

**SUBSTITUTE FOR
HOUSE BILL NO. 5074**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 22215 (MCL 333.22215), as amended by 2002 PA
619.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 22215. (1) The commission shall do all of the following:
- 2 (a) If determined necessary by the commission, revise, add to,
- 3 or delete 1 or more of the covered clinical services listed in
- 4 section 22203. If the commission proposes to add to the covered
- 5 clinical services listed in section 22203, the commission shall
- 6 develop proposed review standards and make the review standards
- 7 available to the public not less than 30 days before conducting a
- 8 hearing under subsection (3).



(b) Develop, approve, disapprove, or revise certificate of need review standards that establish for purposes of section 22225 the need, if any, for the initiation, replacement, or expansion of covered clinical services, the acquisition or beginning the operation of a health facility, making changes in bed capacity, or making covered capital expenditures, including conditions, standards, assurances, or information that must be met, demonstrated, or provided by a person who applies for a certificate of need. A certificate of need review standard may also establish ongoing quality assurance requirements including any or all of the requirements specified in section 22225(2)(c). Except for nursing home and hospital long-term care unit bed review standards, ~~by January 1, 2004, the commission shall revise all certificate of need review standards to~~ **must** include a requirement that each applicant participate in title XIX of the social security act, ~~chapter 531, 49 Stat. 620, 1396r-6 and 1396r-8 to 1396v.42 USC 1396 to 1396w-6. If the commission proposes to develop, approve, disapprove, or revise certificate of need review standards under this subsection, the commission shall make the proposed review standards available to the public not less than 30 days before conducting a hearing under subsection (3).~~

(c) Direct the department to prepare and submit recommendations regarding commission duties and functions that are of interest to the commission including, but not limited to, specific modifications of proposed actions considered under this section.

(d) Approve, disapprove, or revise proposed criteria for determining health facility viability under section 22225.

(e) Annually assess the operations and effectiveness of the



1 certificate of need program based on periodic reports from the
2 department and other information available to the commission.

3 (f) By January 1 ~~, 2005, and of~~ every ~~2 years thereafter, odd~~
4 **year**, make recommendations to the joint committee regarding
5 statutory changes to improve or eliminate the certificate of need
6 program.

7 (g) Upon submission by the department, approve, disapprove, or
8 revise standards to be used by the department in designating a
9 regional certificate of need review agency ~~, pursuant to under~~
10 section 22226.

11 (h) Develop, approve, disapprove, or revise certificate of
12 need review standards governing the acquisition of new technology.

13 (i) In accordance with section 22255, approve, disapprove, or
14 revise proposed procedural rules for the certificate of need
15 program.

16 (j) Consider the recommendations of the department and the
17 department of **the** attorney general as to the administrative
18 feasibility and legality of proposed actions under subdivisions
19 (a), (b), and (c).

20 (k) Consider the impact of a proposed restriction on the
21 acquisition of or availability of covered clinical services on the
22 quality, availability, and cost of health services in this state.

23 (l) If the commission determines it necessary, appoint standard
24 advisory committees to assist in the development of proposed
25 certificate of need review standards. A standard advisory committee
26 shall complete its duties under this subdivision and submit its
27 recommendations to the commission within 6 months unless a shorter
28 period of time is specified by the commission when the standard
29 advisory committee is appointed. An individual shall serve on no



1 more than 2 standard advisory committees in any 2-year period. The
2 composition of a standard advisory committee ~~shall~~**must** not include
3 a lobbyist registered under 1978 PA 472, MCL 4.411 to 4.431, but
4 ~~shall~~**must** include all of the following:

5 (i) Experts with professional competence in the subject matter
6 of the proposed standard, who ~~shall~~**must** constitute a 2/3 majority
7 of the standard advisory committee.

8 (ii) Representatives of health care provider organizations
9 concerned with licensed health facilities or licensed health
10 professions.

11 (iii) Representatives of organizations concerned with health
12 care consumers and the purchasers and payers of health care
13 services.

14 (m) In addition to subdivision (b), review and, if necessary,
15 revise each set of certificate of need review standards at least
16 every 3 years.

