

HOUSE BILL No. 4523

April 15, 1987, Introduced by Reps. Brotherton, Gnodtke, Bender, Walberg, Emmons, Munsell, Miller, Van Regenmorter, Sparks, Dobronski, Connors and Muxlow and referred to the Committee on Public Health.

A bill to amend sections 20143, 22102, 22113, 22131, 22132, and 22137 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

section 22131 as amended by Act No. 252 of the Public Acts of 1984, being sections 333.20143, 333.22102, 333.22113, 333.22131, 333.22132, and 333.22137 of the Michigan Compiled Laws; to add sections 22125, 22125a, 22125b, 22126, 22127, 22128, 22133, 22134, 22134a, 22134b, and 22138; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 20143, 22102, 22113, 22131, 22132, and
2 22137 of Act No. 368 of the Public Acts of 1978, section 22131 as
3 amended by Act No. 252 of the Public Acts of 1984, being sections
4 333.20143, 333.22102, 333.22113, 333.22131, 333.22132, and

1 333.22137 of the Michigan Compiled Laws, are amended and sections
2 22125, 22125a, 22125b, 22126, 22127, 22128, 22133, 22134, 22134a,
3 22134b, and 22138 are added to read as follows:

4 Sec. 20143. (1) If an applicant for a license or certifi-
5 cate is undertaking an activity for which a certificate of need
6 is required, a license or certificate under this part shall not
7 be issued unless the applicant is in compliance with part 221.

8 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), IN RENEWING A HOS-
9 PITAL LICENSE, THE DEPARTMENT SHALL LIMIT THE NUMBER OF BEDS TO
10 BE OPERATED BY THE HOSPITAL. THE LIMIT SHALL NOT BE MORE THAN
11 THE OCCUPIED CAPACITY PLUS 20% OF THE UNUSED CAPACITY.

12 (3) SUBSECTION (2) SHALL NOT APPLY IF THE DEPARTMENT DETER-
13 MINES ANY OF THE FOLLOWING:

14 (A) THAT THE HOSPITAL HAS FEWER THAN 100 LICENSED BEDS AND
15 IS THE ONLY HOSPITAL IN A HEALTH SERVICE AREA.

16 (B) THAT THE UNUSED CAPACITY IS 10% OR LESS OF THE AVERAGE
17 NUMBER OF LICENSED BEDS OF THE HOSPITAL.

18 (C) THAT THE HOSPITAL HAS A LEGALLY BINDING AGREEMENT WITH 1
19 OR MORE HOSPITALS IN THE HEALTH SERVICE AREA TO CLOSE AN EQUAL OR
20 GREATER NUMBER OF BEDS THAN THE NUMBER FOR WHICH A LICENSE WOULD
21 NOT BE RENEWED AS DETERMINED PURSUANT TO SUBSECTION (2).

22 (4) AS USED IN THIS SECTION:

23 (A) "OCCUPIED CAPACITY" MEANS THE NUMBER OF LICENSED BEDS
24 WHICH WERE OCCUPIED ON AN AVERAGE DAY OVER THE 36 MONTHS IMMEDI-
25 ATELY PRECEDING THE DAY WHICH IS 120 DAYS PRIOR TO THE DAY ON
26 WHICH THE LICENSE EXPIRES.

1 (B) "UNUSED CAPACITY" MEANS THE NUMBER OF LICENSED BEDS
2 WHICH WERE NOT OCCUPIED ON AN AVERAGE DAY OVER THE 36 MONTHS
3 IMMEDIATELY PRECEDING THE DAY WHICH IS 120 DAYS PRIOR TO THE DAY
4 ON WHICH THE LICENSE EXPIRES.

5 Sec. 22102. (1) "Addition" means adding patient rooms or
6 beds, ancillary service areas, or other accommodations to a
7 health facility.

8 (2) "Capital expenditure" means an expenditure for a single
9 project which exceeds ~~-\$150,000.00-~~ \$750,000.00, WHICH AMOUNT MAY
10 BE ADJUSTED, AT THE DEPARTMENT'S DISCRETION, NO LESS OFTEN THAN
11 EVERY 2 YEARS BY AN AMOUNT NO GREATER THAN THE CHANGE IN THE
12 DETROIT CONSUMER PRICE INDEX, including cost of construction,
13 engineering, and fixed equipment which under generally accepted
14 accounting principles is not properly chargeable as an expense of
15 operation. ~~It~~ CAPITAL EXPENDITURE includes a lease or com-
16 parable arrangement by or on behalf of a facility by which a
17 person obtains a health facility or licensed part thereof or
18 equipment for a facility, the expenditure for which would have
19 been considered a capital expenditure under this part if the
20 person had acquired it by purchase. ~~It~~ CAPITAL EXPENDITURE
21 includes cost of studies, surveys, designs, plans, working draw-
22 ings, specifications, and other activities essential to the
23 acquisition, improvement, expansion, addition, conversion, mod-
24 ernization, new construction, or replacement of physical plant
25 and equipment.

26 (3) "Certificate of need" means a certificate attesting to
27 need of a new health facility, change in bed capacity, change in

1 service, or capital expenditure by or for a health facility
2 issued in accordance with this part.

3 (4) "Change in bed capacity" means either of the following:

4 (a) An increase of licensed bed capacity of a health
5 facility.

6 (b) A redistribution of beds which does not result in a
7 reduction in licensed bed capacity, but which, with respect to
8 hospitals, does result in an increase or decrease in beds in an
9 obstetrical department, long term care unit, or psychiatric
10 unit.

11 (5) "Change in service" means health services which are
12 offered in or through a health facility and which were not
13 offered on a regular basis in or through that health facility
14 within the 12-month period before the time the services would be
15 offered.

16 (6) "Consumer", except as provided in section 22131, means a
17 person who is not a provider of health care as defined in section
18 1531(3) of title ~~45~~ XV of the public health services act, 42
19 U.S.C. 300n.

20 (7) "Conversion" means converting an existing building not
21 previously licensed as a health facility to such use or convert-
22 ing of an area of any other institution to health facility use or
23 converting the facility from one licensed use to another licensed
24 use.

25 (8) "Council" means the state health coordinating council
26 designated pursuant to section 1524 of title ~~45~~ XV of the
27 public health services act, 42 U.S.C. 300m-3.

1 (9) "DETROIT CONSUMER PRICE INDEX" MEANS THE MOST
2 COMPREHENSIVE INDEX OF CONSUMER PRICES AVAILABLE FOR THE DETROIT
3 AREA FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES
4 DEPARTMENT OF LABOR.

5 Sec. 22113. (1) Except as provided by this part and rules
6 promulgated under this part, a person shall not begin operation
7 of a new health facility, make a change in bed capacity, make a
8 change in service, or undertake a capital expenditure for the
9 construction, conversion, addition to, or modernization ~~in~~
10 ~~excess of \$150,000.00~~ of a health facility or make a commitment
11 for financing the offering or development of a new institutional
12 health service without first obtaining a certificate of need
13 which documents a demonstrated need and grants permission for the
14 proposed project.

15 (2) Except as provided in section 22102(4)(b), a certificate
16 of need is not required for a health facility to reduce its scope
17 of services or bed capacity.

18 (3) Recommendations made by the health systems agency and
19 decisions made by the department under the certificate of need
20 program shall specify approval of the application, disapproval of
21 the application, or approval of the application with conditions,
22 if the conditions are explicit and the conditions specify a time,
23 not to exceed 1 ~~years~~ YEAR, by which the conditions shall be
24 met. Before issuing a certificate of need with conditions, the
25 department shall provide the appropriate health systems agency
26 with a list of the proposed conditions for review.

