



# SENATE BILL No. 396

February 16, 1993, Introduced by Senators PRIDNIA, EMMONS, ARTHURHULTZ, CISKY, GAST, CARL, MC MANUS, DUNASKISS, KOIVISTO and KELLY and referred to the Committee on Health Policy.

A bill to amend sections 20145, 22203, 22205, 22207, 22208, 22209, 22210, 22213, 22215, 22221, 22225, 22227, 22229, 22231, 22232, 22247, and 22260 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

section 20145 as amended by Act No. 13 of the Public Acts of 1991, section 22203 as added by Act No. 331 of the Public Acts of 1988, sections 22205, 22207, 22213, 22215, 22221, 22225, 22227, 22229, 22231, 22232, 22247, and 22260 as added by Act No. 332 of the Public Acts of 1988, and sections 22208, 22209, and 22210 as amended by Act No. 260 of the Public Acts of 1990, being sections 333.20145, 333.22203, 333.22205, 333.22207, 333.22208, 333.22209, 333.22210, 333.22213, 333.22215, 333.22221, 333.22225, 333.22227, 333.22229, 333.22231, 333.22232, 333.22247, and 333.22260 of the

Michigan Compiled Laws; to add section 22256; and to repeal certain parts of the act.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Section 1. Sections 20145, 22203, 22205, 22207, 22208,  
2 22209, 22210, 22213, 22215, 22221, 22225, 22227, 22229, 22231,  
3 22232, 22247, and 22260 of Act No. 368 of the Public Acts of  
4 1978, section 20145 as amended by Act No. 13 of the Public Acts  
5 of 1991, section 22203 as added by Act No. 331 of the Public Acts  
6 of 1988, sections 22205, 22207, 22213, 22215, 22221, 22225,  
7 22227, 22229, 22231, 22232, 22247, and 22260 as added by Act  
8 No. 332 of the Public Acts of 1988, and sections 22208, 22209,  
9 and 22210 as amended by Act No. 260 of the Public Acts of 1990,  
10 being sections 333.20145, 333.22203, 333.22205, 333.22207,  
11 333.22208, 333.22209, 333.22210, 333.22213, 333.22215, 333.22221,  
12 333.22225, 333.22227, 333.22229, 333.22231, 333.22232, 333.22247,  
13 and 333.22260 of the Michigan Compiled Laws, are amended and sec-  
14 tion 22256 is added to read as follows:

15       Sec. 20145. (1) Before contracting for and initiating a  
16 construction project involving new construction, additions, mod-  
17 ernizations, or conversions of a health facility or agency ~~for~~  
18 ~~which a certificate of need under part 222 is required~~ WITH A  
19 CAPITAL EXPENDITURE OF \$1,000,000.00 OR MORE, a person shall  
20 obtain a construction permit from the department. The permit  
21 shall not be issued under this subsection unless the applicant  
22 holds a valid certificate of need ~~issued~~ IF A CERTIFICATE OF  
23 NEED IS REQUIRED FOR THE PROJECT pursuant to part 222.

1       (2) To protect the public health, safety, and welfare, the  
2 department may promulgate rules to require construction permits  
3 FOR PROJECTS OTHER THAN THOSE DESCRIBED IN SUBSECTION (1) and the  
4 submission of plans for other construction projects to expand or  
5 change service areas and services provided.

6       (3) The review and approval of architectural plans and nar-  
7 rative shall require that the proposed construction project is  
8 designed and constructed in accord with applicable statutory and  
9 other regulatory requirements.

10       (4) The department shall promulgate rules to further pre-  
11 scribe the scope of construction projects and other alterations  
12 subject to review under this section.

13       (5) The department may waive the applicability of this sec-  
14 tion to a construction project or alteration if the waiver will  
15 not affect the public health, safety, and welfare.

16       (6) Upon request by the person initiating a construction  
17 project, the department may review and issue a construction  
18 permit to a construction project that is not subject to  
19 subsection (1) or (2) if the department determines that the  
20 review will promote the public health, safety, and welfare.

21       (7) The department shall assess a fee for each review con-  
22 ducted under this section. The fee shall be .5% of the first  
23 \$1,000,000.00 of capital expenditure and .85% of any amount over  
24 \$1,000,000.00 of capital expenditure, up to a maximum of  
25 \$30,000.00. As used in this subsection, "capital expenditure"  
26 means that term as defined in section 22203(2), except that it

1 does not include the cost of equipment that is not fixed  
2 equipment.

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

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

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

1       (4) "Certificate of need review standard" OR "REVIEW  
2 STANDARD" means a standard approved by the commission ~~or the~~  
3 ~~statewide health coordinating council~~ under section 22215. ~~or~~  
4 ~~22217 or a document, policy, or guideline listed in section~~  
5 ~~22217(1).~~

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

8       (a) An increase in licensed hospital beds.

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

11       (c) An increase in licensed psychiatric beds.

12       (d) A change from 1 licensed use to a different licensed  
13 use.

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~~ THAT house medical equipment,  
21 patient rooms, patient beds, diagnostic, operating, therapy, or  
22 treatment rooms or other accommodations related to the diagnosis,  
23 treatment, or rehabilitation of individuals receiving services  
24 from 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       (9) ~~(10)~~ "Covered capital expenditure", SUBJECT TO SECTION  
6 22221(1)(G), means a capital expenditure OF \$2,000,000.00 OR MORE  
7 by A PERSON FOR a health facility for a single project, excluding  
8 the cost of nonfixed medical equipment, that ~~is equal to, or~~  
9 ~~greater than, 1 of the following amounts:~~ (a) For a single  
10 ~~project that~~ includes or involves the ~~acquisition,~~ improve-  
11 ment, expansion, addition, conversion, modernization, new con-  
12 struction, or replacement of a clinical service 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 (10) ~~—(11)—~~ "Covered clinical service", except as otherwise  
9 modified by the commission pursuant to section 22215, means 1 or  
10 more 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.~~

1       ~~(iii) A partial day hospitalization psychiatric program.~~

2       (A) INITIATION OF LICENSED HOSPITAL BEDS DEDICATED TO  
3 NEONATAL INTENSIVE CARE SERVICES OR SPECIAL NEWBORN NURSING  
4 SERVICES.

5       (B) INITIATION OR EXPANSION OF 1 OR MORE OF THE FOLLOWING  
6 SERVICES:

7       (i) OPEN HEART SURGERY.

8       (ii) EXTRARENAL ORGAN TRANSPLANTATION.

9       (iii) SURGICAL SERVICES PROVIDED IN A FREESTANDING SURGICAL  
10 OUTPATIENT FACILITY, AN AMBULATORY SURGERY CENTER CERTIFIED UNDER  
11 TITLE XVIII, OR A SURGICAL DEPARTMENT OF A HOSPITAL LICENSED  
12 UNDER PART 215 AND OFFERING INPATIENT OR OUTPATIENT SURGICAL  
13 SERVICES.

14       (iv) CARDIAC CATHETERIZATION.

15       (v) FIXED AND MOBILE MAGNETIC RESONANCE IMAGER SERVICES.

16       (C) INITIATION, REPLACEMENT, OR EXPANSION OF 1 OR MORE OF  
17 THE FOLLOWING SERVICES:

18       (i) EXTRACORPOREAL SHOCK WAVE LITHOTRIPSY.

19       (ii) MEGAVOLTAGE RADIATION THERAPY.

20       (iii) POSITRON EMISSION TOMOGRAPHY.

21       (D) INITIATION OF A PARTIAL DAY HOSPITALIZATION PSYCHIATRIC  
22 PROGRAM SERVICE.

23       (E) INITIATION OF A SPECIALIZED PSYCHIATRIC PROGRAM UTILIZ-  
24 ING EXISTING LICENSED PSYCHIATRIC BEDS. A SPECIALIZED PSYCHIAT-  
25 RIC PROGRAM INCLUDES, BUT IS NOT LIMITED TO, SERVICES FOR GERIAT-  
26 RIC PATIENTS, PEDIATRIC ADOLESCENT PATIENTS, AND SUBSTANCE ABUSE  
27 PATIENTS.



1 (F) ~~-(d)-~~ Initiation, replacement, or expansion of a service  
 2 not listed in this subsection, but designated as a covered clini-  
 3 cal service by the commission under section 22215(1)(a).

4 ~~-(e) Initiation or increase in the number of licensed hospi-~~  
 5 ~~tal beds dedicated to neonatal intensive care services or special~~  
 6 ~~newborn nursing services.~~

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

10 ~~(a) An extracorporeal shock wave lithotripter.~~

11 ~~(b) A magnetic resonance unit.~~

12 ~~(c) A mobile computerized tomography scanner.~~

13 ~~(d) A fixed computerized tomography scanner.~~

14 ~~(e) Surgical facilities.~~

15 ~~(f) An air ambulance.~~

16 ~~(g) A positron emission tomography scanner.~~

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

20 (11) ~~-(13)-~~ "Fixed equipment" means equipment that is  
 21 affixed to and constitutes a structural component of a health  
 22 facility, including, but not limited to, mechanical or electrical  
 23 systems, elevators, generators, pumps, boilers, and refrigeration  
 24 equipment.

