

Dr. Remington Nevin
St. Clair County Health Department
220 Fort Street
Port Huron, MI 48060

July 8, 2025

Legal Affairs Administration
Department of Health and Human Services
Suite 207
PO Box 30037
Lansing, MI 48909

Subject: Appeal of FOIA Request Denial – Reference # H028900-062625

I appeal the denial of my Freedom of Information Act (FOIA) request, reference number H028900-062625, submitted on June 27, 2025, and denied on July 8, 2025 (details enclosed).

My request sought records, including emails, correspondence, reports, memoranda, and agreements, pertaining to MDHHS obtaining federal approval, including from HHS or CDC, for the use of Michigan-specific Vaccine Information Statements (VIS), as referenced in MDHHS response H028881-062525 (enclosed), which stated "Michigan worked with CDC several years ago to obtain permission to add a MCIR statement on the VIS."

MDHHS denied the request, stating that the "approval took place in 1995, and the Department no longer has those records."

The denial is incorrect. Responsive records exist for the following reasons:

- 1. Acknowledgment of the Event:** MDHHS explicitly stated that the approval took place in 1995. This acknowledgment indicates that such an event occurred and, therefore, records related to this approval must have been created at that time. Even if the original records from 1995 are no longer available, subsequent records that reference or rely on this approval, such as internal memoranda, policy documents, or communications with healthcare providers, likely exist.
- 2. Institutional Knowledge and Potential Communications:** The ability of MDHHS to specify the exact year (1995) of the approval suggests that this information is part of the agency's institutional knowledge, likely derived from documentation or record-keeping. If this information was obtained through consultation with another employee or department, any such consultation or communication could itself constitute a responsive record. For example, if the FOIA office emailed a staff member in the immunization office with knowledge of this event, this email and response would constitute responsive records.



Elizabeth King, RN, BSN
Director/Health Officer

Greg Brown, BS
Administrator

Remington Nevin, MD, MPH, DrPH
Medical Director

3. **Ongoing Use of VIS:** Since the Michigan-specific VIS are still in use and are claimed by MDHHS to be federally approved, documentation or records must support this ongoing approval status. This could include correspondence with the CDC, internal memoranda, policy documents, or training materials that reference the original approval or subsequent ongoing approvals. The alternative is that, if no subsequent records exist, MDHHS has been mandating use of state-specific VIS based upon a 30-year-old approval that may very well have been voided by subsequent federal action.

4. **Michigan Records Retention Requirements:** Under Michigan's records retention requirements, as outlined by the Department of Technology, Management & Budget (DTMB) and the Archives of Michigan, state agencies must retain records for specified periods based on their administrative, fiscal, legal, and historical value. Records related to significant events, such as obtaining federal approvals, are likely to have extended retention periods or be designated as permanent records. Therefore, records pertaining to the 1995 approval of Michigan-specific VIS likely still exist, either within MDHHS or in the State Archives.

MDHHS must conduct a thorough search for records related to the 1995 approval of Michigan-specific VIS, including but not limited to:

- Correspondence with the CDC or other federal agencies regarding the approval.
- Internal memoranda, emails, or other communications discussing the approval process.
- Policy documents, procedures, or training materials that reference the federal approval of Michigan VIS.
- Records that mention or reference the 1995 approval, even if created after 1995.

MDHHS must provide a detailed explanation of the searches conducted to determine that no records exist, including specific locations searched (e.g., electronic databases, physical archives) and search terms used.

If, after a thorough search, MDHHS maintains that no responsive records exist, the right to pursue further legal action is reserved.

Sincerely,



Dr. Remington Nevin
Medical Director
St. Clair County Health Department

Enclosures as described

✉ On 7/24/2025 3:33:54 PM, MDHHS FOIA Records Center wrote:

Subject: MDHHS FOIA Request :: H028900-062625

Body:

RE: Public Records Request, Reference # H028900-062625.

Dear Dr. Nevin,

This notice is issued in response to your 07/10/2025 appeal regarding the Department's 07/08/2025 denial of your Freedom of Information Act (FOIA) request.

The Department is upholding the denial.

As previously stated in the denial, the records you requested were created in 1995 and are past the Department's retention schedule. In your appeal you state "subsequent" records might reference the federal approval of the Michigan Vaccine Information Statements (VIS). But your original request sought only records pertaining to obtaining federal approval, and those records would be past the retention schedule. Even upon further search, however, **the department does not have subsequent records that reference the federal approval.**

Your appeal also asserts that the communication between a department FOIA staff member and the department's immunization office might be responsive to your FOIA request. Any such communications are not records pertaining to the department obtaining federal approval of the Michigan VIS. Similarly, your appeal asserts that records must support the ongoing approval status. Your FOIA request sought records pertaining to obtaining the federal approval of the MIS and not any "ongoing" approval. **Nevertheless, the department does not have any records regarding the ongoing federal approval of the Michigan VIS.**

In addition, your appeal asserts there might be "permanent" records perhaps residing in the State Archives. **The department does not have in its possession any records, permanent or otherwise, responsive to your request.** You may send a FOIA request to the State Archives for that office to determine whether it has any such records.

