resources appointed by the director of the department of natural resources; and an employee of the water resources commission appointed by the executive secretary of the water resources commission. Of 4 well drilling contractors 1 shall be from each of 4 geographic regions:

(a) Region 1: The Upper Peninsula.

(b) Region 2: That part of the Lower Peninsula bordered on the south by Oceana, Newaygo, Mecosta, Isabella, Midland, and Bay counties and the area north of those counties.

(c) Region 3: The area bordered on the north and west by Huron, Tuscola, Saginaw, Shiawassee, Livingston, Washtenaw, and Lenawee counties and the area south and east of those counties.

(d) Region 4: The area bordered on the east and north by Hillsdale, Jackson, Ingham, Clinton, Gratiot, Montcalm, Kent, and Muskegon counties and the area south and west of those counties.

333.12712 Advisory board; terms of members; vacancies. [M.S.A. 14.15(12712)]

Sec. 12712. Each member of the advisory board shall be appointed for a 3-year term. The terms of the 5 members registered under sections 12701 to 12715 shall alternate so that not more than 2 are appointed each year, except that of the first appointees, 1 shall be appointed for 1 year and 2 each shall be appointed for 2 and 3 years. The terms of the members representing the department of natural resources, the water resources commission, and the local health department shall alternate so that only 1 is appointed each year, except that of the first appointees 1 member shall be appointed for 1 year, 1 for 2 years, and 1 for 3 years. Vacancies shall be filled by appointment for the balance of the unexpired terms by the respective officials designated in section 12711.

333.12713 Advisory board; election of chairperson; secretary of board; meetings; quorum; compensation and expenses. [M.S.A. 14.15(12713)]

Sec. 12713. (1) The members of the advisory board, as soon as appointed, shall organize and elect from their number a chairperson. Thereafter, annually when new members are appointed to the board, a chairperson shall be elected at the next board meeting. The member from the department shall be the secretary of the board.

(2) The board shall hold at least 1 meeting each year for the purpose of examining candidates for registration. Additional meetings may be called by the chairperson or director as may be reasonably necessary to carry out sections 12701 to 12715. Five members shall constitute a quorum.

(3) The per diem compensation of the members of the advisory board registered under sections 12701 to 12715 shall be established annually by the legislature. Expenses shall be reimbursed pursuant to section 1216.

333.12714 Rules and construction code. [M.S.A. 14.15(12714)]

Sec. 12714. The department, with the advice of the advisory board, shall promulgate rules and a construction code reasonably necessary to implement sections 12701 to 12715. The rules and construction code shall include provisions for qualifications and examination of well drilling contractors and pump installers, standards for the construction and installation of developments of ground water supplies, dewatering wells, abandonment of wells and dewatering wells, and for the administration of sections 12701 to 12715.

333.12715 Violation as misdemeanor; prosecution. [M.S.A. 14.15(12715)]

Sec. 12715. (1) A person who violates sections 12701 to 12714, a rule or the construction code promulgated under section 12714, or an order issued by the department or local health department under sections 12701 to 12714 is guilty of a misdemeanor.

(2) The attorney general or local prosecuting attorney shall be responsible for prosecuting a person who violates sections 12701 to 12715.

333.12721 Adding fluoride to water. [M.S.A. 14.15(12721)]

Sec. 12721. (1) A state department, board, commission, or agency shall not order a county, city, township, village, or any combination thereof to add fluoride to water which is supplied to the public that may be consumed by human beings.

(2) A county, city, township, village or any combination thereof which supplies water to the public may add fluoride to the water, in a manner and amount to be prescribed by the department, unless the addition of fluoride is rejected by an ordinance of the or by a majority of the electors of the county, city, township, village or any combination thereof.

333.12751 Definitions used in §§333.12752 and 333.12758. [M.S.A. 14.15(12751)]

Sec. 12751. As used in sections 12752 and 12758:

(a) "Available public sanitary sewer system" means a public sanitary sewer system located in a right of way, easement, highway, street, or public way which crosses, adjoins, or abuts upon the property and passing not more than 200 feet at the nearest point from a structure in which sanitary sewage originates.

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

(c) "Public sanitary sewer system" means a sanitary sewer or a combined sanitary and storm sewer used or intended for use by the public for the collection and transportation of sanitary sewage for treatment or disposal.

(d) "Structure in which sanitary sewage originates" or "structure" means a building in which toilet, kitchen, laundry, bathing, or other facilities which generate water-carried sanitary sewage are used or are available for use for household, commercial, industrial, or other purposes.

333.12752 Public sanitary sewer systems; declaration of necessity. [M.S.A. 14.15(12752)]

Sec. 12752. Public sanitary sewer systems are essential to the health, safety,

and welfare of the people of the state. Septic tank disposal systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of septic tank disposal systems poses a threat to the public health, safety, and welfare; presents a potential for ill health, transmission of disease, mortality, and economic blight; and constitutes a threat to the quality of surface and subsurface waters of this state. The connection to available public sanitary sewer systems at the earliest, reasonable date is a matter for the protection of the public health, safety, and welfare and necessary in the public interest which is declared as a matter of legislative determination.

333.12753 Structures in which sanitary sewage originates to be connected to public sanitary sewer; approval; time. [M.S.A. 14.15(12753)]

Sec. 12753. (1) Structures in which sanitary sewage originates lying within the limits of a city, village, or township shall be connected to an available public sanitary sewer in the city, village, or township if required by the city, village, or township.

(2) Structures in which sanitary sewage originates lying outside the limits of the city, village, or township in which the available public sanitary sewer lies shall be connected to the available public sanitary sewer after the approval of both the city, village, or township in which the structure and the public sanitary sewer system lies and if required by the city, village, or township in which the sewage originates.

(3) Except as provided in subsection (4), the connection provided for in subsections (1) and (2) shall be completed promptly but not later than 18 months after the date of occurrence of the last of the following events or before the city, village, or township in which the sewage originates requires the connection:

(a) Publication of a notice by the governmental entity which operates the public sanitary sewer system of availability of the public sanitary sewer system in a newspaper of general circulation in the city, village, or township in which the structure is located.

(b) Modification of a structure so as to become a structure in which sanitary sewage originates.

(4) A city, village, or township may enact ordinances, or a county or district board of health, may adopt regulations to require completion of the connection within a shorter period of time for reasons of public health.

333.12754 Failure to connect structure to public sanitary sewer; notice; action to compel connection. [M.S.A. 14.15(12754)]

Sec. 12754. (1) When the structure in which sanitary sewage originates is not connected to an available public sanitary sewer system within the time specified in section 12753, the governmental unit in which the structure lies shall require the connection to be made immediately after notice, which may be by first class or certified mail to the owner of the property or by posting on the property.

(2) The notice shall give the approximate location of the public sanitary sewer system which is available for connection of the structure involved and shall advise the owner of the requirements and enforcement provisions of sections 12752 to 12758 and any applicable ordinance or regulation.

(3) Where a structure in which sanitary sewage originates is not connected to an available public sanitary sewer system within 90 days after the date of mailing or posting of the written notice, the governmental unit which operates the available sanitary sewer system may bring an action for a mandatory injunction or order in the district, municipal, or circuit court in the county in which the structure is situated to compel the owner to connect to the available sanitary sewer system

immediately. The governmental unit may join any number of owners of structures situated within the governmental unit in the action to compel each owner to connect to an available sanitary sewer system immediately.

333.12756 Tap-in fee for connection; deferment of payment by reason of hardship; application; evidence of hardship; ordinance defining hardship and permitting deferred or partial payment; condition to granting deferred or partial payment. [M.S.A. 14.15(12756)]

Sec. 12756. (1) An owner of property who by reason of hardship is unable to comply with provisions of sections 12752 to 12758 requiring connection to an available sanitary sewer system when the local unit of government charges a tap-in fee for connection may have the fee payment deferred by application to the assessing officer. Upon receipt of evidence of hardship, the local unit of government may defer partial or total payment of the fee.

(2) The local unit of government may enact ordinances to define hardship in its area and to permit deferred or partial payment of the tap-in fee. As a condition to the granting of the deferred or partial payment of the tap-in fee, the local unit of government may require mortgage security on the real property of the beneficiary payable on or before death, or, in any event, on the sale or transfer of the property.

333.12758 Voluntary connection to public sanitary sewer system; provisions cumulative. [M.S.A. 14.15(12758)]

Sec. 12758. (1) Sections 12752 to 12758 shall not limit the right of the owner of a structure in which sanitary sewage originates voluntarily to connect the structure to a public sanitary sewer system where the operator of the system agrees to the connection.

(2) Sections 12752 to 12758 are in addition to and not in limitation of the power of a governmental unit to adopt, amend, and enforce ordinances relating to the connection of a structure in which sanitary sewage originates to its public sanitary sewer system.

333.12771 Outhouses; requirements; rules; violation as misdemeanor; public nuisance; "outhouse" defined. [M.S.A. 14.15(12771)]

Sec. 12771. (1) A person shall not maintain, or permit to be maintained, on premises owned or controlled by the person an outhouse unless the outhouse is kept in a sanitary condition, and constructed and maintained in a manner which will not injure or endanger the public health.

(2) The department shall promulgate rules governing the construction and maintenance of outhouses to safeguard the public health and to prevent the spread of disease and the existence of sources of contamination.

(3) A person who violates this section is guilty of a misdemeanor. An outhouse not constructed or maintained as required by this section or the rules promulgated pursuant to this section shall be a public nuisance.

(4) As used in this section, "outhouse" means a building or other structure not connected with a sewer system or with a properly installed and operated sewage disposal system, and which is used for the reception, disposition, or storage, either temporarily or permanently, of feces or other excreta from the human body.

PART 129. FOOD SERVICE SANITATION

**333.12901 Definitions and principles of construction.
[M.S.A. 14.15(12901)]**

Sec. 12901. (1) As used in this part:

(a) "Food service establishment" means a fixed or mobile restaurant, coffee

shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. Food service establishment shall not apply to a state or county fair, meat and poultry slaughterhouse or processing plant, soft drink plant, food warehouse, grocery store, bakery, dairy plant, locker plant, canning or preserving plant, brining station, roadside stand, flour mill, fish processor or market, egg breaking plant, motel serving continental breakfasts only, other establishment where food manufacturing, processing, or packing is carried out, or inpatient food service establishment located in a health facility subject to licensure under article 17. Food service establishment also shall not apply to a charitable, religious, fraternal, service, civic, or other nonprofit organization operating a home-prepared baked goods sale or serving home-prepared food in connection with its meetings or as part of a community service or fund raising event.

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

(c) "Temporary food service establishment" means a food service establishment which operates at a fixed location for a temporary period of time, not to exceed 2 weeks, in connection with a carnival, circus, public exhibition, or similar transitory gathering.

(d) "Vending machine" means a self-service device offered for public use which, upon insertion of a coin or token, or by other similar means, dispenses unit servings of food or beverages without the necessity of replenishing the device between each vending operation. The term does not mean a device which dispenses only bottled or canned soft drinks; other packaged nonperishable foods or beverages; or bulk ball gum, nuts, and panned candies.

(e) "Vending machine location" means the room, enclosure, space, or area where 1 or more vending machines are installed and operated.

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

333.12903 Food service sanitation advisory board; creation; purpose; membership. [M.S.A. 14.15(12903)]

Sec. 12903. A food service sanitation advisory board is created in the department to advise the director on the implementation of this part and on the promulgation of rules under this part. The board shall consist of 5 members representative of the retail food service industry.

333.12904 License to operate food service establishment, temporary food service establishment, or vending machine location; form and contents of application; fees; duration; single license for separate areas or multiple locations; posting license; information to be displayed on vending machine; notice of change of ownership; license nontransferable. [M.S.A. 14.15(12904)]

Sec. 12904. (1) A person shall not operate a food service establishment, temporary food service establishment, or vending machine location in this state without a license issued by the department. This part does not apply to an establishment which complies with section 20132(3), except as provided in that section.

(2) Application for the license shall be upon the forms and shall contain the reasonable information required by the department. The application for license shall be accompanied by the fees prescribed in section 12906. Application for a license shall be submitted to the local health department having jurisdiction prior to May 1 each year. The local health department shall forward the applications to the department with appropriate recommendations.

(3) A license, other than a license for a temporary food service establishment, shall expire at midnight on April 30 each year. A temporary food service establishment shall be issued a license for the period of time the establishment will be operated at a specified location.

(4) When separate areas for food service or preparation are located in 1 building and are operated under 1 management, the arrangement shall be considered as 1 establishment and only 1 license shall be required. If multiple vending machine locations are operated by the same person within the jurisdiction of the local health department, a single license application for those vending machine locations may be permitted.

(5) The current food service establishment or temporary food service establishment license shall be posted in a conspicuous place in the establishment to which the license applies. In the case of vending machines, the name and address and telephone number of the current vending machine location operator shall be conspicuously displayed on each vending machine.

(6) The owner or operator of a food service establishment shall notify the local health department before there is a change of ownership of the food service establishment. A license issued under this part is not transferable as to person or place.

333.12905 Sign indicating nonsmoking area; posting; seating patron upon request. [M.S.A. 14.15(12905)]

Sec. 12905. A food service establishment having a seating capacity of 50 or more persons shall post a sign at the entrance of the dining area indicating the availability of a nonsmoking area. Upon the request of a patron, the establishment shall seat the patron in a nonsmoking area which shall be clearly marked by sign.

333.12906 Payment of sanitation service fees; exemptions; furnishing tax exempt number. [M.S.A. 14.15(12906)]

Sec. 12906. (1) Each applicant for a license at the time an application is submitted shall pay to the local health department having jurisdiction the required sanitation service fees authorized by section 2444.

(2) A school or other educational institution is exempt from paying the fees but is not exempt from the other provisions of this part. A charitable, religious, fraternal, service, civic, or other nonprofit organization is exempt from paying fees under this section, except for the vending machine location license fee. The organization shall furnish to the department of public health the organization's tax exempt number assigned by the state department of treasury.

333.12907 Denial, suspension, limitation, or revocation of license; grounds; notice; hearing; discontinuance of operation creating substantial hazard; denial of license precluded by meeting minimum state standards. [M.S.A. 14.15(12907)]

Sec. 12907. (1) The department or a local health department may deny, suspend, limit, or revoke a license if an applicant or a licensee fails to comply with this part or rules promulgated under this part. The applicant or licensee shall be given written notice of the intended action, citing alleged deficiencies or

noncomplying items and providing the opportunity for a hearing before a board including at least 1 member of the appropriate local governing entity and either the director or the local health officer, or the designated representative of either the director or local health officer.

(2) A local health department may require immediate discontinuance of operation of a food service establishment, temporary food service establishment, vending machine, or vending machine location upon a determination that continued operation would create a substantial hazard to the public health.

(3) A license under this part shall not be denied by the state or local health department if the applicant or licensee meets minimum state standards for licensure.

333.12908 Enforcement; delegation of authority and responsibility. [M.S.A. 14.15(12908)]

Sec. 12908. The department shall delegate the authority and responsibility for the enforcement of the requirements contained in this part and the rules promulgated under this part to local health departments meeting the program criteria provided for in this part. The local health departments shall enforce this part and the rules promulgated in accordance with section 12909, and may delegate enforcement authority under an organization approved by the director pursuant to section 2431.

333.12909 Rules; adoption of federal provisions by reference; recognition of other enforcement procedures; meanings of certain terms; expiration of subsection (2); food service establishment or vending machine in place before effective date of part; food service sanitation program as required service. [M.S.A. 14.15(12909)]

Sec. 12909. (1) The department shall promulgate rules to prescribe criteria for programs by local health departments and procedures for the administration and enforcement of this part. The department may promulgate rules to prescribe minimum standards of sanitation for the protection of the public health and otherwise provide for the implementation of this part. The department in promulgating these rules shall seek the advice and counsel of local health departments and the food service industry.

(2) Except as otherwise specifically defined or described in this part, the provisions of the 1976 recommendations of the United States food and drug administration for a food service sanitation manual, including a model food service sanitation ordinance and the unabridged form of “the vending of food and beverages—a sanitation ordinance and code—1965 recommendations of the public health service” are adopted, except any reference in these ordinances and codes to adulteration, misbranding, advertising and enforcement procedures. Upon written request from a local health department, the department may recognize certain enforcement procedures other than those contained in this part and rules promulgated under this part, when the procedures will result in enforcement which is equivalent in effectiveness and have been legally adopted by the local department of health. The words “municipality of . . .” as used in the recommendations for a model food service sanitation ordinance shall mean the state and the term “regulatory authority” shall mean the local health officer in charge of a local health department or the local health officer’s designated representative. This subsection shall expire 3 years after the effective date of this act or when the rules promulgated under subsection (1) are promulgated, whichever is sooner.

(3) The design, construction, and equipment of a food service establishment or vending machine which was in place before the effective date of standards developed or adopted under this part shall be considered to be in compliance with this part if they are in compliance with the standards in effect on the date they were installed and if they are in good repair and are being maintained in a sanitary condition.

(4) A food service sanitation program which meets the requirements of this part is a required service under part 24.

333.12911 Plan and specifications for construction, remodeling, or alteration of food service establishment; contents; review and approval; prohibition; inspection. [M.S.A. 14.15(12911)]

Sec. 12911. (1) When a food service establishment is constructed or remodeled or when an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for the construction, remodeling, or alteration shall be submitted to the local health department for review and approval before construction, remodeling, or alteration is begun. The plans and specifications shall indicate the proposed layout, arrangement, and construction materials of work areas and the type and model of proposed fixed equipment and facilities. The local health department shall approve the plans and specifications if they meet the requirements of this part. A food service establishment shall not be constructed, remodeled, or altered except in accordance with plans and specifications approved by the local health department.

(2) When plans and specifications are required by this section to be submitted to the local health department, the local health department shall inspect the food service establishment before it begins operations to determine compliance with the approved plans and specifications and the requirements of this part.

333.12912 Investigation of food-borne diseases and poisonings; report; notice. [M.S.A. 14.15(12912)]

Sec. 12912. (1) A local health department shall investigate food-borne diseases and poisonings or suspected food-borne diseases and poisonings connected with a food service establishment, temporary food service establishment, or vending machine located within its jurisdiction and shall promptly make a report of its findings to the department.

(2) When an investigation indicates a source of a food-borne disease or poisoning was from a food processing, food storage, or similar type of food establishment over which the department of agriculture has legal jurisdiction or responsibility, the director of the department of agriculture shall be immediately notified by the local health officer while he or she is completing the investigation.

333.12915 Local authority not limited; local permit; compliance with local codes, regulations, or ordinances. [M.S.A. 14.15(12915)]

Sec. 12915. This part shall not limit the authority of a county, city, village, or township to regulate food service establishments or vending machines. This part shall not relieve the applicant for a license or a licensee from responsibility for securing a local permit or complying with applicable local codes, regulations, or ordinances not in conflict with this part.

333.12921 Injunction or other process. [M.S.A. 14.15(12921)]

Sec. 12921. Notwithstanding the existence and pursuit of any other remedy, the department or local health department may maintain an action in the name of the state for injunction or other appropriate process against a person to restrain or

prevent the operation or conduct of a food service establishment or vending machine location without a valid license or in a manner contrary to this part.

333.12922 Violation as misdemeanor. [M.S.A. 14.15(12922)]

Sec. 12922. A person who violates this part or a rule promulgated under this part is guilty of a misdemeanor.

PART 133. DRY CLEANING

333.13301 Definitions and principles of construction. [M.S.A. 14.15(13301)]

Sec. 13301. (1) As used in this part:

- (a) "Approved" means acceptable to the department.
- (b) "Class IV installation" means a dry cleaning system utilizing solvents classified as nonflammable or as nonflammable at ordinary temperatures and only slightly flammable at higher temperatures.
- (c) "Dry cleaning" includes dry dyeing and means the process of removing dirt, grease, paints, and other stains from wearing apparel, textiles, fabrics, and rugs by use of nonaqueous liquid solvents, including:
 - (i) Immersion and agitation in open vessels.
 - (ii) Immersion and agitation in closed machines.
 - (iii) Spotting or local application of flammable liquid solvents to spots of dirt, grease, paints, and stains not removed by the immersion and agitation process.
 - (iv) Brushing or scouring with inflammable solutions.
- (d) "Dry dyeing" means the process of dyeing clothes or other fabrics of textiles in a solution of dye colors and nonaqueous solvents.
- (e) "Person" means a person as defined in section 1106 or a governmental entity.

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

333.13303 Class IV cleaning installation; establishment or remodeling; examination and approval of drawings; scale and contents of drawings; specifications. [M.S.A. 14.15(13303)]

Sec. 13303. Before a class IV cleaning installation is established or before an existing plant is remodeled, complete drawings shall be submitted to the department for examination and approval. The drawings shall be drawn to an indicated scale, give the relative location of dry cleaning building, boiler room, finishing building or department, storage tanks for solvents, pumps, washers, drying tumblers, extractors, filter traps, stills, condensers, piping, and show elevation of the buildings, including lowest floors or pits, tanks, and their fittings and devices. Specifications prescribed by rules promulgated pursuant to this part shall accompany the drawings.

333.13304 Inspection of building and premises; conformity as condition to issuance of license. [M.S.A. 14.15(13304)]

Sec. 13304. When the construction and establishment of a class IV installation is completed, the department shall be notified and it shall inspect the buildings and premises in which the dry cleaning operations are contemplated. If the building and premises conform to the approved plans submitted in accordance with this part or rules promulgated pursuant to this part, the department shall issue to the applicant a license to conduct a class IV installation.

333.13305 License required. [M.S.A. 14.15(13305)]

Sec. 13305. A person shall not engage in the operation of a class IV installation until a license is issued to conduct a class IV installation.

333.13306 License; application; issuance; fee; duration. [M.S.A. 14.15(13306)]

Sec. 13306. (1) The department may receive applications for class IV installation licenses. If all the requirements of this part and rules promulgated pursuant to this part are met, the department shall issue a license.

(2) Upon the filing of an application for a license to conduct a class IV installation, the applicant shall pay a fee as prescribed by rules promulgated pursuant to this part.

(3) The license shall cover a time period prescribed by rules promulgated pursuant to this part.

333.13307 Inspections; cost. [M.S.A. 14.15(13307)]

Sec. 13307. (1) The department shall make periodic inspection of class IV installations to insure that the requirements of this part and rules promulgated pursuant to this part are met.

(2) The department may delegate the duty of inspections for approval of class IV installation permits to a local health department, which has the technical and other capabilities to protect the public health, safety, and welfare in this field. The state shall reimburse each local health department the full amount of the fees collected, as reimbursement for cost of inspection, on vouchers certified by the local health officer and approved by the department.

333.13308 License renewal; application; fee; issuance. [M.S.A. 14.15(13308)]

Sec. 13308. (1) A person conducting a class IV installation shall make application for license renewal as prescribed by rules promulgated pursuant to this part.

(2) Upon the filing of an application for license renewal, the applicant shall pay a fee as prescribed by rules promulgated pursuant to this part.

(3) If the applicant has complied with this part and rules promulgated pursuant to this part, the department shall issue a renewal license.

333.13309 Exhibition of license. [M.S.A. 14.15(13309)]

Sec. 13309. A license shall be exhibited at all times in the customer area of a class IV installation in a conspicuous place.

333.13310 Applicability of §29.210b. [M.S.A. 14.15(13310)]

Sec. 13310. When a class IV installation is operated in the same building or establishment as other classes of dry cleaning installations, section 10b of Act No. 327 of the Public Acts of 1947, being section 29.210b of the Michigan Compiled Laws, shall apply.

333.13311 Installation in building approved by department. [M.S.A. 14.15(13311)]

Sec. 13311. A class IV installation in which no class I, II, or III solvents as defined in Act No. 327 of the Public Acts of 1947, as amended, being sections 29.201 to 29.330 of the Michigan Compiled Laws, are employed for other than spotting purposes may be installed in a building approved by the department.

333.13312 Prohibited installation; exception. [M.S.A. 14.15(13312)]

Sec. 13312. A class IV installation shall not be located in a building occupied in part as a dwelling. An exception may be granted when due to special construction, location, or use the class IV installation will not create injury or hazard to health as determined by the department.

333.13313 Preventing escape of vapors; ventilation; exception. [M.S.A. 14.15(13313)]

Sec. 13313. (1) A class IV installation shall be constructed and installed so as to prevent the escape of substantially all vapors into the atmosphere of the dry cleaning room.

(2) Ventilation shall be installed in a class IV installation to meet the requirements of rules promulgated pursuant to this part.

(3) A class IV installation shall not be installed in a basement or other location difficult to ventilate. An exception may be granted when due to special construction, location, or use the class IV installation will not create injury or hazard to health as determined by the department.

333.13314 Use of flammable solvent. [M.S.A. 14.15(13314)]

Sec. 13314. A class IV installation shall not use a flammable solvent for brushing, scouring, or scrubbing. The use of a flammable solvent for spotting purposes shall be limited to 1 quart with storage and application from an approved safety can.

333.13315 Fire extinguishers. [M.S.A. 14.15(13315)]

Sec. 13315. One or more fire extinguishers, of either the carbon dioxide or dry chemical type shall be provided for use against A, B, and C class fires for every room in which the dry cleaning or spotting operations are carried on.

333.13316 Installation to be kept in clean and sanitary condition. [M.S.A. 14.15(13316)]

Sec. 13316. A person engaged in conducting a class IV installation shall keep the installation in a clean and sanitary condition free from the accumulation of dirt, waste, and fire hazards.

333.13321 Enforcement; suspension, revocation, or denial of license; finding of emergency; emergency order; hearing; continuing, modifying, or revoking order. [M.S.A. 14.15(13321)]

Sec. 13321. (1) The department shall enforce this part and the rules promulgated pursuant to this part.

(2) The department may suspend, revoke, or deny a class IV installation license.

(3) Upon a finding that an emergency exists requiring immediate action to protect occupational or public health and safety, the department may issue an order, without notice or hearing, reciting the existence of the emergency and providing for the protection of public health and safety. Notwithstanding this part or the administrative procedures act of 1969, the order shall be effective immediately. A person to whom the order is directed shall comply immediately but on application to the department shall be afforded a hearing within 15 days. On the basis of the hearing, the emergency order shall be continued, modified, or revoked not later than 30 days after the hearing.

333.13322 Rules; appointment of advisory committee.**[M.S.A. 14.15(13322)]**

Sec. 13322. The department shall promulgate rules necessary to carry out this part, and may appoint an advisory committee to assist in rule development. The rules shall include the following: license fees, renewal fees, plans, drawings, specifications, construction and installation of equipment standards, inspections, and other matters necessary to protect the health, safety, and welfare of the public.

333.13325 Violations; penalties. [M.S.A. 14.15(13325)]

Sec. 13325. (1) The owner or lessee of a class IV installation who uses a liquid other than that for which the owner or lessee is licensed is guilty of a misdemeanor, punishable by imprisonment for not less than 30 days nor more than 90 days, or a fine of not less than \$10.00 nor more than \$100.00, or both.

(2) The owner, occupant, or lessee of a class IV installation, or an agent thereof who fails to comply with this part or rules promulgated pursuant to this part within the time specified by the department, or who builds in violation of a detailed statement of specifications, plans, or license approved by the department, is guilty of a misdemeanor, punishable by imprisonment for not less than 30 days nor more than 90 days, or a fine of not less than \$10.00 nor more than \$100.00, or both for each violation or noncompliance.

PART 135. RADIATION CONTROL

333.13501 Definitions and principles of construction.**[M.S.A. 14.15(13501)]**

Sec. 13501. (1) As used in this part:

(a) "General license" means a license, effective pursuant to rules promulgated by the department without the filing of an application, to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing, radioactive material.

(b) "Ionizing radiation" means gamma rays and x rays, alpha particles, beta particles, high speed electrons, neutrons, protons, and other high speed nuclear particles.

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

(d) "Radioactive material" means a solid, liquid, or gas material which emits ionizing radiation spontaneously.

(e) "Registration" means registration of a source of ionizing radiation in writing with the department.

(f) "Source of ionizing radiation" means a device or material that emits ionizing radiation.

(g) "Specific license" means a license issued to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing, radioactive material.

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

333.13505 License, registration, or exemption required.**[M.S.A. 14.15(13505)]**

Sec. 13505. A person shall not manufacture, produce, transport, transfer, dispose of, acquire, own, possess, or use a radioactive material or other source of

ionizing radiation unless licensed, registered, or exempted by the department in accordance with rules promulgated pursuant to this part or unless exempted by this part.

333.13506 Applicability of §§333.13505 and 333.13515 to 333.13536. [M.S.A. 14.15(13506)]

Sec. 13506. Sections 13505 and 13515 to 13536 do not apply to the following sources or conditions, except as noted:

(a) Electrical or other equipment or material not intended primarily to produce radiation which, by nature of design, does not produce radiation at the point of nearest approach at a weekly rate higher than 1/10 the appropriate limit generally accepted by the medical profession for any critical organ exposed. The production testing or production servicing of the equipment is not exempt.

(b) A radiation machine during process of manufacture or in storage or transit. The production testing or production servicing of the machine is not exempt.

(c) A radioactive material while being transported under the jurisdiction of and in conformity with regulations adopted by the nuclear regulatory commission or the United States department of transportation, or their successors, specifically applicable to the transportation of such radioactive material.

(d) Sound waves, radio waves, and visible, infrared, or ultraviolet light.

(e) A production or utilization facility, as defined in the federal atomic energy act of 1954, 42 U.S.C. 2011 to 2281, or a source of ionizing radiation used in or in connection with the operation of a production or utilization facility pursuant to a license from the federal nuclear regulatory commission or successor thereto. However, the department may collect radiation data and perform environmental monitoring in connection with the operation of the facility in accordance with this part.

(f) A source material, by-product material, or special nuclear material over which the federal nuclear regulatory commission or a successor thereto has exclusive regulatory jurisdiction under the federal atomic energy act of 1954, which jurisdiction has not been transferred to this state pursuant to an agreement under Act No. 54 of the Public Acts of 1965, being sections 3.801 and 3.802 of the Michigan Compiled Laws.

333.13511 Agreements as to inspections, environmental monitoring, or other functions. [M.S.A. 14.15(13511)]

Sec. 13511. (1) The governor may enter into agreements with the federal government, other states, or interstate agencies, whereby the department shall perform for or on a cooperative basis with the federal government, other states, or interstate agencies inspections, environmental monitoring, or other functions relating to control of sources of ionizing radiation.

(2) An agreement entered into pursuant to subsection (1) does not transfer, delegate, or impose upon the department any power, authority, or responsibility that is not fully consistent with this part.

333.13515 Department as radiation control agency; duties generally. [M.S.A. 14.15(13515)]

Sec. 13515. (1) The department is designated as the radiation control agency of this state and shall coordinate radiation control programs of state departments acting within their statutory authorities.

(2) Pursuant to rules promulgated under this part, the department shall

require licensing and registration of radioactive materials and other sources of ionizing radiation.

(3) The department shall develop and conduct programs for evaluation and control of hazards associated with the use of radioactive materials and other sources of ionizing radiation.

333.13516 Finding of emergency; emergency order; hearing; continuing, modifying, or revoking order. [M.S.A. 14.15(13516)]

Sec. 13516. When the department finds that an emergency exists requiring immediate action to protect occupational or public health and safety, the department shall issue an order, with or without notice or hearing, reciting the existence of the emergency and providing for the protection of public health and safety. Notwithstanding this act or the administrative procedures act of 1969, the order shall be effective immediately. A person to whom the order is directed shall comply therewith immediately but on request to the department shall be granted a hearing within 15 days. On the basis of the hearing, the emergency order shall be continued, modified, or revoked within 30 days after the hearing.

333.13517 Right of entry to determine compliance or violation; warrant; search and seizure. [M.S.A. 14.15(13517)]

Sec. 13517. (1) The department may enter at all reasonable times upon private or public property upon which sources of ionizing radiation are reasonably believed to be located, with the permission of the owner or custodian thereof, to determine if there is compliance with or violation of this part or a rule or license.

(2) If the department has reasonable or probable cause to believe that a violation of this part or a rule or license is being committed on private or public property or that there exists on the property evidence of a violation, and permission to enter thereon is denied by the owner or custodian thereof, the department may apply to the proper judicial officer under Act No. 189 of the Public Acts of 1966, being sections 780.651 to 780.659 of the Michigan Compiled Laws, for a warrant commanding the sheriff or a law enforcement officer, with the aid of the department, to search the property and seize any source of ionizing radiation that is possessed, controlled, or used wholly or partially in violation of this part or a rule or license, or any evidence of a violation of this part or a rule or license.

333.13518 Operation of environmental monitoring systems; collection and coordination of radiation data. [M.S.A. 14.15(13518)]

Sec. 13518. The department shall operate and collect data from environmental monitoring systems in the environs of facilities which emit or could emit significant quantities of radioactive material effluents to measure the effect on public health and safety. The department shall receive and coordinate radiation data collected by other state departments.

333.13521 Rules generally. [M.S.A. 14.15(13521)]

Sec. 13521. (1) The department shall promulgate rules providing for general or specific licenses or registration, or exemption therefrom, for radioactive materials and other sources of ionizing radiation. The rules shall provide for amendment, suspension, or revocation of licenses. In connection therewith, the department may promulgate rules to establish requirements for record keeping, permissible levels of exposure, notification and reports of accidents, protective measures, technical qualifications of personnel, handling, transportation, storage,

waste disposal, posting and labeling of hazardous sources and areas, surveys, and monitoring.

(2) The rules shall not limit the intentional exposure of patients to radiation for the purpose of lawful diagnosis, therapy, or research conducted by licensed members of the healing arts.

333.13522 Rules; avoiding dual licensing; recognition of other state and federal licenses; schedule of fees; deposit of fees. [M.S.A. 14.15(13522)]

Sec. 13522. (1) In promulgating rules pursuant to this part the department shall avoid requiring dual licensing, insofar as practical. Rules promulgated by the department may provide for recognition of other state or federal licenses as the department deems desirable, subject to registration requirements prescribed by the department. A person who, on the effective date of an agreement under Act No. 54 of the Public Acts of 1965, possesses a license issued by the federal government for a source of ionizing radiation of the type for which the state assumes regulatory responsibility under the agreement, shall be deemed to possess an identical license issued pursuant to this part which license shall expire either 90 days after receipt of a written notice of termination from the department, or on the date of expiration stated in the federal license, whichever is the earlier.

(2) The department shall promulgate rules to establish a schedule of fees which shall be paid by applicants for specific licenses for radioactive materials and devices and equipment utilizing the materials.

(3) The department shall promulgate rules to establish a schedule of fees which shall be paid by an applicant for a specific license for other sources of ionizing radiation and the renewal thereof and by a person possessing sources of ionizing radiation which are subject to registration. The license or registration fees shall not exceed \$10.00 annually for each source of ionizing radiation. If the department does not inspect a source of ionizing radiation for a period of 5 consecutive years, the licensee or registrant of the source of ionizing radiation shall be excused from payment of further license or registration fees as to that source of ionizing radiation until the first license or registration renewal date following the time an inspection thereof is made.

(4) The fees collected under this part shall be deposited in the state treasury for the general fund of the state.

333.13525 Licensing, regulation, or registration by municipalities prohibited. [M.S.A. 14.15(13525)]

Sec. 13525. A municipality or a department, agency, or official of a municipality may not license, regulate, or require the registration of a radioactive material or other source of ionizing radiation.

333.13531 Radiation advisory board; appointment, qualifications, and terms of members; expenses; duty to furnish technical advice. [M.S.A. 14.15(13531)]

Sec. 13531. The governor shall appoint, with the advice and consent of the senate, a radiation advisory board of 9 members, 3 of whom shall represent industry, 3 the healing arts, and 3 the public and private institutions of higher learning. Members of the board shall serve at the pleasure of the governor. The members shall be reimbursed for necessary and actual expenses incurred in attendance at meetings or for authorized business of the board pursuant to section 1216. The board shall furnish to the department technical advice the board deems desirable or the department may reasonably request on matters relating to the radiation control program.

333.13535 Violations; penalties. [M.S.A. 14.15(13535)]

Sec. 13535. A person who violates this part or a rule promulgated under this part or who fails to obtain or comply with conditions of licensure or registration under this part is guilty of a misdemeanor, punishable by imprisonment for not more than 180 days, or a fine of not more than \$10,000.00, or both. A court may fine a person not more than \$2,000.00 for each violation of this part. Each day a violation continues shall be a separate violation.

333.13536 Injunction; order directing compliance. [M.S.A. 14.15(13536)]

Sec. 13536. If, after thorough investigation by the department, it is the judgment of the department that a person has engaged in or is about to engage in an act or practice which constitutes a violation of this part or a rule or order, the attorney general, at the request of the department, shall make application to the appropriate circuit court for an order enjoining the act or practice or for an order directing compliance with this part or a rule or order issued pursuant to this part.

ARTICLE 15. OCCUPATIONS
PART 161. GENERAL PROVISIONS

333.16101 Meanings of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(16101)]

Sec. 16101. (1) For purposes of this article, the words and phrases defined in sections 16102 to 16109 have the meanings ascribed to them in those sections.

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

333.16103 Definitions; A to C. [M.S.A. 14.15(16103)]

Sec. 16103. (1) "Approved physician" means a physician licensed under part 170 or part 175 who is approved by the board to supervise physician's assistants and to delegate the performance of medical care services to physician's assistants if the delegation is consistent with the training of physician's assistants.

(2) "Board" as used in this part means each board created in this article and as used in any other part covering a specific health profession means the board created in that part.

(3) "Certificate of licensure" means a document issued as evidence of authorization to practice and use a designated title.

(4) "Certificate of registration" means a document issued as evidence of authorization to use a designated title.

(5) "Council" means the health occupations council created in section 16151.

333.16104 Definitions; D to G. [M.S.A. 14.15(16104)]

Sec. 16104. (1) "Delegation" means an authorization granted by a licensee to a licensed or unlicensed individual to perform selected acts, tasks, or functions which fall within the scope of practice of the delegator and which are not within the scope of practice of the delegatee and which, in the absence of the authorization, would constitute illegal practice of a licensed profession.

(2) "Department" means the department of licensing and regulation.

(3) "Director" means the director of licensing and regulation.

(4) "Good moral character" means good moral character as defined and determined under Act No. 381 of the Public Acts of 1974, as amended, being sections 338.41 to 338.47 of the Michigan Compiled Laws.

333.16105 Definitions; H. [M.S.A. 14.15(16105)]

Sec. 16105. (1) "Health occupation" means a health related vocation, calling, occupation, or employment performed by individuals whether or not licensed or registered under this article.

(2) "Health profession" means a vocation, calling, occupation, or employment performed by individuals acting pursuant to a license or registration issued under this article.

(3) "Health profession specialty field" means an area of practice established under this article which is within the scope of activities, functions, and duties of a licensed health profession and which requires advanced education and training beyond that required for initial licensure.

(4) "Health profession subfield" means an area of practice established under this article which is within the scope of the activities, functions, and duties of a licensed health profession, and requires less comprehensive knowledge and skill than is required to practice the full scope of the health profession.

333.16106 Definitions; I to L. [M.S.A. 14.15(16106)]

Sec. 16106. (1) "Incompetence" means a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for the health profession, whether or not actual injury to an individual occurs.

(2) "License" means an authorization issued under this article to practice where practice would otherwise be unlawful. It includes an authorization to use a designated title which use would otherwise be prohibited under this article and may be used to refer to a health profession subfield license, limited license, or a temporary license.

(3) "Licensee" as used in a part that regulates a specific health profession means a person to whom a license is issued under that part, and as used in this part means each licensee regulated by this article.

(4) "Limitation" means an action by which a board imposes restrictions or conditions, or both, on a license.

(5) "Limited license" means a license to which restrictions or conditions, or both, as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client served are imposed by a board.

333.16107 Definitions; P. [M.S.A. 14.15(16107)]

Sec. 16107. (1) "Probation" means a sanction which permits a board to evaluate over a period of time a licensee's fitness to continue to practice under a license.

(2) "Public member" means a member of the general public who is not a licensee or registrant under this article, is a resident of this state, is not less than 18 years of age, and does not have a material financial interest in the provision of health services and has not had such an interest within the 12 months before appointment.

333.16108 Definitions; R. [M.S.A. 14.15(16108)]

Sec. 16108. (1) "Reclassification" means an action by a board by which restrictions or conditions, or both, applicable to a license are added or removed.

(2) "Registration" means an authorization only for the use of a designated title which use would otherwise be prohibited under this article. It includes specialty certification of a licensee.

(3) "Registrant" as used in any part that regulates the use of a title means an individual to whom a registration or specialty certification is issued under that part, and as used in this part means each registrant regulated by this article.

333.16109 Definitions; S to T. [M.S.A. 14.15(16109)]

Sec. 16109. (1) "Specialty certification" means an authorization to use a title by a licensee who has met qualifications established by a board for registration in a health profession specialty field.

(2) "Supervision" means the overseeing of or participation in the work of another individual by a health professional licensed under this article in circumstances where at least all of the following conditions exist:

(a) The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional.

(b) The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual's functions.

(c) The provision by the licensed supervising health professional of predetermined procedures and drug protocol.

(3) "Task force" means a task force created by this article.

(4) "Temporary license" means a license of limited duration granted to an applicant who has completed all requirements for licensure except an examination or other required evaluation procedure.

333.16111 Applicability of part; part controlling over other parts in article; effect of part on other licensees and registrants. [M.S.A. 14.15(16111)]

Sec. 16111. (1) This part applies to health professions, but, except for sections 16261, 16263, 16299, 16301, and 16317, does not apply to a pharmacy, dispensing prescriber, or drug manufacturer or wholesaler who is regulated by part 177.

(2) Except as otherwise provided by this article, this part controls over all other parts in this article.

(3) A part in this article does not prohibit a licensee under another part or other law of this state from performing activities and using designated titles authorized by a license issued to him or her under that other part or other law of this state.

(4) A part in this article does not prohibit a registrant under another part or other state law from using designated titles authorized by a registration issued to him or her under that other part or other state law.

(5) This article shall not prohibit a licensee from advising a patient to seek professional services or advice from another person.

333.16115 Board created as successor to former board with same or similar name. [M.S.A. 14.15(16115)]

Sec. 16115. A board created by this article is the successor to the board with the same or similar name created or continued by a statute repealed by this code.

333.16121 Council, board, or task force; appointment of members; vacancy; nominations; removal or suspension of member. [M.S.A. 14.15(16121)]

Sec. 16121. (1) The governor shall appoint by and with the advice and consent of the senate the members of the council and boards and task forces except ex officio members.

(2) A vacancy on the council or a board or task force shall be filled for the balance of the unexpired term in the same manner as the original appointment. An appointment for a vacancy shall be submitted to the senate not later than 60 days after the vacancy occurs.

(3) The governor shall seek nominations from a wide range of sources including professional associations, educational institutions, consumer organizations, labor unions, health planning agencies, and other community health organizations when making appointments under this article.

(4) The governor may remove or suspend a council or a board or task force member from office in accordance with section 10 of article 5 of the state constitution of 1963.

333.16122 Council, board, or task force; term of members. [M.S.A. 14.15(16122)]

Sec. 16122. Except as otherwise provided in this part, the term of office of members of the council or a board or task force shall be 4 years, commencing on the day after the date prescribed in section 16131 and terminating on the prescribed date. A member shall not serve more than 2 terms and 1 partial term, consecutive or otherwise, including service on a predecessor council, board, or task force. However, a member serving when this section takes effect may complete the term to which the member was appointed.

333.16123 Council; membership. [M.S.A. 14.15(16123)]

Sec. 16123. The council shall be composed of public members, 1 representative from each health profession licensed under this article, 2 health care administrators serving as members without vote, and the directors of the departments of licensing and regulation and public health serving ex officio without vote. A majority of the voting members shall be public members.

333.16125 Licensing board; membership. [M.S.A. 14.15(16125)]

Sec. 16125. A licensing board shall be composed of a majority of members licensed in the health profession which that board licenses. The board shall include at least 1 public member. The director shall be an ex officio member without vote, but is not a member for the purposes of section 5 of article 5 of the state constitution of 1963 or for determining a quorum. If a licensed health profession subfield is created by this article, the board shall include at least 1 licensee from each subfield. One licensee from each subfield so appointed to the board shall also be appointed as a member of the health profession subfield task force. If a certified health profession specialty field is created by this article, 1 member of the board holding a license other than a health profession subfield license shall also be appointed to the specialty field task force.