25 Sec. 22205. (1) "Health facility", except as otherwise pro-  
 26 vided in subsection (2), means:

1 (a) A hospital licensed under part 215.

2 (b) A mental hospital, psychiatric hospital, or psychiatric  
3 unit licensed under the mental health code, Act No. 258 of the  
4 Public Acts of 1974, being sections 330.1001 to 330.2106 of the  
5 Michigan Compiled Laws.

6 (c) A nursing home licensed under part 217 or a hospital  
7 long-term care unit as defined in section 20106(6).

8 (d) A freestanding surgical outpatient facility licensed  
9 under part 208.

10 (e) A health maintenance organization licensed under part  
11 210.

12 (2) "Health facility" does not include the following:

13 (a) An institution conducted by and for the adherents of a  
14 church or religious denomination for the purpose of providing  
15 facilities for the care and treatment of the sick who depend  
16 solely upon spiritual means through prayer for healing.

17 (b) A health facility or agency located in a correctional  
18 institution.

19 (c) A veterans facility operated by the state or federal  
20 government.

21 (d) A facility owned and operated by the department of  
22 mental health.

23 (3) "Initiate a new service" means the initiation of a cov-  
24 ered clinical service by a person if the covered clinical service  
25 has not been offered in compliance with this part or former part  
26 221 on a regular basis by that person at the location where the  
27 covered clinical service is to be offered within the 12-month

1 period immediately preceding the date the service will be  
2 offered. Initiate a new service includes, but is not limited to,  
3 the expansion or replacement of an existing covered clinical  
4 service or beds dedicated to a covered clinical service if autho-  
5 rized either under this part or by the commission pursuant to  
6 section 22215.

7 (4) "Medical equipment" means a single equipment component  
8 or a related system of components that is used for clinical  
9 purposes.

10 Sec. 22207. (1) "Medicaid" means the program for medical  
11 assistance administered by the department of social services  
12 under the social welfare act, Act No. 280 of the Public Acts of  
13 1939, being sections 400.1 to ~~400.121~~ 400.119B of the Michigan  
14 Compiled Laws.

15 (2) "Modernization" means an upgrading, alteration, or  
16 change in function of a part or all of the physical plant of a  
17 health facility. Modernization includes, but is not limited to,  
18 the alteration, repair, remodeling, and renovation of an existing  
19 building and initial fixed equipment and the replacement of obso-  
20 lete fixed equipment in an existing building. Modernization of  
21 the physical plant does not include normal maintenance and oper-  
22 ational expenses.

23 (3) "New construction" means construction of a health facil-  
24 ity where a health facility does not exist or construction  
25 replacing or expanding an existing health facility or a part of  
26 an existing health facility.

1 ~~(4) "Office" means the office of health and medical affairs~~  
2 ~~created in 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 (4) ~~(5)~~ "Person" means a person as defined in section 1106  
6 or a governmental entity.

7 (5) ~~(6)~~ "Planning area" means the area defined in a cer-  
8 tificate of need review standard for determining the need for,  
9 and the resource allocation of, a specific health facility, serv-  
10 ice, or equipment. Planning area includes, but is not limited  
11 to, the state, a health facility service area, or a health serv-  
12 ice area or subarea within the state.

13 (6) ~~(7)~~ "Proposed project" means a proposal to ~~acquire~~  
14 ~~or~~ begin operation of a new health facility, make a change in  
15 bed capacity, initiate, REPLACE, OR EXPAND a ~~new~~ COVERED  
16 CLINICAL service, ~~acquire covered medical equipment,~~ or make a  
17 covered capital expenditure.

18 ~~(8) "State health plan" means the plan developed by the~~  
19 ~~council and approved pursuant to section 10 of Act No. 323 of the~~  
20 ~~Public Acts of 1978, being section 325.2010 of the Michigan~~  
21 ~~Compiled Laws.~~

22 ~~(9) "Statewide health coordinating council" means the state~~  
23 ~~agency created by section 7 of Act No. 323 of the Public Acts of~~  
24 ~~1978, being section 325.2007 of the Michigan Compiled Laws,~~  
25 ~~before section 7 was amended by the 1988 amendatory act that cre-~~  
26 ~~ated the state health planning council.~~

1       (7) ~~-(10)-~~ "Stipulation" means a requirement that is germane  
2 to the proposed project and has been agreed to by an applicant as  
3 a condition of certificate of need approval.

4       Sec. 22208. (1) "Short-term nursing care" means nursing  
5 care provided ~~in a hospital to a patient who has been discharged~~  
6 ~~or is ready for transfer from a licensed hospital bed other than~~  
7 ~~a hospital long term care unit bed and cannot be placed in a~~  
8 ~~nursing home bed, county medical care facility bed, or hospital~~  
9 ~~long term care unit bed located within a 50 mile radius of the~~  
10 ~~patient's residence~~ PURSUANT TO SECTION 1883 OF TITLE XVIII.

11       (2) "TITLE XVIII" MEANS TITLE XVIII OF THE SOCIAL SECURITY  
12 ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1395 TO 1395b, 1395b-2,  
13 1395c TO 1395i, 1395-2 TO 1395i-4, 1395j TO 1395t, 1395u TO  
14 1395w-2, 1395w-4 TO 1395zz, AND 1395bbb TO 1395ccc.

15       (3) "TITLE XIX" MEANS TITLE XIX OF THE SOCIAL SECURITY ACT,  
16 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO 1396g AND 1396i TO  
17 1396u.

18       Sec. 22209. (1) Except as otherwise provided ~~under~~ IN  
19 this part, a person shall not do any of the following without  
20 first obtaining a certificate of need:

21       (a) ~~Acquire or begin~~ BEGIN operation of a ~~new~~ health  
22 facility AT A SITE THAT IS NOT CURRENTLY LICENSED FOR THAT TYPE  
23 OF HEALTH FACILITY.

24       (b) Make a change in the bed capacity of a health facility.

25       (c) Initiate, REPLACE, OR EXPAND a ~~new~~ COVERED CLINICAL  
26 service.

1       ~~-(d) Acquire covered medical equipment.~~

2       (D) ~~-(e)~~ Make a covered capital expenditure.

3       ~~-(2) For purposes of evaluating the effect of this part, the~~  
4 ~~department shall require persons to report capital expenditures~~  
5 ~~and single projects that were subject to former part 221. The~~  
6 ~~reports shall be made in conjunction with the annual survey of~~  
7 ~~hospitals conducted by the department and according to procedures~~  
8 ~~approved by the commission. The department, with the concurrence~~  
9 ~~of the commission, may require that reports for specific types of~~  
10 ~~capital expenditures or projects be reported on other than an~~  
11 ~~annual basis, as necessary to evaluate the effect of this part.~~

12       (2) ~~-(3)~~ A certificate of need ~~shall~~ IS not ~~be~~ required  
13 for a reduction in licensed bed capacity or services at a  
14 licensed site.

15       (3) A CERTIFICATE OF NEED IS NOT REQUIRED FOR THE ACQUI-  
16 TION OF AN EXISTING HEALTH FACILITY. HOWEVER, A PERSON ACQUIRING  
17 AN EXISTING HEALTH FACILITY IS SUBJECT TO THE SAME REQUIREMENTS,  
18 TERMS, CONDITIONS, AND STIPULATIONS UNDER THIS PART THAT APPLIED  
19 TO THE TRANSFEROR OF THE HEALTH FACILITY ON THE DATE OF THE  
20 TRANSFER.

21       (4) A HOSPITAL OR A CENTRAL SERVICE COORDINATOR MAY PROVIDE  
22 AND A HOSPITAL MAY RECEIVE A MOBILE MAGNETIC RESONANCE IMAGER  
23 SERVICE WITHOUT OBTAINING A CERTIFICATE OF NEED IF THE SERVICE IS  
24 PROVIDED TO NOT LESS THAN 3 HOSPITALS, ALL OF WHICH ARE LOCATED  
25 IN 2 OR MORE CONTIGUOUS COUNTIES WITH A COMBINED POPULATION OF  
26 200,000 OR LESS AND IF THE SERVICE IS PROVIDED ONLY TO  
27 HOSPITALS. A HOSPITAL MAY ALSO RECEIVE A MOBILE MAGNETIC

1 RESONANCE IMAGER SERVICE FROM ANOTHER HOSPITAL OR A CENTRAL  
2 SERVICE COORDINATOR LOCATED IN A CONTIGUOUS STATE WITHOUT OBTAIN-  
3 ING A CERTIFICATE OF NEED. THE DEPARTMENT SHALL NOT CONSIDER  
4 DISCHARGE DATA FOR MAGNETIC RESONANCE IMAGER SERVICES GENERATED  
5 BY A HOSPITAL EXEMPTED UNDER THIS SUBSECTION FOR PURPOSES OF  
6 GRANTING A CERTIFICATE OF NEED UNDER THIS PART. AS USED IN THIS  
7 SUBSECTION, "CENTRAL SERVICE COORDINATOR" MEANS A LEGAL ENTITY  
8 OTHER THAN A HOSPITAL THAT IS THE ORGANIZATIONAL UNIT THAT HAS  
9 OPERATIONAL RESPONSIBILITY FOR A MOBILE MAGNETIC RESONANCE IMAGER  
10 SERVICE.