1 (4) A certificate of need shall not be required for a change
2 in service in a ~~facility defined in section 22108(3)~~ TERTIARY
3 HEALTH CARE SERVICE FACILITY.

4 (5) THE DEPARTMENT ANNUALLY SHALL FILE WITH THE LEGISLATURE
5 A WRITTEN REPORT ON THE STATUS OF THE CERTIFICATE OF NEED
6 PROGRAM.

7 (6) THE LIST OF SUBAREAS HAVING EXCESS HOSPITAL BEDS, SPECI-
8 FYING THE APPROPRIATE HOSPITAL CAPACITY AND THE NUMBER OF EXCESS
9 HOSPITAL BEDS BY SUBAREA, MOST RECENTLY PUBLISHED BY THE DEPART-
10 MENT PURSUANT TO FORMER SECTION 22154(6) AND THE PLANS FOR THE
11 REDUCTION OF EXCESS HOSPITAL BEDS BY SUBAREA MOST RECENTLY
12 APPROVED PURSUANT TO FORMER SECTION 22154(9) SHALL CONTINUE IN
13 EFFECT, EXCEPT AS PROVIDED IN THIS SECTION. A HOSPITAL WHICH IS
14 NOT IN COMPLIANCE WITH ITS HOSPITAL CAPACITY REDUCTION RESPONSI-
15 BILITY UNDER THE APPLICABLE PLAN FOR THE REDUCTION OF EXCESS HOS-
16 PITAL CAPACITY, OR WHICH HAS NOT COMMITTED TO SUCH COMPLIANCE BY
17 BOARD RESOLUTION APPROVED BY THE DEPARTMENT, SHALL BE REQUIRED TO
18 COMPLY AS A CONDITION OF ANY FUTURE CERTIFICATE OF NEED.

19 HOWEVER:

20 (A) AFTER THE EFFECTIVE DATE OF THIS SUBSECTION, THE CAPAC-
21 ITY REDUCTION RESPONSIBILITY OF A HOSPITAL UNDER A PLAN APPROVED
22 PURSUANT TO FORMER SECTION 22154(9) SHALL NOT BE INCREASED, BUT
23 THE DEPARTMENT, WITH THE CONCURRENCE OF THE HEALTH FACILITY, MAY
24 CONDITION THE ISSUANCE OF A CERTIFICATE OF NEED ON A REDUCTION IN
25 CAPACITY WHICH EXCEEDS THE AMOUNT REQUIRED FOR THE HOSPITAL UNDER
26 FORMER SECTION 22154(9).

1 (B) DURING THE FIRST 2 YEARS AFTER THE EFFECTIVE DATE OF
2 THIS SUBSECTION, AND UNTIL THE ADOPTION OF THE FIRST STATE
3 MEDICAL FACILITIES PLAN PUBLISHED SUBSEQUENT TO THE EFFECTIVE
4 DATE OF THIS SUBSECTION, WHICHEVER IS LATER, IF A SUBAREA IS
5 DETERMINED BY THE DEPARTMENT TO HAVE A NEED FOR ADDITIONAL HOSPI-
6 TAL CAPACITY, BASED ON CRITERIA USED BY THE DEPARTMENT TO DETER-
7 MINE ACUTE CARE BED NEED CONTAINED ON PAGES 72 AND 73 OF THE DOC-
8 UMENT ENTITLED "MICHIGAN DEPARTMENT OF PUBLIC HEALTH ADMINISTRA-
9 TIVE GUIDELINES FOR THE CERTIFICATE OF NEED PROGRAM" TRANSMITTED
10 TO THE GOVERNOR ON FEBRUARY 1, 1982, IN CONJUNCTION WITH DEMO-
11 GRAPHIC PROJECTIONS USING 1990 AS THE PLANNING YEAR, THE DEPART-
12 MENT, WITH THE CONCURRENCE OF THE COUNCIL, SHALL APPROPRIATELY
13 REDUCE THE NUMBER OF BEDS IDENTIFIED AS EXCESS FOR THAT SUBAREA
14 IN THE LIST OF SUBAREAS HAVING EXCESS CAPACITY MOST RECENTLY PUB-
15 LISHED PURSUANT TO FORMER SECTION 22154(6). IF THE DEPARTMENT
16 DETERMINES THAT NEED FOR ADDITIONAL HOSPITAL CAPACITY EXISTS IN
17 THE SUBAREA, THE DEPARTMENT, WITH THE CONCURRENCE OF THE COUNCIL,
18 SHALL MODIFY THE EXISTING PLAN FOR THE REDUCTION OF EXCESS HOSPI-
19 TAL CAPACITY APPROVED PURSUANT TO FORMER SECTION 22154(9) TO MEET
20 THE NEED FOR ADDITIONAL HOSPITAL CAPACITY IN THAT SUBAREA. SUCH
21 MODIFICATION MAY INCLUDE REPLACEMENT OF HOSPITAL BEDS PREVIOUSLY
22 REDUCED UNDER THE PLAN AND THE REDUCTION OR ELIMINATION OF THE
23 BED REDUCTION ASSIGNMENT TO 1 OR MORE HOSPITALS IN THE SUBAREA.

24 (C) THE DEPARTMENT MAY, WITH THE CONCURRENCE OF THE COUNCIL,
25 ACCEPT ALTERNATIVE PROPOSALS TO THOSE SET FORTH IN PLANS APPROVED
26 UNDER FORMER SECTION 22154(9) WHICH ACCOMPLISH THE REDUCTION IN

1 EXCESS HOSPITAL CAPACITY IDENTIFIED UNDER FORMER SECTION
2 22154(6).

3 (7) THE DEPARTMENT SHALL NOT APPROVE AN APPLICATION FOR CON-
4 STRUCTION OF ADDITIONAL HOSPITAL BEDS IN A SUBAREA WITH HOSPITAL
5 BED REDUCTION RESPONSIBILITY UNLESS IT HAS DETERMINED THAT EXIST-
6 ING BUT UNUSED HOSPITAL CAPACITY IN THAT SUBAREA CANNOT BE USED
7 TO FULFILL THE DEMONSTRATED NEED.

8 (8) IF THE DEPARTMENT DETERMINES THAT A SUBAREA HAS REDUCED
9 THE TOTAL NUMBER OF BEDS IN THE SUBAREA BY THE NUMBER OF BEDS
10 SPECIFIED AS EXCESS UNDER FORMER SECTION 22154(6), OR THAT NUMBER
11 AS MODIFIED PURSUANT TO SUBSECTION (6)(B), THEN THE PLAN FOR
12 REDUCTION OF EXCESS HOSPITAL CAPACITY FOR THE SUBAREA SHALL BE
13 CONSIDERED TO HAVE BEEN FULLY IMPLEMENTED.

14 (9) WHEN ALL PLANS FOR THE REDUCTION OF EXCESS HOSPITAL
15 CAPACITY APPROVED PURSUANT TO FORMER SECTION 22154(9) HAVE BEEN
16 FULLY IMPLEMENTED, THIS SUBSECTION AND SUBSECTIONS (6) TO (8)
17 SHALL NOT APPLY.

18 SEC. 22125. (1) A PERSON MAY SUBMIT AN APPLICATION REQUEST-
19 ING A NONSUBSTANTIVE CERTIFICATE OF NEED REVIEW ON A FORM SUP-
20 PLIED BY THE DEPARTMENT FOR THIS PURPOSE.