333.16126 Registration board; membership. [M.S.A. 14.15(16126)]

Sec. 16126. A registration board shall be composed of a majority of members registered in the profession which that board registers. The board shall include at least 1 public member. The director shall be an ex officio member without vote, but is not a member for the purposes of section 5 of article 5 of the state constitution of 1963 or for determining a quorum.

333.16128 Health profession subfield task force and health profession specialty field task force; membership. [M.S.A. 14.15(16128)]

Sec. 16128. (1) A health profession subfield task force shall be composed of a majority of members licensed in the subfields of the health profession which are created by this article and shall include at least 1 licensed member from each of

the subfields of the health profession which is created by this article. A health profession subfield task force shall include at least 1 public member and 1 member of that profession who holds a license other than a subfield license in that health profession.

(2) A health profession specialty field task force shall be composed of a majority of members certified in the specialty fields of the health profession which are created by this article. A health profession specialty field task force shall include at least 1 public member and 1 member of that health profession who is a member of the board.

333.16131 Council, board, or task force; expiration of terms of members; exception. [M.S.A. 14.15(16131)]

Sec. 16131. The terms of office of individual members of the council or the boards and task forces, except those appointed to fill vacancies, shall expire 4 years after appointment as follows:

Nursing	June 30
Optometry	June 30
Pharmacy	June 30
Podiatric medicine and surgery	June 30
Dentistry	June 30
Chiropractic	December 31
Health occupations council	December 31
Medicine	December 31
Osteopathic medicine and surgery	December 31
Physical therapy	December 31
Psychology	December 31
Sanitarians	December 31
Veterinary medicine	December 31

333.16132 Council, board, or task force; extension of terms of members; expiration of section. [M.S.A. 14.15(16132)]

Sec. 16132. (1) When the expiration date of the term of a board member set forth in the statutes or rules in effect immediately before section 16131 takes effect is earlier than the date set forth in section 16131, the term shall be extended to the later date.

(2) This section expires 5 years after its effective date.

333.16134 Appointment of health profession subfield licensees. [M.S.A. 14.15(16134)]

Sec. 16134. Notwithstanding the total membership prescribed for successor agencies under this article, health profession subfield licensees shall be appointed promptly after the effective date of this part in those numbers and to those boards prescribed in this article.

333.16135 Council, board, or task force; qualifications of members. [M.S.A. 14.15(16135)]

Sec. 16135. A member of the council or a board or task force created by this article shall:

- (a) Be 18 or more years of age.
- (b) Be of good moral character.
- (c) Be a resident of this state for not less than 6 months immediately before appointment.
- (d) Be currently licensed or registered in this state where licensure or registration in a health profession is a requirement for membership on the council

or a board or task force. The member shall have actively practiced that profession or taught in an approved educational institution which prepares applicants for licensure or registration in that profession, or a combination of both, in any state for not less than 2 years immediately before appointment.

333.16137 Council, board, or task force; compensation and expenses of members. [M.S.A. 14.15(16137)]

Sec. 16137. The legislature annually shall fix the per diem compensation of the members of the council and boards and task forces. Expenses of members incurred in the performance of official duties shall be reimbursed as provided in section 1216.

333.16138 Council, board, or task force; meetings; quorum; final action; voting by proxy prohibited; times and places of meetings; minutes; record of actions; meetings open to public. [M.S.A. 14.15(16138)]

Sec. 16138. (1) The council or a board or task force shall hold a regular meeting not less than 6 times a year at places and on separate dates fixed by it. Special meetings may be called by the chairperson, a majority of the members of the council or a board or task force, or the department. Except as otherwise provided in the bylaws of the council or a board or task force, a majority of the members appointed and serving constitutes a quorum. Final action by the council or a board or task force shall be taken only by affirmative vote of a majority of the members present at a meeting or for a hearing. A member shall not vote by proxy.

(2) The department shall make available the times and places of meetings of the council and boards and task forces and keep minutes of their meetings and a record of their actions. The council or a board or task force meeting shall be open to the public in accordance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

333.16139 Council, board, or task force; election of chairperson or vice-chairperson; selection and terms of officers; vacancy; presiding officer. [M.S.A. 14.15(16139)]

Sec. 16139. The council or a board or task force shall elect annually a chairperson and vice-chairperson at a meeting held not later than 2 months after the date set forth in section 16131. The officers shall be selected from council, board, or task force members and shall hold office for 1 year or until their successors are elected and qualified. The council or a board or task force may fill a vacancy in the office of chairperson or vice-chairperson for the balance of the unexpired term. The chairperson shall preside at meetings, and if absent or unable to preside, the vice-chairperson shall preside.

333.16141 Council, board, or task force; office services; offices, records, and moneys; managerial and administrative functions; administrative and secretarial staff, clerks, and employees; salaries and expenses; disposition of moneys; rules. [M.S.A. 14.15(16141)]

Sec. 16141. (1) The department shall furnish office services to the council and boards and task forces; have charge of their offices, records, and moneys collected; and perform managerial and administrative functions for them.

(2) The department, after consultation with the council, board, or task force, shall appoint administrative and secretarial staff, clerks, and employees necessary to allow the proper exercise of the powers and duties of the council or a board or task force. Salaries and other expenses incurred by the council or a board or task force and staff and expenses for studies and activities authorized under this article

shall be paid out of funds appropriated by the legislature therefor and be paid out of the general fund of the state.

(3) The department shall send moneys received to the department of treasury for deposit in the general fund of this state.

(4) The department, with the advice of the council, may promulgate rules to promote the effective and consistent administration of this article. However, rules shall not be promulgated which constitute the licensure or examination of health professionals.

333.16143 Council, board, or task force; bylaws; annual report; actions and determinations; contracts for assistance. [M.S.A. 14.15(16143)]

Sec. 16143. (1) The council or a board or task force may adopt bylaws for the regulation of its internal affairs.

(2) The council or a board or task force shall report its activities annually to the department. The report shall include statistical data on applicants for examination, licensure, and registration; complaints and disciplinary actions against licensees; and other matters relating to the licensure, registration, and regulatory activity of the boards as prescribed by the department.

(3) The council or a board or task force may perform acts and make determinations necessary and proper to carry out its functions and the department may contract with other state agencies, private agencies, organizations, and consultants to assist the council, board, or task force to perform the acts or to aid in carrying out functions of the council, board, or task force.

333.16145 Board; official seal; rules. [M.S.A. 14.15(16145)]

Sec. 16145. (1) A board may adopt and have an official seal.

(2) A board may promulgate rules necessary or appropriate to fulfill its functions as prescribed in this article. The rules shall not be inconsistent with rules promulgated by the council pursuant to section 16154.

(3) A board shall promulgate rules:

(a) To specify requirements for licenses and registrations, renewals, time and place of examinations, subjects of examinations, and required grades.

(b) To regulate public advertisement by a health professional.

333.16146 Board; granting license or registration; fee; certification of licensees; reclassification of licenses. [M.S.A. 14.15(16146)]

Sec. 16146. (1) A board shall grant a license or registration to an applicant meeting the requirements for the license or registration who pays a fee as prescribed in this article and the rules promulgated under this article.

(2) A board which grants licenses may:

(a) Certify licensees in those health profession specialty fields within its scope of practice which are established in this article.

(b) Reclassify licenses on the basis of a determination that the addition or removal of conditions or restrictions is appropriate.

333.16148 Board; rules establishing standards for education and training; accreditation of training programs; requirements for actions or decisions; voting. [M.S.A. 14.15(16148)]

Sec. 16148. (1) Except as provided in section 17060, only a board may promulgate rules to establish standards for the education and training of individuals to be licensed or registered, or whose licenses or registrations are to be

renewed, for the purposes of determining whether graduates of a training program have the knowledge and skills requisite for practice of a health profession or use of a title.

(2) Except as provided in section 17060, only a board may accredit training programs in hospitals, schools, colleges, universities, and institutions offering training programs meeting educational standards and may deny or withdraw accreditation of training programs for failure to meet established standards. An institution which has its program accreditation withdrawn shall have an opportunity for a hearing.

(3) An action or decision of a board pursuant to subsection (1) or (2) relating to a specific health profession subfield shall be made only after consultation with the task force in the affected subfield and with at least 1 of the affected subfield board members present.

(4) A member of the licensing board from the health profession subfield shall vote as an equal member in all matters except those issues designated in subsections (1) and (2) which are outside the subfield profession.

(5) A decision of a board on standards for the education and training of individuals or the accreditation of training programs shall be concurred in by a majority of the nonsubfield board members when the decision relates solely to nonsubfield licenses.

333.16151 Health occupations council; creation. [M.S.A. 14.15(16151)]

Sec. 16151. The health occupations council is created in the department.

**333.16152 Health occupations council; duties generally.
[M.S.A. 14.15(16152)]**

Sec. 16152. Subject to section 16158, the council shall:

(a) Evaluate proposals as to licensure and registration of existing and emerging health occupations and recommend the appropriateness of, and the mechanisms for, regulation of those health occupations to the department, other state agencies, and the legislature in accordance with the criteria prescribed in sections 16155 and 16156.

(b) Mediate conflicts within and between boards and between boards and their task forces.

(c) Perform the council functions described in section 16208.

(d) Coordinate regulation of health occupations with state health planning and resource development functions.

(e) Issue advisory opinions and recommendations to boards as to conflicts or ambiguities between licensure and registration programs.

(f) Promote the uniform utilization of examinations, the establishment of minimum English language proficiency standards for licensees, and the utilization of regional or national examinations developed for use in the United States.

(g) Make an evaluative study of the role and effectiveness of public members on licensing and registration boards and task forces. The results of the study shall be reported to the governor and the legislature not later than 2 years after the effective date of this article.

(h) Review and comment on rules promulgated by the boards and the department to promote the consistency of the rules with this article.

(i) Promulgate rules establishing criteria for minimum attendance at meetings of the council and the boards and task forces.

333.16154 Health occupations council; powers generally.
[M.S.A. 14.15(16154)]

Sec. 16154. Subject to section 16158, the council may:

(a) Promulgate rules necessary or appropriate to fulfill its functions as prescribed in this part. However, the council shall not promulgate rules which constitute the examination or licensure of health professions.

(b) Recommend restructuring of classifications of licensure in a health profession.

(c) Conduct special studies of licensure, registration, and regulation of health occupations.

333.16155 Identifying health occupations for which licensure recommended; criteria. [M.S.A. 14.15(16155)]

Sec. 16155. Criteria to be used in identifying health occupations for which licensure will be recommended are:

(a) Licensure of health personnel shall be judged by its single purpose of promoting safe and competent health care for the public.

(b) The scope of practice of the occupation is distinguishable from that of other licensed and unlicensed health occupations. Limitations on practice in the overall scope of practice shall be related to the competency and ability required of the individual.

(c) The functions and responsibilities of individuals working in the scope of practice shall require independent judgment and action based on a substantive body of skill and knowledge.

(d) The public cannot be effectively protected by means other than licensure.

333.16156 Identifying health occupations for which registration recommended; criteria. [M.S.A. 14.15(16156)]

Sec. 16156. Criteria to be used in identifying health occupations for which registration will be recommended are:

(a) Registration of health personnel shall be judged by its purpose of establishing and identifying the basic minimum qualifications of the professional.

(b) Minimum qualifications are established by acquisition of a prescribed body of skill and knowledge.

(c) Recognizing that the public has limited ability to evaluate the qualifications of an individual related to a category of health professional, registration is a means of providing essential information to the public to increase its ability to make informed choices about the consumption of health services.

333.16158 Council to conduct studies and make recommendations; consulting with board of examiners of social workers. [M.S.A. 14.15(16158)]

Sec. 16158. (1) Within 2 years after the effective date of this part, the council shall conduct a study of those individuals engaged in social work who provide services in a health care setting and make recommendations to the governor and legislature regarding the appropriateness of the regulation of social workers under this code.

(2) The council, in the performance of its duties under subsection (1) and sections 16152 and 16154, shall consult with the board of examiners of social workers created under section 3 of Act No. 352 of the Public Acts of 1972, being section 338.1753 of the Michigan Compiled Laws, on matters related to individuals registered under that act.

(3) Within 2 years after the effective date of this part, the council shall conduct studies of those individuals engaged in audiology, speech language pathology, myo-functional therapy and respiratory therapy and make recommendations to the governor and legislature regarding the appropriateness of the regulation of audiologist, speech language pathology, myo-functional therapists and respiratory therapy personnel under this code.

333.16161 Single task force for health profession subfields and for health profession specialty fields; creation; function. [M.S.A. 14.15(16161)]

Sec. 16161. (1) A single task force shall be created for all health profession subfields within the scope of practice of a health profession and shall function as set forth in this part.

(2) A single task force shall be created for all health profession specialty fields within the scope of practice of a health profession and shall function as set forth in this part.

333.16163 Task force; recommendations to board. [M.S.A. 14.15(16163)]

Sec. 16163. A task force shall recommend to the board as to:

(a) Determination of standards of education, training, and experience required for practice in a health profession subfield or for certification in a health profession specialty field, and where appropriate, guidelines for approval of educational programs for the subfield or specialty field.

(b) Qualifications required of applicants for licensure in health profession subfields or for certification in health profession specialty fields.

(c) Evaluation of qualifications for initial and continuing licensure of practitioners in health profession subfields or specialty fields. The evaluation may cover assessment of educational credentials, work experience and related training, and administration of tests and examinations.

(d) Guidelines for utilization of, and standards of practice for, licensees in health profession subfields or specialty fields.

333.16171 License for practice of health profession; exemptions. [M.S.A. 14.15(16171)]

Sec. 16171. Under the circumstances and subject to the limitations stated in each case, the following individuals are not required to have a license issued under this article for practice of a health profession in this state:

(a) A student in a health profession training program, which has been approved by the appropriate board, while performing the duties assigned in the course of training.

(b) An individual practicing a health profession in the discharge of official duties while in the military service of the United States, the United States public health service, the United States department of agriculture, or the United States veterans administration. The institution in which the individual practices shall report the name and address of the individual to the appropriate board within 30 days after the date of employment.

(c) An individual who by education, training, or experience substantially meets the requirements of this article for licensure while rendering medical care in a time of disaster or to an ill or injured individual at the scene of an emergency.

(d) An individual who provides nonmedical nursing or similar services in the care of the ill or suffering or an individual who in good faith ministers to the ill or suffering by spiritual means alone, through prayer, in the exercise of a religious freedom, and who does not hold himself or herself out to be a health professional.

(e) An individual residing in another state or country and authorized to practice a health profession in that state or country who, in an exceptional circumstance, is called in for consultation or treatment by a health professional in this state.

(f) An individual residing in another state or country and authorized to practice a health profession in that state or country, when attending meetings or conducting lectures, seminars, or demonstrations under the auspices of professional associations or training institutions in this state, if the individual does not maintain an office or designate a place to meet patients or receive calls in this state.

(g) An individual authorized in another country to practice a health profession and who is employed by the United States public health service or the government of another country for the exclusive use of members of its merchant marine and members of its consular and diplomatic corps, while caring for those members in the performance of his or her official duties.

(h) An individual residing adjacent to the land border between this state and an adjoining state who is authorized under the laws of that state to practice a health profession and whose practice may extend into this state, but who does not maintain an office or designate a place to meet patients or receive calls in this state.

333.16174 License or registration; qualifications. [M.S.A. 14.15(16174)]

Sec. 16174. An individual licensed or registered under this article shall:

(a) Be 18 or more years of age.

(b) Be of good moral character.

(c) Have a specific education or experience in the health profession or in a subfield or specialty field of a health profession, or training equivalent, or both, as prescribed by this article or rules of a board necessary to promote safe and competent practice and informed consumer choice.

(d) Have a working knowledge of the English language as determined in accordance with minimum standards established for that purpose by the council.

333.16175 License or registration; minimum standards of educational prerequisites. [M.S.A. 14.15(16175)]

Sec. 16175. In developing minimum standards of educational prerequisites for licensure or registration, a board and its task forces shall consider equivalency and proficiency testing and other mechanisms, and where appropriate grant credit for past training, education, or experience in health and related fields. Standards may include those for formal education, practice proficiency, working knowledge of the English language, and other training, education, or experience which may provide equivalence to completion of formal educational requirements.

333.16177 License or registration; form of application; examination; establishment of passing scores. [M.S.A. 14.15(16177)]

Sec. 16177. An individual applying for licensure or registration under this article shall do so on a form provided by the department. If the facts set forth in the application meet the requirements of the board and this article for licensure or registration, the board may grant a license or registration to the applicant. A board may require the applicant to take an examination to determine if the applicant meets the qualifications for licensure or registration. The examination shall include subjects determined by the board to be essential to the safe and

competent practice of the health profession, the appropriate use of a title, or both. Passing scores shall be established before examination.

333.16178 Examinations, investigations, or evaluations to determine qualifications of applicants; passing national or regional examination; re-examination; notice of examination or evaluation. [M.S.A. 14.15(16178)]

Sec. 16178. (1) Unless otherwise necessary for a board to fulfill national or regional testing requirements, the department shall conduct examinations or other evaluations necessary to determine qualifications of applicants for initial licensure or registration at least annually and may conduct other investigations or evaluations necessary to determine the qualifications of applicants. A board may accept passing a national or regional examination developed for use in the United States for the purpose of meeting a state board examination or a part thereof.

(2) An individual who fails to pass a required examination may be reexamined to the extent and in a manner determined by the board.

(3) The department shall give public notice of the time and place of a required regular initial licensure or registration examination or evaluation in a manner it considers best not less than 90 days before the date of the examination or evaluation.

333.16179 Unlawful conduct in connection with examination or application. [M.S.A. 14.15(16179)]

Sec. 16179. An individual shall not make a false representation or impersonation or act as a proxy for another individual or allow or aid an individual to impersonate him or her in connection with an examination or application for licensure or registration or a request to be examined, licensed, or registered.

333.16181 Temporary license; nonrenewable; duration; certificate. [M.S.A. 14.15(16181)]

Sec. 16181. A board may grant a nonrenewable, temporary license to an applicant who has completed all requirements for licensure except for examination or other required evaluation procedure. A temporary license issued pursuant to this section is valid for 1 year or until the results of the next scheduled examination are available or the results of the next required evaluation procedure are available and a reasonable time elapses for issuance of the certificate of licensure, whichever is sooner. The department shall promptly issue a certificate of temporary licensure.

333.16182 Limited licenses. [M.S.A. 14.15(16182)]

Sec. 16182. (1) A board may grant a limited license to an individual when the board determines that the limitation is consistent with the ability of the individual to practice the health profession in a safe and competent manner, is necessary to protect the health and safety of patients or clients, or is appropriate to promote the efficient and effective delivery of health care services.

(2) In addition to the licenses issued under subsection (1), a board may grant the following types of limited licenses upon application by an individual or upon its own determination:

(a) Educational, to an individual engaged in postgraduate education.

(b) Nonclinical, to an individual who functions only in a nonclinical academic, research, or administrative setting and who does not hold himself or herself out to the public as being actively engaged in the practice of the health profession, or otherwise directly solicit patients or clients.

(c) Clinical academic, to an individual functioning in that capacity but who does not hold himself or herself out to the public as being actively engaged in the practice of the health profession, or otherwise directly solicit patients or clients.

333.16183 Reclassification of license; grounds. [M.S.A. 14.15(16183)]

Sec. 16183. A board shall reclassify a license when an individual due to physical or mental inability or incompetence is unable to practice the health profession authorized by his or her current license in a safe and competent manner.

333.16186 Reciprocity; requirements. [M.S.A. 14.15(16186)]

Sec. 16186. (1) An individual who is licensed to practice a health profession in another state or who is registered in another state and who applies for licensure or registration in this state may be granted an appropriate license or registration upon paying the required fee and satisfying the board as to all of the following:

(a) The applicant substantially meets the requirements of this article and rules promulgated by a board for licensure or registration.

(b) Disciplinary proceedings before a similar licensing or registration board of this or any other state or country are not pending against the applicant.

(c) The applicant is licensed or registered in another state which maintains standards substantially equivalent to those of this state.

(2) Before licensing or registering the applicant, the board may require the applicant to appear personally before it for an interview to evaluate the applicant's relevant qualifications.

333.16191 Certificate of licensure or registration; issuance; contents; reporting change in name or address; license or registration nontransferable. [M.S.A. 14.15(16191)]

Sec. 16191. (1) The department shall issue a certificate of licensure or registration to an applicant who is granted a license or registration by a board. The certificate shall contain the full name of the person, a permanent unique number, date of expiration, signatures of individuals designated by the board, and a statement on its face of the type or category of license or registration and nature of any limitation.

(2) A licensee or registrant shall report to the department a change in name or residential or business address not later than 30 days after it occurs.

(3) A license or registration is not transferable.

333.16192 Display of certificate of licensure or registration; availability of card for inspection; display of notification of limitation. [M.S.A. 14.15(16192)]

Sec. 16192. (1) A licensee or registrant shall display his or her current certificate of licensure or registration prominently and where visible to the public in the licensee's or registrant's principal place of business, if any. The licensee or registrant shall have available for inspection a card, which shall be issued by the department, containing the essential information on the certificate.

(2) Upon notification of a final disciplinary action by a board to limit a license, a licensee shall display the notification of limitation in the same manner as prescribed for display of the certificate or attach the notification to the certificate.

333.16194 Expiration of licenses and registrations for health professions; authority to issue part-term licenses and registrations. [M.S.A. 14.15(16194)]

Sec. 16194. (1) Licenses and registrations for health professions expire on

dates prescribed by the department by rule, unless sooner terminated by death of the individual licensed or registered or otherwise terminated pursuant to this part.

(2) Administrative authority to issue part-term licenses and registrations due to changing the terms from annual to a longer term in subsection (1) and to provide for initial issuances for terms longer or shorter than a normal term is granted in section 1222.

333.16196 License or registration of individual inducted or entering into service; continuation; notice. [M.S.A. 14.15(16196)]

Sec. 16196. The license or registration of an individual practicing his or her profession while in active service in the military service of the United States, an auxiliary thereof, or the United States public health service, who was licensed or registered at the time of induction or entering into service, continues in effect without further action by the individual until discharge or leaving the service. The individual shall notify the board of the military service or federal employment and the cessation thereof.

333.16201 Renewal of licenses and registrations; renewal blanks and notices; lapse; fees; revocation. [M.S.A. 14.15(16201)]

Sec. 16201. (1) Ninety days or more before the expiration date established under section 16194, the department shall mail renewal blanks to the licensees and registrants together with notices advising them of the time and procedures for renewal of licenses and registrations. A second notice shall be mailed at the time of expiration.

(2) A license or registration lapses on the day after its expiration date and may be renewed during the following 60 days upon application and payment of the renewal and delinquent fees. If not renewed under this subsection, the license or registration is automatically revoked.

333.16203 Relicensing or reregistration; requirements; criteria; temporary license. [M.S.A. 14.15(16203)]

Sec. 16203. (1) An individual whose license or registration has lapsed and is not renewed under section 16201 may be relicensed or reregistered upon showing that he or she meets the current requirements for licensure or registration prescribed in this article and rules promulgated under this article. A board may establish criteria which the board considers equivalent to current educational and practice requirements for evaluating whether an individual shall be relicensed or reregistered.

(2) A temporary license may be issued under section 16181 pending the results of action taken under this section.

333.16205 Attendance at educational programs as condition to license renewal; waiver; rules for assessing continued competence. [M.S.A. 14.15(16205)]

Sec. 16205. (1) A board which requires evidence of attendance at educational programs as a condition to license renewal may waive those requirements if, upon written application, the board finds the failure of the licensee to attend was due to the licensee's disability, military service, absence from the continental United States, or a circumstance beyond the control of the licensee which the board deems good and sufficient.

(2) Not later than 6 years after the effective date of this part, a board shall promulgate rules to establish a system of assessing, at intervals of not more than 4 years, the continued competence of licensees as a condition of periodic license renewal.

333.16208 Pilot program for assessing continuing competency; council as advisory and coordinating body; appraisal of programs; study; recommendations; contracts; employment of research consultants and experts; expiration of section. [M.S.A. 14.15(16208)]

Sec. 16208. (1) A board may establish a pilot program to develop a mechanism for assessing the continuing competency of licensees during the 6-year period as specified in section 16205. The council shall serve as an advisory and coordinating body to the boards and department for pilot programs established under this section.

(2) The council, with the advice and assistance of the department, shall prepare an appraisal of the programs established under this section and a study of other approaches to achieve the objectives of periodic assessment of continuing competency. This study shall include an evaluation of existing public and private mechanisms for formally assessing the continuing competence of health professionals. The study shall be sent to the governor and legislature with recommendations for statutory changes needed to implement the findings and conclusions of the report. The department may contract with a public or private entity to perform this study, or parts thereof, and may employ research consultants and experts to recommend alternative means to assess the continuing competence of health professionals.

(3) This section expires 6 years after its effective date.

333.16211 Individual historical record; creation; contents; review by board; retention of unsubstantiated complaints; review by licensee or applicant; notice of information. [M.S.A. 14.15(16211)]

Sec. 16211. (1) The department shall create and maintain a permanent historical record for each licensee with respect to information and data transmitted pursuant to law.

(2) The individual historical record shall include a written complaint against the licensee which is substantiated after investigation.

(3) The individual historical record may include other items concerning a licensee's record of practice the appropriate board determines will facilitate proper and periodic review, but only those items as designated by rules of the board.

(4) The board or its representative shall promptly review the entire file of a licensee, including all prior matters with respect to which no action was taken at the time, with respect to whom there is received:

(a) A notice of revocation, suspension, or limitation of staff privileges by a licensed hospital.

(b) A written complaint which is substantiated after investigation.

(c) A notice of disciplinary action by a health professional society.

(d) An adverse malpractice settlement, award, or judgment.

(e) Written notice of a conviction of a felony.

(5) The department shall retain written complaints against a licensee which are unsubstantiated for 2 years, after which they may be removed from the registry, if approved by the appropriate board.

(6) Except as provided in section 16231(5), a licensee or applicant may review his or her individual historical record and shall be provided written notice of not less than 30 days of information in his or her historical record which was not submitted to the board or department by that individual.

333.16215 Delegation of specific acts, tasks, or functions to licensed or unlicensed individual; supervision; rules; immunity. [M.S.A. 14.15(16215)]

Sec. 16215. (1) A licensee who holds a license other than a health profession subfield license may delegate to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience the performance of selected acts, tasks, or functions where the acts, tasks, or functions fall within the scope of practice of the licensee's profession and will be performed under the licensee's supervision. An act, task, or function shall not be delegated under this section which, under standards of acceptable and prevailing practice, requires the level of education, skill, and judgment required of a licensee under this article.

(2) A board may promulgate rules to further prohibit or otherwise restrict delegation of specific acts, tasks, or functions to a licensed or unlicensed individual where the board determines that the delegation constitutes or may constitute a danger to the health, safety, or welfare of the patient or public.

(3) To promote safe and competent practice, a board may promulgate rules to specify conditions under which, and categories and types of licensed and unlicensed individuals for whom, closer supervision may be required.

(4) An individual who performs acts, tasks, or functions delegated pursuant to this section does not violate the part which regulates the scope of practice of that health profession.

333.16221 Investigation of licensee; hearings, oaths, and testimony; report; grounds for proceeding under §333.16226. [M.S.A. 14.15(16221)]

Sec. 16221. The department may investigate the activities of a licensee related to the licensee's practice of the health profession. The department may hold hearings, administer oaths, and order relevant testimony to be taken and shall report its findings to the appropriate board or appropriate task force. The board shall proceed under section 16226 when the board finds that any of the following grounds exist:

(a) A violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice, or condition which impairs, or may impair, the ability to safely and skillfully practice the health profession.

(b) Personal disqualifications, consisting of any of the following:

(i) Incompetence.

(ii) Substance abuse as defined in section 6107.

(iii) Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

(iv) Declaration of mental incompetence by a court of competent jurisdiction.

(v) Conviction of a misdemeanor or felony reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner. A certified copy of the court record is conclusive evidence as to the conviction.

(c) Prohibited acts, consisting of any of the following:

(i) Fraud or deceit in obtaining a license.

(ii) Permitting the license to be used by an unauthorized person.

(iii) Practice outside the scope of a license.

(iv) Obtaining, possessing, or attempting to obtain or possess a controlled substance as defined in section 7104 without lawful authority; or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

(d) Unethical business practices, consisting of any of the following:

(i) False or misleading advertising.

(ii) Dividing fees for referral of patients or accepting kickbacks on medical or surgical services, appliances, or medications purchased by or in behalf of patients.

(iii) Fraud or deceit in obtaining or attempting to obtain third party reimbursement.

(e) Unprofessional conduct, consisting of any of the following:

(i) Misrepresentation to a consumer or patient or in obtaining or attempting to obtain third party reimbursement in the course of professional practice.

(ii) Betrayal of a professional confidence.

(iii) Promotion for personal gain of an unnecessary drug, device, treatment, procedure, or service, or directing or requiring an individual to purchase or secure a drug, device, treatment, procedure, or service from another person, place, facility, or business in which the licensee has a financial interest.

(f) Failure to report a change of name or address within 30 days after it occurs.

(g) A violation, or aiding or abetting in a violation, of this article or of rules promulgated under this article.

(h) Failure to comply with a subpoena issued pursuant to this part.

(i) Failure to pay an installment of an assessment levied pursuant to section 2504 of Act No. 218 of the Public Acts of 1956, as amended, being section 500.2504 of the Michigan Compiled Laws, within 60 days after notice by the appropriate board.

333.16224 Failure or refusal to submit to examination as ground for suspension of license; additional grounds for disciplinary actions. [M.S.A. 14.15(16224)]

Sec. 16224. (1) Failure or refusal to submit to an examination which a board is authorized to require under this part after reasonable notice and opportunity, constitutes a ground for suspension of a license until the examination is taken.

(2) Additional grounds for disciplinary action may be found in a part dealing with a specific health profession.

333.16226 Sanctions. [M.S.A. 14.15(16226)]

Sec. 16226. After finding the existence of 1 or more of the grounds for board action described in section 16221 or in another part of this article, and after an opportunity for a hearing, a board shall impose 1 or more of the following sanctions for each violation:

<u>Violations of Section 16221</u>	<u>Sanctions</u>
Subdivision (a), (b)(ii), or (b)(iv)	Probation, limitation, denial, suspension, or revocation.
Subdivision (b)(i), (b)(iii), or (b)(v)	Limitation, suspension, revocation, or denial.
Subdivision (c)(i)	Denial or revocation.
Subdivision (c)(ii)	Denial, suspension, or revocation.
Subdivision (c)(iii)	Probation, denial, suspension, or revocation.

Subdivision (c)(iv) or (d)(iii)	Fine, probation, denial, suspension, or revocation.
Subdivision (d)(i) or (d)(ii)	Reprimand, fine, or probation.
Subdivision (e)(i)	Reprimand, fine, probation, limitation, or suspension.
Subdivision (e)(ii) or (h)	Reprimand, probation, or suspension.
Subdivision (e)(iii)	Reprimand, fine, probation, or suspension.
Subdivision (f)	Reprimand.
Subdivision (g)	Reprimand, probation, denial, suspension, revocation, or limitation.
Subdivision (i)	Suspension.

333.16227 Denial, suspension, or revocation of registration; grounds; other sanction or disciplinary action. [M.S.A. 14.15(16227)]

Sec. 16227. (1) A board shall deny or revoke a registration for fraud or deceit in obtaining the registration or for violating, or aiding or abetting in a violation, of this article or of rules promulgated under this article. A board shall suspend or revoke a registration permitted to be used by an unauthorized person.

(2) For an offense committed within 2 years after a previous offense of the same kind, a board shall suspend or revoke the license or registration.

(3) Section 16226 and this section do not limit any other sanction or additional disciplinary action a board is authorized to impose or take.

333.16231 Complaint; review; investigation; determination; notice of action; response to board; confidentiality. [M.S.A. 14.15(16231)]

Sec. 16231. (1) A person or governmental entity who believes that a violation of this article or a rule promulgated under this article or a ground for disciplinary action exists may notify the department in writing. The department shall provide the appropriate board or its representative with the complaint 5 days after its receipt.

(2) If, upon reviewing a complaint, the board or its representative determines there is reasonable basis to believe a ground set forth in section 16221(a), (b)(i), (b)(v), or (c)(iii) exists, the department shall investigate. If a board or its representative does not make a determination within 30 days, the department shall make the determination.

(3) If, upon reviewing a complaint, the department determines there is a reasonable basis to believe the existence of grounds other than those listed in subsection (2), the department shall investigate.

(4) Within 45 days after receipt of the complaint, the department shall notify the complainant in writing of actions taken. The department shall transmit a response to the appropriate board within 5 days after the date sent.

(5) The identity of a person submitting the complaint shall remain confidential until disciplinary proceedings under this part are initiated against the subject of the complaint and the complainant is required to testify in the proceedings.

333.16232 Hearings. [M.S.A. 14.15(16232)]

Sec. 16232. (1) An opportunity for a hearing shall be provided in connection with the denial, reclassification, limitation, suspension, or revocation of a license or a proceeding to reprimand, fine, or place a licensee on probation.

(2) An opportunity for a hearing shall be provided in connection with the denial, suspension, or revocation of a registration or proceeding to reprimand or fine a registrant.

333.16233 Investigations; rights of board; summary suspension of license; delegating determination of violation and imposition of sanction in contested case to hearing examiner; finality. [M.S.A. 14.15(16233)]

Sec. 16233. (1) The department may conduct an investigation necessary to administer and enforce this article. Investigations may include written, oral, or practical tests of a licensee's competency.

(2) The appropriate board or its representative shall be informed of investigations, enforcement actions, and hearings undertaken pursuant to this article and shall have the right to consult with and recommend to the department on the conduct of those activities at any stage of the proceeding.

(3) The appropriate board may summarily suspend a license if the public health, safety, or welfare requires emergency action in accordance with section 92 of the administrative procedures act of 1969.

(4) A board may delegate determination of a violation and the imposition of a sanction in a contested case to a hearing examiner whose decision shall constitute final administrative action unless the board authorizes review.

333.16234 Authority of hearings examiner; right to counsel. [M.S.A. 14.15(16234)]

Sec. 16234. (1) The department may authorize a hearings examiner to hold hearings and administer oaths, and order testimony to be taken at a hearing or by deposition conducted pursuant to the administrative procedures act of 1969.

(2) An accused person has the right to be represented at the hearing by legal counsel.

333.16235 Subpoena; prima facie evidence of matters recorded; admissible evidence. [M.S.A. 14.15(16235)]

Sec. 16235. (1) Upon application by the attorney general or a party to the contested case, the circuit court may issue a subpoena requiring a person to appear before a hearings examiner in a contested case and be examined with reference to a matter within the scope of that contested case and to produce books, papers, or documents pertaining to that contested case.

(2) A copy of a record of the council, a board, or a task force certified by a person designated by the director shall be prima facie evidence of the matters recorded and shall be admissible as evidence in a proceeding in this state with the same force and effect as if the original were produced.

333.16236 Mental or physical examination; expense; consent; waiver. [M.S.A. 14.15(16236)]

Sec. 16236. (1) In a hearing where mental or physical inability under section 16221 is alleged, the board or hearings examiner may require the licensee to submit to a mental or physical examination conducted by physicians or other appropriate health professionals designated by the board. This examination shall be at the expense of the department.

(2) For purposes of this section, an individual licensed under this part who accepts the privilege of practicing in this state, by so practicing or by receiving a license or renewal to practice, consents to submit to a mental or physical examination when directed to do so in writing by a board or hearings examiner conducting the hearing and waives all objections to the admissibility of the

testimony or examination reports of the examining health professional on the ground that the testimony or reports constitute privileged communications.

333.16241 Publishing list of names and addresses of disciplined individuals; report of disciplinary actions; report upon summary suspension of license. [M.S.A. 14.15(16241)]

Sec. 16241. (1) After administrative disciplinary action is final, the department of licensing and regulation shall publish a list of the names and addresses of disciplined individuals. The department of licensing and regulation shall report disciplinary action to the department of public health, the commissioner of insurance, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association.

(2) The department of public health shall report the disciplinary actions to appropriate licensed health facilities and agencies. The commissioner of insurance shall report the disciplinary actions received from the department of licensing and regulation to insurance carriers providing professional liability insurance.

(3) In case of a summary suspension of a license under the administrative procedures act of 1969, the department of licensing and regulation shall report the name and address of the individual whose license has been surrendered to the department of public health, the commissioner of insurance, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association.

333.16243 Reports; evaluation; determination; application of sanctions. [M.S.A. 14.15(16243)]

Sec. 16243. A board may request and receive the following reports and shall evaluate the reports, determine whether grounds for disciplinary action exist, and apply appropriate sanctions:

(a) Information from a licensed health care facility as to disciplinary action taken by it which results in the change of employment status or privileges of practice of a licensee, and a summary of the information pertinent to the change, where the action is related to the safety and competence of practice.

(b) Information from an insurer providing professional liability insurance as to claims or actions for damages against a licensee; settlements in any amount; final disposition not resulting in payment on behalf of the insured; and a personal injury claimed to have been caused by an error, omission, or negligence in the performance of the insured professional services.

(c) Information from a court in this state as to a felony conviction of a licensee or a judgment against a licensee finding the licensee negligent in an action for malpractice, whether or not the judgment is appealed.

(d) Reports from any other appropriate source necessary for determination of the competency and safety of the practice of a licensee. Appropriate sources include appointed public and private professional review entities and public and private health insurance programs.

333.16244 Immunity from civil or criminal liability; physician-patient privilege inapplicable; information confidential; disclosure; prohibition. [M.S.A. 14.15(16244)]

Sec. 16244. (1) A person acting in good faith who makes a report or who in good faith assists in originating, investigating, or preparing a report; or who in good faith assists a board or the department in carrying out its duties under this article shall be immune from civil or criminal liability which might otherwise be

incurred thereby. A person making or assisting in making a report, or assisting a board or the department, shall be presumed to have acted in good faith. This immunity from civil or criminal liability extends only to acts done pursuant to this article.

(2) The physician-patient privilege shall not prevail in an investigation or proceeding by a board or the department acting within the scope of its authorization. Unless expressly waived by the patient, the information obtained shall be confidential and shall not be disclosed except to the extent necessary for the proper functioning of a board or the department. Any other use or dissemination by a person by any means, unless pursuant to a valid court order, is prohibited.

333.16245 Reinstatement of limited, suspended, or revoked license; application; payment; time; hearing. [M.S.A. 14.15(16245)]

Sec. 16245. (1) An individual whose license is limited, suspended, or revoked under this part may apply to the board for a reinstatement of a revoked or suspended license or reclassification of a limited license pursuant to section 16247, 16248, or 16249.

(2) An individual whose registration is suspended or revoked under this part may apply to the board for a reinstatement of a suspended or revoked registration pursuant to section 16248.

(3) A license suspended for grounds stated in section 16221(i) shall be reinstated upon payment of the installment.

(4) In case of a revoked license or registration an application shall not be accepted within 1 year after the date of revocation.

(5) An opportunity for a hearing shall be provided before final rejection of an application for reinstatement.

333.16247 Reinstatement of license or issuance of limited license; requirements. [M.S.A. 14.15(16247)]

Sec. 16247. (1) A board may reinstate a license or issue a limited license to an individual whose license has been suspended or revoked under this part if, after a hearing, the board is satisfied that the applicant is of good moral character, is able to practice the profession with reasonable skill and safety to patients, and should be permitted in the public interest to resume practice. As a condition of reinstatement, the board may impose a disciplinary or corrective measure authorized under this part and require that the licensee attend a school or program selected by the board to take designated courses or training to become competent or proficient in those areas of practice in which the board finds the licensee to be deficient. The board may require a statement on a form approved by it from the chief administrator of the school or program attended or the person responsible for the training certifying that the licensee has achieved the required competency or proficiency.

(2) A license suspended or revoked for grounds stated in section 16221(b)(i), (iii), or (iv) shall not be reinstated until the board finds that the licensee has become mentally or physically able to practice with reasonable skill and safety to patients. The board may conduct further examination of the licensee, at the licensee's expense, necessary to verify that the licensee has become mentally or physically able. A licensee affected by this section shall be afforded the opportunity at reasonable intervals to demonstrate that he or she can resume competent practice in accordance with standards of acceptable and prevailing practice.

333.16248 Reinstatement of registration; requirements.**[M.S.A. 14.15(16248)]**

Sec. 16248. A board may reinstate a registration revoked or suspended under this part if, after a hearing, the board is satisfied that the individual is of good moral character, has the education and experience as required in this article, and that the individual will use the title lawfully and act in accordance with this article.

333.16249 Reclassification of limited license; requirements.**[M.S.A. 14.15(16249)]**

Sec. 16249. A board may reclassify a license limited under this part to alter or remove the limitations if, after a hearing, the board is satisfied that the applicant will practice the profession safely and competently within the area of practice and under conditions stipulated by the board, and should be permitted in the public interest to so practice. The board may require the submission of information necessary to make the determination required for reclassification. As a condition of reclassification, the board may require that the licensee take an examination or attend a school or program selected by the board to take designated courses or training to become competent in those areas of practice the board determines necessary for reclassification. The board may require a statement on a form approved by it from the chief administrator of the school or program attended or the person responsible for the training certifying that the licensee has achieved the required competency.

333.16261 Prohibited use of insignia, title, letter, word, or phrase. [M.S.A. 14.15(16261)]

Sec. 16261. (1) A person who is not licensed or registered under this article shall not use an insignia, title, or letter, or a word, letter, or phrase singly or in combination, with or without qualifying words, letters, or phrases, under a circumstance to induce the belief that the person is licensed or registered in this state, is lawfully entitled in this state to engage in the practice of a profession regulated by this article, or is otherwise in compliance with this article.

(2) An individual shall not announce or hold himself or herself out to the public as limiting his or her practice to, as being specially qualified in, or as giving particular attention to a health profession specialty field for which a board issues a specialty certification, without first having obtained a specialty certification.

333.16263 Restricted use of words, titles, or letters. [M.S.A. 14.15(16263)]

Sec. 16263. The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this article to use the terms and in a way prescribed in this article:

(a) "Chiropractic", "doctor of chiropractic", "chiropractor", "d.c.", and "chiropractic physician".

(b) "Dentist", "doctor of dental surgery", "oral surgeon", "orthodontist", "prosthodontist", "periodontist", "endodontist", "pedodontist", "dental hygienist", "dental assistant", "d.d.s.", "d.m.d.", "r.d.h.", and "c.d.a.".

(c) "Doctor of medicine" and "m.d.".

(d) "Physician's assistant".

(e) "Registered professional nurse", "registered nurse", "r.n.", "licensed practical nurse", "l.p.n.", "nurse midwife", "nurse anesthetist", "nurse practitioner", "trained attendant", and "t.a.".

- (f) "Doctor of optometry", "optometrist", and "o.d."
- (g) "Osteopath", "osteopathy", "osteopathic practitioner", "doctor of osteopathy", "diplomat in osteopathy", and "d.o."
- (h) "Pharmacy", "pharmacist", "apothecary", "drugstore", "druggist", "medicine store", "prescriptions", and "r.ph."
- (i) "Physical therapy", "physical therapist", "physiotherapist", "registered physical therapist", "licensed physical therapist", "physical therapy technician", "p.t.", "r.p.t.", "l.p.t.", and "p.t.t."
- (j) "Chiropodist", "chiropody", "chiropodical", "podiatry", "podiatrist", "podiatric", "doctor of podiatric medicine", "foot specialist", "podiatric physician and surgeon", and "d.p.m."
- (k) "Consulting psychologist", "psychologist", "psychological assistant", and "psychological examiner"
- (l) "Sanitarian", "registered sanitarian", and "r.s."
- (m) "Veterinary", "veterinarian", "veterinary doctor", "veterinary surgeon", "doctor of veterinary medicine", "v.m.d.", "d.v.m.", and after July 1, 1979, "animal technician", or "animal technologist"

333.16264 Use of insignia, titles, letters, or phrases granted by authorized educational program or institution or professional organization or association. [M.S.A. 14.15(16264)]

Sec. 16264. Sections 16261 and 16263 shall not limit the right of an individual to use the insignia, titles, letters, or phrases as granted to the individual by an authorized educational program or institution or professional organization or professional association for the purpose of identifying the individual as having completed or attained specific training or as having established a recognized relationship with a health profession regulated by this article, if the individual does not violate the conditions of those sections or of a specific part in this article.

