

# SENATE BILL No. 210

March 20, 1991, Introduced by Senators EMMONS, DE GROW, WARTNER, CRUCE, HONIGMAN and PRIDNIA and referred to the Committee on Health Policy.

A bill to amend section 22231 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as added by Act No. 332 of the Public Acts of 1988, being section 333.22231 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 22231 of Act No. 368 of the Public Acts  
2 of 1978, as added by Act No. 332 of the Public Acts of 1988,  
3 being section 333.22231 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5       Sec. 22231. (1) The decision to grant or deny an applica-  
6 tion for a certificate of need shall be made by the director. A  
7 decision shall be proposed to the director by a bureau within the  
8 department designated by the director as responsible for the

1 certificate of need program. A decision shall be in writing and  
2 shall indicate 1 of the following:

3 (a) Approval of the application.

4 (b) Disapproval of the application.

5 (c) Subject to subsection (2), approval of the application  
6 with conditions.

7 (d) If agreed ~~to~~ by the department and the applicant,  
8 approval of the application with stipulations.

9 (2) If an application is approved with conditions pursuant  
10 to subsection (1)(c), the conditions shall be explicit, shall be  
11 related to the proposed project or to the applicable provisions  
12 of this part, and shall specify a time, not to exceed 1 year  
13 after the date the decision is rendered, within which the condi-  
14 tions shall be met.

15 (3) If the department is conducting a comparative review,  
16 the director shall issue only 1 decision for all of the applica-  
17 tions included in the comparative review.

18 (4) Before a final decision on an application is made, the  
19 bureau of the department designated by the director as responsi-  
20 ble for the certificate of need program shall issue a proposed  
21 decision that individually addresses each of the criteria listed  
22 in section 22225 and states with specificity the reasons and  
23 authority of the department for the proposed decision. If a pro-  
24 posed decision is issued within the application review period  
25 specified in the rules promulgated under former part 221, the  
26 department ~~shall be~~ IS in compliance with the review period

1 requirement of those rules. The department shall transmit a copy  
2 of the proposed decision to the applicant.

3 (5) The proposed decision shall be submitted to the director  
4 on the day the proposed decision is issued, if the proposed deci-  
5 sion is an approval without conditions or stipulations.

6 (6) If the proposed decision is other than an approval with-  
7 out conditions or stipulations, the proposed decision shall be  
8 submitted to the director not more than 16 days after receipt by  
9 the applicant of the proposed decision.

10 (7) The director shall review the proposed decision before a  
11 final decision is rendered.

12 (8) If a proposed decision is an approval — and if, upon  
13 review, the director reverses the proposed decision, the director  
14 immediately shall notify the applicant of the reversal. Within  
15 15 days after receipt of the notice of reversal, the applicant  
16 may request a hearing under section 22232. After the hearing,  
17 the applicant may request the director to reconsider the reversal  
18 of the proposed decision, based on the results of the hearing.

19 (9) The director shall issue a final decision not later than  
20 60 days after the date a proposed decision is submitted to the  
21 director under subsection (6) or, if the proposed decision is an  
22 approval, not later than 20 days after the proposed decision is  
23 submitted to the director UNDER SUBSECTION (5).

24 (10) The final decision of the director may be appealed only  
25 by the applicant and only on the record directly to the circuit  
26 court for the county where the applicant has its principal place  
27 of business in this state or the circuit court for Ingham

1 county. Judicial review shall be governed by sections 103 to 106  
2 of the administrative procedures act of 1969, Act No. 306 of the  
3 Public Acts of 1969, being sections 24.303 to 24.306 of the  
4 Michigan Compiled Laws.

5 (11) The review and appeal of a certificate of need applica-  
6 tion submitted with the required filing fee before ~~the effective~~  
7 ~~date of this part~~ OCTOBER 1, 1988 shall be conducted under  
8 former part 221 and the rules promulgated under that part. The  
9 certificate of need board created by former section 22121(2)  
10 shall continue for the purpose of performing the functions vested  
11 in it by former part 221, until all appeals lawfully brought  
12 under former part 221 are concluded.

13 (12) NOTWITHSTANDING A CERTIFICATE OF NEED REVIEW STANDARD  
14 OR A PROVISION OF THE STATE MEDICAL FACILITIES PLAN TO THE CON-  
15 TRARY, IN THE REVIEW AND DETERMINATION OF A CERTIFICATE OF NEED  
16 APPLICATION FILED UNDER THIS PART BY A HEALTH FACILITY DESCRIBED  
17 IN SECTION 22205(1)(C) FOR A CHANGE IN BED CAPACITY, THE DEPART-  
18 MENT SHALL NOT CONSIDER CERTIFICATE OF NEED APPLICATIONS FOR A  
19 PROJECT OR CHANGE IN BED CAPACITY UNDER APPEAL FROM A FINAL DECISION  
20 OF THE DEPARTMENT UNDER FORMER PART 221 AS ANY OF THE FOL-  
21 LOWING, UNLESS APPROVAL OF THE APPLICATION FILED UNDER THIS PART  
22 FOR A CHANGE IN BED CAPACITY WOULD RESULT IN BOTH THE NEW CON-  
23 STRUCTION OF A HEALTH FACILITY AND THE ADDITION OF BEDS IN THE  
24 HEALTH SERVICE SUBAREA IN WHICH THE HEALTH FACILITY DESCRIBED IN  
25 SECTION 22205(1)(C) IS LOCATED:

1 (A) BEING IN THE BED INVENTORY OF THE HEALTH SERVICE SUBAREA  
2 IN WHICH THE HEALTH FACILITY DESCRIBED IN SECTION 22205(1)(C) IS  
3 LOCATED.

4 (B) A PART OF THE EXISTING HEALTH CARE SYSTEM.

5 (C) EXISTING NURSING HOME BEDS.

6 (13) IN THE REVIEW, DECISION, OR APPEAL OF A CERTIFICATE OF  
7 NEED APPLICATION FILED UNDER FORMER PART 221 BY A HEALTH FACILITY  
8 DESCRIBED IN SECTION 22205(1)(C) FOR A CHANGE IN BED CAPACITY,  
9 THE DEPARTMENT AND THE CERTIFICATE OF NEED BOARD CREATED UNDER  
10 FORMER PART 221 SHALL NOT CONSIDER FOR ANY PURPOSE THE APPROVAL  
11 OF A CERTIFICATE OF NEED APPLICATION FILED UNDER THIS PART BY A  
12 HEALTH FACILITY DESCRIBED IN SECTION 22205(1)(C) FOR A CHANGE IN  
13 BED CAPACITY THAT IS AN INCREASE IN LICENSED NURSING HOME BEDS.

14 (14) ~~—(12)—~~ If the department exceeds the time frames set  
15 forth in this section for other than good cause, as determined by  
16 the commission, upon the written request of an applicant, the  
17 department shall return to the applicant all of the certificate  
18 of need application fee paid by the applicant under section  
19 20161(2).