

CHAIRPERSON  
MARC THOMAS

VICE-CHAIRPERSON  
DIANNE HOLMAN

VICE-CHAIRPERSON PRO-TEM  
MIKE SEVERINO

HUMAN SERVICES COMMITTEE  
CURTIS HERTEL, JR., CHAIR  
MARK GREBNER  
REBECCA BAHAR-COOK  
ANDY SCHOR  
TIM SOULE  
MIKE SEVERINO

## **INGHAM COUNTY BOARD OF COMMISSIONERS**

*P.O. Box 319, Mason, Michigan 48854 Telephone (517) 676-7200 Fax (517) 676-7264*

THE HUMAN SERVICES COMMITTEE WILL MEET ON MONDAY, OCTOBER 1, 2007 AT 7:00 P.M., IN THE PERSONNEL CONFERENCE ROOM (D & E) OF THE HUMAN SERVICES BUILDING, 5303 S. CEDAR, LANSING.

### Agenda

Call to Order

Approval of the [September 17, 2007](#) Minutes

Additions to the Agenda

Limited Public Comment

1. Presentation – Matt Wojack, Project IMPACT (*no material*)
2. Health Department
  - a. Resolution to Authorize a Contract with [PTD Technology](#)
  - b. Resolution to Appoint Dennis Jurczak, M.D. and D. Bonta Hiscoe, M.D. as [Deputy Medical Directors](#) and Deputy Medical Examiners and to Authorize Employment Contracts
  - c. Resolution to Amend Resolution #07-118 and Amend the [Health Department Fee Schedules](#)
  - d. Discussion - Revised [Tobacco Regulation](#) and Response to Questions from Commissioners

Announcements    **PLEASE TURN OFF CELL PHONES OR OTHER ELECTRONIC**  
Public Comment    **DEVICES OR SET TO MUTE OR VIBRATE TO AVOID**  
Adjournment        **DISRUPTION DURING THE MEETING**

The County of Ingham will provide necessary reasonable auxiliary aids and services, such as interpreters for the hearing impaired and audio tapes of printed materials being considered at the meeting for the visually impaired, for individuals with disabilities at the meeting upon five (5) working days notice to the County of Ingham. Individuals with disabilities requiring auxiliary aids or services should contact the County of Ingham in writing or by calling the following: Ingham County Board of Commissioners, P.O. Box 319, Mason, MI 48854 Phone: (517) 676-7200. A quorum of the Board of Commissioners may be in attendance at this meeting. Meeting information is also available on line at [www.ingham.org](http://www.ingham.org)

**HUMAN SERVICES**  
September 17, 2007  
Minutes

Members Present: Curtis Hertel, Mark Grebner, Rebecca Bahar-Cook, Tim Soule and Board Chairperson Mark Thomas

Members Absent: Andy Schor and Mike Severino

Others Present: Jared Cypher and Dr. Sienko

The meeting was called to order by Chairperson Hertel at 7:06 p.m. in the Personnel Conference Room of the Human Services Building, 5303 S. Cedar, Lansing.

Approval of the August 20, 2007 Minutes and August 20, 2007 Executive Session Minutes

MOVED BY COMM. SOULE, SUPPORTED BY COMM. GREBNER, TO APPROVE THE AUGUST 20 MINUTES AND THE AUGUST 20 EXECUTIVE SESSION MINUTES AS SUBMITTED. MOTION CARRIED UNANIMOUSLY. Absent: Comms. Schor and Severino

Additions to the Agenda

2. Revised Information

Limited Public Comment: None

MOVED BY COMM. BAHAR-COOK, SUPPORTED BY COMM. SOULE, TO APPROVE A CONSENT AGENDA FOR THE FOLLOWING ITEMS:

1. Health Department
  - c. Resolution to Authorize a 2007-2008 Agreement with the Michigan Department of Community Health for the Delivery of Public Health Services Under the Comprehensive Planning, Budgeting and Contracting (CPBC) Process
  - d. Resolution to Authorize an Agreement with the Shiawassee Community Mental Health Authority
  - e. Resolution to Authorize an Agreement with the Shiawassee Regional Education Services District
2. Capital Area Transportation Authority – Resolution Authorizing the Second Amendment to the Agreement with the Capital Area Transportation Authority Dated January 1, 2006 through December 31, 2010

MOTION CARRIED UNANIMOUSLY. Absent: Comms. Schor and Severino

MOVED BY COMM. BAHAR-COOK, SUPPORTED BY COMM. SOULE, TO APPROVE THE ITEMS ON THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. Absent: Comms. Schor and Severino

1. Health Department
  - a. Discussion Item – Proposed Sanitary Code Amendment and Language of Proposed Sign to Refer Complaints of Alleged Food Borne Illnesses

Dr. Sienko explained that Comm. Schor contacted him regarding the food borne illness issue. Comm. Schor would like to amend the Sanitary Code to require restaurants to contact the Health Department when a patron becomes sick after eating in their establishments. Dr. Sienko stated amending the Code would require this Committee to hold a public hearing. Amending the Code would result in the Health Department having more complete information regarding the people who become ill from eating at a restaurant.