333.16265 Use of terms "doctor" or "dr.". [M.S.A. 14.15(16265)]

Sec. 16265. (1) An individual licensed under this article to engage in the practice of chiropractic, dentistry, medicine, optometry, osteopathic medicine and surgery, podiatric medicine and surgery, psychology, or veterinary medicine shall not use the terms "doctor" or "dr." in any written or printed matter or display without adding thereto "of chiropractic", "of dentistry", "of medicine", "of optometry", "of osteopathic medicine and surgery", "of podiatric medicine and surgery", "of psychology", "of veterinary medicine" or a similar term, respectively.

(2) An individual licensed under part 182 shall not use the terms "doctor" or "dr." without having been granted a doctoral degree in psychology from a regionally or nationally accredited college or university.

333.16291 Violation; injunctive relief; criminal proceeding; prosecution. [M.S.A. 14.15(16291)]

Sec. 16291. (1) Upon a violation of this article or of a rule or order of a board or the department, the circuit court for the county in which the violation occurs may restrain and enjoin a person from the violation. A board or department shall seek injunctive relief through the attorney general or the prosecuting attorney of the county in which the violation occurs. This proceeding may be in addition to and is not in lieu of a criminal prosecution or proceeding as to a license or registration.

(2) The department or a board, or both, may request the attorney general or

prosecuting attorney to prosecute a person violating this article. The attorney general or the prosecuting attorney may prosecute a violation of this article.

333.16294 Unlawful conduct; felony. [M.S.A. 14.15(16294)]

Sec. 16294. Except as provided in section 16215, an individual, who practices or holds himself or herself out as practicing a health profession regulated by this article, without a license or under a suspended, revoked, or fraudulently obtained license, or outside the provisions of a limited license, or who uses as his or her own the license of another person, is guilty of a felony.

333.16296 Unlawful conduct; misdemeanor; penalties. [M.S.A. 14.15(16296)]

Sec. 16296. A person who uses a title regulated by this article without a registration or under a suspended, revoked, or fraudulently obtained registration, or who uses as his or her own the registration of another person is guilty of a misdemeanor, punishable as follows:

(a) For the first offense, by imprisonment for not more than 90 days, or a fine of \$100.00, or both.

(b) For the second or subsequent offense, by imprisonment for not less than 60 days nor more than 1 year, or a fine of not less than \$300.00 nor more than \$1,000.00, or both.

333.16299 Violation as misdemeanor; penalties. [M.S.A. 14.15(16299)]

Sec. 16299. A person who violates or aids or abets another in the violation of this article other than those matters described in sections 16294 and 16296 is guilty of a misdemeanor, punishable as follows:

(a) For the first offense, by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.

(b) For the second or subsequent offense, by imprisonment for not less than 90 days nor more than 6 months, or a fine of not less than \$200.00 nor more than \$500.00, or both.

333.16301 Fees. [M.S.A. 14.15(16301)]

Sec. 16301. Fees for licenses issued and other services performed shall be established by the legislature in the annual appropriations process, shall be utilized to fund the operations of the department of licensing and regulation, shall be nonrefundable, and shall be charged on a per annum basis.

333.16311 Delinquent charge. [M.S.A. 14.15(16311)]

Sec. 16311. A person who fails to pay the required fee as due shall be subject to a delinquent charge.

PART 164. CHIROPRACTIC

333.16401 Definitions; principles of construction. [M.S.A. 14.15(16401)]

Sec. 16401. (1) As used in this part:

(a) "Chiropractor", "chiropractic physician", "doctor of chiropractic", or "d.c." means an individual licensed under this article to engage in the practice of chiropractic.

(b) "Practice of chiropractic" means that discipline within the healing arts which deals with the nervous system and its relationship to the spinal column and its interrelationship with other body systems. Practice of chiropractic includes:

(i) Diagnosis, including spinal analysis, to determine the existence of spinal subluxations or misalignments that produce nerve interference, indicating the necessity for chiropractic care.

(ii) The adjustment of spinal subluxations or misalignments and related bones and tissues for the establishment of neural integrity utilizing the inherent recuperative powers of the body for restoration and maintenance of health.

(iii) The use of analytical instruments, nutritional advice, rehabilitative exercise and adjustment apparatus regulated by rules promulgated by the board pursuant to section 16423, and the use of x-ray machines in the examination of patients for the purpose of locating spinal subluxations or misaligned vertebrae of the human spine. The practice of chiropractic does not include the performance of incisive surgical procedures, the performance of an invasive procedure requiring instrumentation, or the dispensing or prescribing of drugs or medicine.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.16411 License or authorization required. [M.S.A. 14.15(16411)]

Sec. 16411. A person shall not engage in the practice of chiropractic unless licensed or otherwise authorized by this article.

333.16412 Limited license; qualifications; suspension; duration; nonrenewable. [M.S.A. 14.15(16412)]

Sec. 16412. (1) An individual shall not engage in the practice of chiropractic as part of his or her chiropractic education without a limited license to practice under this part.

(2) A limited license for practice as part of chiropractic education shall require that the individual has successfully completed 2 years of education in a college of arts and sciences and 2 years, 4 semesters, or 6 quarter terms in a chiropractic college approved by the board. An individual granted a limited license may engage in the practice of chiropractic only under the supervision of a licensed chiropractor.

(3) The limited license is valid for not more than 6 months and is nonrenewable.

333.16421 Michigan board of chiropractic; creation; membership. [M.S.A. 14.15(16421)]

Sec. 16421. The Michigan board of chiropractic is created in the department and shall consist of the following 7 voting members who shall meet the requirements of part 161: 5 chiropractors and 2 public members.

333.16423 Analytical instruments and adjustment apparatus; rules; criteria; standards. [M.S.A. 14.15(16423)]

Sec. 16423. (1) The board shall promulgate rules to establish criteria for the approval of analytical instruments and adjustment apparatus to be used for the purpose of examining patients in locating spinal subluxations and misalignments of the human spine. The criteria established shall be substantially equivalent to nationally recognized standards in the profession for the use and operation of the instruments. The board may approve types and makes of analytical instruments that meet these criteria.

(2) An individual shall not use analytical instruments or adjustment apparatus which does not meet nationally recognized standards or which is not approved by the board.

333.16431 Renewal of license; evidence required. [M.S.A. 14.15(16431)]

Sec. 16431. Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence of either or both of the following:

(a) Evidence that during the 2 years before the application for renewal the applicant has attended not less than two 2-day educational conferences approved by the board, in subjects related to the practice of chiropractic and designed to further educate licensees.

(b) Evidence of continuing competence which the board determines by rule is necessary to demonstrate that the licensee continues to meet the educational and practice standards for the profession.

PART 166. DENTISTRY**333.16601 Definitions; principles of construction. [M.S.A. 14.15(16601)]**

Sec. 16601. (1) As used in this part:

(a) "Assignment" means that a dentist has designated a patient of record upon whom services are to be performed and has described the procedures to be performed. The dentist need not be physically present in the office or in the treatment room at the time the procedures are being performed.

(b) "Dental laboratory" means a dental workroom operated as a part of a dental office or otherwise, by a person, other than an dentist, who is engaged in, or holds himself, herself, or itself out as being directly or indirectly engaged in, constructing, repairing, or altering prosthetic dentures, bridges, orthodontic or other appliances, or structures to be used as substitutes for or as a part of human teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(c) "Dentist" means an individual licensed under this article to engage in the practice of dentistry.

(d) "Practice of dentistry" means the diagnosis, treatment, prescription, or operation for a disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaws, or their dependent tissues, or an offer, undertaking, attempt to do, or holding oneself out as able to do any of these acts.

(e) "Practice as a dental assistant" means assistance in the clinical practice of dentistry based on formal education, specialized knowledge, and skill at the assignment and under the supervision of a dentist.

(f) "Practice as a dental hygienist" means practice at the assignment of a dentist in that specific area of dentistry based on specialized knowledge, formal education, and skill with particular emphasis on preventive services and oral health education.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.16608 Health profession specialty certification; qualifications. [M.S.A. 14.15(16608)]

Sec. 16608. The board may issue a health profession specialty certification to a licensed dentist who has advanced training beyond that required for initial licensure and who has demonstrated competency through examination or other

evaluative processes in 1 or more of the following specialty fields: prosthodontics, endodontics, oral surgery, orthodontics, pedodontics, or periodontics.

333.16611 Dentist, dental hygienist, or dental assistant; license or authorization required; deep scaling, root planing, and removal of calcareous deposits. [M.S.A. 14.15(16611)]

Sec. 16611. (1) A person shall not engage in the practice of dentistry, the practice as a dental hygienist, or the practice as a dental assistant unless licensed or otherwise authorized by this article.

(2) Deep scaling, root planing, and the removal of calcareous deposits may only be performed by individuals licensed as a dental hygienist or a dentist.

333.16621 Michigan board of dentistry; creation; appointment and qualifications of members; meetings; expiration of subsection (2); waiver; voting. [M.S.A. 14.15(16621)]

Sec. 16621. (1) The Michigan board of dentistry is created in the department. The board shall consist of the following 13 voting members who shall meet the requirements of part 161: 7 dentists, 2 dental hygienists, 2 dental assistants, and 2 public members. The board meeting dates and times shall be concurred in by a vote of not less than 10 board members. Not more than 1 member of the board may be a dental school faculty member.

(2) The dental assistants first appointed to the board shall be graduates of a dental assisting program accredited by the commission on accreditation of the American dental association. This subsection shall expire 3 years after the effective date of this article.

(3) The requirement of section 16135(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived for 2 years after the effective date of this part for members of the board licensed as dental assistants by this part.

(4) A board member licensed to practice as a dental hygienist or a dental assistant shall vote as an equal member in all matters except those designated in section 16148(1) or (2) which apply to dentists and not to dental hygienists or dental assistants.

333.16624 Task force; creation; purpose; membership. [M.S.A. 14.15(16624)]

Sec. 16624. A task force to advise the board is created for health profession specialty fields certified under this part. The task force shall consist of the following 8 members, who shall meet the requirements of part 161: 1 dentist who is not a specialist, 1 prosthodontist, 1 endodontist, 1 oral surgeon, 1 orthodontist, 1 pedodontist, and 1 periodontist who shall be certified as dentists specializing in their respective fields by the board not later than 1 year after the effective date of this article or if not so certified their terms shall terminate at the end of that year and 1 public member.

333.16625 Rules as to dental hygienist or dental assistant. [M.S.A. 14.15(16625)]

Sec. 16625. The board may promulgate rules to prohibit or otherwise restrict the assignment of procedures to a dental hygienist or a dental assistant where the board determines that the assignment constitutes or may constitute a danger to the health, safety, or welfare of the patient or the public.

333.16627 Establishment of dental clinic by nonprofit corporation. [M.S.A. 14.15(16627)]

Sec. 16627. The board shall not by rule or other action prohibit the establishment of a dental clinic by a nonprofit corporation organized for this purpose or by trustees of a health and welfare fund if:

(a) The clinic is created, financed, and operated from trust funds derived from payments and contributions under the terms of collective bargaining agreements between employers and representatives of employees and which are subject to the terms, conditions, and regulations of the labor-management relations act of 1947, 29 U.S.C. 141 to 187.

(b) The clinic is established and operated for the benefit of employees represented or employed by the labor organization, their dependents, and retirees.

(c) The individuals employed by the clinic to practice dentistry are licensed under this article.

333.16641 Work authorization for dental laboratory services required; retention and inspection of work authorizations and copies. [M.S.A. 14.15(16641)]

Sec. 16641. (1) A dentist shall not use the services of a dental laboratory without furnishing a written work authorization to the dental laboratory and a carbon copy to the patient for constructing, repairing, or altering prosthetic dentures, bridges, orthodontic or other appliances, or structures to be used as substitutes for or as a part of human teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(2) A dentist shall retain a written work authorization furnished to a dental laboratory or a copy of the authorization for not less than 3 years and allow the board, its agents, or employees to inspect the file of written work authorizations or copies.

333.16642 Work authorization for dental laboratory work; form; contents; name or number of work authorization to accompany invoice; prohibition. [M.S.A. 14.15(16642)]

Sec. 16642. (1) A written authorization for dental laboratory work shall be in a form prescribed by the board and shall contain the following:

- (a) The name and address of the laboratory.
- (b) An identification of the patient by name or number.
- (c) The date on which the authorization was written.
- (d) The description of the work to be done, with diagrams if necessary.
- (e) A specification of the type and quality of materials to be used.
- (f) The dentist's signature, complete business address, and license number.

(2) A dental laboratory shall return completed prescribed work to the prescribing dentist or the dentist's office with the name or number of the written work authorization accompanying the invoice.

(3) A dental laboratory shall not have in its possession a prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities, completed or being fabricated without having in its possession a written work authorization therefor.

333.16643 Dental laboratory; prohibited conduct. [M.S.A. 14.15(16643)]

Sec. 16643. A dental laboratory shall not advertise, solicit, represent, or hold itself out to the general public that it will sell, supply, furnish, construct, repair, or alter a prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities.

333.16647 Dental laboratory; inspection; compliance; violation as misdemeanor. [M.S.A. 14.15(16647)]

Sec. 16647. (1) The board or an agent or employee of the board may inspect a dental laboratory to determine the laboratory's compliance with this part.

(2) A dental laboratory which violates this part or refuses to allow the board or an agent or employee of the board to inspect a work authorization, prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities in its possession is guilty of a misdemeanor.

PART 170. MEDICINE**333.17001 Definitions; principles of construction. [M.S.A. 14.15(17001)]**

Sec. 17001. (1) As used in this part:

(a) "Medical care services" means those services within the scope of practice of physicians licensed and approved by the board, except those services which the board determines may not be delegated by a physician without endangering the health and safety of patients as provided for in section 17048(2).

(b) "Physician" means an individual licensed under this article to engage in the practice of medicine.

(c) "Practice of medicine" means the diagnosis, treatment, prevention, cure, or relieving of a human disease, ailment, defect, complaint, or other physical or mental condition, by attendance, advice, device, diagnostic test, or other means, or offering, undertaking, attempting to do, or holding oneself out as able to do, any of these acts.

(d) "Practice as a physician's assistant" means the practice of medicine or osteopathic medicine and surgery performed under the supervision of a physician licensed and approved under this part or part 175.

(e) "Supervision" shall have the meaning ascribed to it in section 16109, except that the existence of a predetermined plan for emergency situations, including the designation of a physician licensed by the board or board of osteopathic medicine and surgery to supervise a physician's assistant in the absence of an approved physician shall also be required.

(f) "Task force" means the joint task force created in sections 17025 and 17525.

(2) In addition to the definitions in this part, article 1 contains definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.17008 Physician's assistant; health profession subfield. [M.S.A. 14.15(17008)]

Sec. 17008. Practice as a physician's assistant is a health profession subfield of the practice of medicine and osteopathic medicine and surgery.

333.17011 License or authorization required. [M.S.A. 14.15(17011)]

Sec. 17011. A person shall not engage in the practice of medicine or practice as a physician's assistant unless licensed or otherwise authorized by this article.

333.17012 Postgraduate medical study requiring practice of medicine; full or limited license required; requirements of limited license; training; renewing limited license. [M.S.A. 14.15(17012)]

Sec. 17012. (1) An individual shall not engage in postgraduate medical study which requires the practice of medicine by that individual without a full or limited license to practice under this part.

(2) A limited license for a postgraduate shall require that the individual confine his or her practice and training to a hospital or institution approved by the board for the training. The hospital or institution is responsible for the training. A limited license for a postgraduate is renewable for not more than 5 years.

333.17021 Michigan board of medicine; creation; membership; waiver; limitation on powers and duties. [M.S.A. 14.15(17021)]

Sec. 17021. (1) The Michigan board of medicine is created in the department and shall consist of the following 14 voting members who shall meet the requirements of part 161: 10 physicians, 1 physician's assistant, and 3 public members.

(2) The requirement of section 16135(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived for 2 years after the effective date of this part for members of the board licensed in a health profession subfield created by this part.

(3) The board of medicine shall not have the powers and duties vested in the task force by sections 17058 to 17088.

333.17025 Joint task force; creation; membership; waiver. [M.S.A. 14.15(17025)]

Sec. 17025. (1) A joint task force is created for the health profession subfields licensed under this part and part 175. The task force shall consist of the following 7 members, who shall meet the requirements of part 161: 1 member each from the board of medicine and the board of osteopathic medicine and surgery holding a license other than a health profession subfield license, 3 physician's assistants, and 2 public members.

(2) The requirement of section 16135(d) that a task force member shall have practiced that profession for 2 years immediately before appointment is waived for 2 years after the effective date of this part for members of the board licensed in a health profession subfield created by this part.

333.17031 Condition for more than limited licensure. [M.S.A. 14.15(17031)]

Sec. 17031. An applicant, in addition to completing the requirements for the degree in medicine, shall complete a period of postgraduate education to attain proficiency in the practice of the profession, as prescribed by the board in rules, as a condition for more than limited licensure.

333.17033 Renewal of license; evidence required. [M.S.A. 14.15(17033)]

Sec. 17033. Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence of either or both of the following:

(a) Evidence that during the 3 years before application for renewal the

licensee has attended continuing education courses or programs approved by the board totaling not less than 150 hours in subjects related to the practice of medicine including medical ethics and designed to further educate licensees.

(b) Evidence of continuing competence which the board by rule determines is necessary to demonstrate that the licensee continues to meet the educational and practice standards for the profession.

333.17040 Utilizing or supervising physician's assistant; application for approval; form and contents of application; issuance of temporary approval; final determination; investigation; modifications in application. [M.S.A. 14.15(17040)]

Sec. 17040. (1) A physician shall not utilize or supervise a physician's assistant in the practice of medicine without first obtaining written approval from the board.

(2) To obtain approval a physician shall make application to the board on a form provided by the department, which shall include:

(a) The name of the physician and his or her business address as it appears on his or her license.

(b) Information regarding the professional background and specialty of the physician.

(c) The physician's plan for supervision of physician's assistants which at a minimum shall describe his or her proposed plan for review of the physician's assistants' activities and availability to the physician's assistants he or she supervises.

(d) Sites of possible use of physician's assistants.

(e) A plan to supervise the physician's assistant in the absence or unavailability of the approved physician.

(f) The name, signature, and other information the board considers appropriate concerning the physician to provide supervision in the approved physician's absence.

(g) A plan for emergency situations in which a physician is not available.

(3) Within 10 days after receipt of the completed application, the board may issue a temporary approval in writing. A final determination shall be made as soon thereafter as is reasonably possible.

(4) The board shall cause an investigation to be conducted when necessary to determine whether an application should be issued or continued.

(5) The board may request that modifications in an initial application be made before the approval is given.

333.17042 Interim approval to supervise physician's assistant. [M.S.A. 14.15(17042)]

Sec. 17042. An interim approval granted under former Act No. 143 of the Public Acts of 1975 shall continue until the board formally approves or disapproves the physician. Before formal approval or disapproval, the board may grant interim approval to a physician wishing to supervise a physician's assistant who demonstrates to the board that the physician meets the requirements for supervision as prescribed by this part.

333.17044 Approval to supervise physician's assistant; condition; date of termination and renewal; form and contents of application for renewal. [M.S.A. 14.15(17044)]

Sec. 17044. (1) An approval to supervise physician's assistants is dependent upon the existence of a current license to practice medicine and shall terminate

and be renewed on the same date that the physician's license terminates and is renewed, unless the department considers it necessary to establish a different date for administrative convenience.

(2) A physician shall apply for renewal of approval on a form provided by the department, which shall include:

(a) The name of the physician and his or her business address as it appears on his or her license and the physician's current license number.

(b) The names of the physician's assistants for whom the physician had a primary supervisory responsibility since the last approval or renewal.

(c) A change or desired amendment to the current approval.

333.17046 Application for amendment to approval. [M.S.A. 14.15(17046)]

Sec. 17046. A physician may apply for an amendment to an approval at any time on a form provided by the department. Application for an amendment to an approval shall be submitted when:

(a) A substantial change occurs from the original application with regard to the plan for supervision, the plan for emergency situations, or the designated alternative physician.

(b) A substantive change is desired in the delegation of functions to or supervision of a physician's assistant, including the delegation of functions within a specialty area that requires specialized education, training, or experience; the delegation of medical care services limited by rule, or, to the extent that a physician's assistant demonstrates greater training, education, and ability, such that medical care services could be delegated with lower levels of supervision than those required by this part and rules promulgated under this part.

333.17047 Certificate of approval; issuance. [M.S.A. 14.15(17047)]

Sec. 17047. Upon approval of an application, approval of a renewal or amendment, or the grant of a temporary approval, the department promptly shall issue a certificate of approval to the applicant.

333.17048 Limitation on number of physician's assistants supervised or employed; prohibiting or restricting delegation of services; requiring higher levels of supervision; prohibition; rules as to drugs. [M.S.A. 14.15(17048)]

Sec. 17048. (1) A physician shall neither supervise nor employ more than 2 physician's assistants at 1 time. A clinic, hospital, extended care facility, or other health care institution or organization may employ more than 2 physician's assistants, but a physician in the institution or organization shall not supervise more than 2 physician's assistants.

(2) To the extent that particular selected medical care services require extensive medical training, education, or ability or pose serious risks to the health and safety of patients, the board may prohibit or otherwise restrict their delegation or may require higher levels of supervision.

(3) A physician may not delegate ultimate responsibility for the quality of medical care services, even if the services are provided by a physician's assistant.

(4) The board shall promulgate rules for the delegation by a supervising physician to a physician's assistant of the function of prescription of drugs. The rules shall define the drugs or classes of drugs which may not be delegated and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws. Until the rules are promulgated, a supervising physician may delegate the prescription of drugs other than

controlled substances as defined by article 7 or federal law. When delegated prescription occurs, the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription.

333.17050 Revocation or suspension of approval, placing on probation, or reprimanding; grounds. [M.S.A. 14.15(17050)]

Sec. 17050. The board may revoke or suspend an approval and may place on probation or reprimand a licensee who holds an approval issued under this part for any of the grounds set forth in section 16221 or for failure to supervise a physician's assistant in accordance with this part and rules promulgated under this part.

333.17054 Criteria for licensure of physician's assistants and for evaluation of training programs; recommendations. [M.S.A. 14.15(17054)]

Sec. 17054. The board shall make written recommendations on criteria for the licensure of physician's assistants and on criteria for the evaluation of physician's assistants' training programs to the task force on physician's assistants.

333.17056 Exception. [M.S.A. 14.15(17056)]

Sec. 17056. This part does not apply to a student in training to become a physician's assistant while performing duties assigned as part of the training.

333.17058 Powers and duties of task force; §§333.17058 to 333.17088 supplementary; administration of §§333.17058 to 333.17088. [M.S.A. 14.15(17058)]

Sec. 17058. (1) Notwithstanding part 161, the task force shall have the powers and duties vested in it by sections 17058 to 17088 which would otherwise have been exercised by the board under that part.

(2) Sections 17058 to 17088 shall supplement and not supersede the provisions of part 161 which apply to task forces and licenses in general.

(3) Sections 17058 to 17088 shall be administered by the task force in a manner consistent with the administration of similar sections under part 161 unless the provisions or context clearly require otherwise.

333.17060 Duties of task force. [M.S.A. 14.15(17060)]

Sec. 17060. (1) The task force shall:

(a) Promulgate rules necessary for the implementation of its powers and duties and may perform the acts and make the determinations necessary for the proper implementations of those powers and duties.

(b) Promulgate rules to establish the requirements for the education, training, or experience of physician's assistants for licensure in this state. The requirements shall take into account nationally recognized standards for education, training, and experience and the desired utilization of physician's assistants.

(c) Develop and make public guidelines on the appropriate delegation of functions to and supervision of physician's assistants according to the level of education, training, or experience of physician's assistants. The guidelines shall not be binding, but shall serve to explain how the task force's training criteria coincides with the board's expectation for delegation to and supervision of physician's assistants by approved physicians.

(d) Direct the board to grant licenses to applicants who meet the requirements of this part and the rules promulgated under this part for practice and use of the title of physician's assistant.

(e) Promulgate rules to establish the requirements for renewal of licenses for physician's assistants, which shall include assessment of continuing competence not less than once every 6 years or more frequently if required to promote safe practice.

(f) Promulgate rules to establish criteria for the evaluation of programs for the education and training of physician's assistants for the purpose of determining whether graduates of the programs have the knowledge and skills requisite for practice and use of the title physician's assistant in this state as defined by this part and the rules promulgated under this part. The criteria established shall be substantially consistent with nationally recognized standards for the education and training of physician's assistants. Until the criteria are established, the criteria developed by the advisory commission on physician's assistants shall remain in effect. The task force shall consider and may use where appropriate the criteria established by professional associations, education accrediting bodies, or governmental agencies. In establishing criteria for the evaluation of education and training programs, the task force may seek the advice of the boards and the department of education.

(g) Make written recommendations to the boards concerning the rules to be developed for approval by the boards of physicians to supervise physician's assistants, including recommendations for appropriate utilization of physician's assistants by level of preparation where appropriate.

(h) File an annual report with the department and the boards containing matters prescribed by the department and boards.

(2) The task force may make written recommendations to the relevant board regarding an application by a physician for approval to supervise physician's assistants or for an amendment to the physician's approval to supervise physician's assistants.

333.17062 Applicant for licensure as physician's assistant; qualifications. [M.S.A. 14.15(17062)]

Sec. 17062. An applicant for licensure as a physician's assistant shall meet the requirements of section 16174(a) and (b) and be a graduate of a program approved by the task force or be a licensed, certified, registered, approved, or other legally recognized physician's assistant in another state with qualifications substantially equivalent to those established by the task force; or have the education, training, or experience prescribed by this part or the rules of the task force as determined by an examination or evaluation authorized by the task force, as provided in section 17060(1)(b).

333.17064 Applicant for licensure as physician's assistant; examination required; waiver; nature of examination; use of national examination; discrimination prohibited; reciprocity; investigation; additional documentation or information. [M.S.A. 14.15(17064)]

Sec. 17064. (1) To determine whether an applicant for initial licensure has the appropriate level of skill and knowledge as required by this part, the task force shall require the applicant to submit to an examination which shall include those subjects the general knowledge of which is commonly and generally required of a graduate of an accredited physician's assistants' program in the United States. The task force may waive the examination requirement for a graduate of an approved program if the applicant has taken a national examination and achieved a score acceptable to the task force as demonstrating the level of skill and knowledge required by this part. The task force may waive the examination for an applicant who is licensed, certified, registered, approved,

or otherwise legally recognized as a physician's assistant in another state, when the task force determines that the other state has qualifications, including completion of a national or state approved examination for physician's assistants, that are substantially equivalent to those established by this part. For the purpose of this section, the task force shall not, in any case, preclude an applicant from taking an examination because of a lack of specific previous education, training, or experience.

(2) The nature of an examination shall be determined by the task force and may include the use of national examinations where appropriate. The use of examinations or the requirements for successful completion shall not permit discriminatory treatment of applicants.

(3) The task force shall provide for the recognition of the certification or experience consistent with this part acquired by physician's assistants in other states who wish to practice in this state.

(4) The task force may cause an investigation to be conducted when necessary to determine the qualifications of an applicant for licensure. An applicant may be required to furnish additional documentation and information upon a determination by the task force that the documentation or information is necessary to evaluate the applicant's qualifications.

333.17066 Design of standards and decisions regarding qualifications of physician's assistants; rules for assessing continuing competence; determination of continuing competence. [M.S.A. 14.15(17066)]

Sec. 17066. (1) The standards and decisions regarding the qualifications of physician's assistants shall be designed to determine that each physician's assistant has the necessary knowledge and skill to perform in a safe and competent manner with due regard to the complexity and risks attendant to activities that may be delegated by an approved physician to a physician's assistant.

(2) To determine whether an individual continues to maintain competence for practice and use of the title of physician's assistant, the task force shall prescribe by rule mechanisms to assess continuing competence. Mechanisms may include retesting of the skills and knowledge required for initial approval, testing of skills and knowledge relevant to current or expected practice, or requiring some amount and level of continuing education. The task force may make determinations of continuing competence at the time of renewal of approval or at any time between renewals the task force considers necessary for the safety of the public, but it shall make the determinations not less than once every 6 years.

333.17068 Application for licensure or renewal of licensure; form; requirements for reinstatement of license; standards; issuance of temporary license. [M.S.A. 14.15(17068)]

Sec. 17068. (1) A physician's assistant shall apply for licensure or renewal of licensure on a form provided by the department.

(2) A physician's assistant whose license is revoked for nonrenewal under section 16201 may be reinstated upon showing that he or she meets the current requirements for licensure set forth in this part and rules promulgated under this part. In reinstating an individual under this section, the task force may establish standards for training, education, or experience equivalent to current educational and practice requirements. A temporary license under section 17072 may be issued pending the results of action taken under this subsection.

333.17070 Granting renewal; notice of denial; right to hearing. [M.S.A. 14.15(17070)]

Sec. 17070. (1) If the applicant meets the requirements for renewal as set forth in this part or rules promulgated under this part, the task force shall direct the board to grant a renewal.

(2) If an applicant is determined by the task force not to have met the requirements for renewal, the applicant shall be notified in writing of the reasons for denial and shall have the right to a hearing.

333.17072 Certificate of licensure, temporary licensure, or renewal; issuance; contents of certificate; interim licensure; nonrenewable temporary license; display; pocket card; identification. [M.S.A. 14.15(17072)]

Sec. 17072. (1) A certificate of licensure, temporary licensure, or renewal shall be issued by the department to an applicant who is granted licensure, temporary licensure, or renewal. A certificate issued under this part shall contain the full name of the individual licensed, a permanent individual number, and the date of expiration.

(2) The task force shall direct the board to grant interim licensure to an unlicensed individual who was employed as a physician's assistant on January 9, 1977, to be effective until the task force formally issues or denies a license to the physician's assistant pursuant to this part and the rules promulgated under this part. During this period the task force may direct the board to grant interim licensure to a new applicant who has graduated from a program training physician's assistants.

(3) The task force may direct the board to grant a nonrenewable temporary license to an applicant who meets all requirements for licensure except examination, if required. The task force shall make its decision within 30 days after submission of a complete application or the conclusion of a department investigation, whichever is later. The temporary license shall be valid for a period determined by the task force, but not to exceed 1 year, or until the results of a required examination are made available, whichever is sooner. The department shall issue a certificate of temporary licensure within 15 days after the board grants the license.

(4) A physician's assistant licensed under this part shall publicly display the current certificate of licensure, temporary license, or renewal permanently in that individual's place of practice, if feasible, and shall have available for inspection a pocket card issued by the department containing the essential information of the license. While working, the individual shall wear appropriate identification, clearly indicating that the individual is a physician's assistant.

333.17074 Prohibited undertakings, representations, and services by physician's assistant; permissible services. [M.S.A. 14.15(17074)]

Sec. 17074. (1) A physician's assistant shall not undertake or represent that he or she is qualified to undertake provision of a medical care service which he or she knows or reasonably should know to be outside his or her competence or is lawfully prohibited.

(2) A physician's assistant shall not:

(a) Perform acts, tasks, or functions to determine the refractive state of a human eye, or the treatment of refractive anomalies of the human eye, or both.

(b) Determine the spectacle or contact lens prescription specifications required to treat refractive anomalies of the human eye, or determine modification of spectacle or contact lens prescription specifications, or both.

(3) A physician's assistant shall not be precluded from the performance of routine visual screening or testing, postoperative care, or assistance in the care of medical diseases of the eye under the supervision of an approved physician.

333.17076 Medical care services by physician's assistant; supervision required; exception; medical care setting required; making calls or going on rounds; prescribing drugs; indicating name of supervising physician. [M.S.A. 14.15(17076)]

Sec. 17076. (1) Except in an emergency situation, a physician's assistant shall provide medical care services only under the supervision of an approved physician or properly designated alternative physician, and only when those services are within the scope of practice of the supervising physician and are delegated by the supervising physician.

(2) A physician's assistant shall provide medical care services only in a medical care setting where the approved physician regularly sees patients, but the physician's assistant shall not be precluded from making calls or going on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities to the extent permitted by the bylaws, rules, or regulations of the facilities or organizations under the supervision of an approved physician.

(3) A physician's assistant may prescribe drugs as a delegated act of a supervising physician, but shall do so only in accordance with procedures and protocol for the prescription established by the boards in rule. Until the rules are promulgated, a physician's assistant may prescribe a drug other than a controlled substance as defined by article 6 or federal law, as a delegated act of the supervising physician. When delegated prescription occurs, the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician's assistant is prescribing.

333.17078 Physician's assistant as agent of supervising physician; privileged communications; minimal standards; possession of copy of approval. [M.S.A. 14.15(17078)]

Sec. 17078. (1) A physician's assistant is the agent of the supervising physician. A communication made to a physician's assistant which would be a privileged communication if made to the supervising physician shall be a privileged communication to the physician's assistant and the supervising physician to the same extent as if the communication were made to the supervising physician.

(2) A physician's assistant shall conform to minimal standards of acceptable and prevailing practice for the supervising physician.

(3) A physician's assistant shall possess a copy of the approval issued by the board to the supervising physician authorizing use of physician's assistants.

333.17082 Investigations and evaluations by task force; purpose; revision of criteria for education and training; continuation of program approval and criteria. [M.S.A. 14.15(17082)]

Sec. 17082. (1) The task force may conduct or cause to be conducted, investigations and evaluations necessary to determine whether a program meets the criteria established by this part and rules promulgated under this part.

(2) At times the task force determines appropriate, the task force may revise the criteria for the education and training of graduates to determine whether the graduates meet the requirements for practice and use of the title physician's assistant in this state.

(3) A program approval of the director of public health and the criteria developed or recommended by the physician's assistant's advisory commission permitted under section 20 of former Act No. 420 of the Public Acts of 1976 shall be continued for the duration of its initial approval, unless disapproved by the task force.

333.17084 Register of programs; contents; public inspection. [M.S.A. 14.15(17084)]

Sec. 17084. The department shall keep a register of programs meeting the criteria established by the task force. The register of programs shall include the full title of the program, the institution of which it is a part, and its address. A copy of the register or the information contained in the register shall be available for public inspection.

333.17086 Complaint; notice; investigation; disciplinary action; denial, suspension, limitation, or revocation of license or renewal; examination to determine competency; mental or physical examination; admission of allegations; opportunity to demonstrate competency; constructive consent; waiver; hearing; determination by hearing examiner; finality. [M.S.A. 14.15(17086)]

Sec. 17086. (1) The task force may cause to be investigated information received concerning the practice of a physician's assistant. The task force shall be notified of a complaint against an individual licensed under its direction in the manner prescribed in section 16231 and shall have the authority concerning a complaint as prescribed in that section. The task force may direct the board to deny, suspend, limit, or revoke a license, or reprimand or place on probation, or otherwise discipline a physician's assistant for a cause described in section 16221.

(2) The task force may direct a board to deny, suspend, limit, or revoke a license or renewal upon a determination by the task force that a physician's assistant has departed from or failed to conform to minimal standards of acceptable and prevailing practice, for the supervising physician. In a situation where incompetency is charged or presumed, the task force may require an examination to determine the individual's competence. The examination may include practical tests, working operations, and demonstrations.

(3) The task force, upon probable cause, may compel a physician's assistant to submit to a mental or physical examination by physicians designated by the task force, at the expense of the department, when it is determined relevant to the verification of the individual's fitness to practice. Failure of a physician's assistant to submit to a mental or physical examination when directed constitutes an admission of the allegations unless the failure is due to circumstances beyond his or her control, and a default and final order may be entered without the taking of testimony or presentation of evidence. A physician's assistant affected under this subsection shall be afforded an opportunity at reasonable intervals to demonstrate that he or she can resume the competent practice as a physician's assistant in compliance with standards of acceptable and prevailing practice. For the purposes of this subsection, a physician's assistant licensed under this part who accepts the privilege of practicing as a physician's assistant in this state, and by so practicing or by the making and filing of an application to practice as a physician's assistant in this state, is considered to have given his or her consent to

submit to a mental or physical examination when directed to do so in writing by the task force, and to have waived all objections to the admissibility of the testimony or examination reports of the examining physician on the ground that testimony or reports constitute a privileged communication.

(4) Before the task force takes or causes action under this section, the physician's assistant shall be given an opportunity for a hearing.

(5) The task force may delegate determination of a contested case to a hearing examiner, whose decision shall constitute final administrative action, unless the task force authorizes a review.

333.17088 Application for reinstatement; time; conditions to reinstatement. [M.S.A. 14.15(17088)]

Sec. 17088. (1) An application for reinstatement of a revoked license may be made to the task force not less than 1 year after the effective date of the revocation. An application for reinstatement of a denied, suspended, or limited license may be made at a time fixed by the task force.

(2) The task force may direct a board to restore a license with any limitations the task force determines are appropriate, if, after a hearing, the task force is satisfied that the applicant is of good moral character, such that the individual is able to serve the public as a physician's assistant in a fair, honest, and open manner, is able to provide medical care services under the supervision of an approved physician in a safe and competent fashion, and should be permitted in the public interest to resume practice. As a condition to the reinstatement or the restoration, the task force may impose corrective measures including additional education or training or special supervision.

PART 172. NURSING

333.17201 Definitions; principles of construction. [M.S.A. 14.15(17201)]

Sec. 17201. (1) As used in this part:

(a) "Practice of nursing" means the systematic application of substantial specialized knowledge and skill, derived from the biological, physical, and behavioral sciences, to the care, treatment, counsel, and health teaching of individuals who are experiencing changes in the normal health processes or who require assistance in the maintenance of health and the prevention or management of illness, injury, or disability.

(b) "Practice of nursing as a licensed practical nurse" or "l.p.n." means the practice of nursing based on less comprehensive knowledge and skill than that required of a registered professional nurse and performed under the supervision of a registered professional nurse, physician, or dentist.

(c) "Registered professional nurse" or "r.n." means an individual licensed under this article to engage in the practice of nursing which scope of practice includes the teaching, direction, and supervision of less skilled personnel in the performance of delegated nursing activities.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in the code and part 161 contains definitions applicable to this part.

333.17208 Licensed practical nurse; health profession subfield. [M.S.A. 14.15(17208)]

Sec. 17208. The practice of nursing as a licensed practical nurse is a health profession subfield of the practice of nursing.

333.17209 Renewal of license to practice as trained attendant; eligibility; "practice as a trained attendant" defined; original license prohibited; licensed psychiatric attendant nurse considered licensed practical nurse. [M.S.A. 14.15(17209)]

Sec. 17209. (1) After the effective date of this part, an individual licensed to practice as a trained attendant is eligible to apply to the board for a renewal of licensure pursuant to this article. For purposes of this section, "practice as a trained attendant" means the practice of nursing based on less comprehensive knowledge and skill than that required of a registered professional nurse or a licensed practical nurse and performed under supervision of a registered professional nurse or licensed physician or dentist. After the effective date of this part, the board shall not grant an original license to an applicant for licensure to practice as a trained attendant.

(2) After the effective date of this part, licensed psychiatric attendant nurse licenses shall be considered licensed practical nurse licenses. A licensed psychiatric attendant nurse shall have the same rights and duties as a licensed practical nurse under this part as consistent with the licensee's education and training.

333.17210 Registered professional nurse; issuance of specialty certification; qualifications. [M.S.A. 14.15(17210)]

Sec. 17210. The board of nursing may issue a specialty certification to a registered professional nurse who has advanced training beyond that required for initial licensure and who has demonstrated competency through examination or other evaluative processes and who practices in 1 of the following health profession specialty fields: nurse midwifery, nurse anesthetist, or nurse practitioner.

333.17211 License or authorization required. [M.S.A. 14.15(17211)]

Sec. 17211. A person shall not engage in the practice of nursing or the practice of nursing as a licensed practical nurse unless licensed or otherwise authorized by this article.

333.17221 Michigan board of nursing; creation; membership. [M.S.A. 14.15(17221)]

Sec. 17221. The Michigan board of nursing is created in the department and shall consist of the following 13 voting members who shall meet the requirements of part 161: 8 registered professional nurses, 3 licensed practical nurses, and 2 public members. Three professional registered nurse members shall be engaged in nursing education, 1 of whom shall be in less than a baccalaureate program, 1 in a baccalaureate or higher program, and 1 in a licensed practical nurse program; and each of whom shall have a master's degree from an accredited college with a major in nursing. Three professional registered nurse members shall be engaged in nursing practice or nursing administration, each of whom shall have a baccalaureate degree in nursing from an accredited college. Three professional registered nurse members shall be engaged in nursing practice or nursing administration each of whom shall be a nonbaccalaureate registered nurse. The 3 licensed practical nurse members shall have graduated from a state approved program for the preparation of individuals to practice as licensed practical nurses.

333.17224 Task force for health profession subfield; creation; purpose; membership. [M.S.A. 14.15(17224)]

Sec. 17224. A task force to advise the board is created for the health profession subfield licensed under this part. The initial task force shall consist of

the following 6 members, who shall meet the requirements of part 161: 2 licensed practical nurses, 1 individual licensed pursuant to section 17209(2), 1 registered professional nurse, and 2 public members. After December 31, 1985, the task force shall consist of 5 members by termination of the membership of the individual licensed pursuant to section 17209(2).

333.17225 Task force for health profession specialty fields; membership. [M.S.A. 14.15(17225)]

Sec. 17225. A task force to advise the board is created for health profession specialty fields certified under this part. The task force shall consist of the following 5 members, who shall meet the requirements of part 161: 1 registered professional nurse, 1 nurse midwife, 1 nurse anesthetist, and 1 nurse practitioner who shall be certified in their respective specialty fields by the board not later than 1 year after the effective date of this article or, if not so certified, their terms shall expire at the end of that year, and 1 public member.

333.17241 Nursing education program; application to conduct; evidence required; inspection; report; approval; continuation of existing programs; accreditation by national board or organization; educational program for psychiatric attendant nurses or trained attendants prohibited. [M.S.A. 14.15(17241)]

Sec. 17241. (1) An institution seeking to conduct a nursing education program to prepare individuals for licensing shall apply to the board and submit evidence that it is prepared:

(a) To carry out the minimum curriculum prescribed by the board in rules for the preparation of individuals for licensing.

(b) To meet other educational and training standards established by the board under this article and the rules promulgated under this article.

(2) The board shall inspect the institution and its nursing education program and prepare a written report of its findings. The board, upon determining that requirements for a nursing education program are met, shall approve the program. A nursing education program approved by the board and in operation on the effective date of this part may continue as approved pending further action by the board. The board may accept accreditation by a national board or organization as a basis for approval under this section.

(3) After the effective date of this part, the board shall not approve an educational program for psychiatric attendant nurses or trained attendants.

333.17242 Inspection of approved nursing education program; report; notice of deficiency; removal from list of approved programs; hearing. [M.S.A. 14.15(17242)]

Sec. 17242. (1) The board may inspect an approved nursing education program in this state and prepare a written report of its findings. If the board determines that the standards required by this part and the board are not being met, written notice specifying the areas in which the board has found a program to be deficient shall be sent immediately to the institution conducting the program.

(2) A nursing education program which within a reasonable length of time, as determined by the board, fails to meet standards prescribed by the board shall be removed from the list of approved programs. An institution conducting a program which is removed from the approved list shall be granted an opportunity for a hearing.

PART 174. OPTOMETRY

333.17401 Definitions; principles of construction. [M.S.A. 14.15(17401)]

Sec. 17401. (1) As used in this part:

(a) "Optometrist" means an individual licensed under this article to engage in the practice of optometry.

(b) "Practice of optometry" means 1 or more of the following:

(i) The examination of the human eye to ascertain the presence of defects or abnormal conditions which may be corrected, remedied, or relieved, or the effects of which may be corrected, remedied, or relieved by the use of lenses, prisms, or other mechanical devices.

(ii) The employment of objective or subjective physical means to determine the accommodative or refractive conditions or the range of powers of vision or muscular equilibrium of the human eye.

(iii) The adaptation or the adjustment of the lenses or prisms to correct, remedy, or relieve a defect or abnormal condition or to correct, remedy, or relieve the effect of a defect or abnormal condition of the human eye.

