

# HOUSE BILL No. 5539

February 22, 1990, Introduced by Reps. Crandall, DeLange, Willis Bullard, Krause, Bandstra, Stacey, Oxender, Fitzgerald, Gire, Gubow, Kosteva, Munsell, Hickner, Runco, Harrison, Knight, Dolan, Bender, Mathieu, Muxlow and Power and referred to the Committee on Public Health.

A bill to amend sections 22203 and 22215 of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code,"

section 22203 as added by Act No. 331 of the Public Acts of 1988 and section 22215 as added by Act No. 332 of the Public Acts of 1988, being sections 333.22203 and 333.22215 of the Michigan Compiled Laws; and to add section 21535.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 22203 and 22215 of Act No. 368 of the  
2 Public Acts of 1978, section 22203 as added by Act No. 331 of the  
3 Public Acts of 1988 and section 22215 as added by Act No. 332 of  
4 the Public Acts of 1988, being sections 333.22203 and 333.22215  
5 of the Michigan Compiled Laws, are amended and section 21535 is  
6 added to read as follows:

1 SEC. 21535. A HOSPITAL MAY USE A LICENSED OBSTETRICAL BED  
2 FOR THE CARE OF A GYNECOLOGICAL PATIENT UNLESS THE GYNECOLOGICAL  
3 PATIENT HAS A SEXUALLY TRANSMITTED COMMUNICABLE DISEASE.

4 Sec. 22203. (1) "Addition" means adding patient rooms,  
5 beds, and ancillary service areas, including, but not limited to,  
6 procedure rooms or fixed equipment, surgical operating rooms,  
7 therapy rooms or fixed equipment, or other accommodations to a  
8 health facility.

9 (2) "Capital expenditure" means an expenditure for a single  
10 project, including cost of construction, engineering, and equip-  
11 ment which under generally accepted accounting principles is not  
12 properly chargeable as an expense of operation. Capital expendi-  
13 ture includes a lease or comparable arrangement by or on behalf  
14 of a facility by which a person obtains a health facility or  
15 licensed part of a health facility or equipment for a facility,  
16 the expenditure for which would have been considered a capital  
17 expenditure under this part if the person had acquired it by  
18 purchase. Capital expenditure includes cost of studies, surveys,  
19 designs, plans, working drawings, specifications, and other  
20 activities essential to the acquisition, improvement, expansion,  
21 addition, conversion, modernization, new construction, or  
22 replacement of physical plant and equipment.

23 (3) "Certificate of need" means a certificate issued pursu-  
24 ant to this part authorizing a new health facility, a change in  
25 bed capacity, the initiation of a new service, the acquisition of  
26 covered medical equipment, or a covered capital expenditure that  
27 is issued in accordance with this part.

1 (4) "Certificate of need review standard" means a standard  
2 approved by the commission or the statewide health coordinating  
3 council under section 22215 or 22217 or a document, policy, or  
4 guideline listed in section 22217(1).

5 (5) "Change in bed capacity" means 1 or more of the  
6 following:

7 (a) An increase in licensed hospital beds.

8 (b) An increase in licensed nursing home beds or hospital  
9 beds certified for long-term care.

10 (c) An increase in licensed psychiatric beds.

11 (d) A change from 1 licensed use to a different licensed use  
12 EXCEPT THE USE BY A HOSPITAL OF AN OBSTETRICAL BED FOR THE CARE  
13 OF A GYNECOLOGICAL PATIENT PURSUANT TO SECTION 21535.

14 (e) The physical relocation of beds from a licensed site to  
15 another geographic location.

16 (6) "Clinical" means directly pertaining to the diagnosis,  
17 treatment, or rehabilitation of an individual.

18 (7) "Clinical service area" means an area of a health facil-  
19 ity, including related corridors, equipment rooms, ancillary  
20 service and support areas which house medical equipment, patient  
21 rooms, patient beds, diagnostic, operating, therapy, or treatment  
22 rooms or other accommodations related to the diagnosis, treat-  
23 ment, or rehabilitation of individuals receiving services from  
24 the health facility.

25 (8) "Commission" means the certificate of need commission  
26 created under section 22211.

1       (9) "Council" means the state health planning council  
2 created under the Michigan health planning and health policy  
3 development act, Act No. 323 of the Public Acts of 1978, being  
4 sections 325.2001 to 325.2031 of the Michigan Compiled Laws.

5       (10) "Covered capital expenditure" means a capital expendi-  
6 ture by a health facility for a single project, excluding the  
7 cost of nonfixed medical equipment, that is equal to, or greater  
8 than, 1 of the following amounts:

9       (a) For a single project that includes or involves the  
10 acquisition, improvement, expansion, addition, conversion, mod-  
11 ernization, new construction, or replacement of a clinical serv-  
12 ice area:

13       (i) For certificate of need applications submitted on or  
14 after October 1, 1988, but before October 1, 1991, \$750,000.00.