11 (5) ~~-(4)-~~ The ~~office of~~ CENTER FOR rural health created in  
12 section 2612 shall designate a certificate of need ombudsman to  
13 provide technical assistance and consultation to rural hospitals  
14 and rural communities regarding certificate of need proposals and  
15 applications under THIS part. ~~-222.-~~ The ombudsman shall also  
16 act as an advocate for rural health concerns in the development  
17 of certificate of need review standards under THIS part. ~~-222.-~~

18 (6) A PHYSICIAN, CHIROPRACTOR, OR PODIATRIST LICENSED UNDER  
19 ARTICLE 15 SHALL NOT ACQUIRE A FIXED OR MOBILE COMPUTERIZED  
20 TOMOGRAPHY SCANNER FOR HIS OR HER PRIVATE PRACTICE OFFICE WITHOUT  
21 FIRST OBTAINING A CERTIFICATE OF NEED UNDER THIS PART.

22 Sec. 22210. (1) A hospital that applies to the department  
23 for a certificate of need and meets all of the following criteria  
24 shall be granted a certificate of need for a short-term nursing  
25 care program with up to 10 licensed hospital beds:

1 (a) Is eligible to apply for certification as a provider of  
2 swing-bed services under section 1883 of title XVIII, ~~of the~~  
3 ~~social security act,~~ 42 U.S.C. 1395tt.

4 (b) Subject to subsection (2), has fewer than 100 licensed  
5 beds not counting beds excluded under section 1883 of title XVIII  
6 of the social security act.

7 (c) Does not have uncorrected licensing, certification, or  
8 safety deficiencies for which the department or the state fire  
9 marshal, or both, has not accepted a plan of correction.

10 (d) Provides evidence satisfactory to the department that  
11 the hospital has had difficulty in placing patients in skilled  
12 nursing home beds during the 12 months immediately preceding the  
13 date of the application.

14 (2) After October 1, 1990, the criteria set forth in  
15 subsection (1)(b) may be modified by the commission, using the  
16 procedure set forth in section 22215(3). The department shall  
17 not charge a fee for processing a certificate of need application  
18 to initiate a short-term nursing care program.

19 (3) A hospital that is granted a certificate of need for a  
20 short-term nursing care program under subsection (1) shall comply  
21 with all of the following:

22 (a) Not charge for or otherwise attempt to recover the cost  
23 of a length of stay for a patient in the short-term nursing care  
24 program that exceeds the length of time allowed for post-hospital  
25 extended care under title XVIII. ~~of the social security act,~~  
26 ~~chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2,~~



~~1 1395e to 1395i, 1395i-2 to 1395i-4, 1395j to 1395w-2, 1395w-4 to~~  
~~2 1395dd, 1395ff to 1395yy, and 1395bbb to 1395eee.~~

3 (b) Admit patients to the short-term nursing care program  
4 only pursuant to an admissions contract approved by the  
5 department.

6 (c) Not discharge or transfer a patient from a licensed hos-  
7 pital bed other than a hospital long-term care unit bed and admit  
8 that patient to the short-term nursing care program unless the  
9 discharge or transfer and admission is determined medically  
10 appropriate by the attending physician.

11 (d) Permit access to a representative of an organization  
12 approved under section 21764 to patients admitted to the  
13 short-term nursing care program, for all of the purposes  
14 described in section 21763.

15 (e) Subject to subsection (8), not allow the number of  
16 patient days for the short-term nursing care program to exceed  
17 the equivalent of 1,825 patient days for a single state fiscal  
18 year.

19 (f) Transfer a patient in the short-term nursing care pro-  
20 gram to an appropriately certified nursing home bed, county medi-  
21 cal care facility bed, or hospital long-term care unit bed  
22 located within a 50-mile radius of the patient's residence within  
23 5 business days after the hospital has been notified, either  
24 orally or in writing, that a bed has become available.

25 (g) Not charge or collect from a patient admitted to the  
26 short-term nursing care program, for services rendered as part of  
27 the short-term nursing care program, an amount in excess of the

1 reasonable charge for the services as determined by the United  
2 States secretary of health and human services under title XVIII.  
3 ~~of the social security act.~~

4 (h) Assist a patient who has been denied coverage for serv-  
5 ices received in a short-term nursing care program under title  
6 XVIII ~~of the social security act~~ to file an appeal with the  
7 medicare recovery project operated by the office of services to  
8 the aging.

9 (i) Operate the short-term nursing care program in accord-  
10 ance with this section and the requirements of the swing bed pro-  
11 visions of section 1883 of title XVIII, ~~of the social security~~  
12 ~~act,~~ 42 U.S.C. 1395tt.

13 (j) Provide data to the department considered necessary by  
14 the department to evaluate the short-term nursing care program.  
15 The data shall include, but is not limited to, all of the  
16 following:

17 (i) The total number of patients admitted to the hospital's  
18 short-term nursing care program during the period specified by  
19 the department.

20 (ii) The total number of short-term nursing care patient  
21 days for the period specified by the department.

22 (iii) Information identifying the type of care to which  
23 patients in the short-term care nursing program are released.

24 (k) As part of the hospital's policy describing the rights  
25 and responsibilities of patients admitted to the hospital, as  
26 required under section 20201, incorporate all of the following

1 additional rights and responsibilities for patients in the  
2 short-term nursing care program:

3       (i) A copy of the hospital's policy shall be provided to  
4 each short-term nursing care patient upon admission, and the  
5 staff of the hospital shall be trained and involved in the imple-  
6 mentation of the policy.

7       (ii) Each short-term nursing care patient may associate and  
8 communicate privately with persons of his or her choice.

9 Reasonable, regular visiting hours, which shall take into consid-  
10 eration the special circumstances of each visitor, shall be  
11 established for short-term nursing care patients to receive  
12 visitors. A short-term nursing care patient may be visited by  
13 the patient's attorney or by representatives of the departments  
14 named in section 20156 during other than established visiting  
15 hours. Reasonable privacy shall be afforded for visitation of a  
16 short-term nursing care patient who shares a room with another  
17 short-term nursing care patient. Each short-term nursing care  
18 patient shall have reasonable access to a telephone.

19       (iii) A short-term nursing care patient is entitled to  
20 retain and use personal clothing and possessions as space per-  
21 mits, unless medically contraindicated, as documented by the  
22 attending physician in the medical record.

23       (iv) A short-term nursing care patient is entitled to the  
24 opportunity to participate in the planning of his or her medical  
25 treatment. A short-term nursing care patient shall be fully  
26 informed by the attending physician of the short-term nursing  
27 care patient's medical condition, unless medically

1 contraindicated, as documented by a physician in the medical  
2 record. Each short-term nursing care patient shall be afforded  
3 the opportunity to discharge himself or herself from the  
4 short-term nursing care program.

5 (v) A short-term nursing care patient is entitled to be  
6 fully informed either before or at the time of admission, and  
7 during ~~their~~ HIS OR HER stay, of services available in the hos-  
8 pital and of the related charges for those services. The state-  
9 ment of services provided by the hospital shall be in writing and  
10 shall include those services required to be offered on an as  
11 needed basis.

12 (vi) A patient in a short-term nursing care program or a  
13 person authorized in writing by the patient may, upon submission  
14 to the hospital of a written request, inspect and copy the  
15 patient's personal or medical records. The hospital shall make  
16 the records available for inspection and copying within a reason-  
17 able time, not exceeding 7 days, after the receipt of the written  
18 request.

19 (vii) A short-term nursing care patient has the right to  
20 have his or her parents, if the short-term nursing care patient  
21 is a minor, or his or her spouse, next of kin, or patient's rep-  
22 resentative, if the short-term nursing care patient is an adult,  
23 stay at the facility 24 hours a day if the short-term nursing  
24 care patient is considered terminally ill by the physician  
25 responsible for the short-term nursing care patient's care.