Dr. Sienko stated the proposed amendment language is contained in the agenda material. He then asked if this Committee would like to proceed with the amendment by first holding a public hearing. After a brief discussion, the Committee consented to holding a public hearing. Comm. Grebner stated the Michigan Restaurant Association, Lansing Area Chamber of Commerce and the Lansing Convention Center should be notified of the public hearing once the date has been determined.

CHAIRPERSON HERTEL DISCLOSED THAT THE MICHIGAN RESTAURANT ASSOCIATION HAS DONATED TO HIS CURRENT AND PAST CAMPAIGNS. THE LANSING AREA CHAMBER OF COMMERCE MAY ALSO HAVE CONTRIBUTED TO HIS PAST CAMPAIGNS.

BOARD CHAIRPERSON THOMAS DISCLOSED THAT THE LANSING AREA CHAMBER OF COMMERCE HAS ENSORSED HIM IN PAST CAMPAIGNS.

COMM. BAHAR-COOK DISCLOSED THAT SHE HAS RECEIVED ENDORSEMENTS FROM THE MICHIGAN RESTAURANT ASSOCIATION AND THE LANSING AREA CHAMBER OF COMMERCE IN PAST CAMPAIGNS.

b. Discussion Item – HIV Post-Test Counseling

Dr. Sienko stated if the Health Department encounters a patient who tests positively for HIV, that person has an obligation to inform each of his or her partners of this fact prior to engaging in a sexual act. The Health Department is committed to preventing the spread of HIV within our community.

The Department has asked patients to sign a form which acknowledges that a Department Counselor has informed them of their legal obligations and to also demonstrate that the Health Department has fulfilled its legal mandate.

Dr. Sienko stated that until last month, the Department has not received any complaints about the form. Media has recently questioned the use of this form. Now some people do not want to be tested for HIV. Dr. Sienko explained that the Health Department has eliminated the contract language in the form and it has been adjusted. HIV Counselors now sign a progress report to acknowledge that the appropriate information has been supplied to the patients. The patients receive information which describes their legal obligations to prevent the spread of HIV.

Comm. Bahar-Cook asked if the appropriate agencies have been notified of the above changes. Dr. Sienko indicated the agencies have been notified. Chairperson Hertel asked if the Department has spoken with the ACLU representative. Dr. Sienko stated he has not spoken with the representative; however, he worked with the County Attorney to determine which entities should be notified of the changes. He further explained that previous signed documents will be kept confidential.

Comm. Grebner suggested the Health Department summarize the law for distribution to the patients. The actual

law should also be provided to the patients.

Comm. Bahar-Cook commended Dr. Sienko for responding to the concerns quickly. Chairperson Hertel stated the Department should publicize future changes for the benefit of the people who will be affected by such changes.

Announcements

Comm. Grebner stated Comm. Schor has raised some concerns regarding CATA in the past. Those concerns have been resolved. He then stated if any of the Commissioners have concerns regarding CATA, CATA is more than willing to discuss and resolve those concerns.

Public Comment: None

The meeting adjourned at 7:30 p.m.

Respectfully submitted,

Debra Neff

RESOLUTION STAFF REVIEW

DATE September 21, 2007

Agenda Item Title: Resolution to Authorize a Contract with PTD Technology

Submitted by: Health Department

Committees: LE\_\_\_, JD\_\_\_, HS\_\_\_\*, CS\_\_\_\*, Finance \_\_\_\*

**Summary of Proposed Action:** (See the attached letter of explanation.)

This resolution will authorize a contract with PTD Technology to create a proprietary member management system to support the operations of the Bureau of Health Plan Management Services (HPMS).

The new system is necessary because the original member management system was not created to support the volume or complexity of operations the Bureau now administers. HPMS has expanded its business to 17 County Health Plans in 54 counties covering 75,000 lives which produces over \$3 million in revenue.

**Financial Implications:**

The Board of Commissioners authorized \$200,000 in the Capital Improvement Project Budget to upgrade the information infrastructure for Health Plan Management Services in Resolution #06-123, of which \$100,000 will be designated for this contract.

**Other Implications:**

A review committee consisting of MIS and Health Plan Management Services staff concluded that PTD Technology was the best vendor for this contract.

**Staff Recommendation:** MM\_\_\_ JN\_\_\_ TL\_\_\_ TM\_\_\_ JC X

Staff recommends approval of the resolution. As required by the Board Ethics Policy, the role of the Board is to accept or reject the recommendation. If the recommendation is rejected, the committee should state the reason(s) for the rejection and instruct the staff to review the recommendation.

## MEMORANDUM

To: Human Services Committee  
County Services  
Finance Committee

From: Dean Sienko

Date: September 21, 2007

Subject: Recommendation to Authorize a Contract with PTD Technology

This is a recommendation to authorize a contract with PTD Technology to create a proprietary member management system to support the operations of the Bureau of Health Plan Management Services (HPMS). HPMS has expanded its business to 17 County Health Plans in 54 counties covering 75,000 lives which produces over \$3 million in revenue.

