

HOUSE BILL No. 5775

April 23, 1998, Introduced by Reps. Stallworth, Kilpatrick, Hale and Thomas and referred to the Committee on Health Policy.

A bill to amend 1969 PA 306, entitled "Administrative procedures act of 1969," by amending section 7 (MCL 24.207), as amended by 1996 PA 489.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 7. "Rule" means an agency regulation, statement, stan-
2 dard, policy, ruling, or instruction of general applicability
3 that implements or applies law enforced or administered by the
4 agency, or that prescribes the organization, procedure, or prac-
5 tice of the agency, including the amendment, suspension, or
6 rescission of the law enforced or administered by the agency.
7 Rule does not include ~~any~~ 1 OR MORE of the following:
8 (a) A resolution or order of the state administrative
9 board.
10 (b) A formal opinion of the attorney general.

1 (c) A rule or order establishing or fixing rates or
2 tariffs.

3 (d) A rule or order pertaining to game and fish and promul-
4 gated under part 411 (protection and preservation of fish, game,
5 and birds) of the natural resources and environmental protection
6 act, ~~Act No. 451 of the Public Acts of 1994, being~~
7 ~~sections 324.41101 to 324.41105 of the Michigan Compiled Laws~~
8 1994 PA 451, MCL 324.41101 TO 324.41105, part 487 (sport fishing)
9 of ~~Act No. 451 of the Public Acts of 1994, being~~
10 ~~sections 324.48701 to 324.48740 of the Michigan Compiled Laws~~
11 THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA
12 451, MCL 324.48701 TO 324.48740, and part 401 (wildlife
13 conservation) of ~~Act No. 451 of the Public Acts of 1994, being~~
14 ~~sections 324.40101 to 324.40119 of the Michigan Compiled Laws~~
15 THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA
16 451, MCL 324.40101 TO 324.40119.

17 (e) A rule relating to the use of streets or highways, the
18 substance of which is indicated to the public by means of signs
19 or signals.

20 (f) A determination, decision, or order in a contested
21 case.

22 (g) An intergovernmental, interagency, or intra-agency memo-
23 randum, directive, or communication that does not affect the
24 rights of, or THE procedures and practices available to, the
25 public.

26 (h) A form with instructions, an interpretive statement, a
27 guideline, an informational pamphlet, or other material that in

1 itself does not have the force and effect of law but is merely
2 explanatory.

3 (i) A declaratory ruling or other disposition of a particu-
4 lar matter as applied to a specific set of facts involved.

5 (j) A decision by an agency to exercise or not to exercise a
6 permissive statutory power, although private rights or interests
7 are affected.

8 (k) Unless another statute requires a rule to be promulgated
9 under this act, a rule or policy that only concerns the inmates
10 of a state correctional facility and does not directly affect
11 other members of the public, except that a rule that only con-
12 cerns inmates ~~which~~ THAT was promulgated before December 4,
13 1986, shall be considered a rule and shall remain in effect until
14 rescinded but shall not be amended. As used in this subdivision,
15 "state correctional facility" means a facility or institution
16 that houses an inmate population under the jurisdiction of the
17 department of corrections.

18 (l) All of the following, after final approval by the cer-
19 tificate of need commission or the statewide health coordinating
20 council under section 22215 or 22217 of the public health code,
21 ~~Act No. 368 of the Public Acts of 1978, being sections 333.22215~~
22 ~~and 333.22217 of the Michigan Compiled Laws~~ 1978 PA 368, MCL
23 333.22215 AND 333.22217:

24 (i) The designation, deletion, or revision of ~~covered medi-~~
25 ~~cal equipment and~~ covered clinical services.

26 (ii) Certificate of need review standards.

1 (iii) Data reporting requirements and criteria for
2 determining health facility viability.

3 (iv) Standards used by the department of public health in
4 designating a regional certificate of need review agency.

5 (v) The modification of the 100 licensed bed limitation for
6 short-term nursing care programs set forth in section 22210 of
7 ~~Act No. 368 of the Public Acts of 1978, being section 333.22210~~
8 ~~of the Michigan Compiled Laws~~ THE PUBLIC HEALTH CODE, 1978 PA
9 368, MCL 333.22210.

10 (m) A policy developed by the family independence agency
11 under section 6(3) of the social welfare act, ~~Act No. 280 of the~~
12 ~~Public Acts of 1939, being section 400.6 of the Michigan Compiled~~
13 ~~Laws~~ 1939 PA 280, MCL 400.6, setting income and asset limits,
14 types of income and assets to be considered for eligibility, and
15 payment standards for administration of assistance programs under
16 that act.

17 (n) A policy developed by the family independence agency
18 under section 6(4) of ~~Act No. 280 of the Public Acts of 1939,~~
19 ~~being section 400.6 of the Michigan Compiled Laws~~ THE SOCIAL
20 WELFARE ACT, 1939 PA 280, MCL 400.6, to implement requirements
21 that are mandated by federal statute or regulations as a condi-
22 tion of receipt of federal funds.

23 (o) Until ~~the expiration of 12 months after the effective~~
24 ~~date of this subdivision~~ MARCH 28, 1997, a regulation issued by
25 the family independence agency under section 6(2) of ~~Act No. 280~~
26 ~~of the Public Acts of 1939~~ THE SOCIAL WELFARE ACT, 1939 PA 280,
27 MCL 400.6, setting standards and policies for the administration

1 of programs under that act. Upon ~~the expiration of 12 months~~
2 ~~after the effective date of this subdivision~~ AND AFTER MARCH 28,
3 1997, regulations described in this subdivision are not binding
4 and effective unless processed as emergency rules under
5 section 48 or promulgated in accordance with this act. This sub-
6 division does not apply to policies permanently exempted under
7 subdivisions (m) and (n).

8 (p) Beginning on ~~the effective date of the amendatory act~~
9 ~~that added this subdivision~~ MARCH 31, 1997 and until ~~3 years~~
10 ~~after that date~~ MARCH 31, 2000, the provisions of an agency's
11 contract with a public or private entity including, but not
12 limited to, the provisions of an agency's standard form
13 contract.

14 (Q) THE DATA PLAN APPROVED BY THE MICHIGAN HEALTH DATA
15 INSTITUTE AND IN EFFECT UNDER SECTION 2909 OF THE PUBLIC HEALTH
16 CODE, 1978 PA 368, MCL 333.2909.

17 Enacting section 1. This amendatory act does not take
18 effect unless all of the following bills of the 89th Legislature
19 are enacted into law:

20 (a) Senate Bill No. _____ or House Bill No. _____ (request
21 no. 02089'97).

22 (b) Senate Bill No. _____ or House Bill No. _____ (request
23 no. 02091'97).

24 (c) Senate Bill No. _____ or House Bill No. _____ (request
25 no. 02091'97 a).

26 (d) Senate Bill No. _____ or House Bill No. _____ (request
27 no. 02092'97).

02090'97