26 (viii) Each short-term nursing care patient shall be  
27 provided with meals that meet the recommended dietary allowances

1 for that patient's age and sex and that may be modified according  
2 to special dietary needs or ability to chew.

3 (ix) Each short-term nursing care patient has the right to  
4 receive a representative of an organization approved under  
5 section 21764, for all of the purposes described in section  
6 21763.

7 (1) Achieve and maintain medicare certification under title  
8 XVIII. ~~of the social security act.~~

9 (4) A hospital or the owner, administrator, an employee, or  
10 a representative of the hospital shall not discharge, harass, or  
11 retaliate or discriminate against a short-term nursing care  
12 patient because the short-term nursing care patient has exercised  
13 a right described in subsection (3)(k).

14 (5) In the case of a short-term nursing care patient, the  
15 rights described in subsection (3)(k)(iv) may be exercised by the  
16 patient's representative, as defined in section 21703(2).

17 (6) A short-term nursing care patient shall be fully  
18 informed, as evidenced by the short-term nursing care patient's  
19 written acknowledgment, before or at the time of admission and  
20 during stay, of the rights described in subsection (3)(k). The  
21 written acknowledgment shall provide that if a short-term nursing  
22 care patient is adjudicated incompetent and not restored to legal  
23 capacity, the rights and responsibilities set forth in subsection  
24 (3)(k) shall be exercised by a person designated by the  
25 short-term nursing care patient. The hospital shall provide  
26 proper forms for the short-term nursing care patient to provide  
27 for the designation of this person at the time of admission.

1       (7) Subsection (3)(k) does not prohibit a hospital from  
2 establishing and recognizing additional rights for short-term  
3 nursing care patients.

4       (8) Upon application, the department may grant a variation  
5 from the maximum number of patient days established under subsec-  
6 tion (3)(e), to an applicant hospital that demonstrates to the  
7 satisfaction of the department that there is an immediate need  
8 for skilled nursing beds within a 100-mile radius of the  
9 hospital. A variation granted under this subsection shall be  
10 valid for not more than 1 year after the date THE variation is  
11 granted. The department shall promulgate rules to implement this  
12 subsection including, at a minimum, a definition of immediate  
13 need and the procedure for applying for a variation.

14       (9) A hospital that violates subsection (3) is subject to  
15 the penalty provisions of section 20165.

16       (10) A person shall not initiate a short-term nursing care  
17 program without first obtaining a certificate of need under this  
18 section.

19       ~~(11) By October 1, 1990, the department shall collect data~~  
20 ~~from hospitals operating short-term nursing care programs and~~  
21 ~~report to the legislature on the status of short-term nursing~~  
22 ~~care programs in this state. The report shall include a recom-~~  
23 ~~mendation as to whether or not short-term nursing care programs~~  
24 ~~should continue.~~

25       ~~(12) This section is repealed effective October 1, 1993.~~

26       Sec. 22213. (1) The commission shall, within 2 months after  
27 appointment and confirmation of all members, adopt bylaws for the

1 operation of the commission. The bylaws shall include, at a  
2 minimum, voting procedures that protect against conflict of  
3 interest and minimum requirements for attendance at meetings.

4 ~~(2) The commission shall make it a priority to review and~~  
5 ~~to amend or rescind, or both, the documents, policies, and guide-~~  
6 ~~lines set forth in section 22217.~~

7 (2) ~~(3)~~ The governor may remove a commission member from  
8 office for failure to attend 3 consecutive meetings in a 1-year  
9 period.

10 (3) ~~(4)~~ The commission annually shall elect a chairperson  
11 and vice-chairperson. The commission annually shall appoint a  
12 member to serve as liaison to the state health planning council.

13 (4) ~~(5)~~ The commission shall hold regular quarterly meet-  
14 ings at places and on dates fixed by the commission. Special  
15 meetings may be called by the chairperson, by not less than 2  
16 commission members, or jointly by the department and the office.

17 (5) ~~(6)~~ A majority of the commission members appointed and  
18 serving ~~shall constitute~~ CONSTITUTES a quorum. Final action by  
19 the commission shall be only by affirmative vote of a majority of  
20 the commission members appointed and serving. A commission  
21 member shall not vote by proxy.

22 (6) ~~(7)~~ The legislature annually shall fix the per diem  
23 compensation of members of the commission. Expenses of members  
24 incurred in the performance of official duties shall be reim-  
25 bursed as provided in section 1216.

26 (7) ~~(8)~~ The department shall furnish administrative  
27 services to the commission, shall have charge of the commission's

1 offices, records, and accounts, and shall provide secretarial and  
 2 other staff necessary to allow the proper exercise of the powers  
 3 and duties of the commission. The department shall make avail-  
 4 able the times and places of commission meetings and keep minutes  
 5 of the meetings and a record of the actions of the commission.

6 (8) ~~(9)~~ The department ~~and office each~~ shall assign pro-  
 7 fessional employees to ~~jointly~~ staff the commission to assist  
 8 the commission in the performance of its substantive responsibil-  
 9 ities under this part.

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

12 (a) ~~Upon submission by the department and the office,~~  
 13 ~~approve, disapprove, or revise the designation of covered clini-~~  
 14 ~~cal services and covered medical equipment in addition to the~~  
 15 ~~covered clinical services and covered medical equipment listed in~~  
 16 ~~section 22203. Also, upon submission by the department and the~~  
 17 ~~office, the commission shall approve, disapprove, or~~ IF DETER-  
 18 MINED NECESSARY BY THE COMMISSION OR UPON SUBMISSION BY THE  
 19 DEPARTMENT, revise, ~~the deletion or revision of~~ ADD TO, OR  
 20 DELETE 1 OR MORE OF THE covered clinical services ~~and covered~~  
 21 ~~medical equipment~~ listed in section 22203. ~~Before final action~~  
 22 ~~is taken by the commission under this subdivision, the commission~~  
 23 ~~shall seek the advice and counsel of the department and the~~  
 24 ~~office.~~ IF THE COMMISSION PROPOSES TO ADD TO THE COVERED CLINI-  
 25 CAL SERVICES LISTED IN SECTION 22203, THE COMMISSION SHALL  
 26 DEVELOP PROPOSED REVIEW STANDARDS AND MAKE THE REVIEW STANDARDS  
 27 AVAILABLE TO THE PUBLIC NOT LESS THAN 30 DAYS BEFORE CONDUCTING A



1 HEARING UNDER SUBSECTION (3). THE COMMISSION MAY ESTABLISH AN  
2 ADVISORY COMMITTEE TO MAKE RECOMMENDATIONS ON THE PROPOSED REVIEW  
3 STANDARDS. IN A REVIEW STANDARD THAT ESTABLISHES THE MINIMUM  
4 NUMBER OF MAGNETIC RESONANCE IMAGING PROCEDURES NECESSARY FOR A  
5 CERTIFICATE OF NEED FOR A FIXED OR MOBILE MAGNETIC RESONANCE  
6 IMAGING SERVICE, THE COMMISSION SHALL USE AN ADJUSTMENT FACTOR OF  
7 1.5 FOR RURAL HOSPITALS.

8 (b) ~~Upon submission by the department and the office,~~  
9 ~~approve,~~ APPROVE, disapprove, or revise certificate of need  
10 review standards that establish ~~—~~ for purposes of section 22225  
11 ~~—~~ the need, if any, for the initiation of new services,  
12 ~~acquisition of covered medical equipment, acquisition or initi-~~  
13 ~~ation of new health facilities, making changes in bed capacity,~~  
14 ~~or making covered capital expenditures, including conditions,~~  
15 ~~standards, assurances, or information that must be met, demon-~~  
16 ~~strated, or provided by a person who applies for a certificate of~~  
17 ~~need. A certificate of need review standard may also establish~~  
18 ~~ongoing quality assurance requirements including any or all of~~  
19 ~~the requirements specified in section 22225(2)(c). ~~The state-~~~~  
20 ~~wide health coordinating council may perform the duties of the~~  
21 ~~commission under this subdivision, only until all members of the~~  
22 ~~commission are appointed and confirmed, or 5 months after the~~  
23 ~~effective date of this part, whichever is sooner. Before final~~  
24 ~~action is taken by the commission or the statewide health coordi-~~  
25 ~~nating council under this subdivision, the commission or the~~  
26 ~~statewide health coordinating council shall seek the advice and~~  
27 ~~counsel of the department and the office.~~

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

6 ~~(d) Upon submission by the department and the office,~~  
7 ~~approve, disapprove, or revise proposed data reporting require-~~  
8 ~~ments under section 22209(2) and criteria for determining health~~  
9 ~~facility viability under section 22225. Before final action is~~  
10 ~~taken by the commission under this subdivision, the commission~~  
11 ~~shall seek the advice and counsel of the department and the~~  
12 ~~office.~~

13 (D) ~~(e)~~ Annually assess the operations and effectiveness  
14 of the certificate of need program based on periodic reports from  
15 the department and other information available to the  
16 commission.