15       (ii) For certificate of need applications submitted on or  
16 after October 1, 1991, \$850,000.00.

17       (b) For a single project that involves the acquisition,  
18 improvement, expansion, addition, conversion, modernization, new  
19 construction, or replacement of nonclinical service areas only:

20       (i) For certificate of need applications submitted on or  
21 after October 1, 1988, but before October 1, 1991,  
22 \$1,500,000.00.

23       (ii) For certificate of need applications submitted on or  
24 after October 1, 1991, \$1,700,000.00.

25       (c) For a single project that is limited solely to the  
26 acquisition of nonfixed, nonmedical equipment and that does not  
27 involve acquisition, improvement, expansion, addition,

1 conversion, modernization, new construction, or replacement of  
2 physical plant:

3 (i) For certificate of need applications submitted on or  
4 after October 1, 1988, but before October 1, 1991,  
5 \$1,500,000.00.

6 (ii) For certificate of need applications submitted on or  
7 after October 1, 1991, \$1,700,000.00.

8 (11) "Covered clinical service", except as otherwise modi-  
9 fied by the commission pursuant to section 22215, means 1 or more  
10 of the following:

11 (a) Initiation or replacement of either of the following  
12 services:

13 (i) Cardiac services.

14 (ii) Extrarenal organ transplantation.

15 (b) Initiation of a specialized psychiatric program utiliz-  
16 ing existing licensed psychiatric beds. Specialized psychiatric  
17 programs may include services for geriatric, pediatric, adoles-  
18 cent, or substance abuse patients.

19 (c) Initiation, replacement, or expansion of 1 or more of  
20 the following:

21 (i) Special radiological procedure rooms used for invasive  
22 procedures such as angiography, arteriography, venography, cathe-  
23 terizations, and electro-physiology, but excluding procedure  
24 rooms used only for general radiology and fluoroscopy  
25 procedures.

26 (ii) Specialized radiation therapy services.

(iii) A partial day hospitalization psychiatric program.

(d) Initiation, replacement, or expansion of a service not listed in this subsection, but designated as a covered clinical service by the commission under section 22215(1)(a).

(e) Initiation or increase in the number of licensed hospital beds dedicated to neonatal intensive care services or special newborn nursing services.

(12) "Covered medical equipment", except as otherwise modified by the commission pursuant to section 22215, means 1 or more of the following:

(a) An extracorporeal shock wave lithotripter.

(b) A magnetic resonance unit.

(c) A mobile computerized tomography scanner.

(d) A fixed computerized tomography scanner.

(e) Surgical facilities.

(f) An air ambulance.

(g) A positron emission tomography scanner.

(h) Other equipment not listed in this subsection, but designated by the commission as covered medical equipment under section 22215(1)(a).

(13) "Fixed equipment" means equipment that is affixed to and constitutes a structural component of a health facility, including, but not limited to, mechanical or electrical systems, elevators, generators, pumps, boilers, and refrigeration equipment.

Sec. 22215. (1) Pursuant to the requirements of this part, the commission shall do all of the following:

1 (a) Upon submission by the department and the office,  
2 approve, disapprove, or revise the designation of covered clini-  
3 cal services and covered medical equipment in addition to the  
4 covered clinical services and covered medical equipment listed in  
5 section 22203. Also, upon submission by the department and the  
6 office, the commission shall approve, disapprove, or revise the  
7 deletion or revision of covered clinical services and covered  
8 medical equipment listed in section 22203. Before final action  
9 is taken by the commission under this subdivision, the commission  
10 shall seek the advice and counsel of the department and the  
11 office.

12 (b) ~~Upon~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION,  
13 UPON submission by the department and the office, approve, disap-  
14 prove, or revise certificate of need review standards that estab-  
15 lish, for purposes of section 22225, the need, if any, for the  
16 initiation of new services, acquisition of covered medical equip-  
17 ment, acquisition or initiation of new health facilities, making  
18 changes in bed capacity, or making covered capital expenditures,  
19 including conditions, standards, assurances, or information that  
20 must be met, demonstrated, or provided by a person who applies  
21 for a certificate of need. A certificate of need review standard  
22 may also establish ongoing quality assurance requirements includ-  
23 ing any or all of the requirements specified in  
24 section 22225(2)(c). THE COMMISSION SHALL NOT APPROVE A CERTIFI-  
25 CATE OF NEED REVIEW STANDARD THAT PURPORTS TO REGULATE THE USE BY  
26 A HOSPITAL OF OBSTETRICAL BEDS FOR THE CARE OF GYNECOLOGICAL  
27 PATIENTS PURSUANT TO SECTION 21535 AS A CHANGE IN BED CAPACITY.

