

# HOUSE BILL No. 5875

April 10, 2002, Introduced by Rep. Gosselin and referred to the Committee on Health Policy.

A bill to amend 1969 PA 306, entitled  
"Administrative procedures act of 1969,"  
by amending sections 7 and 8 (MCL 24.207 and 24.208), section 7  
as amended by 2000 PA 216 and section 8 as amended by 1999  
PA 262.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 7. "Rule" means an agency regulation, statement, stan-  
2       dard, policy, ruling, or instruction of general applicability  
3       that implements or applies law enforced or administered by the  
4       agency, or that prescribes the organization, procedure, or prac-  
5       tice of the agency, including the amendment, suspension, or  
6       rescission of the law enforced or administered by the agency.

7       Rule does not include any of the following:

8               (a) A resolution or order of the state administrative  
9       board.

1 (b) A formal opinion of the attorney general.

2 (c) A rule or order establishing or fixing rates or  
3 tariffs.

4 (d) A rule or order pertaining to game and fish and promul-  
5 gated under parts 401, 411, and 487 of the natural resources and  
6 environmental protection act, 1994 PA 451, MCL 324.40101 to  
7 324.40119, 324.41101 to 324.41105, and 324.48701 to 324.48740.

8 (e) A rule relating to the use of streets or highways, the  
9 substance of which is indicated to the public by means of signs  
10 or signals.

11 (f) A determination, decision, or order in a contested  
12 case.

13 (g) An intergovernmental, interagency, or intra-agency memo-  
14 randum, directive, or communication that does not affect the  
15 rights of, or procedures and practices available to, the public.

16 (h) A form with instructions, an interpretive statement, a  
17 guideline, an informational pamphlet, or other material that in  
18 itself does not have the force and effect of law but is merely  
19 explanatory.

20 (i) A declaratory ruling or other disposition of a particu-  
21 lar matter as applied to a specific set of facts involved.

22 (j) A decision by an agency to exercise or not to exercise a  
23 permissive statutory power, although private rights or interests  
24 are affected.

25 (k) Unless another statute requires a rule to be promulgated  
26 under this act, a rule or policy that only concerns the inmates  
27 of a state correctional facility and does not directly affect

1 other members of the public, except that a rule that only  
2 concerns inmates which was promulgated before December 4, 1986,  
3 shall be considered a rule and shall remain in effect until  
4 rescinded but shall not be amended. As used in this subdivision,  
5 "state correctional facility" means a facility or institution  
6 that houses an inmate population under the jurisdiction of the  
7 department of corrections.

8 (l) A rule establishing special local watercraft controls  
9 promulgated under former 1967 PA 303. A rule described in this  
10 subdivision may be rescinded as provided in section 80113(2) of  
11 the natural resources and environmental protection act, 1994  
12 PA 451, MCL 324.80113.

13 ~~(m) All of the following, after final approval by the cer-~~  
14 ~~tificate of need commission or the statewide health coordinating~~  
15 ~~council under section 22215 or 22217 of the public health code,~~  
16 ~~1978 PA 368, MCL 333.22215 and 333.22217:~~

17 ~~(i) The designation, deletion, or revision of covered medi-~~  
18 ~~cal equipment and covered clinical services.~~

19 ~~(ii) Certificate of need review standards.~~

20 ~~(iii) Data reporting requirements and criteria for determin-~~  
21 ~~ing health facility viability.~~

22 ~~(iv) Standards used by the department of community health in~~  
23 ~~designating a regional certificate of need review agency.~~

24 ~~(v) The modification of the 100 licensed bed limitation for~~  
25 ~~short-term nursing care programs set forth in section 22210 of~~  
26 ~~the public health code, 1978 PA 368, MCL 333.22210.~~

(M) ~~(n)~~ A policy developed by the family independence agency under section 6(3) of the social welfare act, 1939 PA 250, MCL 400.6, setting income and asset limits, types of income and assets to be considered for eligibility, and payment standards for administration of assistance programs under that act.

(N) ~~(o)~~ A policy developed by the family independence agency under section 6(4) of the social welfare act, 1939 PA 280, MCL 400.6, to implement requirements that are mandated by federal statute or regulations as a condition of receipt of federal funds.

(O) ~~(p)~~ The provisions of an agency's contract with a public or private entity including, but not limited to, the provisions of an agency's standard form contract.

(P) ~~(q)~~ A policy developed by the department of community health under the authority granted in section 111a of the social welfare act, 1939 PA 280, MCL 400.111a, to implement policies and procedures necessary to operate its health care programs in accordance with an approved state plan or in compliance with state statute.

Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

(a) Executive orders and executive reorganization orders.

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

1 (c) On a cumulative basis, the numbers and subject matter of  
2 the enrolled senate and house bills vetoed by the governor during  
3 the calendar year.

4 (d) Proposed administrative rules.

5 (e) Notices of public hearings on proposed administrative  
6 rules.

7 (f) Administrative rules filed with the secretary of state.

8 (g) Emergency rules filed with the secretary of state.

9 (h) Notice of proposed and adopted agency guidelines.

10 (i) Other official information considered necessary or  
11 appropriate by the office of regulatory reform.

12 (j) Attorney general opinions.

13 ~~(k) All of the items listed in section 7(1) after final~~  
14 ~~approval by the certificate of need commission or the statewide~~  
15 ~~health coordinating council under section 22215 or 22217 of the~~  
16 ~~public health code, 1978 PA 368, MCL 333.22215 and 333.22217.~~

17 (2) The office of regulatory reform shall publish a cumula-  
18 tive index for the Michigan register.

19 (3) The Michigan register shall be available for public sub-  
20 scription at a fee reasonably calculated to cover publication and  
21 distribution costs.

22 (4) If publication of an agency's proposed rule or guideline  
23 ~~or an item described in subsection (1)(k)~~ would be unreasonably  
24 expensive or lengthy, the office of regulatory reform may publish  
25 a brief synopsis of the proposed rule or guideline, ~~or item~~  
26 ~~described in subsection (1)(k),~~ including information on how to

1 obtain a complete copy of the proposed rule or guideline ~~or item~~  
2 ~~described in subsection (1)(k)~~ from the agency at no cost.

3 (5) An agency shall transmit a copy of the proposed rules  
4 and notice of public hearing to the office of regulatory reform  
5 for publication in the Michigan register.

6 Enacting section 1. This amendatory act does not take  
7 effect unless Senate Bill No. \_\_\_\_\_ or House Bill  
8 No. 5871 (request no. 06393'01) of the 91st Legislature is  
9 enacted into law.