The original member management system was not created to support the volume or complexity of operations the Bureau now administers. This renovation of the member management system has been planned and expected for almost two years. The Board of Commissioners allocated \$200,000 for technology improvements for Health Plan Management Services in resolution #06-123.

The member management system houses all County Health Plan members' demographic, coverage, case management, medical, pharmacy, and other protected health information. In addition, the system also provides pharmacy, medical, and enrollment reporting tools for various users throughout the state.

Due to the unique nature of County Health Plans and Health Plan Management Services' operations, a custom proprietary system is required to allow for future customization, flexibility, and scalability without major system recreation. With these requirements in mind, a RFP was released and three proposals were received. A review committee consisting of MIS and Health Plan Management Services staff concluded that PTD Technology was the best vendor for this contract.

I, with the support of the MIS Director, recommend the Board of Commissioners adopt the attached resolution and authorize a contract with PTD Technology.

Attachment

**COUNTY OF INGHAM**  
**Purchasing Department**

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121 East Maple Street  
Mason, Michigan 48854  
Telephone: 517-676-7307  
Fax: 517-676-7230  
[jvalentine@ingham.org](mailto:jvalentine@ingham.org)

Recommendation to Enter Into Contract with PTD Technology

Project: Consultation and Development for Proprietary Patient Management System

Proposal Summary:

Vendors Contacted: 5                      Local: 5  
Vendors Responding: 3                      Local: 3  
Vendors notified by US Mail, advertisement in Lansing State Journal, advertisement in The Chronicle and posted on the Ingham County Purchasing website.

The following firms submitted proposals:

<u>Firm</u>	<u>Local</u>
Computer Data	Yes
PTD Technology	Yes
Spartan Internet	Yes

Recommendation: It is the recommendation of the Evaluation Committee in concurrence with the Purchasing Department to award a contract to PTD Technology for consultation and development for a proprietary member management system. The Evaluation Committee considered the following: completeness of proposal; satisfactorily completed the questionnaire; quality of proposal; pricing; value added services and or qualities.

Janeil Valentine  
Purchasing Department  
517-676-7307

Introduced by the Human Services, County Services, and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

**RESOLUTION TO AUTHORIZE A CONTRACT WITH PTD TECHNOLOGY**

WHEREAS, the Bureau of Health Plan Management Services of the Health Department now serves 17 County Health Plans in 54 counties covering approximately 75,000 lives through contracts with health plan corporations in those communities; and

WHEREAS, the operations of such a large number of covered lives is a complex business which requires utilization of specially designed software (member management system); and

WHEREAS, the existing member management system software was implemented in 2001 and lacks the functionality and scalability to manage unique programs in an efficient way; and

WHEREAS, the member management system is the core upon which all of the Health Plan Management Services operations are based, which result in over \$3 million in annual revenue; and

WHEREAS, the County has conducted a request for proposal process resulting in the Health Department and MIS staff recommending that the County contract with PTD Technology to create a proprietary member management system; and

WHEREAS, the Board of Commissioners authorized \$200,000 in the Capital Improvement Project Budget to upgrade the information infrastructure for Health Plan Management Services in Resolution #06-123, of which \$100,000 will be designated for this contract; and

WHEREAS, the Health Officer, with the support of the MIS Director, recommends that the Board of Commissioners authorize a contract with PTD Technology to create a proprietary member management system for Health Plan Management Services.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners authorizes a contract with PTD Technology to create a proprietary member management system.

BE IT FURTHER RESOLVED, the cost to create the proprietary member management system for Health Plan Management Services shall not exceed \$100,000.

BE IT FURTHER RESOLVED, that the Chairperson of the Board of Commissioners is authorized to sign the agreement after review by the County Attorney.



**Agenda Item 2b**

**RESOLUTION STAFF REVIEW**

**DATE** September 21, 2007

**Agenda Item Title:** Resolution to Appoint Dennis Jurczak, M.D. and D. Bonta Hiscoe, M.D. as Deputy Medical Directors and Deputy Medical Examiners and to Authorize Employment Contracts

**Submitted by:** Health Department

**Committees:** LE \_\_\_\_, JD \_\_\_\_, HS \_\_\*, CS \_\_\*, Finance \_\_\*

**Summary of Proposed Action:** (See the attached letter of explanation.)

This resolution authorizes employment contracts with Dennis Jurczak, M.D. and D. Bonta Hiscoe, M.D. to serve as Deputy Medical Directors and Deputy Medical Examiners for the time period of October 1, 2007 through September 30, 2008.

**Financial Implications:**

The recommendation includes a two and one-half percent increase in compensation, from \$67.40 per hour to \$69.08 per hour. They will be compensated by wages only, although the County will treat them as temporary employees and will contribute its share of FICA and provide for workers compensation, and additionally makes deductions for federal and state income taxes and for the employee's share of FICA. The County will provide for professional liability insurance coverage.