21 (2) THE DEPARTMENT, WITH THE CONSULTATION OF THE APPROPRIATE
22 HEALTH SYSTEMS AGENCY, SHALL APPROVE THE REQUEST AS APPROPRIATE
23 WHEN THE DEPARTMENT IS SATISFIED, BASED ON THE INFORMATION SUP-
24 PLIED ON THE FORM SUPPLIED BY THE DEPARTMENT AND OTHER INFORMA-
25 TION MADE AVAILABLE TO IT, THAT BOTH OF THE FOLLOWING CONDITIONS
26 HAVE BEEN MET:

(A) THE PROPOSAL IS FOR ANY OF THE FOLLOWING:

(i) A RENOVATION.

(ii) CORRECTION OF LICENSURE DEFICIENCIES.

(iii) REPLACEMENT OF EQUIPMENT.

(iv) ENERGY CONSERVATION.

(v) A PROJECT NOT DIRECTLY RELATED TO PATIENT CARE.

(B) THE PROPOSED PROJECT MEETS THE REQUIREMENTS OF SUBSECTION (3).

(3) A PROJECT ELIGIBLE FOR NONSUBSTANTIVE REVIEW UNDER SUBSECTION (2) SHALL MEET ALL OF THE FOLLOWING CONDITIONS:

(A) THE COMPLETED PROJECT WILL NOT INCREASE THE NUMBER OF BEDS OR TYPES OF SERVICES PROVIDED.

(B) THE COMPLETED PROJECT WILL NOT SUBSTANTIALLY CHANGE THE AVAILABILITY OF HEALTH SERVICES IN THE HEALTH SERVICE AREA.

(C) THE COMPLETED PROJECT WILL NOT INCREASE THE OPERATING COSTS MORE THAN \$150,000.00 PER ANNUM IN THE FIRST YEAR OF FULL OPERATION.

(D) THE COMPLETED PROJECT WILL NOT SIGNIFICANTLY INCREASE THE COSTS OF HEALTH CARE IN THE SERVICE AREA.

(E) THE COMPLETED PROJECT WILL NOT EXPAND, BY THE ADDITION OR EXPANSION OF ROOMS OR EQUIPMENT, INCLUDING PATIENT ROOMS, ANY EXISTING CLINICALLY RELATED SERVICE.

(F) THE COMPLETED PROJECT WILL NOT INVOLVE AN INCREASE IN CLINICALLY RELATED SPACE BY CONSTRUCTION OR ACQUISITION.

(G) THE COMPLETED PROJECT WILL NOT EXCEED A CAPITAL EXPENDITURE OF \$750,000.00.

1 SEC. 22125A. (1) THE DEPARTMENT SHALL, AFTER SEEKING THE
2 ADVICE OF THE APPROPRIATE HEALTH SYSTEMS AGENCY, DETERMINE
3 WHETHER AN APPLICATION REQUESTING NONSUBSTANTIVE REVIEW IS COM-
4 PLETE AS PROVIDED BY SECTION 22125 AND SHALL CONCURRENTLY DETER-
5 MINE WHETHER THE APPLICATION IS ACCEPTED FOR NONSUBSTANTIVE
6 REVIEW. THE DEPARTMENT SHALL NOTIFY THE APPLICANT OF ITS DECI-
7 SION AND SEND A COPY OF THE DECISION TO THE APPROPRIATE HEALTH
8 SYSTEMS AGENCY.

9 (2) IF A REQUEST FOR NONSUBSTANTIVE REVIEW IS DENIED, THE
10 APPLICATION SHALL BE DEEMED SUBMITTED FOR THE PURPOSES OF SUB-
11 STANTIVE REVIEW ON THE DATE OF DENIAL AND THE TIME FRAMES TO
12 DETERMINE COMPLETENESS FOR SUBSTANTIVE REVIEW SHALL BE THOSE SET
13 FORTH IN SECTION 22125.

14 (3) THE PERIOD FOR THE REVIEW OF A NONSUBSTANTIVE APPLICA-
15 TION SHALL BE 45 DAYS FROM THE DATE THE APPLICATION IS ACCEPTED
16 FOR NONSUBSTANTIVE REVIEW BY THE DEPARTMENT. THE APPROPRIATE
17 HEALTH SYSTEMS AGENCY SHALL SUBMIT ITS RECOMMENDATIONS WITH
18 RESPECT TO A NONSUBSTANTIVE APPLICATION WITHIN 30 DAYS AFTER THE
19 DATE THE APPLICATION IS ACCEPTED FOR NONSUBSTANTIVE REVIEW BY THE
20 DEPARTMENT SO THAT SUCH RECOMMENDATIONS CAN BE INCLUDED IN THE
21 DEPARTMENT'S REVIEW PROCESS.

22 SEC. 22125B. (1) THIS SECTION SHALL APPLY TO PROJECTS FOR
23 ANY OF THE FOLLOWING IF THE PROJECT IS NOT ELIGIBLE FOR NONSUB-
24 STANTIVE REVIEW:

25 (A) RENOVATIONS.

26 (B) CORRECTIONS OF LICENSURE DEFICIENCIES.

1 (C) REPLACEMENT OF EQUIPMENT.

2 (D) ENERGY CONSERVATION.

3 (E) PROJECTS NOT DIRECTLY RELATED TO PATIENT CARE WHICH ARE
4 NOT ELIGIBLE FOR NONSUBSTANTIVE REVIEW.

5 (2) DESIGNATED APPLICATION DATES FOR PROJECTS SUBJECT TO
6 THIS SECTION SHALL BE THE FIRST DEPARTMENT WORKING DAY OF EACH
7 MONTH. THE DEPARTMENT SHALL MAKE A DETERMINATION ON A CERTIFI-
8 CATE OF NEED WITHIN 120 DAYS AFTER THE FIRST DESIGNATED APPLICA-
9 TION DATE FOLLOWING RECEIPT OF A COMPLETE APPLICATION. THE
10 APPROPRIATE HEALTH SYSTEMS AGENCY SHALL CONCURRENTLY REVIEW THE
11 APPLICATION AND SUBMIT ITS RECOMMENDATIONS TO THE DEPARTMENT
12 WITHIN 90 DAYS AFTER THE FIRST DESIGNATED DATE FOLLOWING RECEIPT
13 OF A COMPLETE APPLICATION BY THE DEPARTMENT. A REVIEW SHALL COM-
14 MENCE ON THE FIRST DESIGNATED APPLICATION DATE FOLLOWING CONFIR-
15 MATION OF A COMPLETE APPLICATION BY THE DEPARTMENT. THE DEPART-
16 MENT, WITH THE ADVICE OF THE HEALTH SYSTEMS AGENCY, SHALL DETER-
17 MINE THE DEGREE TO WHICH EACH APPLICANT MEETS ALL APPLICABLE
18 REVIEW STANDARDS.

19 (3) ALL OF THE FOLLOWING SHALL APPLY TO PROJECTS NOT SUBJECT
20 TO NONSUBSTANTIVE REVIEW OR SUBSECTIONS (1) AND (2):

21 (A) THE DESIGNATED APPLICATION DATES FOR PROJECTS SUBJECT TO
22 THE PROVISIONS OF THIS SECTION SHALL BE FEBRUARY 1, JUNE 1, AND
23 OCTOBER 1 OF EACH YEAR OR THE DATE OF THE FIRST DEPARTMENT WORK-
24 ING DAY THEREAFTER IF THE DATE FALLS ON A DAY WHICH IS NOT A
25 DEPARTMENT WORKING DAY. AN APPLICATION RECEIVED AT THE
26 DEPARTMENT'S LANSING OFFICES AFTER 5 P.M. ON A DESIGNATED

1 APPLICATION DATE SHALL NOT BE CONSIDERED TIMELY AND SHALL BE
2 DEEMED SUBMITTED ON THE NEXT DESIGNATED APPLICATION DATE.

