

Legal Aspects Public Health Authorities

Public Health's Legal Powers

- Jacobson vs. Massachusetts
 - States could require mandatory vaccination if it was in the public good
 - States could impose a penalty upon those who refuse, but could not impose the measure itself
- ~Ref: D. George Joseph JAMA. 2003;290:2331.

Michigan's Public Health Code

- Enacted in 1978 as Public Act 368
- Brought together many different laws into a single unified Code
- Public Health Laws comprise
 - Public Health Code
 - Administrative Rules

Michigan Public Health Code:
Part 22

- **333.2226 Powers of department.** Sec. 2226.
- The department may: (a) ... (c)
- (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.

Michigan Public Health Code:
Part 22

- 333.2235 Local health department; authorization to exercise power or function; primary organization as to services and programs; exceptions; summary reports
- State may authorize a local health department to exercise a power or function of the department where not otherwise prohibited by law or rule.

Michigan Public Health Code:
Part 22

- 333.2241 Inspection or investigation to assure compliance; application for warrant.
- (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.

**Michigan Public Health Code:
Part 22 and Part 24**

- 333.2253 and 333.2453 Epidemic; emergency order and procedures.
If the director/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. 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

**Michigan Public Health Code:
Part 51 General Provisions**

- 333.5115 Control of communicable diseases:
Communicable diseases and serious communicable diseases and infections; minimum procedures and standards for control and elimination
- 333.5131 Confidentiality of information

**Michigan Public Health Code:
Part 52 Hazardous Communicable Diseases**

- 333.5203 Warning notices
- 333.5207 Taking steps to control communicable diseases including taking a person into custody

Michigan Public Health Code:
Administrative Rules R 325.174

- R. 325.174 1 Local or state health departments (L/SHD) may initiate investigations
- R. 325.174 2 e) 4 L/SHD may obtain human, environmental, animal or other specimens
- R. 325.174 2 a-e Specimens and information may be obtained on people who are not ill

Model State Emergency Health Powers Act

- 5 basic functions to be facilitated through laws
 - Preparedness
 - Surveillance
 - Management of property
 - Protection of persons
 - Communication
- Source: Model State Emergency Powers

HIPAA

- Sharing of public health information related to mandated and non-mandated disease reporting without individual consent is explicitly permitted under HIPAA 45 CFR § 164.512(b)

Resources:

- CDC web page <http://www.cdc.gov/privacyrule/>
- MMWR HIPAA Privacy Rule and Public Health Guidance from CDC and the U.S. DHHS April 11, 2003
- <http://www.cdc.gov/mmwr/preview/mmwrhtml/m2e411a1.htm>

Caution

- Always consult your Health Officer and Corporate Counsel before taking any legal actions!!

SAVE THE DATE!
Bioterrorism & Public Health Law Course
8/2/04 - Ann Arbor, MI