The Department is obligated to inform you that under MCL 15.240(1)(b) of the FOIA you may file an action in the appropriate court within 180 days after the date of the final determination to deny the request. If you prevail in such an action, the court is to award reasonable attorney fees, costs, disbursements, and possible damages.



Matthew Rick, Senior Deputy Director
Legal Affairs Administration

✉ On 7/8/2025 2:19:30 PM, MDHHS FOIA Records Center wrote:

Subject: MDHHS FOIA Request :: H028900-062625

Body:

RE: Public Records Request, Reference # H028900-062625.

Dear Medical Director Nevin,

This notice is issued in response to your request, legally received by the Michigan Department of Health and Human Services (Department) on June 27, 2025, requesting information under the Freedom of Information Act (FOIA), MCL 15.231 *et seq.*

Your request is denied.

To the best of the Department's knowledge, information, and belief, this Department does not possess or maintain records under the description you provided or by other names reasonably known to the Department. **The approval took place in 1995, and the Department no longer has those records.**

As to the denial, the Department is obligated to inform you that under MCL 15.240 the following remedies are available:

1. Appeal this decision in writing to the Legal Affairs Administration, Department of Health and Human Services, Suite 207, PO Box 30037, Lansing, MI 48909. The writing must specifically state the word "appeal" and must identify the reason or reasons you believe the denial should be reversed. The Department must respond to your appeal within ten days of receipt. Under unusual circumstances, the time for response to your appeal may be extended by ten business days.
2. File an action in the appropriate court within 180 days after the date of the final determination to deny the request. If you prevail in such an action, the court is to award reasonable attorney fees, costs, disbursements, and possible damages.

The Department's FOIA policies and procedures are available at [Policies and Procedures](#).

Sincerely,

Bureau of Legal Affairs

✉ On 7/7/2025 9:20:48 AM, MDHHS FOIA Records Center wrote:

Subject: Extension :: H028900-062625

Body:



RE: PUBLIC RECORDS REQUEST , Reference # H028900-062625

Dear Medical Director Remington Nevin,

This notice is issued in response to your request, legally received by the Michigan Department of Health and Human Services (Department) on June 27, 2025, requesting information under the Freedom of Information Act (FOIA), MCL 15.231 *et seq.*

In order to determine what responsive records the Department might have, it is necessary to extend the time for response permitted by MCL 15.235 §5(2)(d) until July 21, 2025.

The Department's FOIA policies and procedures are available at [Policies and Procedures](#).

Sincerely,

Bureau of Legal Affairs,

Michigan Department of Health and Human Services

✉ On 6/27/2025 8:04:32 AM, MDHHS FOIA Records Center wrote:

Subject: Confirmation of FOIA Request:: H028900-062625

Body:



Dear Medical Director Nevin,

Thank you for your interest in public records of the Michigan Department of Health and Human Services (hereinafter "Department").

Records Requested: All records, including emails, correspondence, reports, memoranda, and agreements, pertaining to MDHHS obtaining federal approval, including from HHS or CDC, for the use of Michigan-specific Vaccine Information Statements (VIS), as referenced in MDHHS response H028881-062525 (enclosed), which stated "Michigan worked with CDC several years ago to obtain permission to add a MCIR statement on the VIS."

Your request has been assigned the following tracking number: H028900-062625. Your request has a legally received date of June 27, 2025. You will receive a response by the Department by July 07, 2025. Unfortunately, we are unable to expedite requests and the time permitted for response by the Department may be extended beyond July 07, 2025 by ten (10) business days.

In accordance with the Michigan Freedom of Information Act (FOIA), MCL 15.231 *et seq*, the Department provides copies of existing non-exempt records. Records which are exempt from disclosure under state or federal law will not be provided, or records may be redacted to separate exempt information. The FOIA does not require the Department to create new records or answer queries.

You can monitor the progress of your request at the [MDHHS Public Records Center](#) and you will receive an email when your request has been completed.

Regards,

Bureau of Legal Affairs,

Michigan Department of Health and Human Services

 On 6/26/2025 4:23:17 PM, Remington Nevin wrote:

Request Created on Public Portal