1 The statewide health coordinating council may perform the duties  
2 of the commission under this subdivision, only until all members  
3 of the commission are appointed and confirmed, or ~~5 months after~~  
4 ~~the effective date of this part~~ UNTIL MARCH 1, 1989, whichever  
5 is sooner. Before final action is taken by the commission or the  
6 statewide health coordinating council under this subdivision, the  
7 commission or the statewide health coordinating council shall  
8 seek the advice and counsel of the department and the office.

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

14 (d) Upon submission by the department and the office,  
15 approve, disapprove, or revise proposed data reporting require-  
16 ments under section 22209(2) and criteria for determining health  
17 facility viability under section 22225. Before final action is  
18 taken by the commission under this subdivision, the commission  
19 shall seek the advice and counsel of the department and the  
20 office.

21 (e) Annually assess the operations and effectiveness of the  
22 certificate of need program based on periodic reports from the  
23 department and other information available to the commission.

24 (f) ~~Four years following the effective date of this part,~~  
25 BY OCTOBER 1, 1993 and every 5 years after ~~that fourth year~~  
26 OCTOBER 1, 1993, make recommendations to the standing committees  
27 in the senate and the house that have jurisdiction over matters



1 pertaining to public health regarding statutory changes to  
2 improve the certificate of need program, including, but not  
3 limited to, threshold levels for capital expenditures, the role  
4 of the commission, certificate of need review standards, and the  
5 need for the certificate of need program.

6 (g) Upon submission by the department and the office,  
7 approve, disapprove, or revise standards to be used by the  
8 department in designating a regional certificate of need review  
9 agency, pursuant to section 22226. Before final action is taken  
10 by the commission under this subdivision, the commission shall  
11 seek the advice and counsel of the department and the office.

12 (h) Upon submission by the department and the office,  
13 approve, disapprove, or revise certificate of need review stan-  
14 dards governing the acquisition of new technology. Before final  
15 action is taken by the commission under this subdivision, the  
16 commission shall seek the advice and counsel of the department  
17 and the office.

18 (i) In accordance with section 22255, approve, disapprove,  
19 or revise proposed procedural rules for the certificate of need  
20 program. Before final action is taken by the commission under  
21 this subdivision, the commission shall seek the advice and coun-  
22 sel of the department and the office.

23 (j) If determined by the commission to be consistent with  
24 the purposes of this part, modify the 100 licensed bed limitation  
25 set forth in section 22210. Before final action is taken by the  
26 commission under this subdivision, the commission shall seek the  
27 advice and counsel of the department and the office.

1 (k) Consider the recommendations of the department and the  
2 department of attorney general as to the administrative feasibil-  
3 ity and legality of proposed actions under subdivisions (a), (b),  
4 and (c).

5 (l) Consider the impact of a proposed restriction on the  
6 acquisition of equipment or availability of services on the qual-  
7 ity, availability, and cost of health services in this state.

8 (2) The commission shall exercise its duties under this part  
9 to promote both of the following:

10 (a) The availability of quality health services at reason-  
11 able cost.

12 (b) The general health objectives in the state health plan.

13 (3) Before final action is taken by the commission under  
14 subsection (1)(a), (b), (d), (g), (h), or (j), the commission  
15 shall conduct a public hearing on the matter. In addition, not  
16 less than 30 days before final action is taken by the commission  
17 under subsection (1)(a), (b), (d), (g), (h), or (j), the commis-  
18 sion shall submit the proposed final action for comment to the  
19 standing committees in the senate and house of representatives  
20 with jurisdiction over public health matters. Before a final  
21 commission approval under subsection (1)(a), (b), (d), (g), (h),  
22 or (j) is effective, the commission shall submit the proposed  
23 action to the governor and the standing committee of each house  
24 of the legislature having jurisdiction over public health  
25 matters. The governor or the legislature may disapprove the pro-  
26 posed action within 45 days after the date of submission. If the  
27 legislature is not in session at the time of submission of the

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

17 (4) ~~Every~~ BY OCTOBER 1, 1993 AND EVERY 5 years ~~following~~  
18 ~~the effective date of this part~~ AFTER OCTOBER 1, 1993, the  
19 standing committees of the senate and the house of representa-  
20 tives having jurisdiction over public health matters shall make  
21 findings and recommendations regarding any changes in, or the  
22 continuation of, the certificate of need program established  
23 under this part considered appropriate by those committees after  
24 consideration of the recommendations submitted by the commission  
25 pursuant to subsection (1)(f).

26 (5) If the reports received under section 22221(1)(e)  
27 indicate that the certificate of need application fees collected

1 under section 20161(2) have not been within 10% of 1/2 the cost  
2 to the department of implementing this part, the commission shall  
3 make recommendations under subsection (1)(f) regarding the revi-  
4 sion of those fees so that the certificate of need application  
5 fees collected equal approximately 1/2 of the cost to the depart-  
6 ment of implementing this part.