(iv) The examination of the human eye for contact lenses and the fitting or insertion of contact lenses to the eye.

(v) The employment of objective or subjective means for the examination of the human eye for the purpose of ascertaining a departure from the normal, measuring of powers of vision, and adapting lenses for the aid thereof.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.17411 Authorization required. [M.S.A. 14.15(17411)]

Sec. 17411. A person shall not engage in the practice of optometry except as authorized by this article.

333.17414 Permissible conduct; untruthful, misleading, or deceptive statements in advertisement or notice prohibited. [M.S.A. 14.15(17414)]

Sec. 17414. (1) This part does not prohibit:

(a) An optician from the adjusting, replacing, repairing, or reproducing of previously prepared eyeglasses or any part thereof.

(b) An unlicensed person from selling eyeglasses on prescription from an optometrist or physician.

(c) A person who does not hold himself or herself out as being a licensee under this part from selling eyeglasses as an article of merchandise.

(2) It shall be unlawful for any person licensed under this part, or any individual, firm or corporation engaged in the sale of merchandise of any description who maintains or operates, or who allows to be maintained or operated in connection with said merchandise business, an optometric department, or who rents or subleases to any person or persons for the purpose of engaging in the practice of optometry therein, any part of premises in which such person, persons, firm or corporation is engaged in mercantile business, to publish or circulate, or print or cause to be printed, by any means whatsoever, any advertisement or notice in which said advertisement or notice appears, any untruthful or misleading statement, or anything calculated or intended to mislead or deceive the public or any individual.

333.17421 Michigan board of optometry; creation; membership. [M.S.A. 14.15(17421)]

Sec. 17421. The Michigan board of optometry is created in the department and shall consist of the following 7 voting members who shall meet the requirements of part 161: 5 optometrists and 2 public members.

333.17431 Renewal of license; evidence required. [M.S.A. 14.15(17431)]

Sec. 17431. Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence of either or both of the following:

(a) Evidence that during the 2 years before the application for renewal the licensee has attended an education program approved by the board and totaling not less than 24 hours in subjects related to the practice of optometry and designed to further educate licensees.

(b) Evidence of continuing competence which the board determines by rule is necessary to demonstrate that the licensee continues to meet the educational and practice standards for the profession.

PART 175. OSTEOPATHIC MEDICINE AND SURGERY**333.17501 Definitions; principles of construction. [M.S.A. 14.15(17501)]**

Sec. 17501. (1) As used in this part:

(a) "Medical care services" means those services within the scope of practice of physicians licensed and approved by the board, except those services which the board determines may not be delegated by a physician without endangering the health and safety of patients as provided for in section 17048(2).

(b) "Physician" means an individual licensed under this article to engage in the practice of osteopathic medicine and surgery.

(c) "Practice of osteopathic medicine and surgery" means a separate, complete, and independent school of medicine and surgery utilizing full methods of diagnosis and treatment in physical and mental health and disease, including the prescription and administration of drugs and biologicals, operative surgery, obstetrics, radiological and other electromagnetic emissions, and placing special emphasis on the interrelationship of the musculoskeletal system to other body systems.

(d) "Practice as a physician's assistant" means the practice of osteopathic medicine performed under the supervision of a physician licensed under this part or part 170.

(e) "Supervision" shall have the meaning ascribed to it in section 16109 except that the existence of a predetermined plan for emergency situations, including the designation of a physician licensed by the board or the medical practice board to supervise a physician's assistant in the absence of an approved physician shall also be required.

(f) "Task force" means the joint task force created in sections 17025 and 17525.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in the code and part 161 contains definitions applicable to this part.

333.17508 Physician's assistant; health profession subfield. [M.S.A. 14.15(17508)]

Sec. 17508. Practice as a physician's assistant is a health profession subfield of the practice of osteopathic medicine and surgery and the practice of medicine.

333.17511 License or authorization required. [M.S.A. 14.15(17511)]

Sec. 17511. A person shall not engage in the practice of osteopathic medicine and surgery or practice as a physician's assistant unless licensed or otherwise authorized by this article.

333.17512 Postgraduate study; full or limited license required; requirements of limited license; responsibility for training; limited license renewable. [M.S.A. 14.15(17512)]

Sec. 17512. (1) An individual shall not engage in postgraduate study before obtaining a full or limited license to practice under this part.

(2) A limited license for a postgraduate shall require that the individual confine his or her practice and training to a hospital or institution approved by the board for the training. The hospital or institution is responsible for the training. A limited license for a postgraduate is renewable for not more than 5 years.

333.17521 Michigan board of osteopathic medicine and surgery; creation; membership; waiver; certain powers and duties prohibited. [M.S.A. 14.15(17521)]

Sec. 17521. (1) The Michigan board of osteopathic medicine and surgery is created in the department and shall consist of the following 8 voting members who shall meet the requirements of part 161: 5 physicians, 1 physician's assistant, and 2 public members.

(2) The requirement of section 16135 (d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived for 2 years after the effective date of this part for members of the board who are licensed in a health profession subfield created by this part.

(3) The board of osteopathic medicine and surgery shall not have the powers and duties vested in the task force by sections 17058 to 17088.

333.17523 Rules establishing standards and criteria. [M.S.A. 14.15(17523)]

Sec. 17523. The board of osteopathic medicine and surgery shall jointly promulgate rules with the board of medicine to establish standards and criteria for the education, training, licensure, and supervision of physician's assistants.

333.17525 Joint task force; creation; purpose; membership; waiver; powers and duties. [M.S.A. 14.15(17525)]

Sec. 17525. (1) A joint task force to advise the board of osteopathic medicine and surgery and the board of medicine is created for the health profession subfields licensed under this part and part 170. The task force shall consist of the following 7 members, who shall meet the requirements of part 161: 1 member each from the board and the board of medicine holding a license other than a health profession subfield license, 3 physician's assistants, and 2 public members.

(2) The requirement of section 16135(d) that a task force member shall have practiced that profession for 2 years immediately before appointment is waived for 2 years after the effective date of this part for members of the task force who are licensed in a health profession subfield created by this part.

(3) The task force shall have the powers and duties prescribed in sections 17058 to 17088.

333.17531 Postgraduate education as condition for more than limited licensure. [M.S.A. 14.15(17531)]

Sec. 17531. An applicant, in addition to completing the requirements for the degree in osteopathic medicine and surgery, shall complete a period of

postgraduate education to attain proficiency in the practice of the profession as prescribed by the board in rules as a condition for more than limited licensure.

333.17533 Renewal of license; evidence required. [M.S.A. 14.15(17533)]

Sec. 17533. Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence of either or both of the following:

(a) Evidence that during the 3 years before an application for renewal the licensee has attended continuing education courses or programs approved by the board and totaling not less than 150 hours in subjects related to the practice of osteopathic medicine and surgery and designed to further educate licensees.

(b) Evidence of continuing competence which the board determines by rule is necessary to demonstrate that the licensee continues to meet the educational and practice standards for the profession.

333.17540 Utilization or supervision of physician's assistant; application for approval; form and contents of application; issuance of temporary approval; final determination; investigation; modifications in initial application. [M.S.A. 14.15(17540)]

Sec. 17540. (1) A physician shall not utilize or supervise a physician's assistant in the practice of osteopathic medicine and surgery without first obtaining written approval from the board.

(2) To obtain approval a physician shall make application to the board on a form provided by the department, which shall include:

(a) The name of the physician and his or her business address as it appears on his or her license.

(b) Information regarding the professional background and specialty of the physician.

(c) The physician's plan for supervision of physician's assistants which at a minimum shall describe his or her proposed plan for review of the physician's assistant's activities and availability to the physician's assistants he or she supervises.

(d) Sites of possible use of physician's assistants.

(e) A plan to supervise the physician's assistant in the absence or unavailability of the approved physician.

(f) The name, signature, and other information the board considers appropriate concerning the physician to provide supervision in the approved physician's absence.

(g) A plan for emergency situations in which a physician is not available.

(3) Within 10 days after receipt of the completed application, the board may issue a temporary approval in writing. A final determination shall be made as soon thereafter as is reasonably possible.

(4) The board shall cause an investigation to be conducted when necessary to determine whether an application should be issued or continued.

(5) The board may request that modifications in an initial application be made before the approval is given.

333.17542 Interim approval. [M.S.A. 14.15(17542)]

Sec. 17542. An interim approval granted under former Act No. 162 of the Public Acts of 1903 shall continue until the board formally approves or disapproves the physician. Before formal approval or disapproval, the board may

grant interim approval to a physician wishing to supervise a physician's assistant who demonstrates to the board that the physician meets the requirements for supervision as prescribed by this part.

333.17544 Approval to supervise physician's assistants; requirements; date of termination and renewal; form and contents of application for renewal of approval. [M.S.A. 14.15(17544)]

Sec. 17544. (1) An approval to supervise physician's assistants is dependent upon the existence of a current license and to practice osteopathic medicine and surgery and shall terminate and be renewed on the same date that the physician's license terminates and is renewed, unless the department considers it necessary to establish a different date for administrative convenience.

(2) A physician shall apply for renewal of approval on a form provided by the department, which shall include:

(a) The name of the physician and his or her business address as it appears on his or her license and the physician's current license number.

(b) The names of the physician's assistants for whom the physician had a primary supervisory responsibility since the last approval or renewal.

(c) A change or desired amendment to the current approval.

333.17546 Amendment to approval; form and submission of application. [M.S.A. 14.15(17546)]

Sec. 17546. A physician may apply for an amendment to an approval at any time on a form provided by the department. Application for an amendment to an approval shall be submitted when:

(a) A substantial change occurs from the original application with regard to the plan for supervision, the plan for emergency situations, or the designated alternative physician.

(b) A substantive change is desired in the delegation of functions to or supervision of a physician's assistant, including the delegation of functions within a specialty area that requires specialized education, training, or experience; the delegation of medical care services limited by rule; or, to the extent that a physician's assistant demonstrates greater training, education, and ability, such that additional medical care services could be delegated with lower levels of supervision than those required by this part and rules promulgated under this part.

333.17547 Certificate of approval; issuance. [M.S.A. 14.15(17547)]

Sec. 17547. Upon approval of an application, approval of a renewal or amendment, or the grant of a temporary approval, the department promptly shall issue a certificate of approval to the applicant.

333.17548 Maximum number of physician's assistants to be supervised or employed; restriction on delegation of services; requiring higher levels of supervision; rules as to drugs; indicating name of supervising physician. [M.S.A. 14.15(17548)]

Sec. 17548. (1) A physician shall neither supervise nor employ more than 2 physician's assistants at 1 time. A clinic, hospital, extended care facility, or other health care institution or organization may employ more than 2 physician's assistants, but a physician in the institution or organization shall not supervise more than 2 physician's assistants.

(2) To the extent that particular selected medical care services require extensive medical training, education, or ability or pose serious risks to the health

and safety of patients, the board may prohibit or otherwise restrict their delegation or may require higher levels of supervision.

(3) A physician may not delegate ultimate responsibility for the quality of medical care services, even if the services are provided by a physician's assistant.

(4) The board shall promulgate rules for the delegation by a supervising physician to a physician's assistant of the function of prescription of drugs. The rules shall define the drugs or classes of drugs which may not be delegated and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws. Until the rules are promulgated, a supervising physician may delegate the prescription of drugs other than controlled substances as defined by article 7 or federal law. When delegated prescription occurs, the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription.

333.17550 Revocation or suspension of approval, placing on probation, or reprimand; grounds. [M.S.A. 14.15(17550)]

Sec. 17550. The board may revoke or suspend an approval and may place on probation or reprimand a licensee who holds an approval issued under this part for any of the grounds set forth in section 16221 or for failure to supervise a physician's assistant in accordance with this part and rules promulgated under this part.

333.17554 Criteria for approval or evaluation; recommendations. [M.S.A. 14.15(17554)]

Sec. 17554. The board shall make written recommendations on criteria for the approval of physician's assistants and on criteria for the evaluation of physician's assistants' training programs to the task force on physician's assistants.

333.17556 Exemption. [M.S.A. 14.15(17556)]

Sec. 17556. This part does not apply to a student in training to become a physician's assistant while performing duties assigned as part of the training.

PART 177. PHARMACY PRACTICE AND DRUG CONTROL

333.17701 Meanings of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(17701)]

Sec. 17701. (1) For purposes of this part the words and phrases defined in sections 17702 to 17709 have the meanings ascribed to them in those sections.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.17702 Definitions; B, C. [M.S.A. 14.15(17702)]

Sec. 17702. (1) "Brand name" means the registered trademark name given to a drug product by its manufacturer.

(2) "Current selling price" means the price to be paid by the purchaser for the list drugs purchased.

333.17703 Definitions; D. [M.S.A. 14.15(17703)]

Sec. 17703. (1) "Device" means an instrument, apparatus, or contrivance, including its components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or to affect the structure or function of the body of human beings or other animals.

(2) "Dispense" means to issue 1 or more doses of a drug in a suitable container, appropriately labeled, for subsequent administration to, or use by, a patient.

(3) "Dispensing prescriber" means a prescriber, other than a veterinarian, for whose principal place of practice a drug control license is granted by the board under this part for routine dispensing of prescription drugs.

(4) "Drug" means any of the following:

(a) A substance recognized or for which the standards or specifications are prescribed in the official compendium.

(b) A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals.

(c) A substance, other than food, intended to affect the structure or a function of the body of human beings or other animals.

(d) A substance intended for use as a component of a substance specified in subdivision (a), (b), or (c), but not including a device or its components, parts, or accessories.

333.17704 Definitions; F to I. [M.S.A. 14.15(17704)]

Sec. 17704. (1) "Federal act" means the federal food, drug, and cosmetic act of 1938, 21 U.S.C. 301 to 392.

(2) "Generic name" means the established or official name of a drug or drug product.

(3) "Harmful drug" means a drug intended for use by human beings which is harmful because of its toxicity, habit-forming nature, or other potential adverse effect, the method of its use, or the collateral measures necessary to its safe and effective use, and which is designated as harmful by the board according to rule.

(4) "Internship" means an educational program of professional and practical experience for an intern.

333.17705 Definitions; L. [M.S.A. 14.15(17705)]

Sec. 17705. (1) "Label" means a display of written, printed, or graphic matter on the immediate container of a drug or device, but does not include package liners. A requirement made by or under authority of this part that a word, statement, or other information appear on the label is not complied with unless the word, statement, or other information appears on the outside container or wrapper of the retail package of the drug or device as displayed for sale or is easily legible through an outside container or wrapper.

(2) "Labeling" means the labels and other written, printed, or graphic matter on a drug or device or its container or wrapper, or accompanying the drug or device.

(3) "License" in addition to the definition in section 16106 means a pharmacy license, drug control license, or a manufacturer or wholesale distributor of drugs or devices license.

(4) "List" means the list of the 100 most frequently prescribed drugs as designated by rules promulgated by the board.

333.17706 Definitions; M to O. [M.S.A. 14.15(17706)]

Sec. 17706. (1) "Make readily available" means placing the list and the legibly marked current selling price of each drug conspicuously at each counter over which prescription drugs are sold so that a reasonable individual would notice it and be able to read it, and providing a separate receipt.

(2) "Manufacturer" means a person who prepares, produces, derives, propagates, compounds, processes, packages, or repackages a drug or device salable on prescription only, or otherwise changes the container or the labeling of a drug or device salable on prescription only, and who supplies, distributes, sells, offers for sale, barter, or otherwise disposes of that drug or device and any other drug or device salable on prescription only, to another person for resale, compounding, or dispensing.

(3) "Official compendium" means the United States pharmacopoeia, homeopathic pharmacopoeia of the United States, national formulary, or a supplement thereof existing on the effective date of this part.

333.17707 Definitions; P. [M.S.A. 14.15(17707)]

Sec. 17707. (1) "Personal charge" means the immediate physical presence of a pharmacist.

(2) "Pharmacist" means an individual licensed under this article to engage in the practice of pharmacy.

(3) "Pharmacist intern" or "intern" means an individual who satisfactorily completes the requirements set forth in rules promulgated by the board and is licensed by the board for the purpose of obtaining instruction in the practice of pharmacy from a preceptor approved by the board.

(4) "Pharmacy" means a building or part thereof in which the practice of pharmacy is conducted.

(5) "Practice of pharmacy" means a health service, the clinical application of which includes the encouragement of safety and efficacy in the prescribing, dispensing, administering, and use of drugs and related articles for the prevention of illness, and the maintenance and management of health. Professional functions associated with the practice of pharmacy include:

- (a) The interpretation and evaluation of the prescription.
- (b) Drug product selection.
- (c) The compounding, dispensing, safe storage, and distribution of drugs and devices.
- (d) The maintenance of legally required records.
- (e) Advising the prescriber and the patient as required as to contents, therapeutic action, utilization, and possible adverse reactions or interactions of drugs.

333.17708 Definitions; P. [M.S.A. 14.15(17708)]

Sec. 17708. (1) "Preceptor" means a pharmacist approved by the board to direct the training of an intern in an approved pharmacy.

(2) "Prescriber" means a licensed dentist, doctor of medicine, doctor of osteopathic medicine and surgery, doctor of podiatric medicine and surgery, veterinarian, or other licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or doctor of osteopathic medicine and surgery.

(3) "Prescription" means an order for drugs or devices written and signed or transmitted by other means of communication by a prescriber to be filled, compounded, or dispensed. Prescribing shall be limited to a prescriber. An order transmitted in other than written form shall be recorded or written and immediately dated by the pharmacist, and that record constitutes the original

prescription. In a medical institution an order for drugs or devices in the patient's chart constitutes for the purposes of this definition the original prescription.

(4) "Prescription drug" means any of the following:

(a) A drug dispensed pursuant to a prescription.

(b) A drug bearing the federal legend "CAUTION: federal law prohibits dispensing without prescription".

(c) A drug designated by the board as one which may only be dispensed pursuant to a prescription.

333.17709 Definitions; S to W. [M.S.A. 14.15(17709)]

Sec. 17709. (1) "Substitute" means to dispense, without the prescriber's authorization, a different drug in place of the drug prescribed.

(2) "Wholesale distributor" means a person, other than a manufacturer, who supplies, distributes, sells, offers for sale, barter, or otherwise disposes of, to other persons for resale, compounding, or dispensing, a drug or device salable on prescription only that the distributor has not prepared, produced, derived, propagated, compounded, processed, packaged, or repackaged, or otherwise changed the container or the labeling thereof.

333.17711 License or authorization required. [M.S.A. 14.15(17711)]

Sec. 17711. A person shall not engage in the practice of pharmacy unless licensed or otherwise authorized by this article.

333.17721 Michigan board of pharmacy; creation; membership. [M.S.A. 14.15(17721)]

Sec. 17721. The Michigan board of pharmacy is created in the department and shall consist of the following 8 voting members who shall meet the requirements of part 161: 6 pharmacists and 2 public members.

333.17722 Michigan board of pharmacy; duties generally. [M.S.A. 14.15(17722)]

Sec. 17722. In addition to the functions set forth in part 161, the board shall:

(a) Regulate, control, and inspect the character and standard of pharmacy practice and of drugs and devices manufactured, distributed, prescribed, dispensed, administered, or issued in this state and procure samples and limit or prevent the sale of drugs and devices that do not comply with this part.

(b) Prescribe minimum criteria for the use of professional and technical equipment and references in the compounding and dispensing of drugs and devices.

(c) Grant a pharmacy license for each separate place of practice in which the compounding or dispensing of prescription drugs or devices, or both, or the receiving of prescription orders in this state is to be conducted.

(d) Grant a drug control license for the place of practice of a dispensing prescriber who meets the requirements for the license.

(e) Grant a license to a manufacturer or a wholesale distributor of prescription drugs who meets the requirements for the license.

333.17726 License; issuance. [M.S.A. 14.15(17726)]

Sec. 17726. The department shall issue a license to an applicant who is granted a license by the board.

333.17731 Renewal of license; evidence required. [M.S.A. 14.15(17731)]

Sec. 17731. Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a pharmacist's license to furnish the board with satisfactory evidence of either or both of the following:

(a) Evidence that during the 2 years before application for renewal the applicant has attended continuing education courses or programs, approved by the board, totaling not less than 30 hours or the satisfactory completion of a proficiency examination according to rules promulgated by the board.

(b) Evidence of continuing competence which the board determines by rule is necessary to demonstrate that the licensee continues to meet the educational and practice standards for the profession.

333.17733 Renewal of license; application; fee; practical experience. [M.S.A. 14.15(17733)]

Sec. 17733. A pharmacist who has not actively engaged in the practice of pharmacy for more than 3 years may have his or her license renewed upon application, payment of the prescribed fee, and completion of a program of practical pharmacy experience of at least 200 hours. The board may define by rule what constitutes the active practice of pharmacy.

333.17737 Rules establishing standards for internship program; limited license required. [M.S.A. 14.15(17737)]

Sec. 17737. (1) The board shall promulgate rules to establish standards for an internship program and participation therein by interns and preceptors.

(2) An individual shall not engage in an internship program which includes the practice of pharmacy without a limited license under this part.

333.17741 Pharmacy license required; personal charge of pharmacy by pharmacist; responsibility for compliance with laws; control and personal charge of pharmacy services; effect of violation on pharmacy license. [M.S.A. 14.15(17741)]

Sec. 17741. (1) A pharmacy shall not be operated unless licensed by this part.

(2) A pharmacy open for business shall be under the personal charge of a pharmacist. A pharmacist shall not simultaneously have personal charge of more than 1 pharmacy. The person to whom a pharmacy license is issued and the pharmacists on duty are responsible for compliance with federal and state laws regulating the distribution of drugs and the practice of pharmacy. Pharmacy services shall be conducted under the control and personal charge of a pharmacist.

(3) A penalty for violation of this part does not affect the pharmacy license of other than the place of business where the violation occurred.

333.17743 Pharmacy license; contents; duration. [M.S.A. 14.15(17743)]

Sec. 17743. (1) A pharmacy license shall contain the name of the licensee, the address of the place of practice, a description of the pharmacy and the premises thereof, and other information the board requires.

(2) A pharmacy license is valid for 2 years, commencing on the date of issue and terminating on the date prescribed for pharmacists in section 16194.

333.17745 Drug control license; compliance by dispensing prescriber; patient's chart to include record of drugs. [M.S.A. 14.15(17745)]

Sec. 17745. (1) A prescriber who wishes to routinely dispense drugs shall obtain from the board a drug control license for his or her principal place of

practice. A drug control license is not necessary if the dispensing involves only the issuance of complimentary starter dose drugs.

(2) A dispensing prescriber shall comply with the following provisions:

(a) Specifications for display of the consumer information list as provided in section 17761(1).

(b) The contents, quality, labeling, and container specifications for prescriptions dispensed to the public as provided in sections 17722(a) and (b), 17756, 17757(2) and (3), and 17761(2).

(5) A patient's chart shall include a complete record of all drugs issued directly by a dispensing prescriber or indirectly under his or her delegatory authority.

333.17747 Drug control license; contents; duration. [M.S.A. 14.15(17747)]

Sec. 17747. A drug control license shall contain the name and address of the dispensing prescriber and of the principal place of dispensing and other information the board requires. The license is valid for 2 years, commencing on the date of issue and terminating on the date prescribed for pharmacists in section 16194.

333.17748 Pharmacy, manufacturer, or wholesale distributor of prescription drugs; license required; fee; designation and responsibility of licensee. [M.S.A. 14.15(17748)]

Sec. 17748. A pharmacy, manufacturer, or wholesale distributor of prescription drugs, whether or not located in this state but doing business in this state, shall be licensed biennially by the board in accordance with this part and pay the prescribed fee. A pharmacy, manufacturer, or wholesale distributor may designate an individual to be the licensee for the manufacturer or wholesale distributor and the licensee is responsible for compliance with this part.

333.17751 Dispensing prescription drug; requirements. [M.S.A. 14.15(17751)]

Sec. 17751. (1) A drug requiring a prescription under the federal act or a law of this state shall not be dispensed except under authority of an original prescription or equivalent record thereof approved by the board.

(2) A prescription shall be dispensed only by a pharmacist or by a prescriber if the prescription falls within the scope of practice of the prescriber.

(3) A prescription shall not be knowingly dispensed after the death of the prescriber or patient.

333.17752 Prescription or equivalent record; preservation; not public record; disclosure; providing copies; refilling copy; cancellation of original prescription; record of cancellation; copy as duplicate of original prescription; determination of valid copy; use and marking of copies. [M.S.A. 14.15(17752)]

Sec. 17752. (1) A prescription, or an equivalent record thereof approved by the board, shall be preserved by a licensee or dispensing prescriber for not less than 5 years.

(2) A prescription or equivalent record on file in a pharmacy is not a public record. A person having custody of or access to prescriptions shall not disclose their contents or provide copies without the patient's authorization, to any person except to:

(a) The patient for whom the prescription was issued, or another pharmacist acting on behalf of the patient.

(b) The authorized prescriber who issued the prescription, or a licensed health professional who is currently treating the patient.

(c) An agency or agent of government responsible for the enforcement of laws relating to drugs and devices.

(d) A person authorized by a court order.

(e) A person engaged in research projects or studies with protocols approved by the board.

(3) A pharmacist may refill a copy of a prescription from another pharmacy if the original prescription has remaining authorized refills, and the copy is issued according to the following procedure:

(a) The pharmacist issuing a written or oral copy of a prescription shall cancel the original prescription and record the cancellation. The record of cancellation shall include the date the copy was issued, to whom issued, and the identification of the pharmacist who issued the copy.

(b) The written or oral copy issued shall be a duplicate of the original prescription except that it shall also include the prescription number, the name of the pharmacy issuing the copy, the date the copy was issued, and the number of authorized refills remaining available to the patient.

(c) The pharmacist receiving a written or oral copy of the prescription shall exercise reasonable diligence to determine whether it is a valid copy, and having done so may treat the copy as an original prescription.

(d) Except as described in this part, all other copies furnished shall be used for information purposes only and clearly marked "for informational or reference purposes only".

333.17755 Dispensing lower cost generically equivalent drug product; notice; contents of prescription label; passing on savings; restrictions; limitation on total charge. [M.S.A. 14.15(17755)]

Sec. 17755. (1) When a pharmacist receives a prescription for a brand name drug product, the pharmacist may, or when a purchaser requests a lower cost generically equivalent drug product, the pharmacist shall dispense a lower cost but not higher cost generically equivalent drug product if available in the pharmacy, except as provided in subsection (3). If a drug is dispensed which is not the prescribed brand, the purchaser shall be notified and the prescription label shall indicate both the name of the brand prescribed and the name of the brand dispensed and designate each respectively. If the dispensed drug does not have a brand name, the prescription label shall indicate the generic name of the drug dispensed, except as otherwise provided in section 17756.

(2) If a pharmacist dispenses a generically equivalent drug product, the pharmacist shall pass on the savings in cost to the purchaser or to the third party payment source if the prescription purchase is covered by a third party pay contract. The savings in cost is the difference between the wholesale cost to the pharmacist of the 2 drug products.

(3) The pharmacist shall not dispense a generically equivalent drug product under subsection (1) if any of the following applies:

(a) The prescriber, in the case of a prescription in writing signed by the prescriber, writes in his or her own handwriting "dispense as written" or "d.a.w." on the prescription.

(b) The prescriber, having preprinted on his or her prescription blanks the statement "another brand of a generically equivalent product, identical in dosage, form, and content of active ingredients, may be dispensed unless initialed d.a.w.",

writes in his or her own handwriting, the initials “d.a.w.” in a space, box, or square adjacent to the statement.

(c) The prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated.

(4) A pharmacist may not dispense a drug product with a total charge that exceeds the total charge of the drug product originally prescribed, unless agreed to by the purchaser.

333.17756 Label on prescription; contents. [M.S.A. 14.15(17756)]

Sec. 17756. A prescription dispensed by a pharmacist shall bear upon the label the name of the medication in the container unless the prescriber writes “do not label” on the prescription. A label on a prescription dispensed by a dispensing prescriber shall include the name of the medication in the container.

333.17757 Current selling price of drugs; availability; contents of receipt evidencing transaction; omission; retention of copy of receipt. [M.S.A. 14.15(17757)]

Sec. 17757. (1) A pharmacist engaged in the business of selling drugs at retail shall make readily available his or her current selling price of the 100 most frequently prescribed drugs at each counter over which listed drugs are sold. The pharmacist shall mark legibly on the lists provided by the board his or her current selling price of each drug.

(2) The pharmacist shall furnish to the purchaser of a prescription drug at the time the drug is delivered to the purchaser a receipt evidencing the transactions, which contains the following:

- (a) The brand name of the drug, when applicable.
- (b) The name of the manufacturer or the supplier of the drug, if the drug has no brand name.
- (c) The strength of the drug, when significant.
- (d) The quantity dispensed, when applicable.
- (e) The name and address of the pharmacy.
- (f) The serial number of the prescription.
- (g) The date the prescription was originally dispensed.
- (h) The name of the prescriber.
- (i) The name of patient for whom the drug was prescribed.
- (j) The price for which the drug was sold to the purchaser.

(3) Subsection (2)(a), (b), and (c) may be omitted by a pharmacist only when the omission is expressly required by the prescriber. The pharmacist shall retain a copy of each receipt for 90 days. The inclusion of subsection (2) on the prescription container label shall constitute a valid receipt to the purchaser. Including subsection (2) on the written prescription form and retaining the form shall constitute the retention of a copy of the receipt.

333.17758 Changing current selling price of drug; adjustment of posted price. [M.S.A. 14.15(17758)]

Sec. 17758. (1) If a pharmacist changes the current selling price of a drug, the posted price shall be adjusted to reflect the current selling price. If the supplier changes the price of a drug to the pharmacist, the pharmacist may change the current selling price without changing the posted price only if the posted price is adjusted to reflect the current selling price within 48 hours after the time of change in the supplier's price.

(2) A pharmacist may change the current selling prices at any time if the posted prices are adjusted to reflect the current price, with the exception of those prices which the supplier has changed to the pharmacist within the preceding 48 hours.

333.17759 Dispensing harmful drug; requirements. [M.S.A. 14.15(17759)]

Sec. 17759. A harmful drug shall be dispensed only:

(a) As a prescription drug.

(b) Under the control of a licensed pharmacist or prescriber, who maintains records for the dispensing of these drugs which are the same as records required for the dispensing of prescriptions.

333.17761 Display of consumer information list; dispensing prescription in safety closure container. [M.S.A. 14.15(17761)]

Sec. 17761. (1) A pharmacy, except for a pharmacy in a medical institution, shall display the consumer information list in accordance with specifications of the board.

(2) Unless otherwise requested by a patient, a prescription shall be dispensed in a safety closure container according to the requirements of the federal poison prevention packaging act of 1970, 15 U.S.C. sections 1471 to 1476.

333.17762 Misbranded prescription. [M.S.A. 14.15(17762)]

Sec. 17762. (1) A prescription drug is considered misbranded unless the manufacturer's label states the name and place of business of the manufacturer of the finished dosage form of a drug and, if different, the name and place of business of the packer or distributor.

(2) As used in this section, "finished dosage form of a drug" means that form of the drug which is or is intended to be dispensed or administered to the patient and does not require further manufacturing or processing other than packaging or labeling, or both.

333.17763 Grounds for fine, reprimand, or probation; grounds for denying, limiting, suspending, or revoking license. [M.S.A. 14.15(17763)]

Sec. 17763. In addition to the grounds set forth in part 161, the board may fine, reprimand, or place a pharmacist licensee on probation, or deny, limit, suspend, or revoke the license of a pharmacist for a violation or abetting in a violation of this part or rules promulgated under this part, or for any of the following grounds:

(a) Employing the mail to sell, distribute, or deliver a drug which requires a prescription when the prescription for the drug is received by mail.

(b) Adulterating, misbranding, or substituting a drug or device knowing or intending that it shall be used.

(c) Permitting the dispensing of prescriptions by an individual who is not a pharmacist, pharmacist intern, or dispensing prescriber.

(d) Permitting the dispensing of prescriptions by a pharmacist intern, except in the presence and under the personal charge of a pharmacist.

(e) Selling at auction drugs in bulk or in open packages unless the sale has been approved in accordance with rules of the board.

(f) Promoting to the public in any manner a prescription drug.

333.17764 Conduct constituting misdemeanor. [M.S.A. 14.15(17764)]

Sec. 17764. A person is guilty of a misdemeanor who:

(a) Adulterates, misbrands, or substitutes a drug or device knowing or intending that it shall be used.

(b) Sells, offers for sale, possesses for sale, causes to be sold, or manufactures for sale an adulterated or misbranded drug.

(c) Sells, offers for sale, possesses for sale, or manufactures for sale a drug or device bearing or accompanied by a label that is misleading as to the contents, uses, or purposes of the drug or device. In determining whether a label is misleading, consideration shall be given to the representations made or suggested by the statement, word, design, device, sound, or any combination thereof, and the extent to which the label fails to reveal facts material in view of the representations made or material as to consequences which may result from use of the drug or device to which the label relates under conditions of use prescribed in the label or under customary or usual conditions of use.

333.17765 Adulteration or misbranding; guaranty or undertaking as protection against penalties for violation; exception; notice to seller, manufacturer, or wholesale distributor. [M.S.A. 14.15(17765)]

Sec. 17765. A person is not subject to penalties for a violation of this part dealing with adulteration or misbranding, if the person establishes that a guaranty or undertaking was made in accordance with the federal act, or that a guaranty was signed by and contains the name and address of the person residing in this state from whom the former person received in good faith the drug or device, to the effect that the drug or device is not adulterated or misbranded within the meaning of this part. The guaranty does not protect the seller if the product is adulterated or misbranded under this part and the board has previously given written notice to the seller of that fact. The board shall not serve notice on the seller until the board has notified the manufacturer or wholesale distributor of the findings of the state analyst with reference to the product. The notice to the manufacturer or wholesale distributor shall be written and shall be mailed at least 10 days before a notice is given to a seller under this section.

333.17766 Additional conduct constituting misdemeanor. [M.S.A. 14.15(17766)]

Sec. 17766. A person is guilty of a misdemeanor who:

(a) Obtains or attempts to obtain a prescription drug by giving a false or fictitious name to a pharmacist or other authorized seller, prescriber, or dispenser.

(b) Falsely represents himself or herself to be a lawful prescriber, dispenser, or licensee, or acting on behalf of any of them, obtains a prescription drug.

(c) Falsely makes, utters, publishes, passes, alters, or forges a prescription.

(d) Knowingly possesses a false, fictitious, forged, or altered prescription.

(e) Knowingly attempts to obtain, obtains, or possesses a drug by means of a prescription for other than a legitimate therapeutic purpose or as a result of a false, fictitious, forged, or altered prescription.

(f) Possesses or controls for the purpose of resale, or sells, offers to sell, dispenses, or gives away a drug, pharmaceutical preparation, or chemical which has been dispensed on prescription and has left the control of a pharmacist, or has been damaged or subjected to damage by heat, smoke, fire, water, or other cause and which is unfit for human or animal use.

(g) Prepares or permits the preparation of prescription drugs except as delegated by a pharmacist.

(h) Sells at auction drugs in bulk or in open packages unless the sale has been approved in accordance with rules of the board.

333.17767 Rules and determinations as to licensing; investigations and inspections to insure compliance. [M.S.A. 14.15(17767)]

Sec. 17767. (1) The board may promulgate rules and make determinations necessary or appropriate to the licensing of pharmacists, drugs, dispensers, manufacturers, and wholesalers under this part.

(2) The board may conduct investigations and inspect places licensed by this part to insure compliance with this part and rules promulgated pursuant to this part.

333.17768 Violation; penalties. [M.S.A. 14.15(17768)]

Sec. 17768. In a manner consistent with part 161, the board may fine, reprimand, or place on probation, a person licensed under this part, or deny, limit, suspend, or revoke a person's license for a violation of this part or rules promulgated under this part.

333.17770 Exceptions. [M.S.A. 14.15(17770)]

Sec. 17770. Except as to the labeling of poisonous or deleterious drugs and to adulterating, misbranding, and substituting, this part shall not apply:

(a) To the sale of paris green, white hellebore, and other insecticides.

(b) To the sale of any substance for use in the arts.

(c) To the retailing of non-narcotic, or nonprescription medicine or drug which is prepackaged, fully prepared by the manufacturer or producer for use by the consumer, and labeled in accordance with the requirements of the state and federal act.

(d) To the sale by merchants of ammonia, sulphur, any nonpoisonous flavoring essences or extracts, salt, bicarbonate of soda, or other prepackaged common household remedies or any food or food product which may also be found in any of the official compendiums and is not also considered as a poisonous, deleterious, or habit forming drug.

(e) To surgical or dental instruments and accessories, hearing aids, gases, oxygen tents, gas pressure reducing regulators, x-ray apparatus, therapeutic lamps, splints, and stethoscopes, and their component parts and accessories, or to equipment, instruments, apparatus, and contrivances used to render the articles effective in medical, surgical, or dental treatment; or to articles intended for external use.

(f) To articles or substances intended for generally recognized mechanical, agricultural, horticultural, or industrial consumption or use or photographic chemicals for home use.

PART 178. PHYSICAL THERAPY**333.17801 Definitions; principles of construction. [M.S.A. 14.15(17801)]**

Sec. 17801. (1) As used in this part:

(a) "Physical therapist" means an individual licensed under this article to engage in the practice of physical therapy.

(b) "Practice of physical therapy" means the evaluation or treatment of an individual by the employment of effective properties of physical measures and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting, or alleviating a physical or mental disability upon the prescription of an individual holding other than a subfield license issued under parts 170, 175, or 180. It includes treatment planning, performance of tests and measurements, interpretation of referrals

from physicians, instruction, consultative services, and supervision of personnel. Physical measures include massage, mobilization, heat, cold, air, light, water, electricity, and sound.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.17820 License or authorization required. [M.S.A. 14.15(17820)]

Sec. 17820. A person shall not engage in the practice of physical therapy unless licensed or otherwise authorized by this article.

333.17821 Michigan board of physical therapy; creation; membership. [M.S.A. 14.15(17821)]

Sec. 17821. The Michigan board of physical therapy is created in the department and shall consist of the following 7 voting members who shall meet the requirements of part 161: 5 physical therapists and 2 public members.

333.17831 Grounds for fine, reprimand, or probation; grounds for denying, limiting, suspending, or revoking license. [M.S.A. 14.15(17831)]

Sec. 17831. In addition to the grounds set forth in part 161, the board may fine, reprimand, or place a licensee on probation or deny, limit, suspend, or revoke the license of a physical therapist who practices physical therapy without a prescription by an individual holding a license other than a health profession subfield license issued under part 170, 175, or 180.

PART 180. PODIATRIC MEDICINE AND SURGERY

333.18001 Definitions; principles of construction. [M.S.A. 14.15(18001)]

Sec. 18001. (1) As used in this part:

(a) "Podiatrist" means a physician and surgeon licensed under this article to engage in the practice of podiatric medicine and surgery.

(b) "Practice of podiatric medicine and surgery" means the examination, diagnosis, and treatment of abnormal nails, superficial excrescences occurring on the human hands and feet, including corns, warts, callosities, and bunions, and arch troubles or the treatment medically, surgically, mechanically, or by physiotherapy of ailments of human feet or ankles as they affect the condition of the feet. It does not include amputation of human feet, or the use or administration of anesthetics other than local.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.18011 License or authorization required. [M.S.A. 14.15(18011)]

Sec. 18011. A person shall not engage in the practice of podiatric medicine and surgery unless licensed or otherwise authorized by this article.

333.18012 Postgraduate podiatric study; full or limited license required; requirements of limited license; responsibility for training; limited license renewable. [M.S.A. 14.15(18012)]

Sec. 18012. (1) An individual shall not engage in postgraduate podiatric study in podiatric medicine and surgery, including the practice of podiatric medicine and surgery, before obtaining a full or limited license to practice under this part.

(2) A limited license for a postgraduate shall require that the individual confine his or her practice and training to a hospital or institution approved by the board for the training. The hospital or institution is responsible for the training. A limited license for a postgraduate is renewable for not more than 5 years.

333.18021 Michigan board of podiatric medicine and surgery; created; membership. [M.S.A. 14.15(18021)]

Sec. 18021. The Michigan board of podiatric medicine and surgery is created in the department and shall consist of the following 5 voting members who shall meet the requirements of part 161: 3 podiatrists and 2 public members.

333.18031 Condition for more than limited licensure. [M.S.A. 14.15(18031)]

Sec. 18031. An applicant, in addition to completing the requirements for the degree as a doctor of podiatric medicine, shall complete a period of postgraduate education to attain proficiency in the practice of the profession as prescribed by the board in rule as a condition for more than limited licensure.

333.18033 Renewal of license; evidence required. [M.S.A. 14.15(18033)]

Sec. 18033. Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence of either or both of the following:

(a) Evidence that during the 2 years before application for renewal the licensee has attended continuing education courses or programs approved by the board and totaling not less than 50 hours in subjects related to the practice of podiatric medicine and surgery and designed to further educate licensees.

(b) Evidence of continuing competence which the board determines by rule is necessary to demonstrate that the licensee continues to meet the educational and practice standards for the profession.

PART 182. PSYCHOLOGY

333.18201 Definitions; principles of construction. [M.S.A. 14.15(18201)]

Sec. 18201. (1) As used in this part:

(a) "Psychologist" means an individual licensed under this article to engage in the practice of psychology.

(b) "Practice of psychology" means the rendering to individuals, groups, organizations, or the public of services involving the application of principles, methods, and procedures of understanding, predicting, and influencing behavior for the purposes of the diagnosis, assessment related to diagnosis, prevention, amelioration, or treatment of mental or emotional disorders, disabilities or behavioral adjustment problems by means of psychotherapy, counseling, behavior modification, hypnosis, biofeedback techniques, psychological tests, or other verbal or behavioral means. The practice of psychology shall not include the practice of medicine such as prescribing drugs, performing surgery, or administering electro-convulsive therapy.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.18211 Use of terms set forth in §333.16263(k); license or authorization required. [M.S.A. 14.15(18211)]

Sec. 18211. (1) For a period of 6 months after the effective date of this code, an individual may use the terms set forth in section 16263(k) if the individual is

authorized to use the terms as of the effective date of this part under Act No. 257 of the Public Acts of 1959, as amended, being sections 338.1001 to 338.1019 of the Michigan Compiled Laws, or if the individual is authorized under this part to use the terms.

(2) After the period prescribed in subsection (1), a person shall not engage in the practice of psychology unless licensed or otherwise authorized by this article.

333.18212 Postdoctoral training which includes practice of psychology; full or limited license required; requirements of limited license; responsibility for training; limited license renewable. [M.S.A. 14.15(18212)]

Sec. 18212. (1) After the period prescribed in section 18211(1), an individual shall not engage in postdoctoral training which includes the practice of psychology without obtaining a full or limited license to practice under this part.

(2) A limited license for an individual in postdoctoral training shall require that the individual be under supervision of a licensed psychologist and confine his or her practice and training to a hospital, clinic, institution, or other arrangement approved by the board for the training. The hospital, clinic, or institution and designated licensed psychologist are responsible for the training. A limited license for a postdoctoral training is renewable for not more than 5 years.

333.18214 Permissible conduct. [M.S.A. 14.15(18214)]

Sec. 18214. (1) This part does not prohibit an individual who holds a doctoral degree in psychology from a regionally accredited college or university from using a title including "psychologist" if the individual does not engage in the practice of psychology.

(2) This part does not prohibit an individual approved by the state department of education from using the title "school psychologist" and engaging in those duties and activities pertinent to employment by a public or private elementary or secondary school.

(3) This part does not prohibit an individual employed by a regionally accredited college or university and involved in research or the teaching of psychology from performing those duties for which he or she is employed by that institution.

(4) This part does not prohibit a certified, licensed, registered, or otherwise statutorily recognized member of any profession including a lawyer, social worker, school counselor or marriage counselor from practicing his or her profession as authorized by law.

(5) This part does not prohibit a clergyman, professional educator, or professional counselor, including an alcoholism or drug abuse counselor, whose practice may include preventive techniques, counseling techniques, or behavior modification techniques from practicing his or her profession consistent with his or her training and with a code of ethics for that respective profession.

(6) This part shall not apply to a participant or employee in a program licensed under part 62 or self-help, peer counseling, or support services provided by a nonprofit organization.