3 (B) WITHIN 30 DAYS AFTER THE DATE THAT ALL OF THE APPLICA-
4 TIONS ARE DEEMED COMPLETE, THE DEPARTMENT, WITH THE ADVICE OF THE
5 APPROPRIATE HEALTH SYSTEMS AGENCY, SHALL PLACE THE TIMELY APPLI-
6 CATIONS INTO GROUPS OF SIMILAR PROJECTS, SERVICES, OR FACILITIES
7 AND SHALL NOTIFY THE APPROPRIATE HEALTH SYSTEMS AGENCY AND EACH
8 APPLICANT OF WHETHER EACH GROUP OF APPLICATIONS WILL BE SUBJECT
9 TO CONCURRENT COMPARATIVE REVIEW. FOR CONCURRENT COMPARATIVE
10 REVIEWS, THE REVIEW PERIOD SHALL COMMENCE ON THE DATE OF THE
11 NOTICE UNDER THIS SECTION, EXCEPT THAT WHERE A PRIOR CONCURRENT
12 COMPARATIVE REVIEW OF SIMILAR PROJECTS, SERVICES, OR FACILITIES
13 IN THE SAME AREA IS NOT YET COMPLETED, THE REVIEW PERIOD SHALL
14 COMMENCE ONLY UPON THE ISSUANCE OF THE DEPARTMENT'S DECISION ON
15 SUCH PRIOR CONCURRENT COMPARATIVE REVIEW. APPLICATIONS WHICH ARE
16 SUBJECT TO THE PROVISIONS OF THIS SECTION AND WHICH ARE NOT
17 SUBJECT TO CONCURRENT COMPARATIVE REVIEW SHALL BE REVIEWED INDI-
18 VIDUALLY IN THE SAME MANNER AS A PROJECT SUBMITTED UNDER SUBSEC-
19 TION (1), WITH THE 120-DAY AND CONCURRENT 90-DAY REVIEW PERIODS
20 COMMENCING ON THE DATE ON WHICH THE DEPARTMENT DETERMINES THEY
21 ARE NOT SUBJECT TO CONCURRENT COMPARATIVE REVIEW. FOR EACH GROUP
22 OF PROJECTS SUBJECT TO CONCURRENT COMPARATIVE REVIEW, THE NOTICE
23 SHALL ALSO INCLUDE ALL OF THE FOLLOWING FINDINGS BY THE
24 DEPARTMENT:

25 (i) THE PROJECTIONS OF NEED FOR THE PROPOSED FACILITIES,
26 BEDS, OR SERVICES.

1 (ii) THAT THE TOTAL PROPOSED FACILITIES, BEDS, OR SERVICES
2 IN THE GROUP OF PROJECTS IS MORE THAN THE PROJECTIONS OF NEED.

3 (iii) THAT THE APPLICATIONS, WHEN TAKEN TOGETHER, ARE MUTU-
4 ALLY EXCLUSIVE IN THAT, UNDER EXISTING PROCEDURES AND CRITERIA,
5 THE APPROVAL OF 1 OR MORE OF THE APPLICATIONS WILL NECESSARILY
6 RESULT IN THE DENIAL OF OTHER APPLICATIONS.

7 (C) IF, UPON REVIEW UNDER SUBDIVISION (B), THE DEPARTMENT
8 DETERMINES THAT AN APPLICATION COULD FALL INTO MORE THAN 1 GROUP,
9 THE DEPARTMENT, AFTER CONSULTING WITH THE APPLICANT, SHALL DETER-
10 MINE HOW TO GROUP THE APPLICATION OR MAY REQUEST THAT THE APPLI-
11 CATION BE SEPARATED INTO MORE THAN 1 APPLICATION SO THAT DIFFER-
12 ENT COMPONENTS OF THE PROJECT MAY BE REVIEWED IN DIFFERENT
13 GROUPS. WHEN AN APPLICANT AGREES TO DIVIDE A PROJECT FOR REVIEW
14 PURPOSES, THE REMAINDER OF THE PROJECT SHALL BE TREATED AS A SEP-
15 ARATE APPLICATION WITHOUT ADDITIONAL FEES. IN THE ABSENCE OF
16 AUTHORIZATION OF AN APPLICANT, THE ORIGINAL APPLICATION IN ITS
17 ENTIRETY SHALL BE SUBJECT TO CONCURRENT COMPARATIVE REVIEW IN THE
18 GROUP DETERMINED BY THE DEPARTMENT.

19 SEC. 22126. (1) FOR A GROUP OF APPLICATIONS REQUIRING CON-
20 CURRENT COMPARATIVE REVIEW, THE DEPARTMENT, WITH THE ADVICE OF
21 THE HEALTH SYSTEMS AGENCY, SHALL REVIEW THE APPLICATIONS WITHIN
22 THE GROUP PURSUANT TO THE FOLLOWING PROCEDURE:

23 (A) A HEALTH SYSTEMS AGENCY SHALL CONCURRENTLY REVIEW THE
24 APPLICATIONS AND SUBMIT ITS RECOMMENDATIONS TO THE DEPARTMENT AS
25 SOON AS PRACTICABLE, BUT NOT LATER THAN 90 DAYS AFTER THE NOTIFI-
26 CATION OF THE START OF A COMPARATIVE REVIEW.

1 (B) THE DEPARTMENT SHALL CONCURRENTLY REVIEW AND ISSUE A
 2 SINGLE DECISION REGARDING THE APPLICATIONS IN THE GROUP AS SOON
 3 AS PRACTICABLE, BUT NOT LATER THAN 120 DAYS AFTER NOTIFICATION OF
 4 THE START OF A COMPARATIVE REVIEW.

5 (C) THE DEPARTMENT, WITH THE ADVICE OF THE HEALTH SYSTEMS
 6 AGENCY, SHALL DETERMINE THE DEGREE TO WHICH EACH APPLICANT MEETS
 7 ALL APPLICABLE REVIEW STANDARDS.

8 (D) THE DEPARTMENT SHALL RANK ALL APPLICATIONS WITHIN THE
 9 CATEGORY IN THE ORDER IN WHICH THE APPLICATIONS MEET OR EXCEED
 10 APPLICABLE REVIEW STANDARDS AND SHALL ONLY APPROVE THOSE APPLICA-
 11 TIONS RANKED HIGHEST WHICH, IN TOTAL, DO NOT EXCEED THE NEEDS OF
 12 THE POPULATION TO BE SERVED. THE REMAINING APPLICATIONS IN THE
 13 GROUP SHALL BE DISAPPROVED.

14 (2) THE FOLLOWING METHODS SHALL BE USED IN ASSESSING COMPLI-
 15 ANCE WITH THE CRITERIA IN SECTION 22131(1):

16 (A) THE APPLIED WEIGHTING OF THE CRITERIA FOR COMPARATIVE
 17 REVIEWS SHALL BE AS FOLLOWS:

18 (i) 1--IMPORTANT.

19 (ii) 2--GREATER IMPORTANCE.

20 (iii) 3--VERY IMPORTANT.