17 (E) ~~(f) Four years following the effective date of this~~  
18 ~~part~~ BY OCTOBER 1, 1992, and every 5 years after ~~that fourth~~  
19 ~~year~~ OCTOBER 1, 1992, make recommendations to the standing com-  
20 mittees in the senate and the house that have jurisdiction over  
21 matters pertaining to public health regarding statutory changes  
22 to improve OR ELIMINATE the certificate of need program. ~~—~~  
23 ~~including, but not limited to, threshold levels for capital~~  
24 ~~expenditures, the role of the commission, certificate of need~~  
25 ~~review standards, and the need for the certificate of need~~  
26 ~~program.~~

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

8 (G) ~~-(h)-~~ Upon submission by the department and the office,  
9 ~~approve~~ APPROVE, disapprove, or revise certificate of need  
10 review standards governing the acquisition of new technology.  
11 ~~Before final action is taken by the commission under this subdi-~~  
12 ~~vision, the commission shall seek the advice and counsel of the~~  
13 ~~department and the office.~~

14 (H) ~~-(i)-~~ In accordance with section 22255, approve, disap-  
15 prove, or revise proposed procedural rules for the certificate of  
16 need program. Before final action is taken by the commission  
17 under this subdivision, the commission shall seek the advice and  
18 counsel of the department. ~~and the office.~~

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

24 (I) ~~-(k)-~~ Consider the recommendations of the department and  
25 the department of attorney general as to the administrative fea-  
26 sibility and legality of proposed actions under subdivisions (a),  
27 (b), and (c).

1 (J) ~~(I)~~ Consider the impact of a proposed restriction on  
 2 the acquisition of ~~equipment~~ or availability of COVERED  
 3 CLINICAL services on the quality, availability, and cost of  
 4 health services in this state.

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

7 (a) The availability AND ACCESSIBILITY of quality health  
 8 services at reasonable cost AND WITH REASONABLE GEOGRAPHIC PROX-  
 9 IMITY FOR PEOPLE RESIDING IN ALL AREAS OF THE STATE.

10 (b) ~~The general health objectives in the state health~~  
 11 ~~plan.~~ APPROPRIATE DIFFERENTIAL CONSIDERATION OF THE HEALTH CARE  
 12 NEEDS OF RESIDENTS IN ISOLATED OR UNDERSERVED AREAS IN WAYS THAT  
 13 DO NOT COMPROMISE THE QUALITY AND AFFORDABILITY OF HEALTH CARE  
 14 SERVICES FOR THOSE RESIDENTS.

15 (3) ~~Before~~ NOT LESS THAN 30 DAYS BEFORE final action is  
 16 taken by the commission under subsection (1)(a), (b), ~~(d), (g),~~  
 17 ~~(h), or (j)~~ OR (G), the commission shall conduct a public hear-  
 18 ing on the matter. ~~In addition, not less than 30 days before~~  
 19 ~~final action is taken by the commission under subsection (1)(a),~~  
 20 ~~(b), (d), (g), (h), or (j), the~~ THE commission shall submit the  
 21 proposed final action for comment to the standing committees in  
 22 the senate and house of representatives with jurisdiction over  
 23 public health matters ~~— Before a final commission approval~~  
 24 ~~under subsection (1)(a), (b), (d), (g), (h), or (j) is effective,~~  
 25 ~~the commission shall submit the proposed action~~ AND to the  
 26 governor. ~~and the standing committee of each house of the~~  
 27 ~~legislature having jurisdiction over public health matters. The~~

1 governor or the legislature may disapprove the proposed FINAL  
 2 action within 45 days after the date of submission. If the leg-  
 3 islature is not in session at the time of submission of the pro-  
 4 posed FINAL action, or is in recess, the 45 days shall commence  
 5 on the first day the legislature reconvenes. The 45 days shall  
 6 include not less than 9 legislative session days. Legislative  
 7 disapproval shall be expressed by concurrent resolution which  
 8 shall be adopted by each house of the legislature. The concur-  
 9 rent resolution shall state specific objections to the proposed  
 10 action. A proposed ~~commission~~ FINAL action BY THE COMMISSION  
 11 under subsection (1)(a), (b), ~~(d), (g), (h), or (j)~~ shall OR  
 12 (G) IS not ~~become~~ effective if it has been disapproved under  
 13 this subsection. If the proposed action is not disapproved under  
 14 this subsection, it ~~shall be~~ IS effective and binding on all  
 15 persons affected by this part upon the expiration of the 45-day  
 16 period or on a later date specified in the proposed FINAL  
 17 action. As used in this subsection, "legislative session day"  
 18 means each day in which a quorum of either the house of represen-  
 19 tatives or the senate, following a call to order, officially con-  
 20 venes in Lansing to conduct legislative business.

21 (4) ~~Every 5 years following the effective date of this~~  
 22 ~~part, the standing committees of the senate and the house of rep-~~  
 23 ~~resentatives having jurisdiction over public health matters shall~~  
 24 ~~make findings and recommendations regarding any changes in, or~~  
 25 ~~the continuation of, the certificate of need program established~~  
 26 ~~under this part considered appropriate by those committees after~~  
 27 ~~consideration of the recommendations submitted by the commission~~

1 ~~pursuant to subsection (1)(f).~~ UPON THE EXPIRATION OF 1 YEAR  
2 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
3 SUBSECTION, THE CERTIFICATE OF NEED REVIEW STANDARDS PERTAINING  
4 TO THE COVERED CLINICAL SERVICES DESCRIBED IN  
5 SECTION 22203(10)(D) AND (E) DO NOT APPLY. WITHIN 1 YEAR AFTER  
6 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSEC-  
7 TION, THE COMMISSION SHALL DEVELOP AND APPROVE NEW CERTIFICATE OF  
8 NEED REVIEW STANDARDS UNDER THIS SECTION FOR THE COVERED CLINICAL  
9 SERVICES DESCRIBED IN SECTION 22203(10)(D) AND (E). THE COMMIS-  
10 SION SHALL INCLUDE IN THE REVIEW STANDARDS A SPECIFIC METHODOLOGY  
11 FOR THE DETERMINATION OF NEED. IF THE COMMISSION DOES NOT  
12 DEVELOP AND APPROVE NEW REVIEW STANDARDS FOR THE COVERED CLINICAL  
13 SERVICES DESCRIBED IN SECTION 22203(10)(D) AND (E) WITHIN THE  
14 TIME LIMIT SET FORTH IN THIS SUBSECTION, THE COMMISSION SHALL  
15 DELETE THE COVERED CLINICAL SERVICES DESCRIBED IN  
16 SECTION 22203(10)(D) AND (E) PURSUANT TO SUBSECTION (1)(A).

17 ~~(5) If the reports received under section 22221(1)(e) indi-~~  
18 ~~cate that the certificate of need application fees collected~~  
19 ~~under section 20161(2) have not been within 10% of 1/2 the cost~~  
20 ~~to the department of implementing this part, the commission shall~~  
21 ~~make recommendations under subsection (1)(f) regarding the revi-~~  
22 ~~sion of those fees so that the certificate of need application~~  
23 ~~fees collected equal approximately 1/2 of the cost to the depart-~~  
24 ~~ment of implementing this part.~~

25 Sec. 22221. (1) The department shall do all of the  
26 following:

1 (a) ~~Develop~~ PROMULGATE rules ~~authorized by~~ TO IMPLEMENT  
2 ITS POWERS AND DUTIES UNDER this part. ~~in conjunction with the~~  
3 ~~office.~~

4 (b) Report to the commission ~~not less than 3 times each~~  
5 ~~year~~ AT LEAST ANNUALLY on the performance of the department's  
6 duties under this part.

7 (c) Develop ~~, in conjunction with the office,~~ proposed  
8 certificate of need review standards for submission to the  
9 commission.

10 (d) Administer and apply certificate of need review  
11 standards.

12 (E) DESIGNATE ADEQUATE STAFF TO DIRECTLY ASSIST HOSPITALS  
13 WITH LESS THAN 100 BEDS IN THE PREPARATION OF APPLICATIONS FOR  
14 CERTIFICATES OF NEED.

15 (F) ~~(e)~~ Following the first state fiscal year after ~~the~~  
16 ~~enactment of this part~~ OCTOBER 1, 1988, and annually thereafter,  
17 report to the commission regarding the costs to the department of  
18 implementing this part and the certificate of need application  
19 fees collected under section 20161(2) in the immediately preced-  
20 ing state fiscal year.

