



Department of
Community Health

Authority and Actions Under the Public Health Code to Prevent and Control the Spread of Disease

Presented by:
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Protection of the public's health

“The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.”

Const 1963, art 4, § 51

Michigan Department of Community Health

“Pursuant to section 51 of article 4 of the state constitution of 1963, the department [of community health] shall continually and diligently endeavor to prevent disease, prolong life, and promote the public health through organized programs, including ... prevention and control of diseases...”

MCL 333.2221(1)

Michigan Public Health Code

“... shall be liberally construed for the protection of the health, safety, and welfare of the people of this state.”

MCL 333.1111(2)

Powers of Director of Michigan Department of Community Health

If the Director determines that conditions anywhere in this state constitute a menace to the public health, she is authorized to take full charge of the administration of applicable state and local health laws, rules, regulations, and ordinances

MCL 333.2251(3)

Director's Powers

Imminent Danger Order

“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 The order shall incorporate the director's findings and require immediate action necessary to avoid, correct, or remove the imminent danger.”

MCL 333.2251(1)

Powers of Local Health Officer

- The Director of the Department of Community Health has statewide jurisdiction.
- Under Part 24 of the Public Health Code, local health officers have most of the powers granted to the Director to respond to public health emergencies within the area served by the local health department
- For example, MCL 333.2451 authorizes local health officers to issue imminent danger orders within the local health department's jurisdiction

Director's Powers

Emergency Order to Control Epidemic

“If the director [or local health officer] 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.”

MCL 333.2253; MCL 333.2453

Violation of Director's Orders

- 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, or both. MCL 333.2261
- An individual may be arrested if violation occurs in the presence of a police officer, or the police officer has reasonable cause to believe individual has violated a rule or order. MCL 764.15(1)

Director's Powers

Warning Notice Against Carrier of Disease

- Allows director or local health officer who determines “that an individual is a carrier and is a health threat to others” to issue a warning notice requiring person to cooperate in preventing or controlling transmission of disease.
- Must inform the individual that if he or she fails to comply with the warning notice, the health department shall seek a court order
- Must also inform the individual that, except in an emergency, the individual will have a right to a hearing before the court issues its order

MCL 333.5203

Director's Powers

Petition Court for Order Against Carrier

“If a department representative or a local health officer knows or has reasonable grounds to believe that an individual has failed or refused to comply with a warning notice issued under section 5203, the department or local health department may petition the circuit court for the county of Ingham or for the county served by the local health department for an order...”

MCL 333.5205(1)

Director's Powers

Emergency Action Against Carrier

“To protect the public health in an emergency, upon the filing of an affidavit by a department representative or a local health officer, the circuit court may order the department representative, local health officer, or a peace officer to take an individual whom the court has reasonable cause to believe is a carrier and is a health threat to others into custody and transport the individual to an appropriate emergency care or treatment facility for observation, examination, testing, diagnosis, or treatment and, if determined necessary by the court, temporary detention.”

MCL 333.5207(1)

Department's Powers Inspection or Investigation

- State and local health departments are authorized to inspect or investigate:
 - A suspected outbreak or exposure
 - Any matter, thing, premises, place, person, record, vehicle, incident, or event

MCL 333.2221(2)(d), MCL 333.2241(1), MCL 333.2433(2)(c), MCL 333.2446

Department's Powers Inspection or Investigation

State and local health investigators are to be provided with medical and epidemiological information pertaining to individuals who have, are suspected of having, or may have been exposed to a disease or condition of public health significance

Communicable Disease Rules, R 325.174(2)

Department's Powers Inspection or Investigation

“[The communicable disease rule] which requires that personal medical information of an individual with a disease shall be provided to an investigator of the Michigan Department of [Community] Health or a local health department, is within the statutory authority granted to the Department of [Community] Health by the Public Health Code to make investigations of reported cases of diseases.”

Op Atty Gen 1986, No 6376, p 336

Department's Responsibilities to protect private health information

“Medical and epidemiological information which identifies an individual and which is gathered in connection with an investigation **is confidential and is not open to public inspection** without the individual's consent or the consent of the individual's guardian, **unless public inspection is necessary to protect the public health as determined by a local health officer or the director.**”

Communicable Disease Rules, R 325.181(2)

Director's Powers

Maintain Court Actions

- To compel compliance with Imminent Danger Order
- To compel compliance with Emergency Order to Control Epidemic
- To obtain warrant to inspect or investigate and to seize property
- To obtain an injunction

Director's Powers

Maintain court action to obtain warrant to inspect or investigate and to seize property

- Application for warrant may be filed by State or Local Health Department
- Issued by Magistrate based on facts stated in affidavit
- May authorize property to be seized
- May direct law enforcement to assist health department in inspection or investigation

MCL 333.2241-2247, MCL 333.2446

Director's Powers

Maintain Court Action for Injunction

- State Health Director or Local Health Director may maintain action
- May seek court order to restrain, prevent, or correct:
 - A violation of a law, rule or order that health department has duty to enforce
 - An activity or condition that health department believes adversely affects the public health

MCL 333.2265, MCL 333.2465

Director's Powers

Quarantine, Isolation, & Immunization

Police Power

- The power of government to impose restrictions on private rights for the sake of the public welfare, order, and security
- Subject to constitutional limitations, especially to the requirement of due process and right to equal protection

Director's Powers

Quarantine, Isolation, & Immunization

- *Compagnie Francaise De Navigation A Vapeur*, 186 US 380 (1902)
- *Jacobson v Massachusetts*, 197 US 11 (1904)
- *Rock v Carney*, 216 Mich 280 (1921)

Quarantine

Campagne Francaise de Navigation a Vapeur v Louisiana State Board of Health, 186 US 380 (1902)

Quarantine held to be:

- Legitimate exercise of police power
- No violation of Commerce Clause

Immunization

Jacobson v Massachusetts, 197 US 11 (1905)

- Involved mandatory vaccinations, not quarantine.
- Based on earlier quarantine decisions, valid exercise of state's police power.
- Expressly recognized power of local administrative agencies to develop and implement health regulations.

Jacobson v Massachusetts

“The liberty secured by the Constitution of the United States to every person within its jurisdiction does not import an absolute right to each person to be, at all times and in all circumstances, wholly freed from restraint. There are manifold restraints to which every person is necessarily subject for the common good”

Quarantine & Isolation

Rock v Carney, 216 Mich 280 (1921):

- Plaintiff quarantined by local authorities for 12 weeks. Lower court upheld exercise of police power.
- Supreme Court reversed, but recognized:
“That the power exists in the boards of health acting through their respective health officers to quarantine persons infected with these diseases either in their homes or in detention hospitals, such detention to continue so long as the diseases are in their infectious state . . .”

Quarantine & Isolation

Rock v Carney, continued

“When sufficient reasonable cause exists to believe that a person is afflicted with a quarantinable disease, there is no doubt of the right of the health authorities to examine into the case . . . remembering that the persons so affected are to be treated as patients, and not as criminals.”

Thank you for your attention.

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