333.18221 Michigan board of psychology; creation; membership. [M.S.A. 14.15(18221)]

Sec. 18221. The Michigan board of psychology is created in the department and shall consist of the following 8 voting members who shall meet the requirements of part 161: 5 psychologists, including at least 1 nondoctoral psychologist, and 3 public members. Section 1212 shall not apply to this board.

333.18223 Rules as to licensing requirements; study, findings, and conclusions as to continued licensure or other credentialing of nondoctoral psychologists; granting of limited licenses; additional limitations; application for licensure; limited license renewable; granting license to consulting psychologist; expiration of subsections (4) and (5). [M.S.A. 14.15(18223)]

Sec. 18223. (1) The board shall promulgate rules requiring that an individual granted a license under this part, except as provided in subsections (3), (4), and (5) shall have been granted a doctoral degree in psychology, or a doctoral degree in a closely related field, from a regionally accredited or other college, university, or institution approved by the board, which included education and training appropriate to the practice of psychology, and shall have not less than 2 years postdoctoral experience in the practice of psychology in an organized health care setting or other arrangement, as established by the board.

(2) The health occupations council, with the cooperation of the board and providing adequate opportunity for the participation of representatives of the profession, not later than 3 years after the effective date of this part, shall conduct a study regarding continued licensure or other credentialing of nondoctoral psychologists. The findings and conclusions of the study shall be submitted to the board, the governor, and the legislature.

(3) In addition to section 16182, the board shall grant a limited license to an individual certified or eligible for certification as a psychological examiner under Act No. 257 of the Public Acts of 1959, as amended, on the effective date of this part. The board shall grant a limited license to an individual granted a master's degree in psychology from a regionally accredited college or university approved by the board not later than 2 years after the effective date of this part, if the individual has education, training, and experience appropriate to the practice of psychology, as established by the board. Except for duties performed as an employee of a governmental entity or of a nonprofit organization serving benevolent and charitable purposes, 2 limitations shall be placed on a license granted under this subsection. The limitations shall require supervision by a psychologist who has a license other than a limited license and shall prohibit advertising or other representation to the public which will lead the public to believe the individual is engaging in the practice of psychology. Application for licensure under this subsection shall be received by the board not later than 3 years after the effective date of this part. A limited license granted under this subsection shall be renewed pursuant to part 161.

(4) The board shall grant a license to an individual certified as a consulting psychologist under Act No. 257 of the Public Acts of 1959, as amended, on the effective date of this part if the individual has education, training, and experience appropriate to the practice of psychology, as established by the board. This subsection expires 3 years after its effective date.

(5) The board shall grant a limited license to an individual certified as a psychologist under Act No. 257 of the Public Acts of 1959, as amended, pursuant to subsection (3), except that the individual with 2 years postdoctoral experience shall be granted a license pursuant to subsection (4). This subsection expires 3 years after its effective date.

333.18233 Renewal of license; evidence required. [M.S.A. 14.15(18233)]

Sec. 18233. In addition to the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence of either or both of the following:

(a) Evidence that during the 2 years before application for renewal the licensee has attended continuing education courses or programs approved by the board totaling not less than a number of hours which the board establishes by rule in subjects related to the practice of psychology and designed to further educate licensees.

(b) Evidence of continuing competence which the board determines by rule is necessary to demonstrate that the licensee continues to meet the educational and practice standards for the profession.

333.18237 Confidential information; disclosure; waiver.

[M.S.A. 14.15(18237)]

Sec. 18237. A psychologist licensed or allowed to use the title under this part or individual under his or her supervision shall not be compelled to disclose confidential information acquired from an individual consulting the psychologist in his or her professional capacity and which information is necessary to enable the psychologist to render services. Information may be disclosed with the consent of the individual consulting, or if the individual consulting is a minor, with the consent of the minor's guardian. In a contest on the admission of a deceased individual's will to probate, an heir at law of the decedent, whether a proponent or contestant of the will, and the personal representative of the decedent may waive the privilege created by this section.

PART 184. SANITARIANS

333.18401 Definitions; principles of construction. [M.S.A. 14.15(18401)]

Sec. 18401. (1) As used in this part:

(a) "Registered sanitarian" means a sanitarian registered in accordance with this article.

(b) "Sanitarian" means an individual who has specialized education and experience in the physical, biological, and sanitary sciences as applied to the educational, investigational, and technical duties in the field of environmental health.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.18411 Use of "registered sanitarian", "r.s.", or similar words. [M.S.A. 14.15(18411)]

Sec. 18411. A person shall not use the titles "registered sanitarian", "r.s.", or similar words which indicate that he, she, or it is a registered sanitarian unless the person is registered under this article.

333.18413 Conflict of interest. [M.S.A. 14.15(18413)]

Sec. 18413. A registered sanitarian shall not engage in or have an interest in any work, project, or operation prejudicial to his or her professional interest, nor be in conflict with Act No. 240 of the Public Acts of 1937, as amended, being sections 338.551 to 338.576 of the Michigan Compiled Laws.

333.18421 Michigan board of sanitarians; creation; membership. [M.S.A. 14.15(18421)]

Sec. 18421. The Michigan board of sanitarians is created in the department and shall consist of the following 5 voting members who shall meet the requirements of part 161: 3 registered sanitarians and 2 public members.

PART 188. VETERINARY MEDICINE

333.18801 Meanings of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(18801)]

Sec. 18801. (1) For purposes of this part the words and phrases defined in sections 18802 to 18805 have the meanings ascribed to them in those sections.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.18802 Definitions; A to S. [M.S.A. 14.15(18802)]

Sec. 18802. (1) "Abandonment" means to forsake entirely, neglect, or refuse to provide for payment by installment or otherwise or perform the lawful obligations for care and support of an animal by its owner or agent. An abandonment constitutes the relinquishment of all rights of the owner to the animal.

(2) "Animal" means an animal other than a human being and includes all fowl, birds, fish, and reptiles, wild or domestic, living or dead, and which may be carriers of infectious diseases.

(3) "Supervision" includes that degree of close physical proximity necessary for the supervising veterinarian to observe and monitor the performance of an animal technician.

333.18805 Definitions; P to V. [M.S.A. 14.15(18805)]

Sec. 18805. (1) "Practice as an animal technician" means the practice of veterinary medicine based on less comprehensive knowledge and skill than that required of a veterinarian and performed under supervision of a veterinarian.

(2) "Practice of veterinary medicine" means:

(a) Prescribing or administering a drug, medicine, treatment, method of procedure; performing an operation or manipulation; applying an apparatus or appliance; or giving an instruction or demonstration designed to alter an animal from the normal.

(b) Curing, ameliorating, correcting, reducing, or modifying a disease, deformity, defect, wound, or injury in or to an animal.

(c) Diagnosing or prognosing, or both, a disease, deformity, or defect in an animal by a test, procedure, manipulation, technique, autopsy, biopsy, or other examination.

(3) "Veterinarian" means an individual licensed under this article to engage in the practice of veterinary medicine.

333.18808 Animal technician; health profession subfield. [M.S.A. 14.15(18808)]

Sec. 18808. Practice as an animal technician is a health profession subfield of the practice of veterinary medicine.

333.18811 Veterinarian or animal technician; license or authorization required; prohibited conduct. [M.S.A. 14.15(18811)]

Sec. 18811. (1) A person shall not engage in the practice of veterinary medicine unless licensed or otherwise authorized by this article.

(2) After July 1, 1979, an individual shall not practice as an animal technician without a license.

(3) An animal technician shall not diagnose animal diseases, prescribe medical or surgical treatment, or perform as a surgeon.

333.18812 Limited license for veterinary education; requirements; duration. [M.S.A. 14.15(18812)]

Sec. 18812. (1) An individual shall not engage in the practice of veterinary medicine as part of his or her veterinary education without a limited license to practice under this part.

(2) A limited license for practice as part of veterinary education shall require that the individual be a senior student in an approved school of veterinary medicine and be under the supervision of a veterinarian licensed by this state.

(3) A limited license for veterinary education shall be for 1 year and is nonrenewable.

(4) Graduates of nonapproved veterinary education programs may be granted a limited license under section 16182(1).

333.18814 Conduct not considered practice of veterinary medicine. [M.S.A. 14.15(18814)]

Sec. 18814. An individual is not engaging in the practice of veterinary medicine in this state who:

(a) Administers to livestock owned by that individual, except when the title is vested in him or her for the purpose of circumventing this act.

(b) Conducts experimentation and scientific research in the development of methods, techniques, or treatments directly or indirectly applicable to the problems of medicine and who in connection therewith uses animals.

(c) Conducts routine vaccination and pullorum testing of poultry under supervision of the national poultry improvement plan as administered by the official state agency and the United States department of agriculture.

(d) Is a regularly employed veterinarian of the United States department of agriculture or a full-time veterinary food inspector while engaged in the inspection of animals as food for human consumption.

333.18821 Michigan board of veterinary medicine; creation; membership; waiver. [M.S.A. 14.15(18821)]

Sec. 18821. (1) The Michigan board of veterinary medicine is created in the department and shall consist of the following 8 members who shall meet the requirements of part 161: 5 veterinarians, 1 animal technician, and 2 public members. The chief of the animal health division of the department of agriculture is an ex officio member without vote.

(2) The requirement of section 16135(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived for 2 years after the effective date of this part for members of the board who are licensed in a health profession subfield created by this part.

333.18822 Animal diseases; advising department of agriculture. [M.S.A. 14.15(18822)]

Sec. 18822. In addition to the functions set forth in part 161, upon request, the board shall advise the department of agriculture in matters pertaining to animal diseases.

333.18824 Task force; creation; purpose; membership; waiver. [M.S.A. 14.15(18824)]

Sec. 18824. (1) A task force to advise the board is created for the health profession subfield licensed under this part. The task force shall consist of the following 5 voting members, who shall meet the requirements of part 161: 2 animal technicians, 1 veterinarian, and 2 public members.

(2) The requirement of section 16135(d) that a task force member shall have practiced that profession for 2 years immediately before appointment is waived for 2 years after the effective date of this part for members of the task force who are licensed in a health profession subfield created by this part.

333.18835 Grounds for fine, reprimand, or probation; grounds for denying, limiting, suspending, or revoking license. [M.S.A. 14.15(18835)]

Sec. 18835. In addition to the grounds set forth in part 161, the board may fine, reprimand, or place a licensee on probation, or deny, limit, suspend, or revoke the license of a veterinarian for fraudulent use or misuse of a health certificate, inspection certificate, vaccination certificate, test chart, meat inspection stamp, or other blank form used in the practice of veterinary medicine that might lead to the dissemination of disease, unlawful transportation of diseased animals, or the sale of inedible products of animal origin for human consumption.

333.18838 Disposition of abandoned animal; notices; costs. [M.S.A. 14.15(18838)]

Sec. 18838. (1) A veterinarian may dispose of an animal placed in the veterinarian's custody for treatment, boarding, or other care and abandoned for more than 10 days by its owner or agent by sending the notices required by this section. The veterinarian shall send a first written notice of an intent to dispose of the animal by certified mail to the owner or agent, at his or her last known address and a second written notice not less than 10 days after sending the first notice. Upon the expiration of 5 days after sending the second written notice to the owner or agent, a veterinarian may dispose of the animal.

(2) The disposal does not release the owner or agent from payment of costs incurred, including the disposal.

(3) This section does not prevent the owner or agent from mitigating additional costs by removing the animal from custody of the veterinarian.

ARTICLE 17. FACILITIES AND AGENCIES

PART 201. GENERAL PROVISIONS

333.20101 Meanings of words and phrases; principles of construction. [M.S.A. 14.15(20101)]

Sec. 20101. (1) The words and phrases defined in sections 20102 to 20109 apply to all parts in this article except part 221 and have the meanings ascribed to them in those sections.

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

333.20102 Definitions; A. [M.S.A. 14.15(20102)]

Sec. 20102. (1) "Advanced mobile emergency care service" means a person or a governmental entity which provides, for profit or otherwise, the licensed personnel, vehicles, and other equipment required to perform advanced emergency medical techniques at the scene of an emergency.

(2) "Advisory commission" means the health facilities and agencies advisory commission created in section 20121.

(3) "Ambulance" means a vehicle used or designated to be routinely available to provide transportation or transportation and treatment of patients, and is authorized by the department as part of a licensed ambulance operation. It does not include a vehicle used to transport an employee in a nonemergency situation

to a plant medical facility. For purposes of this definition, “patient” is defined in section 20306.

(4) “Ambulance operation” means a person or governmental entity licensed by the department to provide, for profit or otherwise, the licensed personnel, ambulances, and other equipment required to transport and perform emergency medical services for patients. For purposes of this definition, “patient” is defined in section 20306.

333.20104 Definitions; C to F. [M.S.A. 14.15(20104)]

Sec. 20104. (1) “Certification” means the issuance of a document by the department to a health facility or agency attesting to the fact that the facility or agency meets both of the following:

(a) It complies with applicable statutory and regulatory requirements and standards.

(b) It is eligible to participate as a provider of care and services in a specific federal or state health program.

(2) “Clinical laboratory” means a facility patronized by, or at the direction of, a physician, health officer, or other person authorized by law to obtain information for the diagnosis, prevention, or treatment of disease or the assessment of a medical condition by the microbiological, serological, histological, hematological, immunohematological, biophysical, cytological, pathological, or biochemical examination of materials derived from the human body, except as provided in section 20507.

(3) “Consumer” means a person who is not a provider of health care as defined in section 1531(3) of title 15 of the public health services act, 42 U.S.C. 300n.

(4) “County medical care facility” means a nursing care facility, other than a hospital long-term care unit or a nursing home, which provides organized nursing care and medical treatment to 7 or more unrelated individuals who are suffering or recovering from illness, injury, or infirmity and which is owned by a county or counties.

(5) “Freestanding surgical outpatient facility” means a facility, other than the office of a physician, dentist, podiatrist, or other private practice office, offering a surgical procedure and related care that in the opinion of the attending physician can be safely performed without requiring overnight inpatient hospital care. It does not include a surgical outpatient facility owned by and operated as part of a hospital.

333.20106 Definitions; H. [M.S.A. 14.15(20106)]

Sec. 20106. (1) “Health facility or agency”, except as provided in section 20115, means:

(a) Ambulance operation or advanced mobile emergency care service.

(b) Clinical laboratory.

(c) County medical care facility.

(d) Freestanding surgical outpatient facility.

(e) Health maintenance organization.

(f) Home for the aged.

(g) Hospital.

(h) Nursing home.

(i) A facility or agency listed in subdivisions (a) to (h) located in a correctional institution or a university, college, or other educational institution.

- (2) “Health maintenance organization” means a health facility or agency that:
- (a) Delivers health maintenance services to enrollees under the terms of its health maintenance contract, directly or through arrangements with affiliated providers.
- (b) Is responsible for the availability, accessibility, and quality of the health maintenance services provided.
- (3) “Home for the aged” means a supervised personal care facility, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility, that provides room, board, and supervised personal care to 7 or more unrelated, nontransient, individuals 62 years of age or older.
- (4) “Hospital” means a facility offering inpatient, overnight care, and services for observation, diagnosis, and active treatment of an individual with a medical, surgical, obstetric, chronic, or rehabilitative condition requiring the daily direction or supervision of a physician. The term does not include a hospital licensed or operated by the department of mental health.
- (5) “Hospital long-term care unit” means a nursing care facility, owned and operated by and as part of a hospital, providing organized nursing care and medical treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

333.20108 Definitions; I to L. [M.S.A. 14.15(20108)]

Sec. 20108. (1) “Intermediate care facility” means a hospital long-term care unit, nursing home, county medical care facility, or other nursing care facility, or distinct part thereof, certified by the department to provide intermediate care or basic care that is less than skilled nursing care but more than room and board.

(2) “License” means an authorization, annual or as otherwise specified, granted by the department and evidenced by a certificate of licensure or permit granting permission to a person to establish or maintain and operate, or both, a health facility or agency. For purposes of part 203, “license” includes a license issued to an individual under that part.

(3) “Licensee” means the holder of a license or permit to establish or maintain and operate, or both, a health facility or agency. For purposes of part 203, “licensee” includes an individual licensed under that part.

(4) “Limited license” means a provisional license or temporary permit or a license otherwise limited as prescribed by the department.

333.20109 Definitions; N to S. [M.S.A. 14.15(20109)]

Sec. 20109. (1) “Nursing home” means a nursing care facility other than a hospital or county medical care facility that provides organized nursing care and medical treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity.

(2) “Person” means a person as defined in section 1106 or a governmental entity.

(3) “Skilled nursing facility” means a hospital long-term care unit, nursing home, county medical care facility, or other nursing care facility, or a distinct part thereof, certified by the department to provide skilled nursing care.

333.20115 Rules defining or differentiating health facility or agency. [M.S.A. 14.15(20115)]

Sec. 20115. (1) The department may promulgate rules to further define the term “health facility or agency” and the definition of any health facility or agency listed in section 20106 as required to implement this article. The department may

define a specific organization as a health facility or agency for the sole purpose of certification authorized under this article. For purpose of certification only an organization defined in section 20106(5), 20108(1), or 20109(3) is considered a health facility or agency. The term "health facility or agency" shall not mean a visiting nurse service or home aide service conducted by and for the adherents of a church or religious denomination for the purpose of providing service for those who depend upon spiritual means through prayer alone for healing.

(2) The department shall promulgate rules to differentiate a freestanding surgical outpatient facility from a private office of a practicing physician, dentist, podiatrist, or other private practice office.

333.20121 Health facilities and agencies advisory commission; creation; appointment and qualifications of members; director as ex officio member without vote. [M.S.A. 14.15(20121)]

Sec. 20121. The health facilities and agencies advisory commission is created in the department. The governor shall appoint the members with the advice and consent of the senate. Half the members shall be consumers and half the members shall be representative of different types of licensees, with at least 1 representative of each type. Membership shall include at least 1 practicing physician, 1 registered nurse, and 1 enrollee of a health maintenance organization who is a consumer of health care. The director shall serve as an ex officio member of the advisory commission without vote.

333.20122 Advisory commission; terms of members; vacancy; removal. [M.S.A. 14.15(20122)]

Sec. 20122. (1) A member of the advisory commission shall serve for a term of 4 years or until a successor is appointed, except that the terms of members first appointed shall be as provided by section 1214. A member shall not serve more than 2 full terms and 1 partial term, consecutive or otherwise.

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

(3) The director may recommend to the governor the removal of a member from the advisory commission at any time for poor attendance at meetings or other good cause.

333.20123 Advisory commission; meetings; chairperson and vice-chairperson; vacancy; quorum; expenses. [M.S.A. 14.15(20123)]

Sec. 20123. (1) The advisory commission shall meet at the call of its chairperson or the director at least twice each year.

(2) The advisory commission shall elect a chairperson and vice-chairperson for terms of 2 years. The chairperson shall be a consumer and the vice-chairperson a licensee representative. A vacancy in either office shall be filled by election for the balance of the unexpired term.

(3) The advisory commission shall determine the number of voting members that constitute a quorum for the transaction of business.

(4) Advisory commission members shall be reimbursed for expenses incurred in the performance of official duties as provided in section 1216.

333.20124 Advisory commission; duties generally. [M.S.A. 14.15(20124)]

Sec. 20124. The advisory commission shall:

(a) Approve rules relating to the licensure and certification of health facilities and agencies and the administration of this article before their promulgation.

(b) Receive reports of licenses denied, limited, suspended, or revoked pursuant to this article.

(c) Advise the department as to administration of health facility and agency licensure and certification functions, including recommendations with respect to licensing actions.

(d) Biennially conduct a review and prepare a written evaluation of health facility and agency licensure and certification functions performed by the department, including appropriate recommendations. The recommendations shall give particular attention to policies as to public disclosure and nondiscrimination and the standardization and integration of rules common to more than 1 category of health facility or agency.

(e) Review complaints made under section 20176 and review health maintenance organization enrollee grievances pursuant to section 21088.

(f) Provide other assistance the department reasonably requests.

333.20126 Task forces; appointment; purpose; duties; membership; staff support. [M.S.A. 14.15(20126)]

Sec. 20126. (1) The advisory commission chairperson shall appoint 3 task forces to advise the commission in carrying out its duties as follows:

(a) Task force 1 shall assist in matters pertaining to the licensure and certification of health facilities and agencies under this part, except ambulance operations, advanced mobile emergency care services, and health maintenance organizations.

(b) Task force 2 shall assist in matters pertaining to the licensure and certification of ambulance operations and advanced mobile emergency care services.

(c) Task force 3 shall assist in matters pertaining to the licensure and certification of health maintenance organizations.

(2) Except as provided by subsection (4), each task force shall be composed of a number of advisory commission members to be determined by the chairperson. The chairperson with the approval of the director may appoint noncommission members to each task force as associate task force members if necessary to provide adequate expert professional and technical support.

(3) The department shall provide staff support to the advisory commission and its task forces.

(4) Initial appointments to task force 3 shall include the members of the commission created by section 7 of Act No. 264 of the Public Acts of 1974, being section 325.907 of the Michigan Compiled Laws.

333.20131 Comprehensive system of licensure and certification; establishment; purpose; certification of health facility or agency; coordination, cooperation, and agreements; public disclosure. [M.S.A. 14.15(20131)]

Sec. 20131. (1) The department shall establish a comprehensive system of licensure and certification for health facilities or agencies in accordance with this article to:

(a) Protect the health, safety, and welfare of individuals receiving care and services in or from a health facility or agency.

(b) Assure the medical accountability for reimbursed care provided by a certified health facility or agency participating in a federal or state health program.

(2) The department may certify a health facility or agency, or part thereof, defined in section 20106 or under section 20115 when certification is required by state or federal law, rule, or regulation.

(3) The department shall coordinate all functions in state government affecting health facilities and agencies licensed under this article and cooperate with other state agencies which establish standards or requirements for health facilities and agencies to assure necessary, equitable, and consistent state supervision of licensees without unnecessary duplication of survey, evaluation, and consultation services or complaint investigations. The department may enter into agreements with other state agencies necessary to accomplish this purpose.

(4) The department shall utilize public disclosure to improve the effectiveness of licensure.

333.20132 Regulation of medical or surgical treatment prohibited; control of communicable diseases; protection of individuals receiving care and services; standards for inpatient food service establishment; compliance. [M.S.A. 14.15(20132)]

Sec. 20132. (1) The department shall not regulate the medical or surgical treatment provided to an individual by his or her attending physician in a health facility or agency.

(2) This article does not affect the authority of the department to control communicable diseases or to take immediate action necessary to protect the public health, safety, and welfare of individuals receiving care and services in or from a health facility or agency.

(3) A license for a health facility or agency shall include the operation of an inpatient food service establishment within the facility or agency. Standards for an inpatient food service establishment shall be the same as those established under part 129. A health facility or agency issued a license under this article is considered in compliance with that part.

333.20141 Health facility or agency; license required; eligibility to participate in federal or state health program; personnel, services, and equipment; evidence of compliance; providing data and statistics. [M.S.A. 14.15(20141)]

Sec. 20141. (1) A person shall not establish or maintain and operate a health facility or agency without holding a license from the department.

(2) A health facility or agency is not eligible to participate in a federal or state health program requiring certification without current certification from the department.

(3) A health facility or agency shall have the physician, professional nursing, health professional, technical and supportive personnel, and the technical, diagnostic, and treatment services and equipment necessary to assure the safe performance of the health care undertaken by or in the facility or agency.

(4) Licensure and certification of a health facility or agency shall be evidence of the fact that the facility or agency complies with applicable statutory and regulatory requirements and standards at the time of issuance.

(5) A health facility or agency shall provide the department with the data and statistics required to enable the department to carry out functions required by federal and state law, including rules and regulations.

333.20142 Application for licensure or certification; form; contents; certifying accuracy of information; disclosures and reports; violation; penalty; false statement as misdemeanor. [M.S.A. 14.15(20142)]

Sec. 20142. (1) A health facility or agency shall apply for licensure or certification on a form authorized and provided by the department. The application shall include attachments, additional data, and information required by the department.

(2) An applicant shall certify the accuracy of information supplied in the application and supplemental statements.

(3) An applicant or a licensee under part 213 or 217 shall disclose the names, addresses, and official positions of all persons who have an ownership interest in the health facility or agency. If the health facility or agency is located on or in leased real estate, the applicant or licensee shall disclose the name of the lessor and any direct or indirect interest the applicant or licensee has in the lease other than as lessee. A change in ownership shall be reported to the director within 30 days after the change occurs, except that a person purchasing stock of a company registered pursuant to the federal securities exchange act of 1934, 15 U.S.C. 78a to 78kk, is exempt from disclosing ownership in the facility. A person required to file a beneficial ownership report pursuant to section 16(a) of the federal securities exchange act of 1934, 15 U.S.C. 78p shall file with the department information relating to securities ownership required by the department rule or order. The department may accept reports filed with the securities and exchange commission relating to the filings. A person who violates this subsection is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00 for each violation.

(4) An applicant or licensee who makes a false statement in an application or statement required by the department pursuant to this article is guilty of a misdemeanor.

333.20143 Activity requiring certificate of need; issuance of license or certificate. [M.S.A. 14.15(20143)]

Sec. 20143. If an applicant for a license or certificate is undertaking an activity for which a certificate of need is required, a license or certificate under this part shall not be issued unless the applicant is in compliance with part 221.

333.20144 Licensing on basis of approved building program. [M.S.A. 14.15(20144)]

Sec. 20144. A health facility or agency not meeting statutory and regulatory requirements for its physical plant and equipment may be licensed by the department on the basis of a building program approved by the department which:

(a) Sets forth a plan and timetable for correction of physical plant or equipment deficiencies and items of noncompliance.

(b) Includes documented evidence of the availability and commitment of money for carrying out the approved building program.

(c) Includes other documentation the department reasonably requires to assure compliance with the plan and timetable.

333.20145 Construction permit; certificate of need as condition of issuance; rules; review and approval of architectural plans and narrative; waiver. [M.S.A. 14.15(20145)]

Sec. 20145. (1) Before contracting for and initiating a construction project involving new construction, additions, modernizations, or conversions of a health facility or agency for which a certificate of need under part 221 is required, a

person shall obtain a construction permit from the department. The permit shall not be issued under this subsection unless the applicant holds a valid certificate of need issued pursuant to part 221.

(2) To protect the public health, safety, and welfare the department may promulgate rules to require construction permits and the submission of plans for other construction projects to expand or change service areas and services provided.

(3) The review and approval of architectural plans and narrative shall require that the proposed construction project is designed and constructed in accord with applicable statutory and regulatory requirements.

(4) The department shall promulgate rules to further prescribe the scope of construction projects and other alterations subject to review under this section.

(5) The department may waive the applicability of this section to a construction project or alteration if the waiver will not affect the public health, safety, and welfare.

333.20151 Cooperation; professional advice and consultation. [M.S.A. 14.15(20151)]

Sec. 20151. A licensee or certificate holder shall cooperate with the department in carrying out its responsibility under this article. The department may provide professional advice and consultation as to the quality of facility or agency aspects of health care and services provided by the applicant or licensee.

333.20152 Annual certification by licensee; development of facilities and programs; rating individuals. [M.S.A. 14.15(20152)]

Sec. 20152. (1) A licensee shall certify annually to the department as part of its application for licensing and certification, that:

(a) All phases of its operation, including its training programs, comply with state and federal laws prohibiting discrimination. The applicant shall direct the administrator of the health facility or agency to take the necessary action to assure that the facility or agency is, in fact, so operated.

(b) Selection and appointment of physicians to its medical staff is without discrimination on the basis of licensure or registration as doctors of medicine or doctors of osteopathic medicine and surgery.

(2) This section does not prohibit a health facility or agency from developing facilities and programs of care that are for specific ages or sexes or rating individuals for purposes of determining appropriate reimbursement for care and services.

333.20155 Visits to health facilities and agencies; investigations or inspections; notice; record; use of information; periodic reports; access to documents; confidentiality; disclosure; copies of records; delegation of functions. [M.S.A. 14.15(20155)]

Sec. 20155. (1) The department shall make annual and other visits to health facilities and agencies covered by this article for the purpose of survey, evaluation, and consultation. Except for facilities described in section 20106(1)(f) and (h), the department shall determine whether the visits shall be announced or unannounced, except that a complaint investigation shall not be announced and there shall be at least 1 unannounced visit other than a complaint investigation annually to the facilities described in section 20106(1)(c) and (d).

(2) Investigations or inspections, other than inspections of financial records, of facilities described in section 20106(1)(f) and (h) shall be conducted without

prior notice to the facility. An employee of a state agency charged with inspecting the facility or an employee of a local health department who directly or indirectly gives prior notice regarding an inspection, other than an inspection of the financial records, to the facility or to an employee thereof, is guilty of a misdemeanor. Consultation visits, not for the purpose of annual or follow-up inspection or survey, may be announced.

(3) The department shall maintain a record indicating whether visits are announced or unannounced. Information gathered at all visits, announced or unannounced, shall be taken into account in licensure decisions.

(4) The department shall require periodic reports and shall have access to books, records, and other documents maintained by a health facility or agency to the extent necessary to carry out the purpose of this article and the rules promulgated under this article. The department shall respect the confidentiality of a patient's clinical record and shall not divulge or disclose the contents of the records in a manner which identifies an individual except under court order. The department has the right to copy health facility or agency records as required to document findings.

(5) The department may delegate survey, evaluation, or consultation functions to another state agency or to a local health department qualified to perform them. The delegation shall be by cost reimbursement contract between the department and the state agency or local health department. Survey, evaluation, or consultation functions shall not be delegated to nongovernmental agencies.

333.20156 Entering premises of applicant or licensee; determination; rules for health facilities and agencies; certificate of approval from state fire marshal division; applicability of subsections (2) and (3). [M.S.A. 14.15(20156)]

Sec. 20156. (1) A representative of the department of public health or the state fire marshal division of the department of state police, upon presentation of proper identification, may enter the premises of an applicant or licensee at any reasonable time to determine whether the applicant or licensee meets the requirements of this article and the rules promulgated under this article.

(2) The state fire marshal division of the department of state police shall promulgate and enforce rules for health facilities and agencies to assure that physical facilities owned, maintained, or operated by a health facility or agency are planned, constructed, and maintained in a manner to protect the health, safety, and welfare of patients.

(3) The department of public health shall not issue a license or certificate to a health facility or agency until it receives an appropriate certificate of approval from the state fire marshal division of the department of state police. For purposes of this section, a decision of the state fire marshal division of the department of state police to issue a certificate controls over that of a local fire marshal agency.

(4) Subsections (2) and (3) do not apply to a health facility or an agency licensed under part 203.

333.20161 Rules as to fees and licenses. [M.S.A. 14.15(20161)]

Sec. 20161. The department may promulgate rules to prescribe fees for a review of a license application and the issuance or renewal of a license. Not less than half the annual cost of licensure activities as determined by the department shall be provided by license fees.

333.20162 License; issuance; nonrenewable temporary permit; provisional license; procedure for closing facility; order to licensee upon finding of noncompliance; notice, hearing, and status requirements. [M.S.A. 14.15(20162)]

Sec. 20162. (1) Upon a determination that a health facility or agency is in compliance with this article and the rules promulgated under this article, the department shall issue a license.

(2) The department may issue a nonrenewable temporary permit for not more than 6 months where additional time is needed to make a proper investigation or to permit the applicant to undertake remedial action related to operational or procedural deficiencies or items of noncompliance. A temporary permit shall not be issued to cover deficiencies in physical plant requirements.

(3) The department may issue a provisional license for not more than 3 consecutive years to an applicant who temporarily is unable to comply with the rules as to the physical plant owned, maintained, or operated by a health facility or agency except as otherwise provided in this article. A provisional license shall not be issued to a new health facility or agency or a facility or agency whose ownership is transferred after the effective date of this article, unless the facility or agency was licensed and operating under this article or a prior law for not less than 5 years. Provisional licensure under acts repealed by this code shall be counted against the 3-year maximum for licensure.

(4) The department, in order to protect the people of this state, shall provide a procedure for the orderly closing of a facility if it is unable to maintain its license under this section.

(5) The department, upon finding that a health facility or agency is not operating in accord with the requirements of its license, may:

- (a) Issue an order directing the licensee to:
 - (i) Discontinue admissions.
 - (ii) Transfer selected patients out of the facility.
 - (iii) Reduce its licensed capacity.
 - (iv) Comply with specific requirements for licensure or certification as appropriate.

(b) Through the office of the attorney general, initiate misdemeanor proceedings against the licensee as provided in section 20199(1).

(6) An order issued under subsection (5) shall be governed by the notice and hearing requirements of section 20168(1) and the status requirements of section 20168(2).

333.20164 Duration of license or certification; license, certification, or certificate of need nontransferable; transfer of ownership or ownership interest; evidence; notice. [M.S.A. 14.15(20164)]

Sec. 20164. (1) A license, certification, provisional license, or limited license is valid for not more than 1 year after the date of issuance, except as provided in section 20368 or part 210.

(2) A license, certification, or certificate of need is not transferable and shall state the persons, buildings, and properties to which it applies. Applications for licensure or certification because of transfer of ownership or essential ownership interest shall not be acted upon until satisfactory evidence is provided of compliance with part 221.

(3) If ownership is not voluntarily transferred, the department shall be notified immediately and the new owner shall apply for a license and certification not later than 30 days after the transfer.

333.20165 Denying, limiting, suspending, or revoking license or certification; grounds; notice of intent. [M.S.A. 14.15(20165)]

Sec. 20165. (1) After notice of intent to an applicant or licensee to deny, limit, suspend, or revoke a license or certification and an opportunity for a hearing, the department may deny, limit, suspend, or revoke the license or certification if any of the following exists:

- (a) Fraud or deceit in obtaining or attempting to obtain a license or certification or in operation of the licensed health facility or agency.
- (b) A violation of this article or the rules promulgated under this article.
- (c) False or misleading advertising.
- (d) Negligence or failure to exercise due care, including negligent supervision of employees and subordinates.
- (e) Permitting a license or certificate to be used by an unauthorized health facility or agency.
- (f) Evidence of abuse regarding patient health, welfare, or safety or a denial of rights.

(2) An application for a license or certification may be denied on a finding of any condition or practice which would constitute a violation of this article if the applicant were a licensee.

333.20166 Notice of intent to deny, limit, suspend, or revoke license or certification; service; contents; hearing; record; transcript; determination; powers of department; judicial order to appear and give testimony; contempt; failure to show need for health facility or agency. [M.S.A. 14.15(20166)]

Sec. 20166. (1) Notice of intent to deny, limit, suspend, or revoke a license or certification shall be given by certified mail or personal service, shall set forth the particular reasons for the proposed action, and shall fix a date, not less than 30 days after the date of service, on which the applicant or licensee shall be given the opportunity for a hearing before the director or the director's authorized representative. The hearing shall be conducted in accordance with the administrative procedures act of 1969 and rules promulgated by the department. A full and complete record shall be kept of the proceeding and shall be transcribed when requested by an interested party, who shall pay the cost of preparing the transcript.

(2) On the basis of a hearing or on the default of the applicant or licensee, the department may issue, deny, limit, suspend, or revoke a license or certification. A copy of the determination shall be sent by certified mail or served personally upon the applicant or licensee. The determination becomes final 30 days after it is mailed or served, unless the applicant or licensee within the 30 days appeals the decision to the circuit court in the county of jurisdiction or to the Ingham county circuit court.

(3) The department may establish procedures, hold hearings, administer oaths, issue subpoenas, or order testimony to be taken at a hearing or by deposition in a proceeding pending at any stage of the proceeding. A person may be compelled to appear and testify and to produce books, papers, or documents in a proceeding.

(4) In case of disobedience of a subpoena, a party to a hearing may invoke the aid of the circuit court of the jurisdiction in which the hearing is held to require the attendance and testimony of witnesses. The circuit court may issue an order requiring an individual to appear and give testimony. Failure to obey the order of the circuit court may be punished by the court as a contempt.

(5) The department shall not deny, limit, suspend, or revoke a license on the basis of an applicant's or licensee's failure to show a need for a health facility or agency unless the health facility or agency has not obtained a certificate of need required by part 221.

333.20168 Emergency order limiting, suspending, or revoking license; hearing; contents of order; order not suspended by hearing. [M.S.A. 14.15(20168)]

Sec. 20168. (1) Upon a finding that a deficiency or violation of this article or the rules promulgated under this article seriously affects the health, safety, and welfare of individuals receiving care or services in or from a licensed health facility or agency, the department may issue an emergency order limiting, suspending, or revoking the license of the health facility or agency. The department shall provide an opportunity for a hearing within 5 working days after issuance of the order.

(2) An order shall incorporate the department's findings. The conduct of a hearing under this section shall not suspend the department's order.

333.20171 Rules implementing article. [M.S.A. 14.15(20171)]

Sec. 20171. (1) The department, after obtaining approval of the advisory commission, shall promulgate and enforce rules to implement this article, including rules necessary to enable a health facility or agency to qualify for and receive federal funds available for patient care or for projects involving new construction, additions, modernizations, or conversions.

(2) The rules applicable to health facilities or agencies shall be uniform insofar as is reasonable.

(3) The rules shall establish standards relating to:

(a) Ownership.

(b) Reasonable disclosure of ownership interests in proprietary corporations and of financial interests of trustees of voluntary, nonprofit corporations and owners of proprietary corporations and partnerships.

(c) Organization and function of the health facility or agency, owner, operator, and governing body.

(d) Administration.

(e) Professional and nonprofessional staff, services, and equipment appropriate to implement section 20141(3).

(f) Policies and procedures.

(g) Fiscal and medical audit.

(h) Utilization and quality control review.

(i) Physical plant including planning, construction, functional design, sanitation, maintenance, housekeeping, and fire safety.

(j) Arrangements for the continuing evaluation of the quality of health care providers.

(k) Other pertinent organizational, operational, and procedural requirements for each type of health facility or agency.

333.20172 Policies and procedures; publication and distribution. [M.S.A. 14.15(20172)]

Sec. 20172. The department may publish and distribute written policies and procedures in the form of departmental letters necessary to the effective administration of this article.

333.20175 Record for each patient; licensing and certification records as public records; confidentiality; disclosure; report of disciplinary action; nature and use of certain records, data, and knowledge. [M.S.A. 14.15(20175)]

Sec. 20175. (1) A health facility or agency shall keep and maintain a record for each patient including a full and complete record of tests and examinations performed, observations made, treatments provided, and in the case of a hospital, the purpose of hospitalization.

(2) Unless otherwise provided by law, the licensing and certification records required by this article are public records.

(3) Departmental officers and employees shall respect the confidentiality of patient clinical records and shall not divulge or disclose the contents of records in a manner which identifies an individual except on court order.

(4) A health facility or agency with a medical staff shall report to the appropriate licensing board and to the department not more than 30 days after any disciplinary action has been taken against a member of the medical staff, and the relevant circumstances, for any of the grounds set forth in section 16221.

(5) The records, data, and knowledge collected for or by individuals or committees assigned a professional review function in a health facility or agency are confidential, shall be used only for the purposes provided in this article, are not public records, and are not subject to court subpoena.

333.20176 Notice of violation; investigation of complaints; notice of proposed action; public record; appeal; reinvestigation. [M.S.A. 14.15(20176)]

Sec. 20176. (1) A person may notify the department of a violation of this article or rule promulgated under this article which the person believes exists. The department shall investigate all written complaints and notify the complainant in writing of any action proposed to be taken. The name of the complainant and the charges contained in the complaint shall be a matter of public record.

(2) A complainant who is aggrieved by the decision of the department under this section may appeal to the advisory commission which, after review, may order the department to reinvestigate the complaint.

333.20177 Action to restrain, enjoin, or prevent establishment, maintenance, or operation of health facility or agency. [M.S.A. 14.15(20177)]

Sec. 20177. Notwithstanding the existence and pursuit of any other remedy, the director, without posting a bond, may request the prosecuting attorney or attorney general to bring an action in the name of the people of this state to restrain, enjoin, or prevent the establishment, maintenance, or operation of a health facility or agency in violation of this article or rules promulgated under this article.

333.20181 Abortion; admitting patient not required; refusal to perform, participate in, or allow; immunity. [M.S.A. 14.15(20181)]

Sec. 20181. A hospital, clinic, institution, teaching institution, or other health facility is not required to admit a patient for the purpose of performing an abortion. A hospital, clinic, institution, teaching institution, or other health facility or a physician, member, or associate of the staff, or other person connected therewith, may refuse to perform, participate in, or allow to be performed on its premises an abortion. The refusal shall be with immunity from any civil or criminal liability or penalty.

333.20182 Abortion; objection; participation in medical procedures not required; immunity. [M.S.A. 14.15(20182)]

Sec. 20182. A physician, or other individual who is a member of or associated with a hospital, clinic, institution, teaching institution, or other health facility, or a nurse, medical student, student nurse, or other employee of a hospital, clinic, institution, teaching institution, or other health facility in which an abortion is performed, who states an objection to abortion on professional, ethical, moral, or religious grounds, is not required to participate in the medical procedures which will result in abortion. The refusal by the individual to participate does not create a liability for damages on account of the refusal or for any disciplinary or discriminatory action by the patient, hospital, clinic, institution, teaching institution, or other health facility against the individual.

333.20183 Abortion; refusal to give advice; refusal to participate in; immunity. [M.S.A. 14.15(20183)]

Sec. 20183. (1) A physician who informs a patient that he or she refuses to give advice concerning, or participate in, an abortion is not liable to the hospital, clinic, institution, teaching institution, health facility, or patient for the refusal.

(2) A civil action for negligence or malpractice or a disciplinary or discriminatory action may not be maintained against a person refusing to give advice as to, or participating in, an abortion based on the refusal.

333.20184 Rights of individuals, staff members, and employees previously participating in, or expressing willingness to participate in, termination of pregnancy. [M.S.A. 14.15(20184)]

Sec. 20184. A hospital, clinic, institution, teaching institution, or other health facility which refuses to allow abortions to be performed on its premises shall not deny staff privileges or employment to an individual for the sole reason that the individual previously participated in, or expressed a willingness to participate in, a termination of pregnancy. A hospital, clinic, institution, teaching institution, or other health facility shall not discriminate against its staff members or other employees for the sole reason that the staff members or employees have participated in, or have expressed a willingness to participate in, a termination of pregnancy.

333.20199 Violations; penalties. [M.S.A. 14.15(20199)]

Sec. 20199. (1) Except as provided in subsection (2), a person who violates this article or a rule promulgated or an order issued under this article is guilty of a misdemeanor, punishable by fine of not more than \$1,000.00 for each day the violation continues or, in case of a violation of sections 20551 to 20554, a fine of not more than \$1,000.00 for each occurrence.

(2) A person who violates sections 20181 to 20184 is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than \$2,000.00, or both.

333.20201 Policy describing rights and responsibilities of patients or residents; adoption; posting and distribution; contents. [M.S.A. 14.15(20201)]

Sec. 20201. (1) A health facility or agency which provides services directly to patients or residents and which is licensed under this article shall adopt a policy describing the rights and responsibilities of patients or residents admitted to the health facility or agency. The policy shall be posted at a public place in the

facility, provided to each member of the facility staff, and patients or residents shall be treated in accordance with the policy.

(2) The policy describing the rights and responsibilities of patients or residents shall include as a minimum:

(a) A patient or resident will not be denied appropriate care on the basis of race, creed, color, national origin, religion, sex, age, handicap, or source of payment.

(b) An individual who is or has been a patient or resident is entitled to inspect, or receive for a reasonable fee, a copy of his or her medical record upon request. A third party shall not be given a copy of the patient's or resident's medical record without prior authorization of the patient.

(c) A patient or resident is entitled to confidential treatment of personal and medical records, and may refuse their release to any person outside the facility except as required because of a transfer to another health care facility or as required by law or third party payment contract.

(d) A patient or resident is entitled to privacy, to the extent feasible, in treatment and in caring for personal needs with consideration, respect, and full recognition of his or her dignity and individuality.

(e) A patient or resident is entitled to receive adequate and appropriate care, and to receive, from the appropriate individual within the facility, information about his or her medical condition, proposed course of treatment, and prospects for recovery, in terms that the patient or resident can understand, unless medically contraindicated as documented by the attending physician in the medical record.