21 (G) ADJUST THE \$2,000,000.00 THRESHOLD SET FORTH IN SECTION  
22 22203(9) BY AN AMOUNT DETERMINED BY THE STATE TREASURER TO  
23 REFLECT THE ANNUAL PERCENTAGE CHANGE IN THE MEDICAL CONSUMER  
24 PRICE INDEX. AS USED IN THIS SUBDIVISION:

25 (A) "CONSUMER PRICE INDEX" MEANS THE MOST COMPREHENSIVE  
26 INDEX OF CONSUMER PRICES AVAILABLE FOR THIS STATE FROM THE BUREAU  
27 OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR.

1 (B) "MEDICAL CONSUMER PRICE INDEX" MEANS THE MEDICAL CARE  
2 SERVICES COMPONENT OF THE CONSUMER PRICE INDEX.

3 (2) ~~In the development of a proposed certificate of need~~  
4 ~~review standard under subsection (1)(c), the department~~ THE  
5 COMMISSION shall appoint an ad hoc advisory committee ~~which~~  
6 ~~shall~~ TO assist in the development of ~~the~~ A proposed  
7 CERTIFICATE OF NEED REVIEW standard UNDER SUBSECTION (1)(C) and  
8 ~~shall have the opportunity~~ to review and comment on the propos-  
9 als submitted to the commission. THE AD HOC ADVISORY COMMITTEE  
10 SHALL COMPLETE ITS REVIEW AND SUBMIT ITS COMMENTS TO THE COMMIS-  
11 SION WITHIN 180 DAYS AFTER THE AD HOC ADVISORY COMMITTEE IS  
12 APPOINTED. The composition of the ad hoc advisory committee shall  
13 include all of the following:

14 (a) Experts WITH PROFESSIONAL COMPETENCE in the subject  
15 matter of the proposed standard, who shall constitute a majority  
16 of the ad hoc advisory committee.

17 (b) Representatives of health care provider organizations  
18 concerned with licensed health facilities or licensed health  
19 professions.

20 (c) Representatives of organizations concerned with health  
21 care consumers and the purchasers and payers of health care  
22 services.

23 Sec. 22225. (1) In order to be approved under this part, an  
24 applicant for a certificate of need shall demonstrate to the sat-  
25 isfaction of the department that the proposed project will meet  
26 an unmet need in the area proposed to be served. ~~The~~ AN  
27 APPLICANT SHALL DEMONSTRATE THE need for a proposed project



~~1 shall be demonstrated~~ by credible documentation of compliance  
 2 with the applicable certificate of need review standards. ~~or if~~  
 3 ~~none, by credible documentation that the proposed project will be~~  
 4 ~~geographically accessible and efficiently and appropriately uti-~~  
 5 ~~lized in light of the type of proposed project and~~ IF NO CERTIF-  
 6 ICATE OF NEED REVIEW STANDARDS ARE APPLICABLE TO THE PROPOSED  
 7 PROJECT, THE APPLICANT SHALL DEMONSTRATE TO THE SATISFACTION OF  
 8 THE DEPARTMENT THAT AN UNMET NEED FOR THE PROPOSED PROJECT  
 9 EXISTS. WHETHER OR NOT THERE ARE APPLICABLE CERTIFICATE OF NEED  
 10 REVIEW STANDARDS, IN DETERMINING COMPLIANCE WITH THIS SUBSECTION,  
 11 THE DEPARTMENT SHALL CONSIDER the existing health care system,  
 12 including approved projects that are not yet operational, pro-  
 13 posed projects under appeal from a final decision of the depart-  
 14 ment, or proposed projects that are pending final department  
 15 decision.

16 (2) If, and only if, the requirements of subsection (1) are  
 17 met, in order for an application to be approved under this part,  
 18 an applicant shall also demonstrate to the reasonable satisfac-  
 19 tion of the department all of the following:

20 (a) With respect to the method proposed to meet the ~~unmet~~  
 21 need identified under subsection (1), that THE APPLICANT HAS CON-  
 22 sidered ALTERNATIVES TO THE PROPOSED PROJECT AND THAT, IN LIGHT  
 23 OF THE ALTERNATIVES AVAILABLE FOR CONSIDERATION, THE CHOSEN  
 24 ALTERNATIVE IS THE MOST EFFICIENT AND EFFECTIVE METHOD OF MEETING  
 25 THAT UNMET NEED. ~~each of the following is met:~~

26 ~~(i) The project utilizes the most efficient and effective~~  
 27 ~~feasible methods that are available to the health care industry.~~

1       ~~(ii) In the case of a project proposing physical plant~~  
2 ~~expansion, that the project is the most efficient and effective~~  
3 ~~expansion alternative after consideration of at least new con-~~  
4 ~~struction, modernization, lease, or purchase.~~

5       ~~(iii) In the case of proposed new construction, the project~~  
6 ~~is the most appropriate construction option.~~

7       (b) With respect to the financial aspects of the proposed  
8 project, that each of the following is met:

9       ~~(i) The proposed project, in terms of capital costs, is the~~  
10 ~~least costly project, in light of available alternatives.~~

11       (i) ~~(ii)~~ The CAPITAL COSTS OF THE proposed project  
12 ~~represents the least costly alternative of providing the health~~  
13 ~~facility, service, or equipment~~ ARE REASONABLE.

14       (ii) ~~(iii)~~ Funds are available to meet the capital and  
15 operating needs of the proposed project.

16       (iii) ~~(iv)~~ The proposed project utilizes the least costly  
17 method of financing, in light of available alternatives.

18       (iv) ~~(v)~~ In the case of a construction project, the appli-  
19 cant stipulates that the applicant will competitively bid  
20 ~~covered~~ capital expenditures among qualified contractors — or  
21 alternatively, the applicant ~~presents evidence satisfactory to~~  
22 ~~the department that the applicant~~ is proposing an alternative to  
23 competitive bidding that will ~~result in the least costly method~~  
24 ~~for implementing the project~~ ACHIEVE SUBSTANTIALLY THE SAME  
25 RESULTS AS COMPETITIVE BIDDING.

26       (c) The proposed project will be delivered in compliance  
27 with applicable operating standards and quality assurance

1 standards approved under section 22215(1)(b), including 1 or more  
2 of the following:

3 (i) Mechanisms for assuring appropriate utilization of the  
4 project.

5 (ii) Methods for evaluating the effectiveness of the  
6 project.

7 (iii) Means of assuring delivery of the project by qualified  
8 personnel and in compliance with applicable safety and operating  
9 standards.

10 (iv) Evidence of the current and historical compliance with  
11 federal and state licensing and certification requirements in  
12 this state by the applicant or the applicant's owner, or both, to  
13 the degree determined appropriate by the commission in light of  
14 the subject of the review standard.

15 (v) Other criteria approved by the commission as appropriate  
16 to evaluate the quality of the project.

17 (d) The health services proposed in the project will be  
18 delivered in a health facility that meets the criteria, if any,  
19 established by the commission for determining health facility  
20 viability, pursuant to this subdivision. The criteria shall be  
21 proposed by the department and the office, and approved or disap-  
22 proved by the commission. At a minimum, the criteria shall spec-  
23 ify, to the extent applicable to the applicant, that an applicant  
24 shall be considered viable by demonstrating at least 1 of the  
25 following:

26 (i) A minimum percentage occupancy of licensed beds.

1       (ii) A minimum percentage of combined uncompensated  
2 discharges and discharges under title XIX ~~of the social security~~  
3 ~~act~~ in the health facility's planning area.

4       (iii) A minimum percentage of the total discharges in the  
5 health facility's planning area.

6       (iv) Evidence that the health facility is the only provider  
7 in the health facility's planning area of a service that is con-  
8 sidered essential by the commission.

9       (v) An operating margin in an amount determined by the  
10 commission.

11       (vi) Other criteria approved by the commission as appropri-  
12 ate for statewide application to determine health facility  
13 viability.

14       (e) In the case of a nonprofit health facility, the health  
15 facility is in fact governed by a body composed of a majority  
16 consumer membership broadly representative of the population  
17 served. In the case of a health facility sponsored by a reli-  
18 gious organization, or if the nature of the nonprofit health  
19 facility is such that the legal rights of its owners or sponsors  
20 might be impaired by a requirement as to the composition of its  
21 governing body, an advisory board with majority consumer member-  
22 ship broadly representative of the population served may be con-  
23 strued by the department to be equivalent to the governing board  
24 described in this subdivision, if the advisory board meets all of  
25 the following requirements:

26       (i) The role assigned to the advisory board is meaningful,  
27 as determined by the department.

1 (ii) The functions of the advisory board are clearly  
2 prescribed.

3 (iii) The advisory board is given an opportunity to influ-  
4 ence policy formulation by the legally recognized governing body,  
5 as determined by the department.

6 Sec. 22227. (1) A health maintenance organization ~~shall~~  
7 ~~be~~ IS required to obtain a certificate of need only for 1 or  
8 more of the following purposes:

9 (a) The acquisition OF, purchase OF, new construction OF,  
10 modernization OF, ~~or~~ replacement of, or addition to ~~—~~ a hos-  
11 pital or other health facility providing inpatient services, if a  
12 covered capital expenditure is required.