21 (B) THE CRITERIA IN SECTION 22131(1) SHALL BE WEIGHTED AS
 22 FOLLOWS:

	<u>WEIGHT</u>
23	
24 (i) SECTION 22131(1)(A).....	2.
25 (ii) SECTION 22131(1)(B).....	1.
26 (iii) SECTION 22131(1)(C).....	3.

1	(iv) SECTION 22131(1)(D).....	3.
2	(v) SECTION 22131(1)(E).....	3.
3	(vi) SECTION 22131(1)(F).....	2.
4	(vii) SECTION 22131(1)(G).....	1.
5	(viii) SECTION 22131(1)(H).....	1.
6	(ix) SECTION 22131(1)(I).....	2.
7	(x) SECTION 22131(1)(J).....	2.
8	(xi) SECTION 22131(1)(K).....	1.
9	(xii) SECTION 22131(1)(L).....	1.
10	(xiii) SECTION 22131(1)(M).....	1.
11	(xiv) SECTION 22131(1)(N).....	1.

12 (C) IN DETERMINING THE DEGREE TO WHICH AN APPLICATION MEETS
 13 THE CRITERIA IN SECTION 22131(1), EACH APPLICATION WILL BE EVALU-
 14 ATED WITH RESPECT TO EACH OF THE CRITERIA WHICH IS APPLICABLE TO
 15 THE PROPOSED PROJECT. THE SCORE SHALL BE THE SUMMATION OF THE
 16 WEIGHT FOR EACH OF THE CRITERIA MULTIPLIED BY THE DEGREE OF CON-
 17 FORMANCE WITH THAT CRITERIA AS FOLLOWS:

- 18 (i) 0--NONCONFORMANCE.
- 19 (ii) 1--PARTIAL CONFORMANCE.
- 20 (iii) 2--FULL CONFORMANCE.

21 (D) IF THE CRITERIA ARE NOT APPLICABLE TO ALL APPLICANTS,
 22 THE RANKING OF APPLICATIONS SHALL BE BASED ON THE PERCENTAGE OF
 23 THE TOTAL POSSIBLE SCORE ACHIEVED BY EACH APPLICANT ON THOSE CRI-
 24 TERIA, ONLY, WHICH ARE APPLICABLE TO ALL APPLICANTS UNDER
 25 CONSIDERATION. THE REMAINING CRITERIA SHALL BE CONSIDERED IN
 26 RELATION TO THE APPLICATIONS TO WHICH THEY APPLY DISTINCT FROM
 27 THE RANKING PROCESS UNDER THIS SECTION.

1 (3) THIS SECTION AND SECTION 22125B SHALL NOT APPLY TO
2 CERTIFICATES OF NEED APPLIED FOR AND ISSUED UNDER SECTION 22152.

3 SEC. 22127. (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION
4 22134A, AN APPLICATION SCHEDULED FOR CONCURRENT COMPARATIVE
5 REVIEW SHALL NOT BE AMENDED AFTER THE DESIGNATED APPLICATION
6 DATE, EXCEPT TO THE EXTENT THAT ADDITIONAL INFORMATION IS
7 REQUESTED BY THE DEPARTMENT TO MAKE THE APPLICATION COMPLETE. A
8 PERSON DESIRING TO AMEND SUCH AN APPLICATION SHALL HAVE THE
9 CHOICE OF WITHDRAWING THE AMENDMENT OR HAVING THE PROJECT CONSID-
10 ERED UNDER A NEW APPLICATION ON THE NEXT DESIGNATED APPLICATION
11 DATE.

12 (2) AN APPLICATION WHICH IS NOT SUBJECT TO CONCURRENT COM-
13 PARATIVE REVIEW MAY BE AMENDED BY THE APPLICANT UP TO 30 DAYS IN
14 ADVANCE OF THE DECISION DATE ESTABLISHED BY SECTIONS 22125 TO
15 22128. IF THE DEPARTMENT, WITH THE ADVICE OF THE APPROPRIATE
16 HEALTH SYSTEMS AGENCY, DETERMINES THAT THE PROPOSED AMENDMENT
17 SUBSTANTIALLY CHANGES THE ORIGINAL APPLICATION AND THAT ADDI-
18 TIONAL REVIEW BY THE DEPARTMENT AND THE HEALTH SYSTEMS AGENCY IS
19 REQUIRED TO ADEQUATELY EVALUATE THE PROPOSAL, THE DEPARTMENT
20 SHALL REQUIRE, AS A CONDITION OF THE AMENDMENT, THAT THE APPLI-
21 CANT AGREE TO EXTEND THE DATE FOR DECISION AS REQUIRED TO PERMIT
22 THAT ADDITIONAL REVIEW.

23 (3) IF AN APPLICANT FOR A PROJECT NOT ORIGINALLY SUBJECT TO
24 CONCURRENT COMPARATIVE REVIEW PROPOSES TO AMEND THE APPLICATION
25 IN SUCH A WAY AS TO MAKE IT SUBJECT TO A COMPARATIVE REVIEW, THE
26 APPLICANT SHALL BE NOTIFIED OF THE NEED FOR CONCURRENT
27 COMPARATIVE REVIEW AND SHALL HAVE THE CHOICE OF WITHDRAWING THE

1 AMENDMENT OR HAVING THE PROJECT CONSIDERED UNDER A NEW
2 APPLICATION ON THE NEXT DESIGNATED APPLICATION DATE.

3 SEC. 22128. (1) A REQUEST FOR AN EMERGENCY CERTIFICATE OF
4 NEED REVIEW UNDER SECTION 22152 MAY BE MADE BY TELEGRAM OR OTHER
5 ABBREVIATED WRITTEN FORM. THE REQUEST SHALL INCLUDE JUSTIFICA-
6 TION FOR THE PROJECT AND A STATEMENT OF THE NATURE AND EXTENT OF
7 THE CLAIMED EMERGENCY.

8 (2) IF THE DEPARTMENT DETERMINES THAT A REQUEST FILED UNDER
9 SUBSECTION (1) IS NOT COVERED BY SECTION 22152, IT SHALL SO
10 INFORM THE APPLICANT, IN WRITING, WITHIN 10 WORKING DAYS OF
11 RECEIPT OF THE REQUEST, AND SHALL DENY THE REQUEST FOR EMERGENCY
12 REVIEW. PURSUANT TO SECTION 22152, A PROJECT GRANTED EMERGENCY
13 APPROVAL SHALL REQUIRE SUBMISSION OF A FORMAL APPLICATION FOR A
14 CERTIFICATE OF NEED WITHIN 30 DAYS OF THE REQUESTED EMERGENCY
15 REVIEW.

16 Sec. 22131. (1) In making determinations and conducting
17 reviews for certificates of need, the department and a health
18 systems agency shall apply at least the following criteria:

19 (a) The relationship of the health care facilities or serv-
20 ices being reviewed to the health systems plan and annual imple-
21 mentation plan, if any, for all health services areas to be
22 served.

23 (b) The relationship of the health care facilities or serv-
24 ices being reviewed to the long-range development plan, if any,
25 of the person providing or proposing the facility or service.

26 (c) The need of the population served or to be served for
27 the health care facilities or services being reviewed.

1 (d) The feasibility and availability of less costly
2 alternatives or more effective methods of providing the health
3 care facilities or services being reviewed.

4 (e) The relationship of the health care facilities or serv-
5 ices being reviewed to the existing health care system of the
6 health services areas in which the facilities or services are
7 provided or proposed, including the probable impact on the costs
8 of providing health services in the areas served.