(f) A patient or resident is entitled to refuse treatment to the extent provided by law and to be informed of the consequences of that refusal. When a refusal of treatment prevents a health facility or its staff from providing appropriate care according to ethical and professional standards, the relationship with the patient or resident may be terminated upon reasonable notice.

(g) A patient or resident is entitled to exercise his or her rights as a patient or resident and as a citizen, and to this end may present grievances or recommend changes in policies and services on behalf of himself or herself or others to the facility staff, to governmental officials, or to another person of his or her choice within or outside the facility, free from restraint, interference, coercion, discrimination, or reprisal. A patient or resident is entitled to information about the facility's policies and procedures for initiation, review, and resolution of patient or resident complaints.

(h) A patient or resident is entitled to information concerning any experimental procedure proposed as a part of his or her care and shall have the right to refuse to participate in the experiment without jeopardizing his or her continuing care.

(i) A patient or resident is entitled to receive and examine an explanation of his or her bill regardless of the source of payment and to receive, upon request, information relating to financial assistance available through the facility.

(j) A patient or resident is entitled to know who is responsible for and who is providing his or her direct care, is entitled to receive information concerning his or her continuing health needs and alternatives for meeting those needs, and to be involved in his or her discharge planning, if appropriate.

(k) A patient or resident is entitled to associate and have private communications and consultations with his or her physician, attorney, or any other

person of his or her choice and to send and receive personal mail unopened, unless medically contraindicated as documented by the attending physician in the medical record. A patient's or resident's civil and religious liberties, including the right to independent personal decisions and the right to knowledge of available choices, shall not be infringed and the facility shall encourage and assist in the fullest possible exercise of these rights. A patient or resident may meet with, and participate in the activities of social, religious, and community groups at his or her discretion, unless medically contraindicated as documented by the attending physician in the medical record.

(l) A patient or resident is entitled to be free from mental and physical abuse and from physical and chemical restraints, except those restraints authorized in writing by a physician for a specified and limited time or as are necessitated by an emergency to protect the patient or resident from injury to self or others, in which case the restraint may only be applied by a qualified professional who shall set forth in writing the circumstances requiring the use of restraints and who shall promptly report the action to the physician. In case of a chemical restraint a physician shall be consulted within 24 hours after the commencement of the restraint.

(m) A patient or resident is entitled to be free from performing services for the facility that are not included for therapeutic purposes in the plan of care.

(n) A patient or resident is entitled to information about the health facility rules and regulations affecting patient or resident care and conduct.

(3) The following additional requirements for the policy described in subsection (2) shall apply to licensees under parts 213 and 217:

(a) The policy shall be provided to each patient or resident upon admission, and the staff of the facility shall be trained and involved in the implementation of the policy.

(b) A married patient or resident is entitled to meet privately with his or her spouse in a room which assures privacy. If both spouses are residents in the same facility, they are entitled to share a room unless medically contraindicated and documented by the attending physician in the medical record.

(c) A patient or resident is entitled to retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other patients, or unless medically contraindicated as documented by the attending physician in the medical record.

(d) A patient or resident is entitled to the opportunity to participate in the planning of his or her medical treatment.

(e) A patient or resident may be transferred or discharged only for medical reasons, for his or her welfare or that of other patients, or for nonpayment of his or her stay, except as provided by title 18 or 19 of the social security act, 42 U.S.C. 1395 to 1396j. A patient or resident is entitled to be given reasonable advance notice to ensure orderly transfer or discharge. Those actions shall be documented in the medical record.

(f) A patient or resident is entitled to be fully informed before or at the time of admission and during stay of services available in the facility, and of the related charges including any charges for services not covered under title 18 or 19 of the social security act, 42 U.S.C. 1395 to 1396j, or not covered by the facility's basic per diem rate. The statement of services provided by the facility shall be in writing and shall include those required to be offered on an as-needed basis.

(g) A patient or resident is entitled to manage his or her own financial affairs, or to have at least a quarterly accounting of any personal financial transactions

undertaken in his or her behalf by the facility during a period of time the patient or resident has delegated those responsibilities to the facility. In addition, a patient or resident is entitled to receive each month from the facility an itemized statement setting forth the services paid for by or on behalf of the patient and the services rendered by the facility.

(h) A patient or resident is entitled to be fully informed, as evidenced by the patient's or resident's written acknowledgment, before or at the time of admission and during stay, of the policy required by this section. The policy shall provide that if a patient or resident is adjudicated incompetent and not restored to legal capacity, the rights and responsibilities set forth in this section shall be exercised by a person designated by the patient or resident. The facility or agency shall provide proper forms for the patient or resident to provide for the designation of this person at the time of admission.

333.20202 Responsibilities of patient or resident. [M.S.A. 14.15(20202)]

Sec. 20202. (1) A patient or resident is responsible for following the health facility rules and regulations affecting patient or resident care and conduct.

(2) A patient or resident is responsible for providing a complete and accurate medical history.

(3) A patient or resident is responsible for making it known whether he or she clearly comprehends a contemplated course of action and the things he or she is expected to do.

(4) A patient or resident is responsible for following the recommendations and advice prescribed in a course of treatment by the physician.

(5) A patient or resident is responsible for providing information about unexpected complications that arise in an expected course of treatment.

(6) A patient or resident is responsible for being considerate of the rights of other patients or residents and health facility personnel and property.

(7) A patient or resident is responsible for providing the health facility with accurate and timely information concerning his or her sources of payment and ability to meet financial obligations.

333.20203 Guidelines; immunity; other remedies at law neither expanded nor diminished. [M.S.A. 14.15(20203)]

Sec. 20203. (1) The rights and responsibilities prescribed in sections 20201 and 20202 are guidelines for health facilities, facility staff, facility employees, patients, and residents. An individual shall not be civilly or criminally liable for failure to comply with those sections.

(2) Sections 20201 and 20202 shall not be construed to expand or diminish other remedies at law available to a patient or resident under this code or the statutory and common law of this state.

(3) The department shall develop guidelines to assist health facilities and agencies in the implementation of sections 20201 and 20202.

PART 203. AMBULANCE OPERATIONS

AND ADVANCED MOBILE EMERGENCY CARE SERVICES

333.20301 Meanings of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(20301)]

Sec. 20301. (1) For purposes of this part, the words and phrases defined in sections 20302 to 20308 have the meanings ascribed to them in those sections.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

333.20302 Definitions; A. [M.S.A. 14.15(20302)]

Sec. 20302. (1) “Advanced emergency medical technician” means an individual who completes department approved training in the advanced emergency medical procedures described in this part and who is licensed by the department or an individual approved under section 20369(e).

(2) “Agency” means an ambulance operation or an advanced mobile emergency care service.

(3) “Attendant” means an individual who has completed the advanced first aid and emergency care course conducted by the American red cross or an equivalent course approved by the department and who is licensed by the department or an individual approved under section 20369(e).

333.20304 Definitions; D, E. [M.S.A. 14.15(20304)]

Sec. 20304. (1) “Driver” means an individual who is authorized to drive an ambulance and meets the qualifications required by this part.

(2) “Emergency” means a condition or situation in which an individual declares a need for immediate medical attention, or where that need is declared by emergency medical personnel or a public safety official.

(3) “Emergency medical technician” means an individual who has completed a department approved emergency medical technician-ambulance course meeting at a minimum the recommendations and guidelines of the United States department of transportation or an equivalent course approved by the department of public health and who is licensed by the department or an individual approved under section 20369(e).

(4) “Emergency medical technician instructor-coordinator” means an individual who, after the completion of department approved training described in this part, is qualified to coordinate emergency medical technician training courses, and who is certified by the department.

333.20306 Definitions; L to P. [M.S.A. 14.15(20306)]

Sec. 20306. (1) “Local governmental unit” means a county, city, village, or township.

(2) “Patient” means an individual who as a result of illness, injury, or infirmity needs immediate medical attention, whose physical or mental condition is such that the individual is in imminent danger of loss of life or significant health impairment, or who may be otherwise incapacitated or helpless as a result of a physical or mental condition.

(3) “Person” means a person as defined in section 1106 or a governmental entity other than an agency of the United States.

333.20308 Definitions; S to V. [M.S.A. 14.15(20308)]

Sec. 20308. (1) “Statewide emergency medical service advisory council” means the council created by section 3221.

(2) “Volunteer ambulance operation” means a nonprofit ambulance operation whose personnel do not receive payment for services performed other than reimbursement for expenses and whose livelihood is not dependent on their service to the operation.

333.20309 License or approval required; use of certain terms to describe or refer to health facility or agency. [M.S.A. 14.15(20309)]

Sec. 20309. (1) An ambulance operation, advanced mobile emergency care service, advanced emergency medical technician, ambulance attendant, and emergency medical technician shall be licensed or approved under this article.

(2) "Ambulance", "ambulance operation", "advanced mobile emergency care service", or a similar term shall not be used to describe or refer to a health facility or agency unless the health facility or agency is authorized or licensed by the department in compliance with this article.

333.20311 Exemptions. [M.S.A. 14.15(20311)]

Sec. 20311. (1) An ambulance operated by an agency of the United States is not required to be authorized under this part.

(2) This part does not apply to an ambulance or attendant of an ambulance from another state or the dominion of Canada which is performing requested assistance.

(3) This part does not prohibit the spontaneous use of a vehicle under exceptional circumstances to provide, without charge or fee and as a humane service, transportation for a patient in an emergency.

333.20312 Objection to medical treatment or transportation on religious grounds; ambulance operation not required to provide advanced mobile emergency care service. [M.S.A. 14.15(20312)]

Sec. 20312. (1) This part or the rules promulgated under this part do not authorize medical treatment for, or transportation to a hospital of, an individual who objects thereto on religious grounds.

(2) This part does not require that an ambulance operation provide advanced mobile emergency care service.

333.20313 Sections 30.261 and 30.401 to 30.420 not superseded, limited, or otherwise affected; references to §§338.1921 to 338.1938. [M.S.A. 14.15(20313)]

Sec. 20313. (1) This article does not supersede, limit, or otherwise affect Act No. 390 of the Public Acts of 1976, being sections 30.401 to 30.420 of the Michigan Compiled Laws, or Act No. 151 of the Public Acts of 1953, being section 30.261 of the Michigan Compiled Laws, dealing with licenses for professional, mechanical, or other skills for persons performing civil defense, emergency, or disaster functions.

(2) A reference in any other law to Public Act No. 290 of the Public Acts of 1976, as amended, being sections 338.1921 to 338.1938 of the Michigan Compiled Laws shall be considered a reference to this part.

333.20315 Business or service of transportation of patients; authorized ambulance required. [M.S.A. 14.15(20315)]

Sec. 20315. A person shall not furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of the transportation of patients in this state except in an ambulance authorized as part of a licensed ambulance operation under this part.

333.20316 Ambulance operation license; form and contents of application. [M.S.A. 14.15(20316)]

Sec. 20316. An application for an ambulance operation license shall be made on forms provided by the department and shall contain:

(a) The name and address of the owner and person who assumes legal responsibility for the ambulance operation.

(b) The name and address of the registered owner of each ambulance.

(c) The trade and other fictitious names under which the ambulance operation does business or proposes to do business.

(d) A description or reproduction of all advertisements including lettering, numbers, insignias, monograms, trademarks, color schemes, and other characteristics by which the ambulance operation is designated.

(e) The geographical service area in which the ambulance operation shall accept primary responsibility for providing ambulance services. The geographical service area is subject to approval by the department and shall be consistent with the plan of the designated regional health planning agency, pursuant to part 32. If the department finds that 2 or more ambulance operations under the same ownership are serving the same or nearly the same geographical area, the department may regard them, for the purposes of this part, as a single ambulance operation.

(f) A description of the location or locations from which the ambulance operation will operate.

(g) Specific information as to each vehicle to be used as an ambulance including the make, model, year of manufacture, motor and chassis number, current license plate number, and an accurate statement of vehicle mileage.

(h) A declaration signed by the person designated in subdivision (a) or an authorized representative thereof, which warrants that the applicant's ambulance operation has available vehicles, personnel, and equipment to meet the terms of the proposed license and that these vehicles, personnel, and equipment will be utilized by the ambulance operation in a manner that will meet all minimum standards and comply with applicable rules promulgated by the department for emergency medical services.

(i) Other information the department considers necessary to determine compliance with this part.

333.20318 Ambulance operation license; fees; certificate of insurance. [M.S.A. 14.15(20318)]

Sec. 20318. The application shall be accompanied by:

(a) A fee of \$10.00 for each vehicle an ambulance operation proposes to use for providing ambulance services. License fees shall be returned to the local health department participating in the inspection program if the local health department has been approved by the department of public health to perform the inspections.

(b) A certificate of insurance in the amount and coverage required by the department.

333.20321 Ambulance operation license; requirements for issuance; termination. [M.S.A. 14.15(20321)]

Sec. 20321. (1) The department shall issue an ambulance operation license that specifies the vehicles authorized to operate when the following requirements are met:

(a) Proper application is made to the department pursuant to sections 20316 and 20318 and the department ascertains that the requirements of those sections are met.

(b) The department has been provided a firm and binding assurance that the

applicant's ambulance operation shall utilize vehicles, personnel, and equipment meeting applicable minimum standards and shall comply with applicable rules promulgated for the emergency medical services.

(2) An ambulance operation license terminates upon a change in a person described in section 20316(a).

333.20322 Ambulance operation license; renewal; nonrenewable conditional license; renewable conditional license. [M.S.A. 14.15(20322)]

Sec. 20322. An ambulance operation license shall be renewed annually upon the application required by the department and payment of fees prescribed in section 20318. The department may issue a 1-year nonrenewable conditional license if the department determines that the denial, suspension, or revocation of a license may be detrimental to the health and welfare of residents served. The department shall issue a conditional license, which may be renewed annually, to an ambulance operation provided by a public service agency operated on a countywide basis before the effective date of this part if the denial of a license would eliminate the sole provider of publicly available emergency medical services within that county.

333.20323 Ambulance; requirements and standards. [M.S.A. 14.15(20323)]

Sec. 20323. (1) Except as provided in section 20336, an ambulance in an ambulance operation shall meet the requirements of this section and section 20324.

(2) An ambulance licensed before the effective date of this part may continue to operate and shall maintain, as a minimum, standards for the vehicle and equipment that are consistent with that license until the ambulance is removed from ambulance operation.

(3) Upon purchase, an ambulance shall meet all federal assistance requirements for the purchase of the vehicle under the United States department of transportation guidelines as modified each year by federal standards. The department of public health shall make exceptions from federal guidelines as required by Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Michigan Compiled Laws, if for each class of exemptions, the department prescribes an alternative minimum standard.

(4) An ambulance, authorized for service, is not required to meet subsequently modified federal standards during its use by the same ambulance operation.

333.20324 Ambulance; requirements for patient care equipment; fire extinguisher; design criteria. [M.S.A. 14.15(20324)]

Sec. 20324. (1) Patient care equipment carried on an ambulance shall meet the requirements prescribed by the department, which shall include as a minimum the American college of surgeons essential equipment list for ambulances.

(2) An ambulance shall be equipped with a fire extinguisher meeting minimum standards prescribed by the department.

(3) For a vehicle classification for which federal guidelines are not established, an ambulance shall meet the design criteria required by the department.

333.20325 Nontransporting vehicle; equipment. [M.S.A. 14.15(20325)]

Sec. 20325. (1) A nontransporting vehicle routinely used or designated as available to perform the functions of prehospital life support shall be equipped as

prescribed by section 20324(1) except for patient litters and equipment permanently installed in an ambulance for use in transport.

(2) A nontransporting vehicle routinely used or designated as available to provide rescue or extrication services shall be equipped to meet additional minimum equipment standards prescribed by the department.

333.20326 Radio communications. [M.S.A. 14.15(20326)]

Sec. 20326. A vehicle described in section 20323 or 20325 shall be capable of 2-way radio communications utilizing frequencies and procedures consistent with the state emergency medical services radio-communication system promulgated by the department.

333.20327 Vehicle designed for use other than on streets and highways; equipment; registration; utilization. [M.S.A. 14.15(20327)]

Sec. 20327. A vehicle designed for use other than on streets and highways which is designated, as a primary or ancillary function, as available for transportation of a patient shall contain at least minimum equipment for patient care prescribed by the department and shall be registered with the department. The vehicle shall be utilized for transportation of a patient only under extraordinary circumstances or when geographical barriers make an authorized ambulance inaccessible to the patient.

333.20331 Ambulance to be driven by authorized driver; application for driver authorization; form and contents. [M.S.A. 14.15(20331)]

Sec. 20331. Except under unusual circumstances, an ambulance shall be driven by an authorized driver. A driver possessing a valid operator's license of this state shall be authorized by the department. An application for a driver authorization shall be made on a form prepared by the department, and after January 1, 1980, shall include:

(a) Evidence of completion of a department approved emergency driver training course.

(b) Documentation that the driver meets reasonable standards of physical and emotional health and has the capacity to perform the functions which the driver is authorized to perform.

(c) Evidence of a safe driving record.

333.20332 Revocation of driver authorization; grounds; warning; reasonable time for compliance; revocation by certified mail; appeal; hearing; decision; effect of revocation. [M.S.A. 14.15(20332)]

Sec. 20332. (1) The department may revoke the authorization of a driver in a licensed ambulance operation for failure of the driver to comply with, or for violation of, provisions, standards, or requirements of this part, or rules promulgated under this part, but only after warning and reasonable time for compliance as set by the department. The revocation shall be by certified mail. If the driver wishes to appeal the revocation, application for a hearing must be made to the department within 10 working days after receipt of notification of the revocation. The hearings shall be held pursuant to procedures established by the department. Within 30 days after conclusion of the hearing, the department shall issue a written decision which shall include findings as to the revocation of the authorization. The department's written decision shall be transmitted promptly to the appellant.

(2) Upon revocation of a driver's authorization, the driver shall cease to drive an ambulance, and a person shall not employ or permit that individual to drive an ambulance.

333.20333 Operation of ambulance under emergency conditions; privileges and constraints. [M.S.A. 14.15(20333)]

Sec. 20333. The driver of an ambulance, when operating an ambulance under emergency conditions or a reasonable belief that an emergency condition does in fact exist, may exercise the privileges and be subject to the constraints prescribed by the statutes of this state pertaining to the driver of an authorized emergency vehicle.

333.20335 Emergency medical technicians and attendants; number required to be in ambulance; emergency medical technician to be in patient compartment; exemption; exception. [M.S.A. 14.15(20335)]

Sec. 20335. (1) An ambulance shall not be operated and a person shall not operate, attend, or permit an ambulance to be operated while transporting a patient unless 1 or more attendants are in the patient compartment.

(2) After 1978, an ambulance shall not be operated, and a person shall not operate, attend, or permit an ambulance to be operated, while transporting a patient unless 1 or more emergency medical technicians and 1 attendant are in the ambulance. The emergency medical technician shall be in the patient compartment while transporting a patient. An exemption from this subsection may be granted pursuant to section 20336.

(3) Subsections (1) and (2) shall not apply to the transportation of a patient by an ambulance when the individual who is accompanying the patient in the patient compartment is a licensed health professional and a provider-patient relationship existed before the transportation.

333.20336 Exemption from §§333.20323(3) or 333.20335(2); demonstration of inability to comply; contents of petition for exemption; duration of exemption; number of attendants. [M.S.A. 14.15(20336)]

Sec. 20336. (1) An exemption from section 20323(3) or 20335(2), or both, shall be granted under the circumstances described in this section.

(2) A local governmental unit or an ambulance operation shall demonstrate, to the regional emergency medical service advisory council in the health service area in which the ambulance operation is licensed, that a reasonable effort was made to comply with the subsections described in subsection (1) and that the ambulance operation is unable to comply with either or both of those subsections.

(3) The regional emergency medical service advisory council, upon determination that the demonstration of the inability to comply is valid, shall petition the department to exempt the ambulance operation from the subsection with which the ambulance operation is unable to comply. The petition shall specify the subsection for which an exemption is required and shall specify the reasons the exemption is required. Upon receipt of the petition, the department shall exempt the ambulance operation from the provisions of the designated subsection for 1 year.

(4) An exemption from section 20335(2) does not permit an ambulance operation to be operated with less than 2 attendants.

333.20338 Name under which activities relating to provision of ambulance services conducted; simultaneous listing or use of ambulance. [M.S.A. 14.15(20338)]

Sec. 20338. All activities relating to the provision of ambulance services, including the advertisement and dissemination of information for the purpose of obtaining contracts, shall be conducted under the name of the person holding an

ambulance operation license or the trade or assumed name. An ambulance shall not be simultaneously listed or used by more than 1 ambulance operation.

333.20339 Ambulance operation; use of descriptive devices; standards. [M.S.A. 14.15(20339)]

Sec. 20339. The department may establish standards for and regulate the use of descriptive words and phrases and symbols or emblems which represent or denote that an ambulance operation is or may be provided. The department's authority to regulate use of the descriptive devices shall include their use for the purpose of advertising, promoting, or selling the services rendered by an ambulance operation or emergency medical personnel.

333.20341 Inspection of ambulance operation; inspection report as prima facie evidence. [M.S.A. 14.15(20341)]

Sec. 20341. (1) The department shall provide for an inspection of an ambulance operation at least semiannually. The inspection shall be performed by an individual designated by the department who is knowledgeable in the standards for ambulances, equipment, and personnel. The department may delegate the inspection functions to an approved local health department. An inspection report is prima facie evidence of compliance or noncompliance with, or violation of, the provisions, standards, and requirements for the licensing of an ambulance operation.

(2) The department shall conduct, at least annually, a training program in ambulance operation standards for local health department personnel.

333.20343 Amendment, denial, suspension, or revocation of ambulance operation license; grounds; notice by certified mail. [M.S.A. 14.15(20343)]

Sec. 20343. (1) An ambulance operation license may be:

(a) Amended by the department, after the ambulance operation submits to the department a proper application and, when required, a declaration pursuant to section 20316(h).

(b) Amended by the department, if the ambulance operation does not meet the minimum standards for vehicles, equipment, or personnel prescribed by this part and rules promulgated under this part.

(c) Denied, suspended, or revoked by the department, if it is considered to be in the best interests of the people of this state.

(2) A notification under this section shall be by certified mail.

333.20344 Amendment, denial, suspension, or revocation of ambulance operation license; appeal; hearing; decision; cessation of functions; continuation of ambulance operation. [M.S.A. 14.15(20344)]

Sec. 20344. (1) After the amendment, denial, suspension, or revocation of an ambulance operation license, the license holder or applicant may appeal the decision of the department by applying for a hearing within 10 working days after receipt of notification of the department's action. The hearing shall be held pursuant to the administrative procedures act of 1969. Within 30 days after conclusion of the hearing the department shall issue a written decision which shall include a finding as to the amendment, denial, suspension, or revocation of the license. The department's written decision shall be sent to the appellant by certified mail.

(2) Upon notification of suspension of a license, the ambulance operation shall cease its functions unless an appeal is taken pursuant to subsection (1). In that

case, the ambulance operation may continue until notice of the department's final decision is received.

333.20346 Ambulance service by local governmental unit; methods of defraying cost. [M.S.A. 14.15(20346)]

Sec. 20346. (1) A local governmental unit or combination thereof may operate an ambulance service or contract with a person to furnish ambulance service for the use and benefit of its residents and may pay for any or all of the cost thereof from any available funds.

(2) A city, village, or township that operates an ambulance service or is a party to a contract or an interlocal agreement may defray any or all of its share of the cost by either or both of the following methods:

(a) Collection of fees for services.

(b) Special assessments created, levied, collected, and annually determined pursuant to a procedure conforming as near as possible to the procedure set forth in section 1 of Act No. 33 of the Public Acts of 1951, as amended, being section 41.801 of the Michigan Compiled Laws. This procedure does not prohibit the right of referendum set forth under Act No. 33 of the Public Acts of 1951, as amended, being sections 41.801 to 41.810 of the Michigan Compiled Laws. This subdivision shall not apply to a county.

333.20351 Licensed advanced mobile emergency care service; duties. [M.S.A. 14.15(20351)]

Sec. 20351. In addition to other requirements prescribed under this article, a licensed advanced mobile emergency care service shall:

(a) Provide 1 or more advanced emergency medical technicians, and a driver on duty 24 hours a day, 7 days a week, for each advanced emergency vehicle available for service.

(b) Be provided only in cooperation with a licensed hospital.

(c) Assure that the records and data deemed necessary by the department for evaluation of the agency are available to the department.

(d) Equip vehicles responding to emergency calls so that electrocardiogram data may be obtained from the patient at the scene of the emergency and transmitted electronically to the cooperating hospital, and so that verbal communication may be maintained directly between the scene of the emergency and a licensed physician or registered nurse. The department may promulgate rules to prescribe additional equipment standards.

333.20353 Advanced mobile emergency care service; advertising or disseminating information; standards. [M.S.A. 14.15(20353)]

Sec. 20353. (1) A public or private agency shall not advertise or disseminate information leading the public to believe that the agency provides an advanced mobile emergency care service unless that agency does in fact provide that service and has been licensed by the department. An advanced mobile emergency care service may advertise only for those vehicles operating or available 24 hours a day, 7 days a week.

(2) The department shall establish standards for advertising or promoting advanced emergency medical services, including descriptive words, phrases, symbols, or emblems representing or denoting an advanced mobile emergency care service.

333.20355 Advanced mobile emergency care service; ordinance regulating operation. [M.S.A. 14.15(20355)]

Sec. 20355. A local governmental unit may enact an ordinance regulating operation of an advanced mobile emergency care service, if the standards and procedures established under the ordinance are not in conflict with or less stringent than those required under this article or the rules promulgated under this article.

333.20361 Unlawful representations. [M.S.A. 14.15(20361)]

Sec. 20361. An individual shall not represent himself or herself as an attendant, emergency medical technician, advanced emergency medical technician, or emergency medical technician instructor-coordinator unless licensed, approved, or certified by the department.

333.20362 Issuance of license or approval to advanced emergency medical technician, emergency medical technician, or attendant; qualifications; application; fee. [M.S.A. 14.15(20362)]

Sec. 20362. The department, upon proper application and payment of a \$3.00 fee, shall issue a license or approval to:

(a) An advanced emergency medical technician who has completed the course prescribed by this part or rules promulgated under this part and who has passed a written and practical examination prescribed by the department demonstrating the applicant's knowledge and skill as to advanced emergency medical procedures.

(b) An emergency medical technician who has completed a department of public health approved emergency medical technician-ambulance course meeting at a minimum the recommendations and guidelines of the United States department of transportation or an equivalent course approved by the department of public health, and who has passed a written and practical examination prescribed by the department of public health.

(c) An attendant who has completed an advanced first aid and emergency care course conducted by the American red cross or an equivalent course approved by the department.

333.20363 Certification of emergency medical technician instructor-coordinator and communications personnel; qualifications. [M.S.A. 14.15(20363)]

Sec. 20363. The department, upon proper application shall certify:

(a) An emergency medical technician instructor-coordinator who has fulfilled the requirements of section 20362(b) and has completed a course and passed a written and practical examination for emergency medical technician instructor-coordinators and has met other standards prescribed by the department.

(b) Appropriately trained and tested communications personnel essential to the emergency medical services system.

333.20364 Attendant; licensing without further requirements; relicensing in accordance with part. [M.S.A. 14.15(20364)]

Sec. 20364. An individual performing the functions of an attendant before April 2, 1977, who on that date holds a currently valid attendant's license shall be licensed for 1 additional license term without further requirements. Thereafter, the individual is eligible for relicensing only in accordance with this part.

333.20365 Emergency medical technician; considered licensed upon application and completion of course; examination; reissuance of license. [M.S.A. 14.15(20365)]

Sec. 20365. (1) An individual performing the functions of an emergency medical technician before April 2, 1977, is considered licensed for the purposes of this part after submitting a proper application to the department of public health if the individual has successfully completed a department of public health approved emergency medical technician-ambulance course prescribed by the United States department of transportation or an equivalent course approved by the department of public health.

(2) An individual considered licensed under this section shall take the examination prescribed by the department when the examination is available and shall be reissued a license upon successful completion of the examination.

333.20366 Advanced emergency medical technician; considered licensed upon application and completion of courses; examination; reissuance of license. [M.S.A. 14.15(20366)]

Sec. 20366. (1) An individual performing the functions of an advanced emergency medical technician before April 2, 1977, is considered licensed for the purposes of this part after submitting a proper application to the department until the department prescribes an examination pursuant to subsection (2), if the individual:

(a) Has successfully completed the department of public health approved emergency medical technician-ambulance course prescribed by the United States department of transportation or an equivalent course approved by the department of public health.

(b) Has completed a course of study under the direction of a licensed physician, including all phases of cardiopulmonary resuscitation, airway or gastric intubation, the use of appropriate communication devices and telemetry and defibrillation equipment, and the administration of appropriate drugs and intravenous solutions to successfully carry out these techniques and other emergency medical techniques approved by the department of public health. The course shall include those techniques outlined in the advanced training program for emergency medical technician-ambulance personnel prescribed by the United States department of transportation or an equivalent approved by the department of public health.

(2) An individual considered licensed under this section shall take the examination prescribed by the department when the examination is available and shall be reissued a license upon successful completion of the examination.

333.20368 Duties of department generally. [M.S.A. 14.15(20368)]

Sec. 20368. The department shall:

(a) Recertify each 2 years, an emergency medical technician instructor-coordinator or communications personnel who meet the application requirements of this part, complete ongoing educational programs approved or developed by the department and pass an appropriate examination prescribed by the department.

(b) Reissue a license or approval upon payment of a \$3.00 renewal fee each 2 years to an attendant, an emergency medical technician, or an advanced emergency medical technician who meets the requirements of this part, completes ongoing educational programs approved or developed by the department, and passes an appropriate examination prescribed by the department.

(c) Require documentation that emergency medical services personnel meet

a reasonable standard of physical and emotional health and capacity to perform the functions for which they are licensed.

333.20369 Additional duties of department. [M.S.A. 14.15(20369)]

Sec. 20369. The department shall:

(a) With the advice of the state emergency medical service advisory council, review and approve training programs for emergency medical services system personnel licensed or certified under this part.

(b) Assure that approved emergency medical technician training courses are conducted by instructors approved by the department.

(c) Maintain a file of emergency medical technician training courses and instructors approved by the department.

(d) License advanced mobile emergency care services, periodically review records of training and performance, assess the quality of service being rendered, and prescribe and publish guidelines for the operation of an advanced mobile emergency care service.

(e) Approve and place on a registry each individual licensed under part 172 upon proper application to the department and after a determination by the department that the individual has received appropriate education, training, or experience designed to sufficiently prepare the individual to perform emergency medical services and has passed the appropriate written, practical examination prescribed by the department for emergency medical technicians or advanced emergency medical technicians.

333.20374 Authorization to perform emergency medical services and advanced emergency medical techniques; communication failure; report. [M.S.A. 14.15(20374)]

Sec. 20374. (1) An ambulance attendant or an emergency medical technician may perform emergency medical services consistent with his or her training.

(2) An advanced emergency medical technician may perform emergency medical services, and when authorized may perform in accordance with subsection (3) any advanced emergency medical technique consistent with the technician's training.

(3) An advanced emergency medical technician may perform advanced emergency medical techniques, in each individual case, pursuant to the written authorization, the verbal authorization, or the authorization transmitted through a direct communication device of a licensed physician or a registered nurse designated by the physician. If communications fail during an emergency situation, the advanced emergency medical technician may perform an advanced emergency medical technique consistent with the technician's training if, in the technician's judgment, the life of the patient is in immediate danger. A detailed report stating the causes of the communication failure and an outline of the techniques employed by the advanced emergency medical technician shall be forwarded to the department within 24 hours after the occurrence.

333.20377 Management of patient in emergency; management of scene of emergency; priority; determination of relevant risks. [M.S.A. 14.15(20377)]

Sec. 20377. (1) Authority for the management of a patient in an emergency is vested in the licensed health professional at the scene of the emergency who has the most training specific to the provision of emergency medical care. If a licensed health professional is not available, the authority is vested in the most

appropriately trained representative of a public safety agency at the scene of the emergency.

(2) Authority for the management of the scene of an emergency is vested in appropriate public safety agencies. The scene of an emergency shall be managed in a manner that will minimize the risk of death or health impairment to the patient and to other individuals who may be exposed to the risks as a result of the emergency. Priority shall be given to the interests of those individuals exposed to the more serious remediable risks to life and health. Public safety officials shall ordinarily consult emergency medical services personnel or other authoritative health professionals at the scene in the determination of relevant risks.

333.20379 Liability for act or omission. [M.S.A. 14.15(20379)]

Sec. 20379. An act or omission of an attendant or emergency medical technician while performing emergency medical services, or of an advanced emergency medical technician while performing advanced emergency medical techniques performed or omitted in good faith when the services or techniques are consistent with the attendant's or technician's training, does not impose liability upon the attendant, emergency medical technician, advanced emergency medical technician, authorizing physician or registered nurse, person providing communications services or lawfully operating or utilizing supportive electronic communications devices, the ambulance operation, the hospital, or an officer, member of the staff, nurse, or other employee of the hospital or the authoritative governmental unit or units, if the life of the patient is in immediate danger, unless the act or omission was the result of gross negligence or wilful misconduct, and if the services or techniques are performed outside a hospital.

333.20381 Revocation of license, approval, or certificate; grounds; rules to implement part. [M.S.A. 14.15(20381)]

Sec. 20381. (1) The department may revoke a license, approval, or certificate when it is demonstrated that the licensed, approved, or certified person does not adequately perform the functions for which the person is licensed, approved, or certified.

(2) With the advice of the statewide emergency medical service advisory council, the department shall promulgate rules to implement this part.

333.20382 Expiration of part. [M.S.A. 14.15(20382)]

Sec. 20382. This part expires June 30, 1981.

PART 205. CLINICAL AND OTHER LABORATORIES

333.20501 Definitions; principles of construction. [M.S.A. 14.15(20501)]

Sec. 20501. (1) As used in this part:

(a) "Laboratory director" means the individual responsible for administration of the technical and scientific operation of a clinical laboratory, including the supervision of procedures and reporting of findings.

(b) "Owner" means a person who owns and controls a clinical laboratory.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

333.20507 Laboratories to which §§333.20501 to 333.20525 inapplicable. [M.S.A. 14.15(20507)]

Sec. 20507. Sections 20501 to 20525 do not apply to any of the following:

(a) A laboratory where examinations are always performed personally by the individual desiring the information.

(b) A laboratory operated by an individual licensed to practice medicine, osteopathic medicine and surgery, dentistry, or podiatry who performs clinical laboratory tests or procedures personally or through his or her employees only as an adjunct to the treatment of the licensee's patients.

(c) A laboratory operated in the manner described in subdivision (b) by a group of not more than 5 individuals licensed to practice medicine, osteopathic medicine and surgery, dentistry, or podiatry.

(d) A laboratory operated by a college, university, or school approved by the department of education that is conducted for the training of its students, if the result of an examination performed in the clinical laboratory is not used in the diagnosis and treatment of disease.

(e) A laboratory operated by the federal government.

333.20511 Clinical laboratory; license required; authorizing specific categories of procedures; contents of license; display of license and laboratory director's certificate of qualification. [M.S.A. 14.15(20511)]

Sec. 20511. (1) A clinical laboratory shall be licensed under this article.

(2) A license shall authorize specific categories of procedures which the clinical laboratory may perform.

(3) A license shall contain on its face the name of the owner of the clinical laboratory, the name of the laboratory director, the categories of laboratory procedures authorized to be performed in the clinical laboratory, and the location at which the procedures may be performed.

(4) The license and laboratory director's certificate of qualification, if required, shall be displayed at all times in a prominent place in the clinical laboratory.

333.20515 Requirements for license. [M.S.A. 14.15(20515)]

Sec. 20515. A license shall not be issued unless:

(a) The laboratory director has training, education, or experience related to the safe and competent administration of a clinical laboratory as prescribed by departmental rules.

(b) The department finds that the clinical laboratory is competently staffed, properly located and constructed, and properly equipped to perform the clinical laboratory procedures for which the license is sought.

(c) The owner agrees and the department determines that the clinical laboratory will be operated in the manner required by this article.

333.20521 Responsibility for operation of clinical laboratory; record of specimens and procedures; analysis of test samples; reports; proficiency evaluation programs. [M.S.A. 14.15(20521)]

Sec. 20521. (1) The owner, laboratory director, and governing body of a clinical laboratory are responsible for the operation of the clinical laboratory.

(2) The laboratory director is responsible for the making and keeping of an accurate record for each specimen examined and procedure followed.

(3) A clinical laboratory shall analyze test samples submitted by the department and report to the department on the results of the analyses, except that proficiency evaluation programs of recognized professional organizations may be acceptable to the department in lieu thereof. The analyses and reports may be considered by the department in taking action under section 20165 or 20525.

333.20525 Denial, limitation, suspension, or revocation of license; grounds. [M.S.A. 14.15(20525)]

Sec. 20525. In addition to the grounds for disciplinary action set forth in section 20165 the department may deny, limit, suspend, or revoke a license upon a finding that the owner, laboratory director, or an employee of a clinical laboratory has done any of the following:

(a) Demonstrated incompetence or consistently erred in the performance of the clinical laboratory examinations or procedures.

(b) Performed, or represented himself or herself as entitled to perform, a clinical laboratory procedure or category of procedures not authorized in the certificate of licensure.

(c) Solicited referral of specimens to the clinical laboratory by false advertising or by offering or implying, directly or indirectly, discounts, rebates, or other benefits or considerations to persons referring patients or work to the clinical laboratory.

(d) Reported on clinical laboratory work or referred samples required to be tested under section 20521 actually performed in another laboratory without stating that the work was performed there.

(e) Billed patients or third party payors for laboratory work not actually performed or not requested by the patient's physician.

333.20551 Registration of laboratory or other place handling, cultivating, selling, giving away, or shipping pathogenic microorganisms, or doing recombinant deoxyribonucleic acid research; application for and duration of registration number; clinical laboratory considered registered; "handling," "cultivating," "shipping" defined. [M.S.A. 14.15(20551)]

Sec. 20551. (1) A laboratory or other place where live bacteria, fungi, mycoplasma, parasites, viruses, or other microorganisms of a pathogenic nature are handled, cultivated, sold, given away, or shipped from or to or where recombinant deoxyribonucleic acid research is done shall be registered with the department, and a registration number shall be issued to each place registered. An application for a registration number shall be made by the person in charge of the laboratory or other place where the pathogens are handled or where recombinant deoxyribonucleic acid research is done. The registration number is valid for 1 year and may be renewed upon application to the department.

(2) A clinical laboratory licensed in microbiology under sections 20501 to 20525 is registered for purposes of this section and section 20552, and its license number shall be used as its registration number.

(3) As used in sections 20551 and 20552, "handled", "cultivated", or "shipped" does not include the collection of specimens, the initial inoculation of specimens into transport media or culture media, or the shipment to registered laboratories, but does include any additional work performed on cultivated pathogenic microorganisms or any recombinant deoxyribonucleic acid research is done.

333.20552 Registration of laboratory, department, or school handling pathogens or doing recombinant deoxyribonucleic acid research; application for and duration of registration number. [M.S.A. 14.15(20552)]

Sec. 20552. The department shall register a laboratory or a department of a college, university, or school which is responsible for the handling, cultivating, selling, giving away, or shipping of the microorganisms described in section 20551(1) or is engaged in recombinant deoxyribonucleic acid research. The

person in charge of the laboratory or department where the pathogens are handled or where recombinant deoxyribonucleic acid research is done shall apply for a registration number. The registration is valid for 1 year and may be renewed upon application.

333.20554 Sale, gift, or other distribution of live pathogenic microorganisms and cultures or recombinant deoxyribonucleic acid materials; contents of label on container; record. [M.S.A. 14.15(20554)]

Sec. 20554. Live pathogenic bacteria, fungi, mycoplasma, parasites, viruses, or other microorganisms or cultures of the microorganisms when sold, given away, or shipped by a laboratory or other person, shall bear a label on the container showing the registration number of the laboratory or other person sending the specimens and the name and address of the person to whom sent. A laboratory or person shall not sell or convey a live pathogenic microorganism or recombinant deoxyribonucleic acid materials to any other laboratory or person in this state without permission of the department unless each is registered under section 20551 or 20552. The laboratory or person shall keep a record of each sale, gift, or other distribution of live pathogenic microorganisms and cultures or recombinant deoxyribonucleic acid materials containing the name and laboratory address of the recipient or purchaser. The record shall be at all times open to examination and copying by a representative of the department.

PART 206. COUNTY MEDICAL CARE FACILITIES

333.20601 General definitions and principles of construction. [M.S.A. 14.15(20601)]

Sec. 20601. Article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

333.20611 License required; use of term "county medical care facility." [M.S.A. 14.15(20611)]

Sec. 20611. (1) A county medical care facility shall be licensed under this article.

(2) "County medical care facility" or a similar term or abbreviation shall not be used to describe or refer to a county owned facility or agency unless the facility or agency is licensed as a county medical care facility by the department under this article.

333.20613 Governing body of county medical care facility; responsibilities and duties. [M.S.A. 14.15(20613)]

Sec. 20613. The governing body of a county medical care facility:

(a) Is responsible for all phases of the operation of the facility, selection of the medical staff, and quality of care rendered in the facility.

(b) Shall cooperate with the department in enforcement of this part and require that the physicians and other personnel working in the facility and for whom a state license or registration is required be currently licensed or registered.

333.20615 Programs of planned and continuing nursing care and medical care; registered nurse and physician in charge; scope of nursing care and medical care services; skilled and intermediate care facilities. [M.S.A. 14.15(20615)]

Sec. 20615. (1) A county medical care facility shall provide:

(a) A program of planned and continuing nursing care under the charge of a registered nurse.

(b) A program of planned and continuing medical care under the charge of a physician who shall be known as the medical director.

(2) Nursing care and medical care shall consist of services given to individuals subject to prolonged suffering from illness or injury or recovering from illness or injury. The services shall be within the ability of the county medical care facility to provide and shall include the functions of medical treatment such as diagnosis and care of an illness; nursing care via assessment, planning, and implementation; evaluation of a patient's health care needs; and the carrying out of treatment prescribed by a physician. The program of planned and continuing nursing care shall be under the charge of a registered nurse in a skilled facility and a licensed practical nurse with a registered nurse consultant in an intermediate care facility.

333.20621 Individuals excluded from county medical care facility; exception; approval of area and program; supervised psychiatric ward for temporary detention of mentally disturbed patients. [M.S.A. 14.15(20621)]

Sec. 20621. (1) An individual requiring special medical or surgical treatment, or treatment for acute mental illness, mental retardation, communicable tuberculosis, or other communicable disease, shall not be admitted or retained for care in a county medical care facility, unless the facility is able to provide an area and a program for the care. The department shall approve both the area and the program, except for programs providing treatment for mental illness and mental retardation, which shall be approved by the department of mental health.

(2) A county medical care facility may contain a supervised psychiatric ward for the temporary detention of mentally disturbed patients if the ward is inspected, approved, and licensed by the department of mental health and another place for the temporary detention of mentally disturbed patients is not available in the county.

PART 208. FREESTANDING SURGICAL OUTPATIENT FACILITIES

333.20801 General definitions and principles of construction. [M.S.A. 14.15(20801)]

Sec. 20801. Article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

333.20811 License required; use of term "freestanding surgical outpatient facility." [M.S.A. 14.15(20811)]

Sec. 20811. (1) A freestanding surgical outpatient facility shall be licensed under this article.

(2) "Freestanding surgical outpatient facility" or a similar term or abbreviation shall not be used to describe or refer to a health facility or agency unless it is licensed by the department under this article.

333.20813 Owner, operator, and governing body of freestanding surgical outpatient facility; responsibilities and duties. [M.S.A. 14.15(20813)]

Sec. 20813. The owner, operator, and governing body of a freestanding surgical outpatient facility licensed under this article:

(a) Are responsible for all phases of the operation of the facility, selection of medical staff, and quality of care rendered in the facility.

(b) Shall cooperate with the department in the enforcement of this article and require that the physicians and other personnel working in the facility and for

whom a state license or registration is required be currently licensed or registered.

(c) Shall assure that physicians admitted to practice in the facility are granted professional privileges consistent with the capability of the facility and with the physicians' individual training, experience, and other qualifications.