13 (b) The ~~acquisition of covered medical equipment~~  
14 INITIATION, REPLACEMENT, OR EXPANSION OF A COVERED CLINICAL  
15 SERVICE.

16 (2) A covered capital expenditure ~~that is~~ proposed to be  
17 undertaken by a health maintenance organization ~~and~~ that is not  
18 intended principally to serve the needs of the enrollees of the  
19 health maintenance organization, as determined by the department,  
20 ~~shall be~~ IS subject to this part.

21 (3) In making determinations and conducting reviews for cer-  
22 tificates of need for health maintenance organizations, the  
23 department shall consider the special needs and circumstances of  
24 health maintenance organizations, and shall apply all of the fol-  
25 lowing criteria:

26 (a) The availability of the proposed service from a provider  
27 of health care other than the health maintenance organization on

1 a long-term basis, at reasonable terms, and in a cost-effective  
2 manner consistent with the health maintenance organization's  
3 basic method of operation.

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

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

9 Sec. 22229. (1) The following proposed projects ~~shall be~~  
10 ARE subject to comparative review:

11 (a) Proposed projects specified as subject to comparative  
12 review in a certificate of need review standard.

13 ~~(b) Proposed projects that, when combined, exceed the need~~  
14 ~~of the planning area, as determined by the department.~~

15 (B) ~~(e)~~ New beds in a health facility that is a hospital,  
16 HOSPITAL LONG-TERM CARE UNIT, or nursing home — if there are  
17 multiple applications to meet the same need for projects that,  
18 when combined, exceed the need of the planning area as determined  
19 by the applicable CERTIFICATE OF NEED review standards.

20 Replacement beds in a hospital or nursing home that are proposed  
21 for construction on the original site, on a contiguous site,  
22 within a 5-mile radius of the original site if the hospital or  
23 nursing home is located in a county with a population of less  
24 than 200,000, or within a 2-mile radius of the original site if  
25 the hospital or nursing home is located in a county with a popu-  
26 lation of 200,000 or more, ~~shall not be~~ ARE NOT subject to  
27 comparative review.

1 ~~(2) Until otherwise established in a certificate of need~~  
 2 ~~review standard approved by the commission, the establishment or~~  
 3 ~~expansion of 1 or more of the following services shall be subject~~  
 4 ~~to comparative review if applications exist that exceed the need~~  
 5 ~~for the service as stated in the applicable review standard.~~

6 ~~(a) Open heart surgery services.~~

7 ~~(b) Specialized radiation therapy services.~~

8 ~~(c) Neonatal intensive care unit or special newborn nursery~~  
 9 ~~unit services.~~

10 ~~(d) Extracorporeal shock wave lithotripsy services.~~

11 ~~(e) Extrarenal organ transplantation services.~~

12 ~~(f) Air ambulance services.~~

13 ~~(2) (3) Certificate~~ THE COMMISSION MAY APPROVE CERTIFICATE  
 14 of need review standards ~~approved by the commission may~~ THAT  
 15 establish comparative review or an alternative procedure ~~based~~  
 16 ~~on the specific considerations of a particular applicant, verifi-~~  
 17 ~~able applicant performance data, or other information considered~~  
 18 ~~relevant by the department. In the case of an applicant~~  
 19 ~~involving~~ FOR DETERMINING WHETHER 1 OF SEVERAL QUALIFIED APPLI-  
 20 CANTS MAY BE APPROVED IF THE LEVEL OF NEED IS NOT SUFFICIENT TO  
 21 JUSTIFY APPROVAL OF ALL QUALIFIED APPLICANTS. IF AN APPLICATION  
 22 INVOLVES more than 1 health facility, the APPLICANT SHALL INDI-  
 23 CATE ON THE application ~~shall indicate~~ the proposed site or  
 24 sites for the project and arrangements for the utilization and  
 25 financing of the ~~covered medical equipment or~~ covered clinical  
 26 services.

~~1 (4) If an application under comparative review or appeal is~~  
~~2 not subject to comparative review under this part or a standard~~  
~~3 implementing this part, the application may be withdrawn and~~  
~~4 resubmitted as a new application under this part. The applica-~~  
~~5 tion shall be considered filed on the date it is resubmitted. If~~  
~~6 the application is for substantially the same project and is~~  
~~7 resubmitted within 60 days after the date the application is~~  
~~8 withdrawn, the department shall waive the certificate of need~~  
~~9 application fee for the resubmitted application.~~

10 Sec. 22231. (1) The decision to grant or deny an applica-  
11 tion for a certificate of need shall be made by the director. A  
12 decision shall be proposed to the director by a bureau within the  
13 department designated by the director as responsible for the cer-  
14 tificate of need program. A decision shall be in writing and  
15 shall indicate 1 of the following:

16 (a) Approval of the application.

17 (b) Disapproval of the application.

18 (c) Subject to subsection (2), approval of the application  
19 with conditions.

20 (d) If agreed to by the department and the applicant,  
21 approval of the application with stipulations.

22 (2) If an application is approved with conditions pursuant  
23 to subsection (1)(c), the conditions shall be explicit, shall be  
24 related to the proposed project or to the applicable provisions  
25 of this part, and shall specify a time, not to exceed 1 year  
26 after the date the decision is rendered, within which the  
27 conditions shall be met.



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

4 (4) Before a final decision on an application is made, the  
5 bureau of the department designated by the director as responsi-  
6 ble for the certificate of need program shall issue a proposed  
7 decision ~~that individually addresses~~ WITH SPECIFIC FINDINGS OF  
8 FACT IN SUPPORT OF THE PROPOSED DECISION WITH REGARD TO each of  
9 the criteria listed in section 22225. ~~and states~~ THE PROPOSED  
10 DECISION ALSO SHALL STATE with specificity the reasons and  
11 authority of the department for the proposed decision. If a pro-  
12 posed decision is issued within the application review period  
13 specified in the rules promulgated under former part 221, the  
14 department ~~shall be~~ IS in compliance with the review period  
15 requirement of those rules. The department shall transmit a copy  
16 of the proposed decision to the applicant.

17 (5) The proposed decision shall be submitted to the director  
18 on the SAME day the proposed decision is issued. ~~, if the pro-~~  
19 ~~posed decision is an approval without conditions or~~  
20 ~~stipulations.~~

21 (6) If the proposed decision is other than an approval with-  
22 out conditions or stipulations, ~~the proposed decision shall be~~  
23 ~~submitted to~~ the director ~~not more than 16~~ SHALL ISSUE A FINAL  
24 DECISION NOT LESS THAN 60 days after receipt by the applicant of  
25 the proposed decision, UNLESS THE APPLICANT HAS FILED A REQUEST  
26 FOR A HEARING ON THE PROPOSED DECISION.

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

3 (8) If a proposed decision is an approval, and if ~~upon~~  
4 ~~review,~~ the director ~~reverses~~ DOES NOT REVERSE the proposed  
5 decision, ~~the director immediately shall notify the applicant of~~  
6 ~~the reversal. Within 15 days after receipt of the notice of~~  
7 ~~reversal, the applicant may request a hearing under section~~  
8 ~~22232. After the hearing, the applicant may request the director~~  
9 ~~to reconsider the reversal of the proposed decision, based on the~~  
10 ~~results of the hearing~~ THE DIRECTOR SHALL ISSUE A FINAL DECISION  
11 OF APPROVAL WITHIN 5 BUSINESS DAYS AFTER RECEIPT OF THE PROPOSED  
12 DECISION.

13 ~~(9) The director shall issue a final decision not later~~  
14 ~~than 60 days after the date a proposed decision is submitted to~~  
15 ~~the director under subsection (6) or, if the proposed decision is~~  
16 ~~an approval, not later than 20 days after the proposed decision~~  
17 ~~is submitted to the director.~~

18 (9) ~~(10)~~ The final decision of the director may be  
19 appealed only by the applicant and only on the record directly to  
20 the circuit court for the county where the applicant has its  
21 principal place of business in this state or the circuit court  
22 for Ingham county. Judicial review ~~shall be~~ IS governed by  
23 sections 103 to 106 of the administrative procedures act of 1969,  
24 Act No. 306 of the Public Acts of 1969, being sections 24.303 to  
25 24.306 of the Michigan Compiled Laws.