9 (f) In the case of health care facilities or services pro-
10 posed under a certificate of need or other application, the
11 availability or the potential availability of resources, includ-
12 ing health personnel, management personnel, and funds for capital
13 and operating needs for the provision of the facilities or serv-
14 ices, and the potential for alternative uses of those resources
15 for the provision of other health care services.

16 (g) The special needs and circumstances of institutional
17 health care facilities and other entities which provide a sub-
18 stantial part of their services or resources to individuals not
19 residing in the health service areas in which the facilities or
20 other entities are located or in adjacent areas. The entities
21 may include medical and other health professional schools, multi-
22 disciplinary clinics, and specialty centers.

23 (h) The special needs and circumstances of health mainte-
24 nance organizations, including all of the following:

25 (i) The availability of the proposed service from a provider
26 of health care other than the health maintenance organization on
27 a long-term basis, at reasonable terms, and in a cost-effective

1 manner consistent with the health maintenance organization's
2 basic method of operation.

3 (ii) The long-term needs of the health maintenance organi-
4 zation, and its current and expected future membership.

5 (iii) The long-term impact of the proposed service on health
6 care costs in the health maintenance organization's service
7 area.

8 (i) In the case of a construction project proposal, the
9 costs and methods of financing the proposed project; the probable
10 impact of the project reviewed on the costs of providing health
11 services by the applicant; and the specific requirements of law
12 for building, zoning, fire, and safety standards and other per-
13 mits and inspections applicable to the project.

14 (j) The degree to which the residents and physicians of the
15 immediate community and region affected are provided access to
16 the services and programs of the health facility applying for the
17 certificate of need.

18 (k) The special needs and circumstances of biomedical and
19 behavioral research projects which are designed to meet a state
20 need and for which local conditions offer special advantages.

21 (l) That the health facility does not discriminate because
22 of race, religion, color, national origin, age, or sex in its
23 operations including employment, patient admission and care, room
24 assignment, and professional or nonprofessional selection and
25 training programs, and that the health facility governing body
26 does not discriminate in its selection, ~~and~~ appointment, ~~of~~
27 ~~individuals~~ AND GRANTING STAFF PRIVILEGES to INDIVIDUAL MEMBERS

1 OF the physician staff of the health facility or its training
2 programs on the basis of licensure or registration or profes-
3 sional education as doctors of medicine, osteopathic medicine and
4 surgery, or podiatry.

5 (m) That in the case of a nonprofit health facility, the
6 facility is in fact governed by a body composed of a majority
7 consumer membership broadly representative of the population
8 served.

9 (n) When an application is made for a certificate of need to
10 construct or expand an osteopathic or allopathic facility, the
11 need for that facility on the basis of the need and availability
12 in the community for services and facilities for osteopathic and
13 allopathic physicians, other licensed health care professionals,
14 and their patients and the impact of the application for a cer-
15 tificate of need on existing and proposed institutional training
16 programs for doctors of medicine and osteopathy and other
17 licensed health care professionals at the student, internship,
18 and residency training level. This subdivision shall not be con-
19 strued to dictate a departure from good health planning princi-
20 ples or to mandate unnecessary duplication of services or
21 facilities.

22 (2) In order for a certificate of need to be granted to a
23 health facility the following findings shall be made in writing
24 by the department and the health systems agency:

25 (a) As to the efficiency and appropriateness of the use of
26 existing inpatient facilities providing inpatient services
27 similar to those proposed.

1 (b) As to the capital and operating costs, and their
2 potential impact on patient charges, efficiency, and appropriate-
3 ness of the proposed new institutional health service.

4 (c) That superior alternatives to inpatient services in
5 terms of cost, efficiency, and appropriateness do not exist and
6 that the development of those alternatives is not practical.

7 (d) That in the case of new construction, such as moderniza-
8 tion or sharing arrangements, alternatives to new construction
9 have been considered and have been implemented to the maximum
10 extent practicable.

11 (e) That patients will experience serious problems in terms
12 of cost, availability, or accessibility, or other problems iden-
13 tified by the reviewing agency in obtaining inpatient care of the
14 type proposed in the absence of the proposed new service.

15 (f) That in the case of a proposal for the addition of beds
16 for the provision of skilled nursing or intermediate care, the
17 relationship of the addition to the plan of other agencies of the
18 state responsible for providing and financing long-term care has
19 been considered.

20 (G) THAT, IN THE CASE OF A PROJECT INVOLVING THE CONSTRUC-
21 TION OF, CONVERSION OF, ADDITION TO, REPLACEMENT OF, OR MODERN-
22 IZATION OF A HEALTH FACILITY PROPOSED BY, OR PERTAINING TO THE
23 OPERATION OF, A HOSPITAL, THE LOWEST POSSIBLE TOTAL FINANCING
24 COSTS WILL BE INCURRED, AS DOCUMENTED BY THE HOSPITAL, AND DEMON-
25 STRATED TO THE SATISFACTION OF THE DEPARTMENT, BASED UPON THE
26 FINANCIAL CONDITION OF THE HOSPITAL, THE NET PRESENT VALUE
27 FINANCING COSTS, THE APPROPRIATENESS OF ANY BOND TERM IN RELATION

1 TO THE USEFUL LIFE OF THE PROPOSED PROJECT, AND OTHER FACTORS
2 CONSIDERED RELEVANT BY THE DEPARTMENT.

3 (H) THAT, IN THE CASE OF A PROJECT PROPOSED BY, OR PERTAIN-
4 ING TO THE OPERATION OF, A HOSPITAL, THE NEEDS OF THE POPULATION
5 SERVED OR TO BE SERVED BY THE HOSPITAL COULD NOT MORE EFFICIENTLY
6 OR EFFECTIVELY BE MET THROUGH A MERGER, CONSOLIDATION, OR OTHER
7 ORGANIZATIONAL ARRANGEMENT WITH ANOTHER HEALTH FACILITY.

8 (I) THAT, AT THE TIME OF APPLICATION, THE HEALTH FACILITY
9 HAS, IF POSSIBLE, REFINANCED ITS CURRENT DEBT AT AN INTEREST RATE
10 LOWER THAN THE INTEREST RATE AT WHICH THE DEBT WAS INCURRED.

11 (3) In case of a church-sponsored health facility or if the
12 nature of the nonprofit health facility is such that the legal
13 rights of its owners or sponsors might be impaired by a require-
14 ment as to the composition of its governing body, an advisory
15 board with majority consumer membership broadly representative of
16 the population served may be construed to be equivalent to the
17 governing board described in subsection (1)(m) if the role
18 assigned to the advisory board is meaningful, its functions are
19 clearly prescribed, and it is given an opportunity to influence
20 policy formulation by the legally recognized governing body.

21 (4) As used in this section, "consumer" means a person who
22 is not a direct provider as defined in section 1531(3)(A) of
23 title XV of the public health services act, 42 U.S.C. 300n.

24 Sec. 22132. (1) In reviewing a request for a certificate
25 for construction of, conversion of, addition to, or modernization
26 OR REPLACEMENT of a health facility, including a project to
27 correct a licensing deficiency, approval shall ~~be based on, but~~

1 ~~not limited to,~~ NOT BE GRANTED UNLESS, AT A MINIMUM, THERE IS a
2 demonstrated current and future need for the facility or a part
3 of the facility. The determination of need shall be consistent
4 with the criteria and guidelines published for this purpose in
5 the state medical facilities plan.