(d) Shall assure that physicians admitted to practice in the facility are organized into a medical staff to enable an effective review of the professional practices of the facility for the purpose of reducing morbidity and mortality and improving the care provided in the facility for patients.

(e) Shall assure that the facility does not pay a fee to compensate or reimburse a medical referral agency or other person that refers or recommends an individual to a facility for any form of medical or surgical care or treatment.

333.20821 Freestanding surgical outpatient facility; requirements. [M.S.A. 14.15(20821)]

Sec. 20821. A freestanding surgical outpatient facility shall:

(a) Be organized, administered, staffed, and equipped to provide on a regular and scheduled basis major and minor surgical procedures outside a hospital which in a physician's judgment may be safely performed on a basis other than on an inpatient basis.

(b) Have the physician, professional nursing, technical, and supportive personnel; the technical, diagnostic, and treatment services; and the equipment necessary to assure the safe performance of surgery and related care undertaken in the facility.

(c) Have a written agreement with a nearby licensed hospital to provide for the emergency admission of postsurgical patients who for unpredictable reasons may require hospital admission and care.

(d) Assure that a clinical record is established for each patient including a history, physical examination, justification for treatment planned and rendered, tests and examinations performed, observations made, and treatment provided.

PART 210. HEALTH MAINTENANCE ORGANIZATIONS

333.21001 Meanings of words and phrases; general definitions and principles of construction. [M.S.A. 14.15(21001)]

Sec. 21001. (1) For purposes of this part, the words and phrases defined in sections 21002 to 21009 have the meanings ascribed to them in those sections.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

333.21002 Definitions; A. [M.S.A. 14.15(21002)]

Sec. 21002. "Affiliated provider" means a health professional as defined in section 21005, a licensed hospital, licensed pharmacy, or any other institution, organization, or person having a written contract with a health maintenance organization for payment for a health maintenance service rendered to an enrollee under the terms of the contract.

333.21003 Definitions; B. [M.S.A. 14.15(21003)]

Sec. 21003. "Basic health services" means:

(a) Physician services including consultant and referral services by a physician, but not including psychiatric services.

(b) Ambulatory services.

(c) Inpatient hospital services, other than those for the treatment of mental illness.

(d) Emergency health services.

(e) Short-term, not to exceed 20 visits, outpatient evaluative and crisis intervention mental health services, and treatment or referral for treatment for the abuse of or addiction to alcohol, drugs, or controlled substances.

(f) Diagnostic laboratory and diagnostic and therapeutic radiologic services.

(g) Home health services.

(h) Preventive health services.

333.21004 Definitions; E. [M.S.A. 14.15(21004)]

Sec. 21004. (1) “Enrollee” means a subscriber or a dependent of a subscriber who is entitled to receive health maintenance services under a health maintenance contract.

(2) “Evidence of coverage” means a certificate, agreement, or contract issued to a subscriber stating the coverage to which the subscriber and the subscriber’s dependents are entitled.

333.21005 Definitions; H. [M.S.A. 14.15(21005)]

Sec. 21005. (1) “Health maintenance contract” means a contract with a subscriber or group of subscribers providing health maintenance services as needed in exchange for a fixed prepaid sum or per capita prepayment, without regard to the frequency, extent, or kind of health services actually furnished, and without regard to whether the contract is entered into by a health maintenance organization or a legal entity whose operations or activities are licensed as a health maintenance organization. For purposes of this part this contract is considered to be between the health maintenance organization and the subscriber. The contract may be supplemented by additional nominal payments which may be required for the provision of specific health maintenance services, except that those payments shall not be required in a manner that serves as a barrier to the delivery of health services. The payments shall not exceed 50% of the total cost of providing a single service to an enrollee. The nominal payments charged by a health maintenance organization for basic health services shall not be more, in the aggregate, than 20% of the total cost for basic health services.

(2) “Health maintenance services” means services provided to enrollees of a health maintenance organization under their health maintenance contract.

(3) “Health professional” means a physician, dentist, nurse, podiatrist, optometrist, or other individual licensed, certified, or authorized in accordance with state law to practice a health profession in his or her respective state.

333.21006 Definitions; I to L. [M.S.A. 14.15(21006)]

Sec. 21006. (1) “Insurance bureau” means the unit in the department of commerce headed by the commissioner of insurance.

(2) “Legal entity” means a person or an operation or activity carried on by the person which:

(a) Is financially separate and independent of any other operation or activity carried on by that person.

(b) Has a separate and independent policy making body which is granted unrestricted authority to determine policies and procedures of that operation or activity. The policy making body is a governing body for purposes of this part.

333.21007 Definitions; P. [M.S.A. 14.15(21007)]

Sec. 21007. (1) "Primary health maintenance services" means:

(a) Physician services, including consultant and referral services by a physician, but not including psychiatric services.

(b) Ambulatory services.

(c) Inpatient hospital services, other than those for the treatment of mental illness.

(d) Emergency health services.

(e) Diagnostic laboratory and diagnostic and therapeutic radiologic services.

(f) Preventive health services.

(2) "Provisional license" means a limited license for operation of a health maintenance organization.

333.21008 Definitions; S. [M.S.A. 14.15(21008)]

Sec. 21008. (1) "Subscriber" means an individual who enters into a health maintenance contract, or on whose behalf a health maintenance contract is entered into, with a health maintenance organization licensed under this part and to whom evidence of coverage is issued.

(2) "Supplemental health services" means:

(a) Services of licensed facilities for intermediate and long-term care.

(b) Vision care, including optometric services.

(c) Dental services.

(d) Mental health services not included in basic health services.

(e) Long-term physical medicine and rehabilitative services including physical therapy.

(f) Clinical pharmacy services or prescription drugs prescribed in the course of providing basic health services or a service described in section 21007 or this section.

(g) Chiropractic services.

333.21011 License required; use of term "health maintenance organization." [M.S.A. 14.15(21011)]

Sec. 21011. (1) A health maintenance organization shall be licensed under this article before issuing health maintenance contracts.

(2) "Health maintenance organization" shall not be used to describe or refer to a health agency unless the agency is licensed as a health maintenance organization by the department under this article.

333.21013 Advisory commission; powers and duties; decision binding on department and insurance bureau. [M.S.A. 14.15(21013)]

Sec. 21013. (1) The advisory commission created in section 20121 may review and comment on:

(a) A rate or contract change proposed pursuant to section 21063.

(b) A license issued or renewed pursuant to section 21034, 21041, or 21043.

(c) A waiver granted pursuant to section 21034(d) or 21071(1).

(2) The advisory commission, with the advice of task force 3 created under section 20126(1)(c), shall review a protest or appeal filed by an enrollee under section 21065 or 21088(2).

(3) A decision of the advisory commission after this review is binding on the department and insurance bureau.

333.21021 System of licensing and regulation; establishment; purpose. [M.S.A. 14.15(21021)]

Sec. 21021. The department, in conjunction with the insurance bureau, shall establish a system of licensing and regulating health maintenance organizations in this state to protect and promote the public health through the assurance that the organizations provide:

- (a) A high quality of health care by qualified personnel.
- (b) Health care facilities, equipment, and personnel which may reasonably be required to economically provide health maintenance services without causing unnecessary duplication of health care facilities in the area to be served.
- (c) Operational arrangements which integrate the delivery of various services.
- (d) A financially sound prepayment plan for meeting health care costs.

333.21023 Department and insurance bureau; duties generally. [M.S.A. 14.15(21023)]

Sec. 21023. (1) The department shall coordinate the functions necessary for the proper administration of this part and shall regulate health delivery aspects of health maintenance organization operations for the purpose of assuring that health maintenance organizations are capable of providing care and services promptly, appropriately, and in a manner that assures continuity and accepted quality. The department shall encourage health maintenance organizations to utilize a wide variety of health-related disciplines and facilities and to develop services that contribute to the prevention of disease and disability and the restoration of health.

(2) The insurance bureau shall regulate the business and financial aspects of health maintenance organization operations for the purpose of assuring that the organizations are financially sound and follow acceptable business practices. The insurance bureau shall assure that the organizations operate in the interest of overall health care cost containment within the requirements of delivering an accepted quality of care and services which are available and accessible to enrollees with appropriate administrative and health care provider incentives.

333.21025 Department and insurance bureau; powers generally. [M.S.A. 14.15(21025)]

Sec. 21025. (1) The department or the insurance bureau may:

(a) At periodic intervals or for reasonable cause, visit and examine the health care service operations and the business and financial operations of a health maintenance organization and consult with enrollees to the extent necessary to carry out the intent of this part. They shall have access to the books, papers, and documents of the organization relating to the business and finances of the organization or its delivery of health maintenance services which do not impinge upon confidentiality of the health records of individual enrollees.

(b) Summon and qualify witnesses under oath, and examine the officers, agents, employees, or other persons having knowledge of the operations, affairs, transactions, and conditions of a health maintenance organization.

(c) Require the submission of information regarding a proposed contract between a health maintenance organization and an affiliated provider as the department or insurance bureau deems necessary to assure that the contract is in compliance with this part.

(d) Jointly promulgate rules, except that, unless specifically authorized by this part, the department and the insurance bureau shall not promulgate rules to

require a health maintenance organization to assume responsibility for long-term care for individuals whose custodial maintenance is assigned by statute to this state or a political subdivision of this state.

(2) The department shall promptly send to the insurance bureau copies of submissions filed by a health maintenance organization.

333.21027 Grounds for denying, limiting, suspending, or revoking license or certificate of authority; ordering receivership pending appeal and hearing; contents of order; fees; taking over or liquidating health maintenance organization. [M.S.A. 14.15(21027)]

Sec. 21027. (1) The department, with the concurrence of the insurance bureau and after notice to the applicant or licensee, may deny, limit, suspend, or revoke a license or certificate of authority upon a determination that 1 of the following exists:

(a) A health maintenance organization is not operating in compliance with this part or the rules promulgated under this part.

(b) The organization is not able to provide, as promptly as appropriate, health maintenance services required under this part in a manner which assures continuity or imparts quality health care under conditions the department deems to be in the public interest.

(c) The existing contracts and the rates therefor, including any nominal payments between the organization and its subscribers, are not fair and reasonable in relation to the services available or the procedures offering and terminating contracts are unfairly discriminatory.

(d) The organization is unable to fulfill its obligations under outstanding health maintenance contracts.

(e) The organization is not being operated on a sound financial basis.

(2) The insurance bureau with the advice of the department, may order a receivership in compliance with this section pending an appeal and hearing. The insurance bureau's order shall specify the findings and conclusions justifying the order.

(3) The department shall prescribe fees for licenses, surveys, evaluations, investigations, and certificates of authority.

(4) The insurance bureau has the same authority to take over or liquidate a health maintenance organization that it has as to domestic and foreign corporations, associations, societies, and orders pursuant to chapter 78 of Act No. 218 of the Public Acts of 1956, as amended, being sections 500.7800 to 500.7868 of the Michigan Compiled Laws.

333.21031 Application for license; verification; form; contents. [M.S.A. 14.15(21031)]

Sec. 21031. An application to the department for a license shall be verified by an officer or authorized representative of the applicant, shall be on a form authorized and provided by the department, and shall include:

(a) A copy of the basic organizational document of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable document, and amendments thereto.

(b) A copy of the bylaws, rules, or similar form of document regulating the conduct of the affairs of the applicant.

(c) A list of the names, addresses, and official positions of individuals responsible for the conduct of the health maintenance organization's affairs,

including members of the board of directors, board of trustees, executive committee, or other governing body, the officers in case of a corporation, and the partners or associates in case of a partnership or association. The list shall be accompanied by a disclosure statement fully disclosing to the department the nature and extent of any contracts or arrangements between those individuals or their immediate families, or any legal entity in which they or their immediate families have a financial interest exceeding 5% of the stock or assets of the entity, and the organization or a provider or other person concerning any financial relationship with the organization. The statement shall be signed by each individual listed and notarized. The department shall be notified of a substantial change in the facts set forth in the statement not more than 30 days after the effective date of the change.

(d) A statement generally describing the health maintenance organization, its operations, the type and quantity of health professionals engaged to provide services, the location of facilities, and a description of services available at the locations at which health maintenance services will be regularly available to enrollees.

(e) Forms of the health maintenance contracts which the applicant proposes to offer and the evidence of coverage issued to subscribers.

(f) Financial statements showing the applicant's assets, liabilities, and sources of financial support.

(g) A statement of projected enrollment levels, copies of solicitation materials, and a general description of the marketing and enrollment techniques to be employed by the health maintenance organization, including a plan for informing enrollees of the sources and methods of obtaining services and instructing them in their use.

(h) A statement describing with reasonable certainty the primary geographic area to be served by the organization.

(i) A statement describing the applicant's procedures for resolving enrollee grievances as required by this part.

(j) A description of procedures for monitoring the quality of health care provided to enrollees as required by this part.

(k) Other information reasonably required by the department and the insurance bureau for the proper administration of this article.

333.21034 Issuance of license to health maintenance organization; requirements. [M.S.A. 14.15(21034)]

Sec. 21034. The department, with the concurrence of the insurance bureau, shall issue a license to a health maintenance organization upon being satisfied that:

(a) Based on acceptable accounting procedures approved by the insurance bureau, the proposed organization is actuarially sound and has adequate working capital and reserves in view of the experience of like organizations already in existence both within and without this state.

(b) The proposed contract and the proposed rates thereof, including any nominal payments, between the organization and its subscribers are fair, sound, and reasonable in relation to the services provided, and do not discriminate on the basis of race, creed, national origin, or income level.

(c) Solicitation of enrollment subscriptions will not work a fraud on the individual solicited.

(d) The proposed health maintenance contracts to be issued by the health maintenance organization include, as a minimum, the primary health

maintenance services specified in section 21007(1) during the period for which the initial license will be issued, and the contracts issued or in effect after the date of the first renewal of the license shall include, as a minimum, the basic health services specified in section 21003. Three years after the initial license is issued, an organization shall offer the supplemental health services specified in section 21009 as separate or combined options to subscribers for such additional payment as the organization requires. This requirement shall be waived if the organization demonstrates, to the satisfaction of the department and the insurance bureau, that provision of supplemental health benefits under this section would tend to endanger the financial stability of the organization, that personnel or other resources are not available in the area served by the organization to adequately provide the services, or that the option would not be exercised by enough subscribers to justify economically its provision. A waiver may be granted for any supplemental health service under the conditions and for the time the department and insurance bureau prescribe. A waiver granted under this section shall be reviewed when a license is renewed and may be modified or revoked by the department and insurance bureau as a condition of renewal. The requirement to provide for any supplemental health service as an option may be waived with respect to a group of subscribers under their group contract. The organization may make any supplemental health service available through prepayment as part of the health maintenance contracts offered subscribers if the insurance bureau approves the contracts and rates.

(e) When vision care services are offered as a health maintenance service under this part, the health maintenance organization includes optometric services as an option to subscribers.

(f) The health systems agency established pursuant to section 1512 of title 15 of the public health services act, 42 U.S.C. 300l-1, whose plan covers, in whole or in part, the area to be served by the health maintenance organization for which an application is submitted, has had a reasonable opportunity to review the application and make recommendations to the department.

(g) The person proposes to establish and operate a bona fide health maintenance organization able to provide, as appropriate, health maintenance services in a manner which assures continuity and imparts quality health care under conditions the department deems to be in the public interest.

(h) Within the area served by the health maintenance organization, the service will be available, accessible, and provided as promptly as appropriate to each of its enrollees in a manner which assures continuity, and will be available and accessible to enrollees 24 hours a day and 7 days a week for the treatment of emergency episodes of illness or injury.

(i) The arrangements for continuing evaluation of the quality of health care are adequate.

(j) Reasonable provisions exist for emergency and out-of-area health maintenance services for enrollees.

(k) A reasonable procedure exists for resolving enrollee grievances as required by this part.

333.21041 Issuance of license in name of health maintenance organization to legal entity; requirements. [M.S.A. 14.15(21041)]

Sec. 21041. The department, with concurrence of the insurance bureau, shall issue a license in the name of the health maintenance organization to a legal entity, upon being satisfied that the requirements of this article and the rules promulgated pursuant to this article are met and upon receipt of the application and fees prescribed.

333.21042 Legal entity operating system of health care delivery and financing; notice, hearing, and finding; licensing and regulation; advertising or soliciting. [M.S.A. 14.15(21042)]

Sec. 21042. A legal entity proposing to operate a system of health care delivery and financing which is to be offered to individuals, whether or not as members of groups, in exchange for a fixed payment in a manner similar to a health maintenance organization, but fails to meet the requirements set forth in this part, may operate such a system if after notice and hearing pursuant to the administrative procedures act of 1969, the department and insurance bureau find that the proposed operation will benefit persons who will be served by it. The operation shall be licensed and regulated in the same manner as a health maintenance organization under this part including the filing of periodic reports, except to the extent that the department and insurance bureau, with the advice of the advisory commission, agree that the regulation is inappropriate to an experimental project that represents a significant departure from a health maintenance organization as defined by this part. A legal entity operating a system of health care delivery and financing pursuant to this subsection shall not advertise or solicit or in any way identify itself in a manner implying to the public that it is a health maintenance organization licensed under this article.

333.21043 Duration of initial license; application for and duration of renewal license; determination. [M.S.A. 14.15(21043)]

Sec. 21043. An initial license issued to a health maintenance organization is effective for 3 years after the date of issuance. Upon application, the license shall be renewed for 3 years, after a determination by the department and insurance bureau that the applicant is operating in compliance with this article and the rules promulgated pursuant to this article.

333.21046 Certificate of authority to plan and develop health maintenance organization; application; qualifications. [M.S.A. 14.15(21046)]

Sec. 21046. A person engaged in the planning and development of a health maintenance organization may apply to and receive from the department a certificate of authority to conduct surveys; develop preliminary feasibility studies; receive grants, loans, or other funds for the planning and development of an organization; invest capital; construct facilities; and perform other activities necessary to qualify the person as an applicant for a license under this article. A person applying for or receiving a certificate of authority is not required to meet the qualifications for a licensee under this part. A certificate of authority to plan and develop a health maintenance organization issued by the department shall not be in derogation of Act No. 284 of the Public Acts of 1972, as amended, being sections 450.1101 to 450.2099 of the Michigan Compiled Laws.

333.21051 Governing body of health maintenance organization; membership requirements; election and terms of subscriber members; vacancy; waiver. [M.S.A. 14.15(21051)]

Sec. 21051. The governing body of a health maintenance organization shall have not less than 1/3 of its membership consisting of subscribers of the organization who are not compensated officers, employees, stockholders who own more than 5% of the shares of the organization, or other individuals responsible for the conduct of, or financially interested in, the organization's affairs. The subscriber members shall be elected by a simple majority of the voting subscribers and shall hold office for 3 years after their election. A vacancy among the subscriber members shall be filled by appointment by a simple

majority of the remaining subscriber members from individuals meeting the qualifications of this section. A vacancy shall be filled only for the unexpired portion of the original term, at which time the subscriber member shall be elected in the manner prescribed by this part. During the first 12 months of operation the requirements of this section are waived.

333.21053 Entering into health maintenance contracts and engaging in other activities; termination of contracts; contracting with or engaging health professionals and affiliated providers; providing additional health maintenance services; payments. [M.S.A. 14.15(21053)]

Sec. 21053. (1) Upon obtaining a license, a health maintenance organization may enter into health maintenance contracts and engage in other activities consistent with this part and other applicable laws of this state which are necessary to perform its obligations under its contracts.

(2) A health maintenance organization shall not terminate a health maintenance contract or deny a renewal of a contract because of age, sex, health status, or frequency of utilization of services of an enrollee or group of enrollees.

(3) A contract may be terminated for nonpayment of the fixed prepaid sum or per capita prepayment set forth in the contract if the fixed prepaid sum or per capita prepayment is not paid within 60 days after the due date.

(4) A health maintenance organization may contract with or directly engage health professionals and affiliated providers to render the services the organization has agreed to provide under the terms of its health maintenance contracts.

(5) A health maintenance organization may provide additional health maintenance services including dental, pharmaceutical, and clinical pharmacy services, nutrition services, hearing services, mental health, vision, home health, rehabilitation, nursing home care, health education, and any other care, service, or treatment not required under this part.

(6) A health maintenance organization may accept from governmental agencies and from private persons payments covering any part of the cost of health maintenance contracts.

333.21055 Use of certain words in name, contracts, or literature of health maintenance organization prohibited; indicating operation on profit or nonprofit basis. [M.S.A. 14.15(21055)]

Sec. 21055. A health maintenance organization shall not use in its name, contracts, or literature the words "insurance", "casualty", "surety", "mutual", or any other words descriptive of an insurance, casualty, or surety business or deceptively similar to the name or description of an insurance or surety corporation doing business in this state. A contract, form, literature, or other printed matter bearing the name of the organization shall clearly indicate whether it operates on a profit or nonprofit basis.

333.21056 Consolidation, merger, or transfer of obligations. [M.S.A. 14.15(21056)]

Sec. 21056. A health maintenance organization may consolidate, merge with, or transfer all or any part of its obligations to another health maintenance organization authorized under this part under reasonable and just provisions, as determined by the insurance bureau with the advice of the department, and upon due notice and hearing. To protect the enrollees and the public, the insurance bureau and the department may study and recommend proposals for consolidation, merger, or transfer of obligations when considered necessary, or to avoid the necessity of liquidation.

333.21057 Investment of earned surplus. [M.S.A. 14.15(21057)]

Sec. 21057. (1) Earned surplus of a health maintenance organization, except that required by the fiscal plan required for its operation, may be invested only within the restrictions applicable to insurance companies, provided in chapter 9 of Act No. 218 of the Public Acts of 1956, as amended, being sections 500.901 to 500.947 of the Michigan Compiled Laws, except as provided in subsection (2).

(2) A health maintenance organization, during the period of its initial license or a provisional license, shall invest its earned surplus, except that required by the fiscal plan for its continued development and operation, only in improved operations or in increased benefits for enrollees for basic health services not included in the primary health maintenance services provided under the health maintenance contracts, if that organization is not providing the basic health services required under this part during the initial licensing period.

333.21061 Enrollment and receipt of enrollee income; solicitation of enrollees; advertising services, charges, or other nonprofessional aspects of operation. [M.S.A. 14.15(21061)]

Sec. 21061. (1) Enrollment and receipt of enrollee income in connection with arrangements for health maintenance organization services shall not be performed by a person other than a legal entity organized only for health maintenance organization purposes or a labor union or corporation or organization approved by the insurance bureau.

(2) Solicitation of enrollees or advertising of the services, charges, or other nonprofessional aspects of the operation of a health maintenance organization under this section shall not be construed to be in violation of laws relating to solicitation or advertising by health professionals, but shall not include advertising which makes any qualitative judgment as to a health professional who provides services for a health maintenance organization. A solicitation or advertising shall not offer a material benefit or other thing of value as an inducement to prospective subscribers other than the services of the organization.

333.21063 Change in contract or rate; filing copy of proposed change; approval; notice of disapproval; hearing; notice of disposition; waiver of requirements if change is result of negotiation or collective bargaining. [M.S.A. 14.15(21063)]

Sec. 21063. (1) If a health maintenance organization desires to change a contract it offers to enrollees or desires to change a rate charged, a copy of the proposed change shall be filed with the department and shall not take effect until 60 days after the filing, unless the insurance bureau, with the advice of the department, approves the change in writing prior thereto. If the insurance bureau considers that the proposed change of the contract or the rate is illegal or unreasonable in relation to the services provided, the insurance bureau, not more than 60 days after the proposed change is filed, shall notify the organization in writing, specifying the reasons for disapproval. The insurance bureau shall schedule a hearing not more than 30 days after receipt of a written request from the health maintenance organization and the change shall not take effect until approved by the insurance bureau, with the advice of the department, after the hearing. Within 30 days after the hearing the insurance bureau shall notify the organization in writing of the disposition of the proposed change, together with its findings of fact and conclusions.

(2) If the change is the result of negotiation or collective bargaining and affects only the members of the groups engaged in the negotiation or collective bargaining, the other requirements of this part applicable to the change shall be waived, but the change shall be immediately filed with the department.

333.21065 Change in contract or rate; statement to subscribers; notice to subscribers; notice of protest or appeal; determination; notice of decision; hearing; voiding change or refusing approval; other remedies at law. [M.S.A. 14.15(21065)]

Sec. 21065. (1) Not less than 30 days before the effective date of a proposed change in a health maintenance contract or the rate charged, the health maintenance organization shall issue to each subscriber or group of subscribers who will be affected by the proposed change a clear written statement setting forth the extent and nature of the proposed change. If the insurance bureau has approved a proposed change in contract or rate in writing before the expiration of 60 days after the date of filing, the organization immediately shall notify each subscriber or group of subscribers who will be affected by the proposed change.

(2) An enrollee may file a notice of protest or appeal with the department against a proposed change in a health maintenance contract or a decision relating thereto under subsection (1) or section 21063 before the effective date of the change in the health maintenance contract or the rate charged. If the change is approved by the insurance bureau before the expiration of 60 days after the date of filing, an enrollee may file a notice of protest or appeal within 30 days after receipt of the notice. The insurance bureau shall receive the notice of protest or appeal and with the advice of the department render a determination as to its validity. The insurance bureau shall notify the enrollee in writing of its decision.

(3) An enrollee aggrieved by the decision of the insurance bureau may request a hearing to be conducted by the advisory commission pursuant to the administrative procedures act of 1969. If the protest or appeal is upheld, the insurance bureau, after notification from the advisory commission, shall void in writing the change granted pursuant to section 21063 or refuse to grant the approval.

(4) This section shall not prevent an enrollee from seeking other remedies at law available under this part or under the statutory and common law of this state.

333.21071 Open enrollment period; discrimination prohibited; waiver of compliance with open enrollment requirement; accepting members of specified groups. [M.S.A. 14.15(21071)]

Sec. 21071. (1) After the initial 24 months of operation, a health maintenance organization shall have an open enrollment period of not less than 30 days at least once during each consecutive 12-month period. During each enrollment period, the health maintenance organization shall accept up to its capacity as determined by the organization and submitted to the department before the commencement of the enrollment period, individuals in the order in which they apply for enrollment in a manner which does not unfairly discriminate on the basis of age, sex, race, health, or economic status. The insurance bureau, with the advice of the department, may waive compliance by the organization with the open enrollment requirement of this section for not more than 3 consecutive 12-month periods if the organization demonstrates to the satisfaction of the insurance bureau that either of the following will occur:

(a) It has enrolled, or will be compelled to enroll, a disproportionate number of individuals who are likely to utilize its services more often than an actuarially determined average as determined under rules promulgated by the insurance bureau, and enrollment during an open enrollment period of an additional number of those individual will jeopardize its economic viability.

(b) If it maintained an open enrollment period, it would not be able to comply with the rules promulgated pursuant to this part.

(2) A health maintenance organization providing health maintenance services to specified groups of individuals may accept members of the groups before accepting other individuals in the order in which they apply.

333.21073 Exclusion of certain coverages. [M.S.A. 14.15(21073)]

Sec. 21073. A health maintenance organization may exclude coverage for a condition for an individual, with a preexisting condition which required active medical treatment during 6 months before enrollment for not more than 6 months after the effective date of the health maintenance contract, except that coverage for maternity care and obstetrical service may be excluded for up to 9 months.

333.21075 Assumption of financial risk. [M.S.A. 14.15(21075)]

Sec. 21075. A health maintenance organization shall assume full financial risk on a prospective basis for the provision of health maintenance services. However, the organization may require an affiliated provider to assume financial risk under the terms of its contract, obtain insurance, or make other arrangements for the cost of providing to an enrollee health maintenance services the aggregate value of which is more than \$5,000.00 in a year, for the cost of health maintenance services provided to its enrollees other than through the organization in cases of emergency episodes of illness or injury, and for other operational costs determined by the insurance bureau.

333.21077 Payment of cash or other material benefit to enrollee; emergency episode of illness or injury requiring immediate treatment; payment of reasonable expenses or fees to provider or enrollee. [M.S.A. 14.15(21077)]

Sec. 21077. (1) A health maintenance contract shall not provide for payment of cash or other material benefit to an enrollee, except as stated in this part.

(2) In case of an emergency episode of illness or injury which requires immediate treatment before it can be secured through the health maintenance organization, an enrollee may utilize a provider within or without this state not normally engaged by the health maintenance organization to render service to its enrollees. The organization shall pay reasonable expenses or fees to the provider or enrollee as appropriate in an individual case. The transactions are not considered acts of insurance and are not subject to Act No. 218 of the Public Acts of 1956, as amended, being sections 500.100 to 500.8302 of the Michigan Compiled Laws.

333.21081 Meetings of subscribers; purpose; presence of governing body. [M.S.A. 14.15(21081)]

Sec. 21081. Within 12 months after the date of issuance of its initial license and annually thereafter, a health maintenance organization shall convene 1 or more meetings of subscribers to review the activities of the organization during the preceding year, receive complaints, and transact other business as circumstances warrant. The governing body of the organization shall be present at the meetings.

333.21083 Verified report covering preceding fiscal year; form; contents. [M.S.A. 14.15(21083)]

Sec. 21083. A health maintenance organization, within 90 days after the close of each fiscal year, shall file a verified report with the department covering the preceding fiscal year. The report shall be in the form prescribed by the department and shall include:

(a) A financial statement of the organization, including its balance sheet and receipts and disbursements for the preceding year certified by an independent certified public accountant, reflecting:

- (i) Prepayments and other payments received for health services provided.
- (ii) Disbursements to affiliated providers and insurers engaged to fulfill obligations arising out of the health maintenance contracts.
- (iii) Disbursements for capital improvements or additions, including construction, renovation, or purchase of facilities and capital equipment.
- (iv) Disbursements to other contracted providers for services.

(b) A summary of information as to the total number of complaints handled through the complaint system and a compilation of causes underlying the complaints filed, and the number, amount, and disposition of malpractice claims involving enrollees settled during the year by the organization and any provider employed by or contracting with it. Information as to malpractice claims are confidential records and not available for public inspection.

(c) The number of new enrollees enrolled during the year and the number terminated during the year.

(d) A statistical summary of health indicators as prescribed by the department.

(e) Other information the department and the insurance bureau reasonably prescribe for effective regulation under this part.

333.21085 Providing subscriber with summary of information; approval of summary; statement. [M.S.A. 14.15(21085)]

Sec. 21085. Except as provided in section 21083, a health maintenance organization shall annually provide each subscriber with a summary of the information required under section 21083 not more than 30 days after the date of filing the information. The summary shall be approved by the insurance bureau, with the advice of the department, and shall contain a statement indicating that relevant documents pertaining thereto are on file with the department and the organization and are available for public inspection.

333.21086 Description of services provided; contents; rate of payment as part of contract. [M.S.A. 14.15(21086)]

Sec. 21086. (1) A subscriber of a health maintenance organization shall, when evidence of coverage is issued to the subscriber, receive a complete, clear, and understandable description of services to be provided under the health maintenance contract. The description shall include:

- (a) Information as to where and how the services can be obtained from the organization.
- (b) A statement of enrollee rights under this part, exclusions or limitations on the services, kind of services, and benefits or kind of benefits provided.
- (c) The total payment or rate of payment, including nominal payments, for services provided under an individual health maintenance contract.
- (d) Where and how emergency and out-of-area service may be obtained.
- (e) Grievance procedures for resolving enrollee complaints.
- (f) Other information the insurance bureau, with the advice of the department, prescribes.

(2) The rate of payment for a group or individual health maintenance contract shall be a part of the contract.

333.21088 Enrollee grievances; procedures; filing complaint or grievance with advisory commission; determination. [M.S.A. 14.15(21088)]

Sec. 21088. (1) A health maintenance organization shall establish and maintain reasonable procedures for receiving, processing, and resolving enrollee grievances as to the operations of the organization.

(2) A person having a health maintenance contract with a health maintenance organization may file a complaint or grievance with the advisory commission after having exhausted the procedures for resolution of enrollee grievances established pursuant to section 21034(k). The advisory commission shall render a determination as to the validity of the complaint or grievance and direct measures it considers appropriate under the circumstances.

333.21091 Option of membership in licensed health maintenance organization as part of health benefits plan. [M.S.A. 14.15(21091)]

Sec. 21091. An employer, with 25 employees or more, that is required to pay its employees the minimum wage specified in Act No. 154 of the Public Acts of 1964, as amended, being sections 408.381 to 408.397 of the Michigan Compiled Laws, or the minimum wage specified by section 6 of the federal fair labor standards act of 1938, 42 U.S.C. 206, or which would be required to pay its employees the minimum wage but for section 13(a) of the federal fair labor standards act of 1938, 42 U.S.C. 213(a), in accordance with rules promulgated by the department and the insurance bureau, shall include in a health benefits plan offered to its employees the option of membership in a licensed health maintenance organization under this part which provides the basic health services specified in section 21003, when there is a health maintenance organization which serves the geographical area in which 25 or more of its employees are located.

333.21092 Limitation on payment for health benefits; requirement of § 333.21091 subject to approval by employee negotiation or collective bargaining agent. [M.S.A. 14.15(21092)]

Sec. 21092. (1) An employer is not required to pay more for health benefits as a result of the application of section 21091 than would otherwise be required by a collective bargaining agreement or other legally enforceable contract for the provision of health benefits between the employer and its employees at the time the option of membership in a licensed health maintenance organization is offered to its employees.

(2) If selection of a health maintenance organization is the result of negotiation or collective bargaining and affects only members of the groups engaged in the negotiation or collective bargaining, the requirement of section 21091 that the employer offer its employees the option of membership in a licensed health maintenance organization is subject to approval by employee negotiation or the collective bargaining agent.

333.21094 Receiving moneys from, and enrolling beneficiaries of, state and federal health programs. [M.S.A. 14.15(21094)]

Sec. 21094. A health maintenance organization is not precluded from meeting the requirements of, receiving moneys from, and enrolling beneficiaries or recipients of, state and federal health programs.

333.21096 Laws to which health maintenance organization not subject. [M.S.A. 14.15(21096)]

Sec. 21096. Except as otherwise provided in this part, a health maintenance organization is not subject to Act No. 218 of the Public Acts of 1956, as amended,

Act No. 108 of the Public Acts of 1939, as amended, being sections 550.301 to 550.316 of the Michigan Compiled Laws, Act No. 109 of the Public Acts of 1939, as amended, being sections 550.501 to 550.517 of the Michigan Compiled Laws, Act No. 192 of the Public Acts of 1962, as amended, being sections 450.221 to 450.235 of the Michigan Compiled Laws, or Act No. 125 of the Public Acts of 1963, being sections 550.351 to 550.373 of the Michigan Compiled Laws.

333.21098 Action for declaratory and equitable relief and for enforcement; costs. [M.S.A. 14.15(21098)]

Sec. 21098. The attorney general, a political subdivision of this state, an instrumentality or agency of this state or of a political subdivision thereof, or a person may bring an action in the circuit court for declaratory and equitable relief against the department and the insurance bureau or to compel the department and the insurance bureau to enforce this part or the rules promulgated pursuant to this part. Costs may be apportioned to the parties as the interest of justice require or borne in whole or in part by the plaintiff, by the defendant, or where the plaintiff is an enrollee of a health maintenance organization against which enforcement is sought, by the organization.

333.21099 Applicability of article. [M.S.A. 14.15(21099)]

Sec. 21099. This article does not apply to health maintenance organizations until 1 year after the effective date of this article.

PART 213. HOMES FOR THE AGED

333.21301 Definitions and principles of construction. [M.S.A. 14.15(21301)]

Sec. 21301. Article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

333.21307 Exemptions. [M.S.A. 14.15(21307)]

Sec. 21307. This part does not authorize the medical supervision, regulation, or control of the remedial care or treatment of residents in a home for the aged operated for the adherents of a bona fide church or religious denomination who rely on treatment by prayer or spiritual means only in accordance with the creed or tenets of that church or denomination. The residents, personnel, or employees, other than food handlers, of the home are not required to submit to a medical or physical examination.

333.21311 License required; use of term "home for the aged"; minimum age for admission. [M.S.A. 14.15(21311)]

- Sec. 21311. (1) A home for the aged shall be licensed under this article.
- (2) "Home for the aged" or a similar term or abbreviation shall not be used to describe or refer to an institution or agency unless the institution or agency is licensed as a home for the aged by the department under this article.
- (3) A home for the aged shall not admit individuals under 62 years of age.

333.21313 Owner, operator, and governing body of home for aged; responsibilities and duties generally. [M.S.A. 14.15(21313)]

Sec. 21313. (1) The owner, operator, and governing body of a home for the aged are responsible for all phases of the operation of the home and shall assure that the home maintains an organized program to provide room and board, protection, supervision, assistance, and supervised personal care for its residents.

(2) The owner, operator, and governing body shall assure the availability of emergency medical care required by a resident.

333.21321 Bond required. [M.S.A. 14.15(21321)]

Sec. 21321. (1) Before issuance of a license under this article, the owner, operator, or governing body of the applicant shall give a bond with a surety approved by the department. The bond shall insure the department for the benefit of the residents. The bond shall be conditioned that the applicant do all of the following:

(a) Hold separately and in trust all resident funds deposited with the applicant.

(b) Administer the funds on behalf of a resident in the manner directed by the depositor.

(c) Render a true and complete account to the resident, the depositor, and the department when requested.

(d) Account, on termination of the deposit, for all funds received, expended, and held on hand.

(2) The bond shall be in an amount equal to not less than 1-1/4 times the average balance of resident funds held during the prior year. The department may require an additional bond or permit filing of a bond in a lower amount, if the department determines that a change in the average balance has occurred or may occur. An applicant for a new license shall file a bond in an amount which the department estimates as 1-1/4 times the average amount of funds which the applicant, upon issuance of the license, is likely to hold during the first year of operation.

333.21331 Licensee considered consumer of tangible personal property. [M.S.A. 14.15(21331)]

Sec. 21331. A licensee of a home for the aged operated for profit is considered to be the consumer, and not the retailer, of tangible personal property purchased and used or consumed in operation of the home.

333.21333 Smoking policy. [M.S.A. 14.15(21333)]

Sec. 21333. (1) A home for the aged licensed under this article shall adopt a policy regulating the smoking of tobacco on the home for the aged premises.

(2) A home for the aged policy governing smoking shall at a minimum provide that:

(a) Upon admission each resident or person responsible for the resident's admission shall be asked if there is a preference for placement with smokers or nonsmokers.

(b) Smoking by residents shall be restricted to private rooms, rooms shared with other smokers only, or other designated smoking areas.

(c) Visitors shall not be permitted to smoke in rooms or wards occupied by residents who do not smoke.

(d) Visitors shall be permitted to smoke only in designated areas.

(e) Staff shall be permitted to smoke in designated areas only.

(f) Staff shall not be permitted to smoke in residents' rooms or while performing their duties in the presence of residents.

(g) Eating areas shall have sections for smokers and nonsmokers.

(h) Cigarettes, cigars, and pipe tobacco shall not be sold or dispensed within the licensed facility except as provided for by the owner or governing board.

(i) A sign indicating that smoking is prohibited in the facility except in designated areas shall be posted at each entrance to the facility. Each designated smoking area shall be posted as such by sign.

(3) A home for the aged licensed under this article shall retain a copy of the smoking policy which will be available to the public upon request.

PART 215. HOSPITALS

333.21501 Definitions and principles of construction.

[M.S.A. 14.15(21501)]

Sec. 21501. Article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

333.21511 License required; use of term "hospital." [M.S.A. 14.15(21511)]

Sec. 21511. (1) A hospital shall be licensed under this article.

(2) "Hospital" shall not be used to describe or refer to a health facility unless the health facility is licensed as a hospital by the department under this article. This section does not apply to a hospital licensed or operated by the department of mental health or the federal government or to a veterinary hospital.

333.21513 Owner, operator, and governing body of hospital; responsibilities and duties generally. [M.S.A. 14.15(21513)]

Sec. 21513. The owner, operator, and governing body of a hospital licensed under this article:

(a) Are responsible for all phases of the operation of the hospital, selection of the medical staff, and quality of care rendered in the hospital.

(b) Shall cooperate with the department in the enforcement of this part, and require that the physicians and other personnel working in the hospital and for whom a license or registration is required be currently licensed or registered.

(c) Shall assure that physicians admitted to practice in the hospital are granted hospital privileges consistent with their individual training, experience, and other qualifications.

(d) Shall assure that physicians admitted to practice in the hospital are organized into a medical staff to enable an effective review of the professional practices in the hospital for the purpose of reducing morbidity and mortality and improving the care provided in the hospital for patients. This review shall include the quality and necessity of the care provided and the preventability of complications and deaths occurring in the hospital.

333.21515 Confidentiality of records, data, and knowledge.

[M.S.A. 14.15(21515)]

Sec. 21515. The records, data, and knowledge collected for or by individuals or committees assigned a review function described in this article are confidential and shall be used only for the purposes provided in this article, shall not be public records, and shall not be available for court subpoena.

333.21521 Minimum standards and rules; practices. [M.S.A. 14.15(21521)]

Sec. 21521. A hospital shall meet the minimum standards and rules authorized by this article and shall endeavor to carry out practices that will further protect the public health and safety, prevent the spread of disease, alleviate pain and disability, and prevent premature death.

333.21523 Strictness of rules and standards. [M.S.A. 14.15(21523)]

Sec. 21523. The rules for operation and maintenance of hospitals shall not be less strict than those required for certification of hospitals under Public Law 89-97, 42 U.S.C. 1395x to 1395pp. The standards and rules relating to construction, additions, modernization, or conversion shall not be less strict than those required for federal assistance under the hospital and medical facilities amendments of 1964, 42 U.S.C. 291 to 291o.

333.21531 Smoking policy. [M.S.A. 14.15(21531)]

Sec. 21531. (1) A hospital licensed under this article shall adopt a policy regulating the smoking of tobacco on the hospital premises.

(2) A hospital policy governing smoking shall at a minimum provide that:

(a) Upon admission, each patient or person responsible for the patient's admission shall be asked if the patient prefers placement with smokers or nonsmokers.

(b) Smoking by patients shall be restricted to private rooms, rooms shared with other smokers, rooms shared with those who have stated they have no objection to smoking in the room, or other designated smoking areas.

(c) Visitors shall not be permitted to smoke in rooms or wards restricted to patients who do not smoke.

(d) Visitors shall be permitted to smoke only in designated areas.

(e) Staff shall be permitted to smoke only in designated areas.

(f) Staff shall not be permitted to smoke in patients' rooms or while performing their duties in the presence of patients.

(g) Eating areas shall have sections for smokers and nonsmokers.

(h) Cigarettes, cigars, and pipe tobacco shall not be sold or dispensed within the hospital, except as provided for by the hospital governing board.

(i) A sign indicating that smoking is prohibited in the hospital except in designated areas shall be posted at each public entrance to the facility. Each designated smoking area shall be posted by sign.

(3) A hospital licensed under this article shall retain a copy of the smoking policy which will be available to the public upon request.

PART 217. NURSING HOMES**333.21701 Definitions and principles of construction. [M.S.A. 14.15(21701)]**

Sec. 21701. Article 1 contains general definitions and principles of construction applicable to all articles in this code and part 201 contains definitions applicable to this part.

333.21707 Limitations on authority. [M.S.A. 14.15(21707)]

Sec. 21707. This part does not:

(a) Authorize the supervision, regulation, or control of the practice of any method of healing.

(b) Authorize the medical supervision, regulation, or control of the remedial care or nonmedical nursing care of patients in a nursing home operated for the adherents of a bona fide church or religious denomination who rely upon

treatment by prayer or spiritual means only in accordance with the creed or tenets of that church or denomination. The residents, patients, personnel, or employees, other than food handlers, of the home are not required to submit to a medical or physical examination.

**333.21711 License required; use of term "nursing home."
[M.S.A. 14.15(21711)]**

Sec. 21711. (1) A nursing home shall be licensed under this article.

(2) "Nursing home" or a similar term or abbreviation shall not be used to describe or refer to a health facility or agency unless the health facility or agency is licensed as a nursing home by the department under this article.

333.21713 Owner, operator, and governing body of nursing home; responsibilities and duties generally. [M.S.A. 14.15(21713)]

Sec. 21713. The owner, operator, and governing body of a nursing home licensed under this article:

(a) Are responsible for all phases of the operation of the nursing home and quality of care rendered in the home.

