



SUMMARY OF AUTHORITY AND ACTIONS REGARDING PUBLIC HEALTH EMERGENCIES
Issue Brief

Michigan Public Health Code

Michigan’s Public Health Code and Communicable Disease Rules provide an array of actions that state and local health officers can use to respond to a public health emergency. This document is intended to assist health officers and their attorneys by identifying potential actions and linking to the applicable law. Though the details of this document apply only in Michigan, the legal provisions likely have similar counterparts in all other states. Lawyers in other states may have developed, or could develop, comparable summaries for their states. You may wish to talk with your attorney, or visit the [Public Health Lawyer Directory](#) to find a public health attorney in your state.

	AUTHORITY/ACTION	LAW¹	COMMENTS
1	Imminent Danger Order	§ 2251 § 2451	<ul style="list-style-type: none"> • Issued by State Health Director or Local Health Officer • Requires determination of “imminent danger”, i.e. 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 • May require immediate action to avoid, correct, or remove imminent danger • If Director determines that conditions anywhere in state constitute a menace to the public health, Director may take full charge of the administration of applicable state and local health laws, rules, regulations, and ordinances • Petition filed in circuit court for an order to compel compliance
2	Emergency Order to Control Epidemic	§ 2253 § 2453	<ul style="list-style-type: none"> • Issued by State Health Director or Local Health Officer • May prohibit the gathering of people for any purpose and may establish procedures to be followed during the epidemic • Unlike Warning Notice (described below) may be issued to a class of persons • May be used to direct mass immunization (§ 9203) • Petition filed in circuit court for an order to compel compliance
3	Order to Abate a Nuisance	§ 2455	<ul style="list-style-type: none"> • Issued by State Health Director or Local Health Officer against owner of property • If property owner does not comply, may remove nuisance and charge owner • May seek warrant from court for assistance from law enforcement to remove nuisance
4	Procedures for Control of Disease	Rule 175	<ul style="list-style-type: none"> • A physician or other person who attends to a case of communicable disease shall arrange for appropriate barrier precautions, treatment, or isolation if needed to prevent the spread of infection. The physician or other person may request necessary information on appropriate precautionary measures from the Local Health Officer or the department. • A Local Health Officer or the State Health Director may institute appropriate isolation or other barrier precautions for a case or suspected case of disease, infection or other condition as necessary to protect the public health.



Procedures for Control of Disease, cont.		<ul style="list-style-type: none">• Upon reasonable suspicion that a student has a communicable disease, a school official may exclude the student for a period sufficient to obtain a determination by a physician or Local Health Officer as to the presence of a communicable disease.• A Local Health Officer may initiate the exclusion from school or group programs of a student or individual who has a communicable disease. A student or individual may be returned when a physician or Local Health Officer indicates that the individual does not represent a risk to others.• When a Local Health Officer confirms or reasonably suspects that a student or individual attending a school or group program has a communicable disease, he/she may exclude from attendance any individuals lacking documentation of immunity or otherwise considered susceptible to the disease until the Health Officer deems there to be no likely further risk of disease spread.
5 Inspection or Investigation Authority	§ 2221(2)(d) § 2241(1) § 2433(2)(c) § 2446 Rule 174	<ul style="list-style-type: none">• State and local health departments are authorized to inspect or investigate:<ul style="list-style-type: none">– A suspected outbreak or exposure– Any matter, thing, premises, place, person, record, vehicle, incident, or event• State and local health investigators to be provided with medical and epidemiological pertaining to individuals who have, are suspected of having, or may have been exposed to a disease or condition of public health significance• State and local investigators may obtain human, animal, environmental or other types of specimens, or cause specimens to be obtained by appropriate means, in the course of an investigation of a reported disease, infection, or condition.
6 Inspection or Investigative Warrant	§§ 2241-2247 § 2446	<ul style="list-style-type: none">• 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
7 Criminal Prosecution	§ 2261 § 2443	<ul style="list-style-type: none">• A person who violates a rule or order of the Department or Local Health Officer is guilty of a misdemeanor punishable by imprisonment for not more than 6 months, or a fine of not more than \$200, or both• Individual may be arrested if violation occurs in the presence of a police officer or a police officer has reasonable cause to believe individual has violated rule or order (MCL 764.15(1))
8 Injunction	§ 2255 § 2465	<ul style="list-style-type: none">• State Health Director or Local Health Director may maintain action• May seek court order to restrain, prevent, or correct:<ul style="list-style-type: none">– 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
9 Warning Notice (for involuntary detention and treatment of individuals)	§ 2453(2) §§ 5201 - 5205	<ul style="list-style-type: none">• Shall be issued by state health department representative or Local Health Officer upon a determination that individual:<ul style="list-style-type: none">– Is or is reasonably believed to be a carrier of a specific infectious agent or serious communicable disease or infection– Has demonstrated inability or unwillingness to act in a manner that does not put others at risk of exposure• Must be in writing (may be verbal in urgent circumstances, followed by a written notice within 3 days)• Must be specific and individual, cannot be issued to a class of persons• Must require individual to cooperate with health department in efforts to control spread of disease• May require individual to participate in education, counseling, or treatment programs, and to undergo medical tests to verify carrier status• Must inform individual that if individual fails to comply with Warning Notice, health department shall seek court order



10 Court Order for Detaining, Transporting, Testing, or Treating Carrier of Infectious Disease	§ 2453(2) §§ 5205 - 5207	<ul style="list-style-type: none">• If individual fails or refused to comply with Warning Notice (see discussion above), health department must petition Circuit Court (Family Division) for order requiring testing, treatment, education, counseling, commitment, isolation, etc., as appropriate<ul style="list-style-type: none">– Individual has right to evidentiary hearing– Health department must prove allegations by clear and convincing evidence– Individual has right to appeal and review by Court of Appeals within 30 days– Before committing individual to a facility, court must consider recommendation of a commitment panel, and commitment order must be reviewed periodically• In an emergency, health department may go straight to court (without issuing Warning Notice). Upon filing of affidavit by health department, court may order that individual be taken into custody and transported to an appropriate emergency care or treatment facility for observation, examination, testing diagnosis, treatment, or temporary detention<ul style="list-style-type: none">– Court must have reasonable cause to believe that individual is a carrier and health threat to others– Emergency order may be issued <i>ex parte</i>– Hearing on temporary detainment order must be held within 72 hours (excluding weekends and holidays)• Individual who is subject of either emergency proceedings or petition on a Warning Notice has right to counsel at all stages of proceedings. Indigent individual is entitled to appointed counsel• For forms approved by the Michigan Supreme Court Administrative Office for use in commitment or testing for infectious disease, go to http://courts.mi.gov/Administration/SCAO/Forms/Pages/Infectious-Disease.aspx.
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SUPPORTERS



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This document was first developed by Denise Chrysler, J.D., Director for the Network for Public Health Law - Mid-States Region at the University of Michigan School of Public Health, while employed by Michigan's state health department (then the Michigan Department of Community Health). Thank you to MDCH for its permission to update and make this tool available. The Network for Public Health Law provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.

¹ Refers to section of Public Health Code, [MCL 333.1101 et seq.](#) or communicable disease rules, Michigan Administrative Code, [R 325.171 et seq.](#), promulgated under the Code (§§ [2226\(d\)](#), [2435\(d\)](#), and [5111](#)).