6 (2) IF THE CURRENT AND FUTURE NEED FOR A HEALTH FACILITY OR
7 PART OF A HEALTH FACILITY IS NOT DEMONSTRATED, THE DEPARTMENT MAY
8 NEVERTHELESS ISSUE A CERTIFICATE OF NEED FOR A PROJECT TO CORRECT
9 LICENSURE DEFICIENCIES. THE ISSUANCE OF THE CERTIFICATE OF NEED
10 SHALL BE CONDITIONED UPON A PLAN ADOPTED BY THE GOVERNING BOARD
11 OF THE HEALTH FACILITY AND APPROVED BY THE DEPARTMENT, TO CLOSE
12 THE UNNEEDED HEALTH FACILITY OR PART OF A HEALTH FACILITY. THE
13 PLAN MAY INCLUDE STEPS TO MERGE OR CONSOLIDATE WITH ANOTHER
14 HEALTH FACILITY AS A MEANS OF CLOSURE.

15 (3) IF THE NEED FOR ADDITIONAL HEALTH FACILITIES IN A SUB-
16 AREA HAS BEEN DEMONSTRATED, THE DEPARTMENT SHALL NOT APPROVE AN
17 APPLICATION FOR NEW CONSTRUCTION UNLESS IT HAS BEEN DETERMINED
18 THAT THE DEMONSTRATED NEED CANNOT BE MET AT A LOWER COST BY THE
19 USE OF EXISTING BUT UNUSED FACILITIES IN THE SUBAREA.

20 SEC. 22133. (1) EXCEPT AS PROVIDED IN SUBSECTIONS (2)
21 THROUGH (4), A CERTIFICATE OF NEED SHALL NOT BE ISSUED FOR A
22 PROJECT INVOLVING A CAPITAL EXPENDITURE, UNLESS THE METHOD OF
23 FINANCING ALL CAPITAL EXPENDITURES UNDERTAKEN BY THE APPLICANT
24 DURING THE 5-YEAR PERIOD IMMEDIATELY PRECEDING THE DATE OF APPLI-
25 CATION, AND THE PROJECT UNDER CONSIDERATION INCLUDES, IN THE
26 AGGREGATE, NOT LESS THAN 15% OF APPLICANT FUNDS WHICH ARE NOT
27 BORROWED FROM ANY SOURCE.

1 (2) THE REQUIREMENTS OF SUBSECTION (1) SHALL BE WAIVED BY
2 THE DEPARTMENT AT THE REQUEST OF AN APPLICANT UPON A SHOWING,
3 ACCEPTABLE TO THE DEPARTMENT, OF EITHER OF THE FOLLOWING:

4 (A) THE NECESSITY FOR IMMEDIATE OR TEMPORARY RELIEF DUE TO
5 NATURAL DISASTER, FIRE, UNFORESEEN SAFETY CONSIDERATION, OR OTHER
6 SIMILAR CIRCUMSTANCES.

7 (B) WITH RESPECT TO A PROJECT FOR WHICH A NEED HAS BEEN
8 DEMONSTRATED, THAT COMPLIANCE WITH SUBSECTION (1) WOULD SERIOUSLY
9 DISRUPT THE FINANCIAL AFFAIRS OF THE HEALTH FACILITY OR WOULD
10 JEOPARDIZE THE CONTINUED OPERATION OF THE HEALTH FACILITY.

11 (3) NURSING HOMES AND HOMES FOR THE AGED SHALL NOT BE
12 SUBJECT TO THE PROVISIONS OF SUBSECTIONS (1) AND (2) EXCEPT FOR
13 PROJECTS WHICH EXCEED \$4,000,000.00 IN CONSTRUCTION COST, WHICH
14 AMOUNT SHALL BE ADJUSTED BY THE DEPARTMENT ANNUALLY BY AN AMOUNT
15 DETERMINED BY THE STATE TREASURER TO REFLECT THE CUMULATIVE
16 ANNUAL PERCENTAGE CHANGE IN THE DETROIT CONSUMER PRICE INDEX.
17 FOR SUCH PROJECTS, THE AMOUNT OF APPLICANT FUNDS WHICH ARE NOT
18 BORROWED FROM ANY SOURCE SHALL EQUAL NOT LESS THAN 10% OF CON-
19 STRUCTION COST.

20 (4) THIS SECTION SHALL NOT APPLY TO A CERTIFICATE OF NEED
21 APPLICATION MADE BY:

22 (A) THE DEPARTMENT OF MENTAL HEALTH.

23 (B) A HEALTH MAINTENANCE ORGANIZATION. AS USED IN THIS SUB-
24 DIVISION, "HEALTH MAINTENANCE ORGANIZATION" MEANS THAT TERM AS
25 DEFINED IN SECTION 21005.

1 (C) A HOSPITAL WHICH PROVIDES A DISPROPORTIONATE SHARE OF
2 INPATIENT SERVICES TO THE POOR, AS EVIDENCED BY THE FACT THAT THE
3 HOSPITAL MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

4 (i) THE HOSPITAL HAS A SUBSTANTIAL OPERATING DEFICIT.

5 (ii) THE HOSPITAL HAS NOT LESS THAN 30% OF ITS INPATIENT
6 SERVICES DELIVERED TO MEDICAID, RESIDENT COUNTY HOSPITALIZATION,
7 CRIPPLED CHILDREN, AND UNCOMPENSATED CARE RECIPIENTS WITH NO
8 THIRD PARTY COVERAGE.

9 SEC. 22134. (1) A CERTIFICATE OF NEED ISSUED AFTER THE
10 EFFECTIVE DATE OF THIS SECTION FOR A PROJECT INVOLVING THE CON-
11 STRUCTION OF, CONVERSION OF, ADDITION TO, MODERNIZATION, OR
12 REPLACEMENT OF A HEALTH FACILITY SHALL NOT BE VALID UNLESS ALL OF
13 THE FOLLOWING CONDITIONS ARE MET:

14 (A) THE APPLICANT DEMONSTRATES TO THE DEPARTMENT THAT THE
15 PROJECT WILL BE COMPETITIVELY BID.

16 (B) THE APPLICANT DEMONSTRATES TO THE DEPARTMENT THAT THE
17 APPLICANT HAS AWARDED THE CONTRACT FOR THE PROJECT TO THE QUALI-
18 FIED BIDDER SUBMITTING THE LOWEST ACCEPTABLE RESPONSIVE BID,
19 EXCEPT THAT PREFERENCE MAY BE GIVEN TO A LOCAL BIDDER FOR PUR-
20 POSES OF ENHANCING ECONOMIC ACTIVITY IN THE LOCALITY OR TO AN
21 IN-STATE BIDDER FOR PURPOSES OF ENHANCING ECONOMIC ACTIVITY IN
22 THE STATE. VARIANCES FOR LOCAL OR IN-STATE BIDDER PREFERENCE
23 SHALL NOT EXCEED 5% WITHOUT DEPARTMENTAL APPROVAL.

24 (2) THE DEPARTMENT SHALL WAIVE THE REQUIREMENTS OF
25 SUBSECTION (1) IF THE APPLICANT DEMONSTRATES THAT THE USE OF A
26 FIRM WHICH BOTH DEVELOPS ARCHITECTURAL PLANS AND CONSTRUCTS THE
27 PROJECT IS LIKELY TO ACHIEVE SIGNIFICANT COST SAVING IN

1 COMPARISON WITH THE USE OF SEPARATE DESIGN AND CONSTRUCTION FIRMS
2 SELECTED BY COMPETITIVE BID, BASED UPON HEALTH FACILITY CONSTRUC-
3 TION ACTIVITY IN THE REGION IN WHICH THE FACILITY IS LOCATED. IF
4 THE METHOD OF PLANNING AND CONSTRUCTION DESCRIBED IN THIS SUBSEC-
5 TION IS EMPLOYED, THE FIRM AWARDED THE DESIGN CONTRACT SHALL
6 DEMONSTRATE TO THE DEPARTMENT THAT THE FIRM AWARDED THE CONSTRUC-
7 TION CONTRACTS TO THE QUALIFIED BIDDER SUBMITTING THE LOWEST
8 ACCEPTABLE BID.