**Other Implications:**

None.

**Staff Recommendation:** MM \_\_ JN \_\_ TL \_\_ TM \_\_ JC X

Staff recommends approval of the resolution.

## MEMORANDUM

To: Human Services Committee  
County Services Committee  
Finance Committee

From: Dean G. Sienko, M.D., Health Officer

Date: September 25, 2007

Subject: Recommendation to Authorize Employment Contracts with Dennis Jurczak, M.D. and D. Bonta Hiscoe, M.D.

This is a recommendation to authorize employment contracts with Dennis Jurczak, M.D. and D. Bonta Hiscoe, M.D. The recommendation is that Dr. Jurczak serves as Deputy Medical Director of the Health Department and Chief Deputy Medical Examiner; he is separately appointed as a Deputy Medical Examiner. In the role of Chief Deputy Medical Examiner, Dr. Jurczak provides direction to the Medical Examiner's Office during the absence of Dr. Dean Sienko, Ingham County Medical Examiner. The recommendation is that Dr. Hiscoe will serve as a Deputy Medical Director of the Health Department; he is separately appointed as a Deputy Medical Examiner.

Dr. Jurczak and Dr. Hiscoe will assist Dr. Sienko in providing medical direction to the Health Department and to Ionia County Health Department under contract. They will also support the Ingham and Ionia public health preparedness efforts. The Department's 2008 budget assumes that Dr. Jurczak and Dr. Hiscoe will work a combined total of about 20 hours per week. However, their schedules are flexible and they are prepared to work additional hours when needed, and when funds are available.

The recommendation includes a two and one-half percent increase in compensation, from \$67.40 per hour to \$69.08 per hour. They will be compensated by wages only, although the County will treat them as temporary employees and will contribute its share of FICA and provide for workers compensation, and additionally makes deductions for federal and state income taxes and for the employee's share of FICA. The County will provide for professional liability insurance coverage.

When Dr. Jurczak and Dr. Hiscoe take on-call duties as Deputy Medical Examiners, they will be additionally compensated in accordance with the resolution setting out term of appointment and compensation for Deputy Medical Examiners.

I recommend that the Board of Commissioners adopt the attached resolution and authorize the employment contracts with Dennis Jurczak, M.D. and D. Bonta Hiscoe, M.D.

Attachment

c: John Jacobs w/attachment  
Dennis Jurczak, M.D. w/attachment  
D. Bonta Hiscoe, M.D. w/attachment

Introduced by the Human Services, County Services and Finance Committees of the:

**INGHAM COUNTY BOARD OF COMMISSIONERS**

**RESOLUTION TO APPOINT DENNIS JURCZAK, M.D. AND D. BONTA HISCOE,  
M.D. AS DEPUTY MEDICAL DIRECTORS AND DEPUTY MEDICAL EXAMINERS  
AND TO AUTHORIZE EMPLOYMENT CONTRACTS**

WHEREAS, Dennis Jurczak, M.D. and D. Bonta Hiscoe, M.D. have served as Deputy Medical Directors for the Ingham County Health Department, and they have been appointed by the Board of Commissioners as Deputy Medical Examiners; and

WHEREAS, the employment contracts with Dr. Jurczak and Dr. Hiscoe will expire on September 30, 2007; and

WHEREAS, the Health Officer and Medical Director/Medical Examiner recommend that the Board of Commissioners authorize employment contracts with Dr. Jurczak and with Dr. Hiscoe for the period October 1, 2007 through September 30, 2008.

THEREFORE BE IT RESOLVED, that the Ingham County Board of Commissioners authorizes an employment contract with Dennis Jurczak, M.D., 5564 Bayonne, Haslett, Michigan and appoints Dr. Jurczak as a Deputy Medical Director in the Ingham County Health Department and as the Chief Deputy Medical Examiner.

BE IT FURTHER RESOLVED, that the Board of Commissioners authorizes an employment contract with D. Bonta Hiscoe, 1817 Walnut Heights Dr., East Lansing, Michigan and appoints Dr. Hiscoe as a Deputy Medical Director in the Health Department.

BE IT FURTHER RESOLVED, that Dr. Jurczak and Dr. Hiscoe shall be compensated at the rate of \$69.08 per hour, not to exceed a combined total of 1,500 hours during the contract period.

BE IT FURTHER RESOLVED, that for purposes of benefits, Dr. Jurczak and Dr. Hiscoe shall be treated as temporary employees.

BE IT FURTHER RESOLVED, that Dr. Jurczak and Dr. Hiscoe shall receive direction from the Medical Director/Medical Examiner, and in the absence of the Medical Director/Medical Examiner from the Health Department Director.

BE IT FURTHER RESOLVED, that while serving as Deputy Medical Examiners, compensation shall be in accordance with the resolution establishing term of appointment and compensation for Deputy Medical Examiners.

