

HOUSE BILL No. 6091

September 25, 1990, Introduced by Rep. Nye 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.

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 to read as follows:

6 Sec. 22203. (1) "Addition" means adding patient rooms,
7 beds, and ancillary service areas, including, but not limited to,

1 procedure rooms or fixed equipment, surgical operating rooms,
2 therapy rooms or fixed equipment, or other accommodations to a
3 health facility.

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

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

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

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

3 (a) An increase in licensed hospital beds.

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

6 (c) An increase in licensed psychiatric beds.

7 (d) A change from 1 licensed use to a different licensed
8 use.

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

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

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

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

22 (9) "Council" means the state health planning council cre-
23 ated under the Michigan health planning and health policy devel-
24 opment act, Act No. 323 of the Public Acts of 1978, being sec-
25 tions 325.2001 to 325.2031 of the Michigan Compiled Laws.

26 (10) "Covered capital expenditure" means a capital
27 expenditure by a health facility for a single project, excluding

1 the cost of nonfixed medical equipment, that is equal to, or
2 greater than, 1 of the following amounts:

3 (a) For a single project that includes or involves the
4 acquisition, improvement, expansion, addition, conversion, mod-
5 ernization, new construction, or replacement of a clinical serv-
6 ice area:

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

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

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

14 (i) For certificate of need applications submitted on or
15 after October 1, 1988, but before October 1, 1991,
16 \$1,500,000.00.

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

19 (c) For a single project that is limited solely to the
20 acquisition of nonfixed, nonmedical equipment and that does not
21 involve acquisition, improvement, expansion, addition, conver-
22 sion, modernization, new construction, or replacement of physical
23 plant:

24 (i) For certificate of need applications submitted on or
25 after October 1, 1988, but before October 1, 1991,
26 \$1,500,000.00.

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

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

6 (a) Initiation or replacement of either of the following
7 services:

8 (i) Cardiac services.

9 (ii) Extrarenal organ transplantation.

10 (b) Initiation of a specialized psychiatric program utiliz-
11 ing existing licensed psychiatric beds. Specialized psychiatric
12 programs may include services for geriatric, pediatric, adoles-
13 cent, or substance abuse patients.

14 (c) Initiation, replacement, or expansion of 1 or more of
15 the following:

16 (i) Special radiological procedure rooms used for invasive
17 procedures such as angiography, arteriography, venography, cathe-
18 terizations, and electro-physiology, but excluding procedure
19 rooms used only for general radiology and fluoroscopy
20 procedures.

21 (ii) Specialized radiation therapy services.

22 (iii) A partial day hospitalization psychiatric program.

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

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

4 (12) "Covered medical equipment", except as otherwise modi-
5 fied by the commission pursuant to section 22215, means 1 or more
6 of the following:

7 (a) An extracorporeal shock wave lithotripter.

8 (b) A magnetic resonance unit.

9 (c) A mobile computerized tomography scanner THAT INVOLVES A
10 CAPITAL EXPENDITURE OF \$1,000,000.00 OR MORE.

11 (d) A fixed computerized tomography scanner THAT INVOLVES A
12 CAPITAL EXPENDITURE OF \$1,000,000.00 OR MORE.

13 (e) Surgical facilities.

14 (f) An air ambulance.

15 (g) A positron emission tomography scanner.

16 (h) Other equipment not listed in this subsection, but des-
17 ignated by the commission as covered medical equipment under
18 section 22215(1)(a).

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

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

26 (a) ~~Upon~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION,
27 UPON submission by the department and the office, approve,

1 disapprove, or revise the designation of covered clinical
2 services and covered medical equipment in addition to the covered
3 clinical services and covered medical equipment listed in
4 section 22203. Also, upon submission by the department and the
5 office, the commission shall approve, disapprove, or revise the
6 deletion or revision of covered clinical services and covered
7 medical equipment listed in section 22203. Before final action
8 is taken by the commission under this subdivision, the commission
9 shall seek the advice and counsel of the department and the
10 office. THE COMMISSION SHALL NOT APPROVE THE DESIGNATION OF A
11 MOBILE OR FIXED COMPUTERIZED TOMOGRAPHY SCANNER THAT INVOLVES A
12 CAPITAL EXPENDITURE OF LESS THAN \$1,000,000.00 AS COVERED MEDICAL
13 EQUIPMENT UNDER THIS PART.

14 (b) Upon submission by the department and the office,
15 approve, disapprove, or revise certificate of need review stan-
16 dards that establish, for purposes of section 22225, the need, if
17 any, for the initiation of new services, acquisition of covered
18 medical equipment, acquisition or initiation of new health facil-
19 ities, making changes in bed capacity, or making covered capital
20 expenditures, including conditions, standards, assurances, or
21 information that must be met, demonstrated, or provided by a
22 person who applies for a certificate of need. A certificate of
23 need review standard may also establish ongoing quality assurance
24 requirements including any or all of the requirements specified
25 in section 22225(2)(c). The statewide health coordinating coun-
26 cil may perform the duties of the commission under this
27 subdivision, only until all members of the commission are

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

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

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

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

22 (f) ~~Four years following the effective date of this part~~
23 BY OCTOBER 1, 1993, and every 5 years after ~~that fourth year~~
24 OCTOBER 1, 1993, make recommendations to the standing committees
25 in the senate and the house that have jurisdiction over matters
26 pertaining to public health regarding statutory changes to
27 improve the certificate of need program, including, but not

1 limited to, threshold levels for capital expenditures, the role
2 of the commission, certificate of need review standards, and the
3 need for the certificate of need program.

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

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

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

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

26 (k) Consider the recommendations of the department and the
27 department of attorney general as to the administrative

1 feasibility and legality of proposed actions under subdivisions
2 (a), (b), and (c).

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

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

8 (a) The availability of quality health services at reason-
9 able cost.

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

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

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

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

24 (5) If the reports received under section 22221(1)(e) indi-
25 cate that the certificate of need application fees collected
26 under section 20161(2) have not been within 10% of 1/2 the cost
27 to the department of implementing this part, the commission shall

1 make recommendations under subsection (1)(f) regarding the
2 revision of those fees so that the certificate of need applica-
3 tion fees collected equal approximately 1/2 of the cost to the
4 department of implementing this part.