(b) Shall cooperate with the department in the enforcement of this article and require that the physicians and other personnel working in the nursing home and for whom a license or registration is required be currently licensed or registered.

333.21715 Programs of planned and continuing nursing and medical care required; nurses and physicians in charge; nature and scope of services. [M.S.A. 14.15(21715)]

Sec. 21715. (1) A nursing home shall provide:

(a) A program of planned and continuing nursing care under the charge of a registered nurse in a skilled facility and a licensed practical nurse with a registered nurse consultant in an intermediate care facility.

(b) A program of planned and continuing medical care under the charge of physicians.

(2) Nursing care and medical care shall consist of services given to individuals who are subject to prolonged suffering from illness or injury or who are recovering from illness or injury. The services shall be within the ability of the home to provide and shall include the functions of medical care such as diagnosis and treatment of an illness; nursing care via assessment, planning, and implementation; evaluation of a patient's health care needs; and the carrying out of required treatment prescribed by a physician.

333.21717 Individuals excluded from nursing home; exception; approval of area and program. [M.S.A. 14.15(21717)]

Sec. 21717. An individual shall not be admitted or retained for care in a nursing home who requires special medical or surgical treatment, or treatment for acute mental illness, mental retardation, communicable tuberculosis, or a communicable disease, unless the home is able to provide an area and a program for the care. The department shall approve both the area and the program, except for the programs providing treatment for mental illness and mental retardation which shall be approved by the department of mental health.

333.21721 Bond required. [M.S.A. 14.15(21721)]

Sec. 21721. (1) Before issuance of a nursing home license under this article, the owner, operator, or governing body of the nursing home shall give a bond with a surety approved by the department if the nursing home elects to set up

patient trust funds. The bond shall insure the department for the benefit of the patients. The bond shall be conditioned that the applicant shall do all of the following:

- (a) Hold separately and in trust all patient funds deposited with the applicant.
 - (b) Administer the funds on behalf of the patient in the manner directed by the depositor.
 - (c) Render a true and complete account to the patient, the depositor, and the department when requested.
 - (d) Account for the funds received, expended, and held on hand on termination of the deposit.
- (2) The bond shall be in an amount equal to not less than 1-1/4 times the average balance of patient funds held during the previous year. The department may require an additional bond, or permit the filing of a bond in a lower amount, if the department determines a change in the average balance has occurred or may occur. An applicant for a new license shall file a bond in an amount which the department estimates as 1-1/4 times the average amount of patient funds which the applicant, upon the issuance of the license, is likely to hold during the first year of operation.

333.21731 Licensee considered consumer of tangible personal property. [M.S.A. 14.15(21731)]

Sec. 21731. A licensee of a nursing home operated for profit is considered to be the consumer, and not the retailer, of the tangible personal property purchased and used or consumed in the operation of the home.

333.21733 Smoking policy. [M.S.A. 14.15(21733)]

Sec. 21733. (1) A nursing home licensed under this article shall adopt a policy regulating the smoking of tobacco on the nursing home premises.

(2) A nursing home policy governing smoking shall at a minimum provide that:

(a) Upon admission each patient or person responsible for the patient's admission shall be asked if there is a preference for placement with smokers or nonsmokers.

(b) Smoking by patients shall be restricted to private rooms, rooms shared with other smokers only, or other designated smoking areas.

(c) Visitors shall not be permitted to smoke in rooms or wards occupied by patients who do not smoke.

(d) Visitors shall be permitted to smoke only in designated areas.

(e) Staff shall be permitted to smoke in designated areas only.

(f) Staff shall not be permitted to smoke in patients' rooms or while performing their duties in the presence of patients.

(g) Eating areas shall have sections for smokers and nonsmokers.

(h) Cigarettes, cigars, and pipe tobacco shall not be sold or dispensed within the licensed facility except as provided for by the owner or governing board.

(i) A sign indicating that smoking is prohibited in the facility except in designated areas shall be posted at each entrance to the facility. Each designated smoking area shall be posted as such by sign.

(3) A nursing home licensed under this article shall retain a copy of the smoking policy which will be available to the public upon request.

PART 221. CERTIFICATES OF NEED

333.22101 Meanings of words and phrases; general definitions and principles of construction; inapplicable definitions. [M.S.A. 14.15(22101)]

Sec. 22101. (1) For purposes of this part, the words and phrases defined in sections 22102 to 22108 have the meanings ascribed to them in those sections.

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

(3) The definitions in part 201 do not apply to this part.

333.22102 Definitions; A to C. [M.S.A. 14.15(22102)]

Sec. 22102. (1) "Addition" means adding patient rooms or beds, ancillary service areas, or other accommodations to a health facility.

(2) "Capital expenditure" means an expenditure for a single project which exceeds \$150,000.00 including cost of construction, engineering, and fixed equipment which under generally accepted accounting principles is not properly chargeable as an expense of operation. It includes a lease or comparable arrangement by or on behalf of a facility by which a person obtains a health facility or licensed part thereof or equipment for a facility, the expenditure for which would have been considered a capital expenditure under this part if the person had acquired it by purchase. It includes cost of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, addition, conversion, modernization, new construction, or replacement of physical plant and equipment.

(3) "Certificate of need" means a certificate attesting to need of a new health facility, change in bed capacity, change in service, or capital expenditure by or for a health facility issued in accordance with this part.

(4) "Change in bed capacity" means either of the following:

(a) An increase of licensed bed capacity of a health facility.

(b) A redistribution of beds which does not result in a reduction in licensed bed capacity, but which, with respect to hospitals, does result in an increase or decrease in beds in an obstetrical department, long term care unit, or psychiatric unit.

(5) "Change in service" means health services which are offered in or through a health facility and which were not offered on a regular basis in or through that health facility within the 12-month period before the time the services would be offered.

(6) "Consumer", except as provided in section 22131, means a person who is not a provider of health care as defined in section 1531(3) of title 15 of the public health services act, 42 U.S.C. 300n.

(7) "Conversion" means converting an existing building not previously licensed as a health facility to such use or converting of an area of any other institution to health facility use or converting the facility from one licensed use to another licensed use.

(8) "Council" means the state health coordinating council designated pursuant to section 1524 of title 15 of the public health services act, 42 U.S.C. 300m-3.

333.22104 Definitions; H, I. [M.S.A. 14.15(22104)]

Sec. 22104. (1) "Health facility" means:

(a) A facility or agency licensed or authorized under parts 201 to 217, or a licensed part thereof, except a facility or agency licensed under part 203.

(b) A mental hospital, psychiatric hospital, psychiatric unit, or mental retardation facility operated by the department of mental health or certified or licensed under Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws.

(c) A facility providing outpatient physical therapy services, including speech pathology services.

(d) A kidney disease treatment center, including a freestanding hemodialysis unit.

(e) An organized ambulatory health care facility.

(f) A tertiary health care service facility.

(g) A substance abuse treatment program offering inpatient treatment, to be included for certificate of need 2 years after the effective date of this code.

(h) An outpatient psychiatric clinic.

(i) A home health agency. This subparagraph shall not be effective until home health agencies are licensed in this state.

(2) For the purposes of this part, "health facility" does not mean any of the following:

(a) An institution conducted by and for the adherents of a church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing.

(b) A health facility or agency located in a correctional institution.

(c) A veterans facility operated by the state or federal government.

(3) "Health systems agency" means a health system agency designated pursuant to section 1512 of title 15 of the public health services act, 42 U.S.C. 300-1.

(4) "Home health agency" means an agency that provides to individuals, in their places of residence other than in a hospital, nursing home, or county medical care facility, registered nurse services and 1 or more of the following services: nursing services by individuals other than registered nurses, therapeutic services, social work services, homemaker services, home health aide services, or other related services.

(5) "Hospital", for purposes of sections 22156 to 22158 only, means a hospital as regulated under part 215, but shall not include a veterans facility operated by the state or federal government.

(6) "Institutional health services" means health services provided in or through health facilities and includes the entities in or through which the services are provided.

333.22106 Definitions; M to P. [M.S.A. 14.15(22106)]

Sec. 22106. (1) "Modernization of the physical plant" means a major up-grading, alteration, or change in function of a part or area of a health facility. It includes the alteration, expansion, major repair, remodeling, replacement, and renovation of an existing building and initial equipment and the replacement of obsolete equipment in an existing building. It does not include normal maintenance and operational expenses.

(2) "New construction" means construction of a health facility where a health facility does not exist or construction replacing an existing health facility.

(3) "Organized ambulatory health care facility" means a facility other than a physician's private office that provides medical care on an organized basis to patients not requiring hospitalization and that is not part of a hospital but is organized and operated to provide medical care to outpatients. The department

may promulgate rules to differentiate an organized ambulatory health care facility from a private office of a practicing physician, dentist, podiatrist, or other private practice office.

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

333.22108 Definitions; S, T. [M.S.A. 14.15(22108)]

Sec. 22108. (1) "Secretary" means the United States secretary of health, education, and welfare.

(2) "State agency" means the state health planning and development agency designated pursuant to section 1521 of title 15 of the public health services act, 42 U.S.C. 300m.

(3) "Subarea" means the health facility service area defined by the department.

(4) "Tertiary health care service facility" means a facility that provides services for patients referred by a physician for diagnostic tests and that reports findings to the referring physician. It does not include a facility operated by an individual or individuals licensed to practice medicine, osteopathic medicine and surgery, dentistry, or podiatry who perform tests or procedures personally or through their employees solely as an adjunct to treatment of the licensee's patients.

333.22111 Certificate of need program; establishment; duties. [M.S.A. 14.15(22111)]

Sec. 22111. A certificate of need program shall be established and shall:

(a) Provide for review and determination of need before new institutional health services, facilities, and organizations are offered or developed or substantial expenditures are undertaken in preparation for the offering or development.

(b) Provide that only needed services, facilities, and organizations shall be offered or developed in this state.

(c) Meet the policies and procedures governing the issuance of certificates of need required for projects under federal grant-in-aid programs and federal loan guarantee programs.

333.22113 Certificate of need required; exceptions; approval or disapproval of application; approval of application with conditions; review of proposed conditions. [M.S.A. 14.15(22113)]

Sec. 22113. (1) Except as provided by this part and rules promulgated under this part, a person shall not begin operation of a new health facility, make a change in bed capacity, make a change in service, or undertake a capital expenditure for the construction, conversion, addition to, or modernization in excess of \$150,000.00 of a health facility or make a commitment for financing the offering or development of a new institutional health service without first obtaining a certificate of need which documents a demonstrated need and grants permission for the proposed project.

(2) Except as provided in section 22102(4)(b), a certificate of need is not required for a health facility to reduce its scope of services or bed capacity.

(3) Recommendations made by the health systems agency and decisions made by the department under the certificate of need program shall specify approval of the application, disapproval of the application, or approval of the application with conditions, if the conditions are explicit and the conditions

specify a time, not to exceed 1 year, by which the conditions shall be met. Before issuing a certificate of need with conditions, the department shall provide the appropriate health systems agency with a list of the proposed conditions for review.

(4) A certificate of need shall not be required for a change in service in a facility defined in section 22108(3).

333.22121 Duties of council and state agency; creation of certificate of need board; appointment, qualifications, and terms of members; compensation and expenses; appeal from denial of certificate of need; hearing; grounds for granting certificate of need or modifying bed reduction order. [M.S.A. 14.15(22121)]

Sec. 22121. (1) The council and the state agency shall:

(a) Approve proposed rules for the administration of the certificate of need program established under this part.

(b) Advise on administration of the certificate of need program, the administration of Act No. 299 of the Public Acts of 1947, as amended, being sections 331.501 to 331.516 of the Michigan Compiled Laws, and the requirements of the hospital and medical facilities amendments of 1964, 42 U.S.C. 291 to 291o.

(c) Biennially conduct a review and prepare a written evaluation of the certificate of need program including recommendations considered appropriate by the council.

(d) Assist the department in other related matters as it reasonably requests.

(2) The certificate of need board is created in the department. The certificate of need board shall consist of 5 members appointed by the governor with the advice and consent of the senate. The members shall serve for a term of 4 years, except that of the members first appointed, 2 shall serve for a term of 4 years, 1 for 3 years, 1 for 2 years, and 1 for 1 year. One of the members shall be a physician licensed under part 170, 1 shall be a physician licensed under part 175, and 3 shall be consumer representatives of the general public. The members shall be paid compensation and reimbursed for expenses as determined annually by the legislature.

(3) A health facility which is not granted a certificate of need upon application may appeal to the certificate of need board. The certificate of need board shall hold a hearing on the appeal within 30 days after the appeal is filed. The hearing shall be conducted pursuant to the administrative procedures act of 1969. If the certificate of need board finds any of the following, it may grant the certificate of need or modify the bed reduction order for that health facility:

(a) The bed reduction plan or the limitation on the number of beds for the health facility is arbitrary and capricious.

(b) The denial of the certificate of need application was arbitrary or not in accordance with law or the appropriate bed reduction plan.

(c) The denial will cause a significant reduction in services by physicians of a particular school of medicine.

333.22123 Agreement to develop and administer state medical facilities plan and administer state certificate of need program; approval; rules. [M.S.A. 14.15(22123)]

Sec. 22123. (1) The state agency and the department shall enter into an agreement under which the department, with the supervision of the state agency, shall develop and administer the state medical facilities plan and administer the

state certificate of need program in a manner consistent with the requirements of Public Law 93-641, 42 U.S.C. 217a nt, 229 nt, 291b nt, 300e-4, and 300k to 300t, and this part. The governor shall request that the secretary approve the agreement pursuant to section 1523(b)(1) of title 15 of the public health services act, 42 U.S.C. 300m-2.

(2) The department shall promulgate rules necessary to implement this part. The rules may include:

(a) Requirements for letters of intent to inform appropriate agencies of the nature and scope of proposed construction projects at the earliest possible opportunity in the course of planning the projects.

(b) The form and content of applications for regular, emergency, and nonsubstantive certificates.

(c) Procedures for state and local review of applications for issuance of a certificate of need and modification including time limitations, hearings, periodic reports by applicants, and other requirements necessary under federal law. The administrative demands concerning facility utility services shall not exceed requirements established by federal law.

(d) The duration, modification, and extension of certificates issued under this part.

(3) The department shall promulgate rules to differentiate an outpatient p/sychiatric clinic from a private office of a practicing physician.

333.22124 Agreements with agencies to review certificate of need applications; duties and responsibilities of agencies. [M.S.A. 14.15(22124)]

Sec. 22124. Where a health systems agency is not formed or is found incapable of assuming responsibilities for review of certificates of need, the department, with approval by the state agency, may enter into agreements with other appropriate public or private local agencies to review certificate of need applications. The agencies shall have the duties and responsibilities for review of applications described in this part for a health systems agency.

333.22131 Criteria in making determinations and conducting reviews for certificates of need; findings required for granting certificate of need; advisory board as equivalent of governing board; "consumer" defined. [M.S.A. 14.15(22131)]

Sec. 22131. (1) In making determinations and conducting reviews for certificates of need, the department and a health systems agency shall apply at least the following criteria:

(a) The relationship of the health care facilities or services being reviewed to the health systems plan and annual implementation plan, if any, for all health services areas to be served.

(b) The relationship of the health care facilities or services being reviewed to the long-range development plan, if any, of the person providing or proposing the facility or service.

(c) The need of the population served or to be served for the health care facilities or services being reviewed.

(d) The feasibility and availability of less costly alternatives or more effective methods of providing the health care facilities or services being reviewed.

(e) The relationship of the health care facilities or services being reviewed to the existing health care system of the health services areas in which the facilities or

services are provided or proposed, including the probable impact on the costs of providing health services in the areas served.

(f) In the case of health care facilities or services proposed under a certificate of need or other application, the availability or the potential availability of resources, including health personnel, management personnel, and funds for capital and operating needs for the provision of the facilities or services, and the potential for alternative uses of those resources for the provision of other health care services.

(g) The special needs and circumstances of institutional health care facilities and other entities which provide a substantial part of their services or resources to individuals not residing in the health service areas in which the facilities or other entities are located or in adjacent areas. The entities may include medical and other health professional schools, multidisciplinary clinics, and specialty centers.

(h) The special needs and circumstances of health maintenance organizations and other comprehensive health care programs. The needs and circumstances include the needs of, and costs to, members and projected members of the health maintenance organization in obtaining health services and the potential for a reduction in the use of inpatient care in a community through an extension of preventive health services and the provision of more systematic and comprehensive health services.

(i) In the case of a construction project proposal, the costs and methods of financing the proposed project; the probable impact of the project reviewed on the costs of providing health services by the applicant; and the specific requirements of law for building, zoning, fire, and safety standards and other permits and inspections applicable to the project.

(j) The degree to which the residents and physicians of the immediate community and region affected are provided access to the services and programs of the health facility applying for the certificate of need.

(k) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a state need and for which local conditions offer special advantages.

(l) That the health facility does not discriminate because of race, religion, color, national origin, age, or sex in its operations including employment, patient admission and care, room assignment, and professional or nonprofessional selection and training programs, and that the health facility governing body does not discriminate in its selection and appointment of individuals to the physician staff of the health facility or its training programs on the basis of licensure or registration or professional education as doctors of medicine, osteopathic medicine and surgery, or podiatry.

(m) That in the case of a nonprofit health facility, the facility is in fact governed by a body composed of a majority consumer membership broadly representative of the population served.

(n) When an application is made for a certificate of need to construct or expand an osteopathic or allopathic facility, the need for that facility on the basis of the need and availability in the community for services and facilities for osteopathic and allopathic physicians, other licensed health care professionals, and their patients and the impact of the application for a certificate of need on existing and proposed institutional training programs for doctors of medicine and osteopathy and other licensed health care professionals at the student, internship, and residency training level. This subdivision shall not be construed to dictate a

departure from good health planning principles or to mandate unnecessary duplication of services or facilities.

(2) In order for a certificate of need to be granted to a health facility the following findings shall be made in writing by the department and the health systems agency:

(a) As to the efficiency and appropriateness of the use of existing inpatient facilities providing inpatient services similar to those proposed.

(b) As to the capital and operating costs, and their potential impact on patient charges, efficiency, and appropriateness of the proposed new institutional health service.

(c) That superior alternatives to inpatient services in terms of cost, efficiency, and appropriateness do not exist and that the development of those alternatives is not practical.

(d) That in the case of new construction, such as modernization or sharing arrangements, alternatives to new construction have been considered and have been implemented to the maximum extent practicable.

(e) That patients will experience serious problems in terms of cost, availability, or accessibility, or other problems identified by the reviewing agency in obtaining inpatient care of the type proposed in the absence of the proposed new service.

(f) That in the case of a proposal for the addition of beds for the provision of skilled nursing or intermediate care, the relationship of the addition to the plan of other agencies of the state responsible for providing and financing long-term care has been considered.

(3) In case of a church-sponsored health facility or if the nature of the nonprofit health facility is such that the legal rights of its owners or sponsors might be impaired by a requirement as to the composition of its governing body, an advisory board with majority consumer membership broadly representative of the population served may be construed to be equivalent to the governing board described in subsection (1)(m) if the role assigned to the advisory board is meaningful, its functions are clearly prescribed, and it is given an opportunity to influence policy formulation by the legally recognized governing body.

(4) As used in this section, "consumer" means a person who is not a direct provider as defined in section 1531(3)(A) of title 15 of the public health services act, 42 U.S.C. 300n.

333.22132 Certificate for construction of, conversion of, addition to, or modernization of health facility; review of request; determination of need. [M.S.A. 14.15(22132)]

Sec. 22132. In reviewing a request for a certificate for construction of, conversion of, addition to, or modernization of a health facility, including a project to correct a licensing deficiency, approval shall be based on, but not limited to, a demonstrated current and future need for the facility or a part of the facility. The determination of need shall be consistent with the criteria and guidelines published for this purpose in the state medical facilities plan.

333.22135 Rules; adoption and publication of additional criteria. [M.S.A. 14.15(22135)]

Sec. 22135. (1) The department may promulgate rules to govern the application of special needs and circumstances under section 22131(1)(g) and (h). The rules applicable to mental health services shall be submitted to the department of mental health for review and recommendation before promulgation.

(2) The appropriate health systems agency may adopt and shall publish before their application additional criteria to carry out responsibilities under section 22131. Criteria applicable to mental health services shall be submitted to the department of mental health for review and recommendation before adoption. The criteria shall not be inconsistent with this part.

333.22136 Application for certificate of need; statement. [M.S.A. 14.15(22136)]

Sec. 22136. In applying for a certificate of need, an applicant shall include a statement addressing each of the criteria established by section 22131.

333.22137 Requirements for issuing certificate of need. [M.S.A. 14.15(22137)]

Sec. 22137. Before issuing a certificate of need, the department shall obtain the following:

(a) From the person applying for the certificate, evidence of the applicant's ability to finance the construction, conversion, addition, or modernization project for which the certificate is requested and ability to finance the operation of the new, converted, added to, or modernized facilities after completion of the construction, conversion, addition, or modernization.

(b) The recommendations submitted by the appropriate health systems agency as to the new institutional health services proposed to be offered within this state. If the department makes a decision inconsistent with the recommendations of the health systems agency, it shall submit to the appropriate health systems agency a detailed statement of the reasons for the inconsistency. The applicant and health systems agency may appeal a departmental decision pursuant to section 22165.

(c) Recommendations submitted by the department of mental health as to new institutional mental health services proposed to be offered within this state.

333.22139 Formula for certification fees; rules. [M.S.A. 14.15(22139)]

Sec. 22139. The department shall promulgate rules establishing a formula for certification fees. The rules shall provide that at least 1/2 the cost of implementing this part shall be provided by certificate of need fees.

333.22151 Waiver of procedural requirements and criteria for review of projects. [M.S.A. 14.15(22151)]

Sec. 22151. The department, after consultation with the appropriate health systems agency, and as appropriate with the department of mental health, may waive certain otherwise applicable procedural requirements and criteria for review of projects considered nonsubstantive in nature and not warranting full review. The projects may include those meeting an already demonstrated need acceptable to the appropriate health systems agency and the department, if the projects are designed to meet state and local regulations or a full review of the projects could increase the cost by unnecessary delay or require inefficient use of staff review time.

333.22152 Waiver of provisions, procedural requirements, and criteria for review; emergency certificate of need. [M.S.A. 14.15(22152)]

Sec. 22152. (1) The department, after consultation with the appropriate health systems agency, and, as appropriate, the department of mental health, may waive otherwise applicable provisions of this part and procedural requirements and criteria for review upon a showing by the applicant, by affidavit or at a public, informal hearing, of all of the following:

(a) The necessity for immediate or temporary relief due to natural disaster, fire, unforeseen safety consideration, or other circumstances.

(b) The serious adverse effect of delay on the applicant and the community that would be occasioned by compliance with the regular requirements of this part and rules promulgated under this part.

(c) The lack of substantial change in facilities or services which existed before the emergency situation.

(d) The temporary nature of the construction or services which will not preclude different disposition of longer term determinations in a subsequent regular application for a certificate of need.

(2) The department may issue an emergency certificate of need after necessary and appropriate review. A record of the review shall be made including copies of affidavits and other documentation. Findings and conclusions shall be made as to the applications whether the certificate is issued or denied.

(3) An emergency certificate of need issued under this section is subject to special limitations and restrictions in regard to duration and right of extension or renewal or other factors imposed by the department.

333.22154 Guidelines for identifying appropriate hospital capacity and excess hospital beds; criteria for reviewing and approving plan for reduction of excess hospital capacity; approval or modification of guidelines and criteria; including guidelines and criteria in state health plan; approval of guidelines and criteria by joint committee on administrative rules; publishing list identifying subareas having excess hospital beds; plan for reduction of excess hospital capacity; preparation, development, and provisions of plan; submission to council; consolidation or closure of hospitals; statement; development of plan by council or department; action by council. [M.S.A. 14.15(22154)]

Sec. 22154. (1) Within 45 days after the effective date of this section, the department, after consultation with the health systems agencies and with the approval of the state agency, shall prepare and submit to the council:

(a) Guidelines for identifying the appropriate hospital capacity and excess hospital beds in each subarea.

(b) Criteria to be used to review and approve the plan developed by a health systems agency pursuant to subsection (7). One of the criteria shall be the potential of the plan for assuring appropriate access to and quality of medical care services for residents of the area served and for achieving economic savings consistent with this objective.

(2) The guidelines and criteria submitted by the department and approved pursuant to subsection (5) and the plans developed pursuant to subsection (7) shall consider the factors and criteria in section 22131 and the following, where appropriate:

(a) Special circumstances of hospitals which are more than 25 miles or 30 minutes from the nearest hospital.

(b) The immediate and long-term impact of the actions proposed on the costs and charges for providing health services in the area.

(c) The relationship of the services proposed to be discontinued to the health care system of the area, including the impact on health manpower.

(d) The relationship, including the organizational relationship, of the health services proposed to be discontinued to ancillary or support services.

(e) The degree to which physicians and surgeons who are affected by the

closure or consolidation of hospitals or professional services have access to the physician staffs of other hospitals in the area affected.

(3) Subsection (2) shall not be construed to dictate a departure from good health planning principles or to mandate unnecessary duplication of services or facilities.

(4) The council may approve the guidelines and criteria within 90 days after it receives the guidelines and criteria pursuant to subsection (1). The council may modify the guidelines and criteria before it approves them. If the council does not approve the guidelines and criteria within 90 days after the council receives them, the guidelines and criteria shall be considered approved as submitted by the department. The guidelines and criteria shall be included in the state health plan developed pursuant to section 1524 of title 15 of the public health services act, 42 U.S.C. 300m-3.

(5) Within 30 days after the guidelines and criteria are approved pursuant to subsection (4) and annually thereafter, said guidelines and criteria shall be submitted for approval to the joint committee on administrative rules. If the committee on administrative rules takes no action on said guidelines and criteria within 30 days the guidelines and criteria approved pursuant to subsection (4) shall be the approved guidelines and criteria.

(6) Within 30 days after the first guidelines and criteria are approved pursuant to subsection (5) and annually thereafter, the department shall prepare, in accordance with those guidelines and criteria, and publish a list which identifies each subarea having excess hospital beds. A subarea that has less than 25 excess beds shall not be included in the list. The list shall specify the appropriate hospital capacity and the number of excess hospital beds in each subarea.

(7) Within 210 days after the first list developed pursuant to subsection (6) is published, and annually thereafter, a health systems agency that serves a subarea which is on the list may prepare a plan for the reduction of excess hospital capacity in accordance with this subsection, subsection (8) and the guidelines and criteria approved pursuant to subsection (5). The plan shall specify how each hospital in the subarea is affected and shall prescribe an annual schedule for implementation, and shall take into consideration the ability of the hospitals affected by the plan to meet their financial obligations. The plan shall be submitted to the council. The health systems agency may develop and apply different criteria and guidelines to a subarea if the health systems agency believes that the subarea has unusual circumstances which cannot be readily resolved in accordance with the approved guidelines and criteria. The process under which the plan is developed by the health systems agency shall be consistent with the preparation and establishment procedures required by federal regulation for the development of health systems plans under Public Law 93-641, 42 U.S.C. 217a nt, 229 nt, 291b nt, 300e-4, and 330k to 300t. The plan shall provide for the adjustment of the hospital capacity to the appropriate level within 5 years after the plan is approved by the council or developed by the department.

(8) In developing a plan to reduce excess hospital beds, the health systems agency or the council shall first consider the possibility of consolidation of 2 or more hospitals in the subarea. If consolidation is inappropriate or insufficient for the plan, the closure of hospitals shall next be considered. The closure of hospitals shall only be considered after all reasonable efforts have been made to encourage and, if necessary, assist in the consolidation of 2 or more hospitals. A statement indicating what actions were taken to encourage or assist consolidation and the reasons why this priority was not selected shall be included in the plan. If closure of a hospital is inappropriate or insufficient for the plan, the consolidation of

major clinical services among 2 or more hospitals shall next be considered. If the consolidation of major clinical services is inappropriate or insufficient, the closure of nursing units within a hospital shall next be considered. The council shall not approve a plan which does not address the priorities described in this subsection.

(9) If a health systems agency does not submit a plan within 210 days after the list is published pursuant to subsection (6), the council may develop a plan for that subarea. If the plan prepared by the health systems agency is not consistent with the guidelines and criteria approved pursuant to subsection (5) or the list published pursuant to subsection (6), the health systems agency shall provide satisfactory documentation to justify the differences. Within 120 days after the plan is submitted to the council, the council may do any of the following:

(a) Approve the plan as submitted.

(b) Amend the plan to conform with the criteria and guidelines approved pursuant to subsection (5) and the list published pursuant to subsection (6) and approve the plan as amended.

(c) Disapprove the plan and develop a substitute plan which conforms with the criteria and guidelines approved pursuant to subsection (5) and the list published pursuant to subsection (6).

(d) Permit a health systems agency to revise its plan and approve the plan as revised.

(10) If a plan is not approved by the council within 120 days after the plan is submitted to the council or 330 days after the list is published pursuant to subsection (6), the department shall develop a plan within 90 days.

333.22156 Certificate of need; requirements for issuance; exemptions; limitations on issuance. [M.S.A. 14.15(22156)]

Sec. 22156. (1) After the department publishes a list pursuant to section 22154(6), the department shall not issue a certificate of need to a hospital located in a subarea identified as having excess hospital beds until a plan for the elimination of those beds is approved by the council or the department or until 14 months after the date of publication of the first list pursuant to section 22154(6), whichever is sooner. This subsection shall not apply to a project exempt under subsections (2) and (3) or subsection (4) or (5).

(2) A project described in the certificate of need application shall be exempt from subsection (1) if, in addition to the conditions prescribed by subsection (3), the department, in consultation with the appropriate health systems agency, determines the project is one for which both of the following apply:

(a) The project does not include an addition to the bed supply.

(b) The project would not result in a significant increase in the hospital's service program, a major new service, or new technology.

(3) A project described in the certificate of need application shall be exempt from subsection (1) if, in addition to the requirements prescribed by subsection (2), the project meets 1 of the following conditions:

(a) The project is required to correct an emergency situation which if not corrected immediately would threaten the safety and welfare of the patients and staff; or is required by federal law as a condition of participation in title 18 of the social security act, 42 U.S.C. 1395 to 1395qq, or title 19 of the social security act, 42 U.S.C. 1396 to 1396j.

(b) The project constitutes a nonsubstantive project meeting an already demonstrated community need acceptable to the department and appropriate health systems agency.

(c) The project constitutes a change in ownership not resulting in a capital expenditure which is the result of a merger, corporate consolidation, or clinical service consolidation among 2 or more hospitals.

(4) A project described in the certificate of need application shall be exempt from subsection (1) if the department, in consultation with the appropriate health systems agency, determines the project is a substantive project intended to implement the results of a merger, corporate consolidation, or clinical service consolidation among 2 or more hospitals and will result in a significant reduction in bed or service capacity.

(5) A project described in the certificate of need application shall be exempt from subsection (1) if the application has been accepted by the department for filing as of the effective date of this section.

(6) Hospital beds and services for which a certificate of need is granted after the effective date of this section, but before the approval of a bed reduction plan developed pursuant to section 22154, shall not be exempt from subsequent identification for elimination in a plan for the reduction of hospital beds as provided for in section 22154.

(7) After the state agency has approved the report prepared pursuant to section 22190(1), the department:

(a) Shall not issue a certificate of need that is inconsistent with a hospital bed reduction plan approved or developed pursuant to section 22154.

(b) Shall not issue a certificate of need to a hospital which is not in conformance with a plan as provided for in section 22154.

333.22158 Review of operation; report. [M.S.A. 14.15(22158)]

Sec. 22158. Not later than 3-1/2 years after the effective date of this section the department, with the cooperation of the council, health facilities, and health systems agencies, shall review the operation of sections 22154 to 22156 and shall prepare a report assessing the efficacy of those sections in reducing hospital costs. The report may contain recommendations for further action to be taken by the legislature. The report shall be submitted to the legislature not later than 4 years after the effective date of this section.

333.22161 Reports of reviews; examination of applications and other materials by public. [M.S.A. 14.15(22161)]

Sec. 22161. (1) The department and the appropriate health systems agency shall prepare and publish at least annually reports of reviews conducted under this part. The reports shall include a statement on the status of each pending review and a statement as to each review completed, including statements of the findings and decisions made in the course of the reviews since the last report.

(2) The department and the appropriate health systems agency shall make available to the public for examination during reasonable hours on business days the applications reviewed by them and pertinent written materials on file at the agency.

333.22165 Hearing; decision final. [M.S.A. 14.15(22165)]

Sec. 22165. If an applicant for a certificate of need is aggrieved by the decision of the department or if the recommendation of the health systems agency is not accepted, the applicant or the health systems agency may request a hearing to be conducted pursuant to the administrative procedures act of 1969 by the appeals authority created pursuant to section 22121(2). The decision of the

appeals authority to issue or deny a certificate of need shall be final and is binding on the department.

333.22171 Action for injunction or other process. [M.S.A. 14.15(22171)]

Sec. 22171. Notwithstanding the existence and pursuit of any other remedy, the department may request the attorney general or prosecuting attorney of the jurisdiction where a facility is proposed to be located to bring an action in the name of the people of this state for an injunction or other process against a person to restrain or prevent the commitment for financing, the offering or development of a new institutional health service, the operation or the making of a change in bed capacity or change in service of a health facility, or the undertaking of a capital expenditure for the construction, conversion, addition to, or modernization of, a health facility without a certificate of need or in a manner contrary to law.

333.22181 Existing certificate of need. [M.S.A. 14.15(22181)]

Sec. 22181. A certificate of need issued in this state and valid when this code takes effect has the same effect as a similar certificate of need issued under this code. The holder of the certificate is subject to the same authority of the department to limit, suspend, revoke, or reinstate the certificate as a holder of a certificate of need issued under this part.

333.22190 Task force; appointment; purpose; reports; distribution of costs to third party payors; expiration of section. [M.S.A. 14.15(22190)]

Sec. 22190. (1) The governor shall appoint a task force consisting of representatives of state agencies, the hospital industry, third party payors, financial institutions, the legal profession, licensed health care professionals, and other affected parties to address the legal issues and financial problems, particularly with respect to capital financing and financial equity, associated with a reduction in excess hospital capacity. The appointments shall be made with the advice and consent of the senate. The task force shall submit quarterly reports and a final report not later than 9 months after the effective date of this part, to the governor and the legislature. The reports shall indicate the means by which issues and problems may best be addressed to meet the financial obligations resulting from a reduction in excess hospital capacity. Mechanisms shall be designed to insure that to the extent that federal funds are not available, an equitable distribution of costs to all third party payors will occur.

(2) This section shall expire 9 months after the effective date of this part.

ARTICLE 19. REPEALS, SAVINGS CLAUSES, AND EFFECTIVE DATES

PART 251. REPEALS

333.25101 Repeal of acts and parts of acts. [M.S.A. 14.15(25101)]

Sec. 25101. The following acts and parts of acts, as amended, are repealed:

(a) Public Acts:

<u>PUBLIC ACT NUMBER</u>	<u>YEAR OF ACT</u>	<u>SECTION NUMBERS</u>	<u>COMPILED LAW NUMBERS (1970)</u>
44	1899	9 to 10	24.9 to 24.10
327	1947	10a and 120 to 126	29.210a and 29.320 to 29.326
43	1950 (Extra Session)		30.151 to 30.153
287	1919	2 and 6	32.232 and 32.236

<u>PUBLIC ACT NUMBER</u>	<u>YEAR OF ACT</u>	<u>SECTION NUMBERS</u>	<u>COMPILED LAW NUMBERS (1970)</u>
3	1895	47 to 54 of chapter 7	67.47 to 67.54
215	1895	1 to 8 of chapter 14	94.1 to 94.8
288	1972		123.281 to 123.287
172	1958		125.741 to 125.745
55	1915		128.21
297	1929	7	128.57
201	1911		128.91 to 128.93
330	1976		257.1221 to 257.1238
197	1970		286.611 to 286.616
289	1965		286.621 to 286.634
152	1956		287.451 to 287.474
151	1975		287.481 to 287.488
344	1917		289.201 to 289.203
58	1959		323.221 to 323.226
146	1919		325.1 to 325.14
109	1907		325.21 to 325.24
164	1915		325.31 to 325.33
105	1927		325.41 to 325.42
308	1927		325.51 to 325.53
235	1968		325.81 to 325.92
62	1941		325.101 to 325.103
15	1952		325.121 to 325.123
39	1957		325.131 to 325.134
13	1959		325.141 to 325.147
26	1959		325.151 to 325.157
41	1959		325.161 to 325.164
346	1968		325.191 to 325.192
294	1965		325.221 to 325.239
136	1881		325.251 to 325.252
273	1939		325.271 to 325.274
210	1909		325.302 to 325.307
241	1947		325.401 to 325.406
305	1972		325.451 to 325.462
278	1949		325.501 to 325.505
341	1965		325.511
119	1965		325.521 to 325.524
335	1974		325.531 to 325.533
231	1955		325.551 to 325.556
7	1956 (Extra Session)		325.561 to 325.562
230	1966		325.601 to 325.620
218	1967		325.631 to 325.635
171	1970		325.651 to 325.665
56	1973		325.711 to 325.735
339	1974		325.751 to 325.766
269	1968		325.801 to 325.813
124	1977		325.871 to 325.877
288	1976		325.3001 to 325.3012
343	1925	1 to 8a and 9 to 21	326.1 to 326.8a and 326.9 to 326.21

<u>PUBLIC ACT NUMBER</u>	<u>YEAR OF ACT</u>	<u>SECTION NUMBERS</u>	<u>COMPILED LAW NUMBERS (1970)</u>
35	1931		326.31 to 326.37
9	1897		326.51 to 326.52
170	1921		326.61 to 326.62
120	1903		327.101 to 327.111
137	1883		327.151 to 327.153
157	1879		327.171
306	1927		327.201 to 327.208a
248	1911		327.251 to 327.261
37	1917		327.311 to 327.315
138	1958		328.11 to 328.23
115	1925		328.101 to 328.102
95	1953		328.151
189	1969		328.261 to 328.270
95	1970		328.281 to 328.289
230	1885		329.1 to 329.7
293	1909		329.51 to 329.55
146	1879		329.81
306	1909		329.101 to 329.108
116	1903		329.121
272	1919		329.151 to 329.158
6	1942 (Second Extra Session)		329.201 to 329.208
238	1969		329.221
276	1941		329.251 to 329.255
353	1919		329.271 to 329.272
314	1927		329.401 to 329.405
164	1949		329.501 to 329.505
169	1966		329.521 to 329.526
96	1975		329.551 to 329.557
263	1913		331.401 to 331.406
17	1968		331.411 to 331.430
256	1972		331.451 to 331.462
274	1974		331.471 to 331.493
176	1973		331.551 to 331.556
139	1956		331.651 to 331.660
115	1929		332.1 to 332.7
254	1905		332.51 to 332.70
343	1917		332.101 to 332.118
252	1951		332.201 to 332.204
5	1951 (Extra Session)		332.231 to 332.239
139	1952		332.251 to 332.255
146	1909		335.1 to 335.10
3	1971		335.21
60	1954		335.201 to 335.214
241	1970		335.231
196	1971		335.301 to 335.367
56	1905		338.71 to 338.72
151	1899		338.81
162	1903		338.101a to 338.121
145	1933		338.151 to 338.159
122	1939	1 to 9 and 10 to 21	338.201 to 338.209 and 338.210 to 338.221

<u>PUBLIC ACT NUMBER</u>	<u>YEAR OF ACT</u>	<u>SECTION NUMBERS</u>	<u>COMPILED LAW NUMBERS (1970)</u>
71	1909		338.251 to 338.262
115	1915		338.301 to 338.308a
164	1965		338.321 to 338.338
7	1925		338.381 to 338.385
277	1921		338.391 to 338.393
257	1959		338.1001 to 338.1019
151	1962		338.1101 to 338.1131
149	1967		338.1151 to 338.1175
147	1963		338.1301 to 338.1315
185	1973		338.1801 to 338.1827
290	1976		338.1921 to 338.1938
420	1976		338.1951 to 338.1978
119	1911		419.1 to 419.3
85	1923		446.301 to 446.306
176	1927		469.161 to 469.165
207	1937		551.151 to 551.154
17	1963	3	691.1503
174	1967		691.1511 to 691.1512
158	1937	1 to 29 and 31 to 44	722.201 to 722.229 and 722.231 to 722.244
283	1939		722.301 to 722.325
138	1881		722.401 to 722.406
183	1972		722.591 to 722.594
328	1931	470 and 472 to 477	750.470 and 750.472 to 750.477

(b) Revised Statutes of 1846:

<u>CHAPTER</u>	<u>SECTION NUMBERS</u>	<u>COMPILED LAW NUMBERS (1970)</u>
35	1 to 49	327.1 to 327.49

333.25103 Repeal of §§125.401 to 125.543; time. [M.S.A. 14.15(25103)]

Sec. 25103. Act No. 167 of the Public Acts of 1917, as amended, being sections 125.401 to 125.543 of the Compiled Laws of 1970, is repealed when all or the principal part of the rules promulgated under section 12211 take effect.

333.25105 Repeal of §§325.901 to 325.947; time. [M.S.A. 14.15(25105)]

Sec. 25105. Act No. 264 of the Public Acts of 1974, being sections 325.901 to 325.947 of the Compiled Laws of 1970, is repealed 1 year after the date set forth in section 25211.

333.25107 Repeal of §722.230; time. [M.S.A. 14.15(25107)]

Sec. 25107. Section 30 of Act No. 158 of the Public Acts of 1937, being section 722.230 of the Compiled Laws of 1970, is repealed 2 years after the effective date set forth in section 25211.

333.25109 Repeal of §338.209a; effective date of section. [M.S.A. 14.15(25109)]

Sec. 25109. (1) Section 9a of Act No. 122 of the Public Acts of 1939, being section 338.209a of the Compiled Laws of 1970, is repealed.

(2) This section shall not take effect until rules regulating the practice of a dental assistant under part 166 are promulgated.

PART 252. SAVINGS CLAUSES AND EFFECTIVE DATES

333.25201 Continuation of statutory provisions and rules; submission of proposed rules to public hearing; nomination and appointment of agency members. [M.S.A. 14.15(25201)]

Sec. 25201. (1) Where a section of this code authorizes or directs the promulgation of rules, including rules fixing fees, but rules dealing with the subject matter do not exist when the section takes effect, a statutory provision covering the matter, which is repealed by this code, shall nevertheless continue in effect until rules covering the matter take effect or for 3 years, whichever is sooner.

(2) Rules in effect on the effective date of this code shall continue to the extent that they do not conflict with this code, and shall be considered as rules promulgated under this code.

(3) An agency which is required to promulgate rules under this code shall submit the proposed rules to public hearing within 2 years after the effective date of this code.

(4) Rules and regulations adopted by a district or county board of health which are in effect on the effective date prescribed in section 25211 continue to the extent that they do not conflict with this code, and are considered as local health department regulations promulgated under this code.

(5) On the date this code is enacted into law procedures for the nomination and appointment of members of agencies created or continued by this code may be commenced, but the appointments shall not take effect before the effective date of the section providing for the appointment.

333.25205 Section 8.4a inapplicable to code; action or other proceeding not abated. [M.S.A. 14.15(25205)]

Sec. 25205. Section 4a of chapter 1 of the Revised Statutes of 1846, being section 8.4a of the Michigan Compiled Laws, is applicable to this code. In addition, an action or other proceeding lawfully commenced by or against an agency or an officer of this state, in his or her official capacity in relation to the discharge of official duties, including a proceeding against a licensee, registrant, or permittee, does not abate because the agency or officer is superseded by another agency or office created by this code. The court may allow the action or other proceeding to be maintained by or against the successor of the agency or officer.

333.25211 Effective date of code; exceptions; promulgation of rules authorized by code. [M.S.A. 14.15(25211)]

Sec. 25211. (1) Except as specific provisions of this code may provide otherwise, this code takes effect on September 30, 1978.

(2) On the date this code is enacted into law, procedures and actions required for the rule-making process pursuant to the administrative procedures act of 1969 may be commenced, but the rules authorized by this code shall not be promulgated until on or after the effective date set forth in subsection (1) or the effective date applicable to the section of this code under which the rules are promulgated.

This act is ordered to take immediate effect.
Approved July 25, 1978.