BE IT FURTHER RESOLVED, that the Board Chairperson is authorized to sign the employment contracts after review by the County Attorney.

**RESOLUTION STAFF REVIEW**

**DATE** September 24, 2007

**Agenda Item Title:** Resolution to Amend Resolution #07-118 and Amend the Health Department Fee Schedules

**Submitted by:** Health Department

**Committees:** LE \_\_\_\_, JD \_\_\_\_, HS \_\_\*\_\_, CS \_\_\_\_, Finance \_\_\*

**Summary of Proposed Action:** (See the attached letter of explanation.)

This resolution adjusts the fee schedule adopted in Resolution #07-118 by raising the fee for an influenza vaccination to \$30.00.

As of July 1, 2007 Medicare has set the reimbursement for an influenza vaccination at \$31.10. This is considerably higher than the \$27.00 set in Resolution #07-118.

It is expected that nearly half of those who seek a vaccination will be on Medicare, and more than four out of five are expected to have some kind of coverage for their shot. For the approximately 1,700 people who will have to pay this fee out-of-pocket, it is the intention of the Health Department to apply a sliding fee based on ability to pay.

**Financial Implications:**

The influenza vaccination fee will be increased from \$27 to \$30 effective October 1, 2007. This will generate approximately \$7,500 additional revenue.

**Other Implications:**

None.

**Staff Recommendation:** MM\_\_ JN\_\_ TL\_\_ TM\_\_ JC\_\_ X

Staff recommends approval of the resolution.

## MEMORANDUM

To: Human Services Committee  
Finance Committee

From: Dean Sienko, M.D.

Date: September 25, 2007

Subject: Recommendation to Adjust Influenza Fee

This is a recommendation to adjust the fee schedule adopted in Resolution No. 07-118 by raising the fee for an influenza vaccination to \$30.00.

As of July 1, 2007 Medicare has set the reimbursement for an influenza vaccination at \$31.10. This is considerably higher than the \$27.00 set in Resolution No. 07-118.

Most providers in the community now charge \$30.00 for influenza. The range is from \$27.00 to \$35.00 with the average being \$30.00. An increase in our charge will not be a hardship for most people seeking a "flu shot." We expect nearly half of those who seek a vaccination to be on Medicare, and more than four out of five are expected to have some kind of coverage for their shot. For the approximately 1,700 people who will have to pay out-of-pocket it is our intention to apply a sliding fee based on ability to pay.

I recommend that the Board adopt the attached resolution to authorize the amendment to resolution No. 07-118 and the Health Department's fee schedules.

Attachment

c: John Jacobs w/attachment  
Renee Canady w/attachment  
Judy Williams w/attachment

Introduced by the Human Services and Finance Committees of the:

INGHAM COUNTY BOARD OF COMMISSIONERS

**RESOLUTION TO AMEND RESOLUTION #07-118 AND AMEND THE HEALTH DEPARTMENT FEE SCHEDULES**

WHEREAS, the Ingham County Board of Commissioners adopted a set of fee schedules for the Health Department to be effective October 1, 2007 which set the charge for an influenza vaccination at \$27.00; and

WHEREAS, the Board of Commissioners has authority under the Public Health Code to establish fees for services provided by the Health Department; and

WHEREAS, the Medicare reimbursement for influenza established July 1, 2007 is \$31.10; and

WHEREAS, the prevailing charge in the community ranges from \$27.00 to \$35.00 with the average being \$30.00; and

WHEREAS, the majority of people who receive vaccinations at the Ingham County Health Department have some form of insurance or else shall be charged on a sliding fee based on ability to pay; and

WHEREAS, the Health Officer has recommended that the influenza fee be increased, and has advised that the proposed fee does not exceed a reasonable cost for providing this service.

THEREFORE BE IT RESOLVED, that Resolution #07-118 is hereby amended and that the influenza fees be increased from \$27 to \$30 effective October 1, 2007.



**INGHAM COUNTY, MICHIGAN  
REGULATION ELIMINATING SMOKING  
IN PUBLIC AND PRIVATE WORKSITES AMENDED TO CONTROL AIR CONTAMINATION  
BY TOBACCO USE IN RESTAURANTS AND BARS**

**Sec. 1000. Title**

This article shall be known as the Ingham County Clean Air Regulation.

**Sec. 1001. Authority**

This regulation is hereby adopted pursuant to authority conferred upon local health departments by the Michigan Public Health Code, 1978 P.A. 368, as amended.

**Sec. 1002. Jurisdiction and Administration**

A. This regulation shall have effect throughout Ingham County in all areas incorporated and unincorporated, which includes cities, villages, and townships.

B. The Health Officer shall have responsibility for administering and enforcing this regulation, including all amendments hereafter adopted unless otherwise specifically stated.

C. This Regulation shall apply to any public accommodation or business enterprise operating as a food service establishment as covered by Section 33.12905 of the Michigan Public Health Code, 1978 P.A. 368, as amended inasmuch as said law provides that all public areas of food service establishments shall be nonsmoking, except for certain areas which may be designated as seating for smokers, and shall clearly designate and maintain the nonsmoking areas.