17 (n) If a standard advisory committee is not appointed by the
18 commission and the commission determines it necessary, submit a
19 request to the department to engage the services of private
20 consultants or request the department to contract with any private
21 organization for professional and technical assistance and advice
22 or other services to assist the commission in carrying out its
23 duties and functions under this part.

24 (o) Within 6 months after the appointment and confirmation of
25 the 6 additional commission members under section 22211, develop,
26 approve, or revise certificate of need review standards governing
27 the increase of licensed beds in a hospital licensed under part
28 215, the physical relocation of hospital beds from 1 licensed site
29 to another geographic location, and the replacement of beds in a



1 hospital licensed under part 215.

2 (2) The commission shall exercise its duties under this part
3 to promote and ~~assure~~**ensure** all of the following:

4 (a) The availability and accessibility of quality health
5 services at a reasonable cost and within a reasonable geographic
6 proximity for all people in this state.

7 (b) Appropriate differential consideration of the health care
8 needs of residents in rural counties in ways that do not compromise
9 the quality and affordability of health care services for those
10 residents.

11 (3) Not less than 30 days before final action is taken by the
12 commission under subsection (1)(a), (b), (d), (h), or (o), the
13 commission shall conduct a public hearing on its proposed action.
14 In addition, not less than 30 days before final action is taken by
15 the commission under subsection (1)(a), (b), (d), (h), or (o), the
16 commission chairperson shall submit the proposed action and a
17 concise summary of the expected impact of the proposed action for
18 comment to each member of the joint committee. The commission shall
19 inform the joint committee of the date, time, and location of the
20 next meeting regarding the proposed action. ~~The joint committee~~
21 ~~shall promptly review the proposed action and submit its~~
22 ~~recommendations and concerns to the commission.~~

23 (4) ~~The~~**Within 30 days following a public hearing for a**
24 **proposed action, the** commission chairperson shall submit the
25 proposed final action including a concise summary of the expected
26 impact of the proposed final action **together with a copy of all**
27 **written and recorded public testimony** to the governor and each
28 member of the joint committee. The governor or the legislature may
29 disapprove the proposed final action within 45 days after the date



1 of submission. If the proposed final action is not submitted on a
 2 legislative session day, the 45 days commence on the first
 3 legislative session day after the proposed final action is
 4 submitted. The 45 days ~~shall~~**must** include not less than 9
 5 legislative session days. Legislative disapproval ~~shall~~**must** be
 6 expressed by concurrent resolution which ~~shall~~**must** be adopted by
 7 each house of the legislature. The concurrent resolution ~~shall~~**must**
 8 state specific objections to the proposed final action. A proposed
 9 final action by the commission under subsection (1)(a), (b), (d),
 10 (h), or (o) is not effective if it has been disapproved under this
 11 subsection. If the proposed final action is not disapproved under
 12 this subsection, it is effective and binding on all persons
 13 affected by this part upon the expiration of the 45-day period or
 14 on a later date specified in the proposed final action. As used in
 15 this subsection, "legislative session day" means each day in which
 16 a quorum of either the house of representatives or the senate,
 17 following a call to order, officially convenes in Lansing to
 18 conduct legislative business.

19 (5) The commission shall not develop, approve, or revise a
 20 certificate of need review standard that requires the payment of
 21 money or goods or the provision of services unrelated to the
 22 proposed project as a condition that must be satisfied by a person
 23 seeking a certificate of need for the initiation, replacement, or
 24 expansion of covered clinical services, the acquisition or
 25 beginning the operation of a health facility, making changes in bed
 26 capacity, or making covered capital expenditures. This subsection
 27 does not preclude a requirement that each applicant participate in
 28 title XIX of the social security act, ~~chapter 531, 49 Stat. 620,~~
 29 ~~1396r-6 and 1396r-8 to 1396v, 42 USC 1396 to 1396w-6,~~ or a



1 requirement that each applicant provide covered clinical services
2 to all patients regardless of his or her ability to pay.

3 (6) If the reports received under section 22221(f) indicate
4 that the certificate of need application fees collected under
5 section 20161 have not been within 10% of 3/4 the cost to the
6 department of implementing this part, the commission shall make
7 recommendations regarding the revision of those fees so that the
8 certificate of need application fees collected equal approximately
9 3/4 of the cost to the department of implementing this part.

10 (7) As used in this section, "joint committee" means the joint
11 committee created under section 22219.