9 SEC. 22134A. (1) AN AMENDMENT TO A CERTIFICATE OF NEED FOR
10 A CONSTRUCTION, CONVERSION, ADDITION, MODERNIZATION, OR REPLACE-
11 MENT PROJECT WHICH WOULD RESULT IN INCREASED PROJECT COSTS SHALL
12 BE APPROVED ONLY IF THE DEPARTMENT DETERMINES THAT THE NEED FOR
13 THE AMENDMENT ARISES FROM CIRCUMSTANCES WHOLLY BEYOND THE
14 APPLICANT'S CONTROL.

15 (2) AS A CONDITION TO THE APPROVAL OF A CERTIFICATE OF NEED
16 IN A CONSTRUCTION, CONVERSION, ADDITION, MODERNIZATION, OR
17 REPLACEMENT PROJECT, AN APPLICANT SHALL AGREE TO CERTIFY TO THE
18 DEPARTMENT DURING THE COURSE OF THE PROJECT AND ON A PERIODIC
19 BASIS, BUT NOT LESS OFTEN THAN QUARTERLY, THAT THE COSTS OF THE
20 PROJECT FOR WHICH THE CERTIFICATE OF NEED IS ISSUED ARE, OR WILL
21 BE, WITHIN THE LIMITS APPROVED BY THE DEPARTMENT IN THE CERTIFI-
22 CATE OF NEED.

23 (3) IF, ON THE BASIS OF A CERTIFICATION RECEIVED FROM AN
24 APPLICANT PURSUANT TO SUBSECTION (2), OR ANY OTHER BASIS, THE
25 DEPARTMENT DETERMINES THAT A PROJECT IS EXCEEDING OR WILL EXCEED
26 THE COST LIMITS APPROVED BY THE DEPARTMENT IN THE CERTIFICATE OF

1 NEED, THE DEPARTMENT MAY ISSUE AN ORDER SUSPENDING ACTIVITY ON
2 THE PROJECT.

3 (4) IF ACTIVITY ON A PROJECT IS SUSPENDED PURSUANT TO
4 SUBSECTION (3), THE DEPARTMENT MAY REQUIRE AN APPLICANT TO REVISE
5 THE PROGRAM, CONTENT, SCOPE, SPECIFICATION, FINANCING, OR ANY
6 OTHER FEATURE OF THE PROJECT IN ORDER TO ASSURE THAT IT IS COM-
7 PLETED WITHIN THE COST LIMITS APPROVED BY THE DEPARTMENT IN THE
8 CERTIFICATE OF NEED. THE DEPARTMENT MAY APPROVE AN AMENDMENT TO
9 THE CERTIFICATE OF NEED WHICH REFLECTS REVISIONS REQUIRED BY THIS
10 SUBSECTION.

11 SEC. 22134B. (1) THE DEPARTMENT MAY DESIGNATE SPECIFIC HOS-
12 PITAL SERVICES AS SERVICES APPROPRIATE FOR DELIVERY ON A REGION-
13 ALIZED BASIS. SUCH DESIGNATION MAY BE APPLIED TO SERVICES WHICH
14 THE DEPARTMENT DETERMINES CAN BE DELIVERED MORE EFFICIENTLY OR
15 WITH IMPROVED QUALITY OF CARE THROUGH MULTI-INSTITUTIONAL
16 ARRANGEMENTS AND AGREEMENTS FOR THE SHARING OF FACILITIES, THE
17 TRANSFER AND REFERRAL OF PATIENTS, AND OTHER APPROPRIATE
18 PRACTICES.

19 (2) WITH RESPECT TO SERVICES DESIGNATED AS SERVICES APPRO-
20 PRIATE FOR DELIVERY ON A REGIONALIZED BASIS PURSUANT TO
21 SUBSECTION (1), THE DEPARTMENT MAY DETERMINE AND SPECIFY THE
22 NUMBER OF SERVICE AREAS OR MULTIPLES OF SERVICE AREAS FOR EACH
23 SUCH SERVICE AND DESCRIPTION OF THE SERVICE AREAS.

24 (3) FOR EACH SERVICE DESIGNATED AS APPROPRIATE FOR DELIVERY
25 ON A REGIONALIZED BASIS AND FOR EACH SERVICE AREA, THE DEPARTMENT
26 MAY SPECIFY THE AGREEMENTS OR ARRANGEMENTS BETWEEN AND AMONG

1 HOSPITALS NECESSARY FOR THE DEVELOPMENT OF A REGIONALIZED SYSTEM
2 FOR THE DELIVERY OF THE SERVICE.

3 (4) THE DEPARTMENT MAY, AS A CONDITION OF A CERTIFICATE OF
4 NEED, REQUIRE A HOSPITAL TO ENTER INTO THE AGREEMENTS OR ARRANGE-
5 MENTS PROVIDED FOR IN SUBSECTION (3).

6 Sec. 22137. Before issuing a certificate of need, the
7 department shall obtain the following:

8 (a) From the person applying for the certificate, evidence
9 of the applicant's ability to finance the construction, conver-
10 sion, addition, REPLACEMENT, or modernization project for which
11 the certificate is requested and ability to finance the operation
12 of the new, converted, added to, REPLACEMENT, or modernized
13 facilities after completion of the construction, conversion,
14 addition, REPLACEMENT, or modernization.

15 (b) The recommendations submitted by the appropriate health
16 systems agency as to the new institutional health services pro-
17 posed to be offered within this state. If the department makes a
18 decision inconsistent with the recommendations of the health sys-
19 tems agency, it shall submit to the appropriate health systems
20 agency a detailed statement of the reasons for the
21 inconsistency. The applicant and health systems agency may
22 appeal a departmental decision pursuant to section 22165.

23 (c) Recommendations submitted by the department of mental
24 health as to new institutional mental health services proposed to
25 be offered within this state.

26 SEC. 22138. AFTER CONSULTATION WITH THE APPROPRIATE HEALTH
27 SYSTEMS AGENCY, THE DEPARTMENT SHALL HAVE THE RIGHT TO APPROVE AN

1 APPLICATION SUBJECT TO SPECIFIC CONDITIONS. THE DEPARTMENT SHALL
2 HAVE THE RIGHT TO APPROVE AN APPLICATION SUBJECT TO SPECIFIC
3 STIPULATIONS IF AGREED TO BY THE DEPARTMENT AND THE APPLICANT.
4 CONDITIONS AND STIPULATIONS ARE INTEGRAL PARTS OF THE CERTIFICATE
5 OF NEED. AN APPEAL OF A CONDITION SHALL BE DEEMED TO BE AN
6 APPEAL OF THE ENTIRE DECISION OF THE DEPARTMENT. THE ENTIRE
7 APPLICATION SHALL BE AT ISSUE IN SUCH APPEAL AND THE APPEAL SHALL
8 BE TAKEN WITHIN THE TIME FOR APPEALS FOR SUCH DECISIONS.

9 Section 2. Sections 22151, 22154, 22156, and 22158 of Act
10 No. 368 of the Public Acts of 1978, being sections 333.22151,
11 333.22154, 333.22156, and 333.22158 of the Michigan Compiled
12 Laws, are repealed.