D. In order to protect employees and members of the general public from avoidable exposure to the byproducts of tobacco combustion, the Ingham County Board of Commissioners authorizes and directs the County Health Department to devise and implement policies and requirements to effectively protect the air in nonsmoking areas of food service establishments from contamination from secondhand smoke.

**Sec. 1003. Purpose**

A. Ingham County hereby finds and declares that:

1. The U.S. Surgeon General, National Research Council, and National Academy of Sciences, report that environmental tobacco smoke: causes lung cancer in healthy adult nonsmokers, can cause lung function and structure alteration to the fetus of pregnant non smoking women. Additionally, in utero exposure is known to predispose children to long-term pulmonary risks. Further, these agencies found, separating smokers and nonsmokers within the same air space may reduce but does not eliminate a nonsmoker's exposure to environmental tobacco smoke.
2. The U.S. Environmental Protection Agency (EPA) finds that environmental tobacco smoke is a

Group A Carcinogen - a category reserved for known cancer-causing agents in humans.

3. The National Institute for Occupational Safety and Health (NIOSH):

- (a) finds that secondhand smoke poses an increased risk of lung cancer and, possibly, heart disease to people exposed in the worksite,
- (b) recommends that nonsmokers should not be exposed to secondhand smoke, and
- (c) finds that nonsmokers can be protected by elimination of smoking in the building, or establishing separately ventilated smoking areas that exhaust directly to the outside.

B. These studies find that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease, including cancer, heart disease and stroke in nonsmokers. At special risk are infants, children, teens, pregnant women, elderly people, nonsmokers with long-term exposure to secondhand smoke, individuals with cardiovascular disease, and individuals with impaired respiratory function, including the young, asthmatics and those with obstructive airway disease. Also harmed are those with health conditions induced by breathing secondhand smoke including asthma, lung cancer, heart disease, respiratory infection, decreased respiratory function, including bronchoconstriction and broncho-spasm.

C. Accordingly, Ingham County finds and declares that the purpose of this regulation is to protect the public health and welfare by regulating smoking in public places and places of employment and recreation.

**Sec. 1004. Definitions**

A. The following words and phrases, whenever used in this regulation, shall be constructed as defined in this section:

1. "Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.
2. "Convention Hall" means any enclosed area where public or private groups assemble to engage in business or social functions.
3. "Employee" means any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.
4. "Employer" means any person, partnership, corporation, including a municipal corporation, or non-profit entity, who employs the services of one or more individual persons.
5. "Enclosed Area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, office landscaping or similar structures.

6. "Food Service Establishments" means a fixed or mobile restaurant, coffee shop, cafeteria, short order café, 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 does not include: i) a motel that serves continental breakfasts only; ii) a food concession; iii) a bed and breakfast that has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper; iv) a bed and breakfast that has at least 11 but fewer than 15 rooms for rent, if the bed and breakfast serves continental breakfasts only; or v) a child care organization regulated by Michigan law unless the establishment is

carrying out an operation considered by the State of Michigan to be a food service establishment.

7. "Plan Submission Approval" refers to food services establishment renovation procedures and guidelines outlined in the Michigan Food Law.

8. "Public Place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, retail food production and marketing establishments, retail service establishments, retail stores, theaters and waiting rooms. A private residence is not a "public place."

9. "Tobacco Specialty Store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

10. "Service Line" means any indoor line at which one (1) or more persons are waiting for or receiving services of any kind, whether or not such service involves the exchange of money.

11. "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette or pipe.

12. "Sports Arena" means sport pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar enclosed areas where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events, excluding facilities licensed as a food service establishment.

13. "Worksite" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias and hallways. A private residence is not a "worksite" unless it is used as a child care, adult day care or health care facility.

#### **Sec. 1005. Prohibition of Environmental Tobacco Smoke exposure in Worksites, Restaurants, Bars and other Food Service Establishments**

A. Prohibition of Smoking in Public and Private Worksites. Smoking shall be prohibited in all enclosed public and private worksites within Ingham County, including but not limited to, the following places:

1. Restrooms, lobbies, reception areas, hallways and any other common-use areas.
2. Buses, taxicabs, and other means of public transit under the authority of the County of Ingham, and ticket, boarding, and waiting areas of public transit depots.
3. Service lines.
4. Retail stores.
5. All areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public, including but not limited to, attorneys' offices and other office, banks and laundromats.
6. All areas of galleries, libraries and museums.
7. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except performers when smoking is part of a stage production.
8. Sports arenas.
9. Convention Halls.
10. Public and private meeting facilities.
11. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of Ingham County or any political subdivision of the State of Michigan, to the extent such location is subject to the jurisdiction of Ingham County.
12. Waiting rooms, hallways, wards and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.
13. Lobbies, hallways, and other common areas in : hotels, motels, multiple-tenant office buildings and malls, apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities.
14. On the premises of child care centers and child care institutions.
15. On the premises of family and group day care homes for children during hours of operation of the family and group day care homes.