26 (10) ~~(11)~~ The review and appeal of a certificate of need  
27 application submitted with the required filing fee before ~~the~~

~~1 effective date of this part~~ OCTOBER 1, 1988 shall be conducted  
2 under former part 221 and the rules promulgated under that part.  
3 The certificate of need board created by former section 22121(2)  
4 shall continue for the purpose of performing the functions vested  
5 in it by former part 221, until all appeals lawfully brought  
6 under former part 221 are concluded. THE CERTIFICATE OF NEED  
7 BOARD AND THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING TO  
8 PROMPTLY CONCLUDE ALL APPEALS DESCRIBED IN THIS SUBSECTION:

9 (A) ARRANGE FOR HEARING OFFICERS TO BE ASSIGNED FROM OTHER  
10 PRINCIPAL EXECUTIVE DEPARTMENTS. IF AN APPLICANT UNDER FORMER  
11 PART 221 DOES NOT PROCEED WITH AN APPEAL AT A HEARING, THE APPLI-  
12 CATION IS CONSIDERED TO BE WITHDRAWN.

13 (B) REQUIRE EACH HEARING OFFICER ASSIGNED UNDER SUBDIVISION  
14 (A) TO ANNOUNCE THE DATE FOR HEARING A PENDING APPEAL WITHIN 30  
15 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED  
16 THIS SUBDIVISION.

17 (C) REQUIRE EACH HEARING OFFICER ASSIGNED UNDER SUBDIVISION  
18 (A) TO COMMENCE THE HEARING FOR A PENDING APPEAL NO LATER THAN 90  
19 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED  
20 THIS SUBDIVISION.

21 (D) REQUIRE EACH HEARING OFFICER TO ACT EXPEDITIOUSLY TO  
22 CONCLUDE A HEARING FOR A PENDING APPEAL. A HEARING OFFICER  
23 ASSIGNED UNDER SUBDIVISION (A) HAS ALL OF THE POWERS AND DUTIES  
24 PRESCRIBED IN SECTION 22232(2).

25 (E) REQUIRE EACH HEARING OFFICER TO PROMPTLY SUBMIT A PRO-  
26 POSAL FOR DECISION TO THE CERTIFICATE OF NEED BOARD FOLLOWING THE  
27 CONCLUSION OF A HEARING FOR A PENDING APPEAL, BUT NOT MORE THAN

1 30 DAYS AFTER THE FILING BY THE PARTIES OF EXCEPTIONS AND REPLIES  
2 AND THE FULFILLMENT OF OTHER HEARING PROCEDURES REQUIRED UNDER  
3 THE ADMINISTRATIVE PROCEDURES ACT OF 1969.

4 (F) THE CERTIFICATE OF NEED BOARD SHALL MEET AT LEAST ONCE A  
5 MONTH WHEN PROPOSALS FOR DECISIONS SUBMITTED BY HEARING OFFICERS  
6 ARE PENDING BEFORE THE BOARD. THE BOARD SHALL ACT PROMPTLY ON  
7 ALL PROPOSALS FOR DECISIONS, AND SHALL ACT WITHIN 60 DAYS AFTER  
8 SUBMISSION OF A PROPOSED DECISION BY THE HEARING OFFICER.

9 (G) THE DEPARTMENT SHALL SUBMIT A MONTHLY REPORT ON THE  
10 STATUS OF ALL APPEALS PENDING UNDER FORMER PART 221 TO THE STAND-  
11 ING COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES WITH  
12 RESPONSIBILITY FOR HEALTH ISSUES. THE REPORT SHALL INDICATE THE  
13 PRECISE STATUS OF EACH PENDING APPEAL, INCLUDING HOW MUCH TIME  
14 THE APPEAL HAS BEEN PENDING AT EACH STAGE OF THE PROCESS.

15 (11) ~~-(12)-~~ If the department exceeds the time frames set  
16 forth in this section for other than good cause, as determined by  
17 the commission, upon the written request of an applicant, the  
18 department shall return to the applicant all of the certificate  
19 of need application fee paid by the applicant under section  
20 20161(2).

21 Sec. 22232. (1) The applicant may, within 15 days after  
22 receipt by the applicant of the bureau's proposed decision ~~or~~  
23 ~~receipt of notice of reversal by the director of a proposed deci-~~  
24 ~~sion that is an approval,~~ TO DENY THE APPLICATION submit a writ-  
25 ten request for a hearing to demonstrate ~~to the department~~ that  
26 the application filed by the applicant meets the requirements for  
27 approval under this part.

1           (2) The department shall appoint a hearing officer for a  
2 hearing held under this section. The hearing officer shall  
3 establish a schedule for the hearing, control the presentation of  
4 proofs, and take such other action determined by the hearing  
5 officer to be necessary to ensure that the hearing is conducted  
6 in an expeditious manner and completed within a reasonable period  
7 of time. The hearing officer shall convene the hearing within 90  
8 days after receipt of a request for a hearing under this  
9 section. Upon written request by a party, a hearing officer may  
10 issue subpoenas requiring the attendance and testimony of wit-  
11 nesses and the production of evidence. The department shall  
12 establish appropriate qualifications for hearing officers  
13 appointed under this section. UNLESS AGREED BY THE APPLICANT,  
14 THE HOLDING BY THE DEPARTMENT OF A PREHEARING CONFERENCE OR OTHER  
15 SIMILAR PROCEDURE DOES NOT CONSTITUTE CONVENING A HEARING FOR  
16 PURPOSES OF THIS SUBSECTION.

17           (3) If a hearing is requested under this section, chapter 4  
18 of the administrative procedures act of 1969, Act No. 306 of the  
19 Public Acts of 1969, being sections 24.271 to 24.287 of the  
20 Michigan Compiled Laws, ~~shall govern~~ GOVERNS.

21           Sec. 22247. (1) The department ~~shall~~ MAY monitor compli-  
22 ance with certificates of need issued under this part ~~, includ-~~  
23 ~~ing, but not limited to, project costs and conditions and stipu-~~  
24 ~~lations contained in a decision to approve an application. In~~  
25 ~~addition, the department may~~ AND SHALL investigate allegations  
26 of noncompliance with a certificate of need or this part.

1       (2) If the department determines that the recipient of a  
2 certificate of need under this part is not in compliance with the  
3 terms of the certificate of need or that a person is in violation  
4 of this part or the rules promulgated under this part, the  
5 department may do 1 or more of the following:

6       (a) Revoke or suspend the certificate of need.

7       (b) Impose a civil fine of not more than the amount of the  
8 billings for the services provided in violation of this part.

9       (c) Take any action authorized under this article for a vio-  
10 lation of this article or a rule promulgated under this article,  
11 including, but not limited to, issuance of a compliance order  
12 under section 20162(5), whether or not the person is licensed  
13 under this article.

14       (d) Request enforcement action under section 22253.

15       (e) Take any other enforcement action authorized by this  
16 code.

17       (f) Publicize or report the violation or enforcement action,  
18 or both, to any person.

19       (3) A person shall not charge to, or collect from, another  
20 person or otherwise recover costs for services provided or for  
21 equipment or facilities that are acquired in violation of this  
22 part. If a person has violated this subsection, in addition to  
23 the sanctions provided under subsection (2), the person shall,  
24 upon request of the person from whom the charges were collected,  
25 refund those charges, either directly or through a credit on a  
26 subsequent bill.

1 SEC. 22256. (1) THE DEPARTMENT SHALL SCHEDULE A HEARING FOR  
2 AN APPEAL OF AN APPLICATION SUBMITTED UNDER FORMER PART 221  
3 WITHIN 120 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION. IF AN  
4 APPLICANT UNDER FORMER PART 221 DOES NOT PROCEED WITH AN APPEAL  
5 AT A HEARING SCHEDULED UNDER THIS SECTION, THE APPLICATION AND  
6 APPEAL WILL BE CONSIDERED WITHDRAWN.

7 (2) IF THE DEPARTMENT DOES NOT SCHEDULE A HEARING WITHIN THE  
8 TIME PERIOD REQUIRED UNDER SUBSECTION (1), THE APPLICANT MAY COM-  
9 PLETE THE PROJECT WITHOUT A CERTIFICATE OF NEED.

10 Sec. 22260. (1) The department shall prepare and publish at  
11 least annually reports of reviews conducted under this part. The  
12 reports shall include a statement on the status of each pending  
13 review and a statement as to each review completed, including  
14 statements of the findings and decisions made in the course of  
15 the reviews since the last report. ~~and the recommendations of~~  
16 ~~regional certificate of need review agencies.~~

17 (2) The department ~~and, if applicable, the appropriate~~  
18 ~~regional certificate of need review agency~~ shall make available  
19 to the public for examination during ~~reasonable~~ ALL BUSINESS  
20 hours ~~on business days~~ the applications received by ~~them~~ THE  
21 DEPARTMENT and pertinent written materials on file.

22 Section 2. Sections 22230, 22239, 22249, and 22251 of Act  
23 No. 368 of the Public Acts of 1978, being sections 333.22230,  
24 333.22239, 333.22249, and 333.22251 of the Michigan Compiled  
25 Laws, are repealed.