**B. Requirements for Protecting Air Quality in Restaurants, Bars and other Food Service Establishments, which have Designated Smoking and Nonsmoking Areas**

- 1. Notwithstanding any other provisions of this regulation, any restaurant, bar and/or other food service establishment covered by Section 333.12905 of the Michigan Public Health Code, 1978 P.A. 368, as amended, shall be required to protect the air quality in any areas**

**of said establishment designated for nonsmokers, pursuant to the following provisions:**

**(a) New establishments and existing establishments planning major renovations shall be required to make application to the Ingham County Health Department for the Plan Review Process, as required for licensure under Michigan Food Law. Said application shall set forth measures to protect air quality in nonsmoking areas of said establishment, including the procedures the establishment will follow, to assure that nonsmoking areas are free of environmental tobacco smoke, and describing any systems or equipment that will be utilized for this purpose and the maintenance program for said equipment.**

(b) The Ingham County Health Department shall review said application and shall issue a food service establishment license upon determination that the measures and procedures set forth in said application are expected to protect against contamination from secondhand smoke in non-smoking areas, and that there exist reasonable means to verify that the proposed measures and procedures are being followed.

(c) An application that states that all areas of the establishment are to be nonsmoking, and that meet the requirements for licensing, shall be deemed sufficient for the issuance of the food service establishment license.

#### **Sec. 1006. Application of Regulation**

Notwithstanding any other provision of this regulation, any owner, operator, manager or other person who controls any establishment or facility may declare that entire establishment or facility as a nonsmoking establishment. This applies to governmental offices of and in Ingham County.

#### **Sec. 1007. Prohibition of Smoking in Places of Employment**

A. It shall be the responsibility of employers to provide a smoke-free worksite as set forth in this regulation.

B. Notwithstanding any other provision of this regulation, an employer may designate a smoking room for employees, provided such area is a separate enclosed area and is separately ventilated so that smoke does not enter other non-smoking areas of the worksite; and, further provided that the employer shall simultaneously designate an equivalent non-smoking room for employees. The provisions of this section do not include municipal or other governmental employers.

C. Within 90 days of the effective date of this regulation, each employer having an enclosed place of employment located within Ingham County shall adopt, implement, make known and maintain a written smoking policy. If a current policy does not exist, the policy shall contain, at a minimum, the following wording:

Smoking is prohibited in all enclosed areas within this worksite except in designated areas. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, employer owned vehicles, and all other enclosed facilities.

D. The smoking policy shall be communicated to all current employees at least three (3) weeks prior to its effective date, and at the time of employment of all other employees.

E. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.

#### **Sec. 1008. Where Smoking is Not Regulated**

A. Notwithstanding any other provision of this regulation to the contrary, the following areas shall not be subject to the smoking restrictions of this regulation.

1. Private residences, except when used as a child care, health care facility or adult day care facility.
2. Hotel and motel rooms rented to guests.
3. Tobacco specialty stores.
4. Hotel and motel meeting rooms or assembly halls while these places are enclosed areas, and being used for private functions.
5. A worksite used by a single business owner which does not ordinarily have public or employee interactions at the site, and does not share a ventilation system with any other worksite.

#### **Sec. 1009. Posting of Signs**

A. "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted where they can be observed by all persons entering the building. The signage shall be posted by the owner, operator, manager or other person having control of such building or other area.

B. Every public place where smoking is regulated shall have signs posted clearly, stating where smoking is prohibited.

C. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this regulation by the owner, operator, manager or other person having control of such area.

D. The Health Department shall provide a supply of standard signage which shall be available at cost.

#### **Sec. 1010. Enforcement**

A. Enforcement for Public and Private Worksites

1. Enforcement of this regulation shall be implemented by the Health Officer, or his or her designee.
2. Notice of the provisions set forth in this regulation shall be given to all applicants for a business

license in Ingham County.

3. Any citizen who desires to register a complaint under this chapter may initiate enforcement through the Health Officer, or his or her designated staff. However, if the complaint is against an employer, the employee shall first exhaust internal procedures.
4. The Health Department or the Fire Department shall require, while an establishment is undergoing otherwise mandated inspections, a "self-certification" from the owner, manager, operator or other person having control of such establishment that all requirements of this regulation have been complied with.
5. Any owner, manager, operator or employee of any establishment regulated by this regulation shall inform persons who are violating this regulation.
6. After exhausting an employer's internal procedures and the Health Department Administrative Rules, a private citizen may bring legal action against any employer to enforce this regulation.

#### B. Enforcement for Restaurants, Bars and other Food Service Establishments

1. In addition to any other provisions of this regulation, as it applies to any restaurant, bar, and/or other food service establishment covered by Section 333.12905 of the Michigan Public Health Code, 1978 P.A. 368, as amended, the enforcement of this regulation shall be implemented as follows by the Health Officer in order to ameliorate the problem of contamination of air in non-smoking areas of restaurants, bars and other food services establishments in which smoking is allowed in other areas.
2. Inspection of food service establishments for the purposes of determining compliance with this regulation may be made by the Ingham County Health Department staff during routine food services inspections or as a separate Clean Air Regulation inspection, announced or unannounced, or in response to a citizen complaint.
3. In designating a smoke-free area, it is the business owner's responsibility to assure that areas designated as smoke-free are free of environmental tobacco smoke. The Ingham County Health Department will evaluate the smoke-free areas; this may require evaluation by a PE Mechanical Engineer, to ascertain the effectiveness of procedures, equipment or systems used to contain secondhand smoke.
4. If upon inspection of an establishment the Health Officer determines that a nonsmoking area of the establishment is contaminated by tobacco combustion byproducts, the Health Officer shall require the implementation of such measures as necessary to ensure a smoke-free area.

#### **Sec. 1011. Nonretaliation**

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer exercises any right to a smoke-free environment afforded by this regulation.

#### **Sec. 1012. Violations and Penalties**

A. It shall be unlawful for any individual who owns, manages, operates or otherwise controls the use of any premises subject to jurisdiction under this regulation to fail to comply with any of its provisions.

B. It shall be unlawful for any individual to smoke in any area where smoking is prohibited by the provisions of this regulation. Any individual violating this section shall be subject to a warning and shall be required to leave the premises if she or he refuses to extinguish smoking materials.

C. Any individual who owns, manages, operates or otherwise controls the use of any premises subject to jurisdiction under this regulation and on whose premises a violation of any provision of this regulation occurs shall be guilty of an infraction, punishable by:

1. A warning citation for a first violation.

2. A fine not exceeding one hundred dollars (\$100) for a second violation within one (1)-year from a finding of the first violation, provided that adequate time has elapsed between the first and second violation for the alleged violator to have received notice of the first violation.

3. A fine not exceeding two hundred dollars (\$200) for a third violation of this regulation within one (1) year from a finding of the first violation.

4. A fine not exceeding five hundred dollars (\$500) for each additional violation of this regulation within one (1) year from a finding of the first violation.

D. Within twenty (20) days after receipt of a citation issued under this section, the alleged violator may appeal the citation as provided in Section 2462 of the Michigan Public Health Code, 1978 P.A. 368, as amended. Further appeals, as provided by statute, may be to the Ingham County Board of Health, or a committee thereof.

E. Notwithstanding the existence and pursuit of any other remedy, the Health Officer or his/her designee, without posting bond, may maintain an action in a court of competent jurisdiction for an injunction or other process against any person to restrain or prevent a violation of this regulation.

F. After exhausting an employer's internal procedures and the Health Department Administrative Rules, an employee or private citizen may bring legal action against an employer to enforce this regulation.

### **Sec. 1013. Public Education**

The Ingham County Health Department shall engage in a continuing program to explain and clarify the purposes and requirements of this regulation to citizens affected by it, and to guide owners, operators and managers in their compliance with it. Such program may include publication of a brochure for affected businesses and individuals explaining the provisions of this regulation.

### **Sec. 1014. Other Applicable Laws**

This regulation shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

### **Sec. 1015. Severability**



If any provision, clause, sentence or paragraph of this regulation or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are declared to be severable.

## **Sec. 1016. Effective Date**

### A. Effective Date for Public Private Worksites

1. This regulation shall be effective ninety (90) days from and after the date of its adoption and affect all public and private worksites, unless the employer provides written notification within ninety (90) days from the effective day of the regulation to the Health Officer requesting a hardship extension. Hardship extensions of up to one (1) year may be granted at the discretion of the Health Officer.
2. The adoption date of this Amended Regulation will not affect the policies of public and private worksites.

### B. Effective Date for Food Service Establishments

1. Notwithstanding any other provisions of this section, the following provisions of this subsection shall apply to restaurants, bars and other food services establishments:

(a). This regulation shall be effective ninety (90) days from and after its adoption and affect all new construction and to extensive remodeling that requires a "Plan Submission Approval" as outlined in the Michigan Food Law by the Michigan Department of Agriculture.

(b) Five years after the initial effective date of this regulation, all existing food service establishments which exceed the lowest Renewal License category established for food service establishments by the Ingham County Health Department's Bureau of Environmental Health will be regulated.

(c) Ten years after the effective date of this regulation, all food service establishments within Ingham County will fall within its terms.

(d) A food service establishment may apply to the Health Officer for a variance, citing specific economic, operational, or physical reasons that make full compliance infeasible. The application must set forth the measures and procedures the establishment proposes to implement to mitigate exposure to environmental tobacco smoke that fall short of full compliance with this regulation. A single variance of up to five years may be granted, conditioned upon implementation of specific measures or procedures approved by the Health Officer. Continued failure to comply with the conditions of the variance may result in modification or rescission of the variance.