

**SUBSTITUTE FOR
SENATE BILL NO. 1237**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 22225 (MCL 333.22225), as amended by 1993 PA
88.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22225. (1) In order to be approved under this part, an
2 applicant for a certificate of need shall demonstrate to the
3 satisfaction of the department that the proposed project will meet
4 an unmet need in the area proposed to be served. An applicant shall
5 demonstrate the need for a proposed project by credible
6 documentation of compliance with the applicable certificate of need
7 review standards. If no certificate of need review standards are
8 applicable to the proposed project or to a portion of a proposed
9 project that is otherwise governed by this part, the applicant

1 shall demonstrate to the satisfaction of the department that an
2 unmet need for the proposed project or portion of the proposed
3 project exists by credible documentation that the proposed project
4 will be geographically accessible and efficiently and appropriately
5 utilized, in light of the type of project and the existing health
6 care system. Whether or not there are applicable certificate of
7 need review standards, in determining compliance with this
8 subsection, the department shall consider approved projects that
9 are not yet operational, proposed projects under appeal from a
10 final decision of the department, or proposed projects that are
11 pending final department decision.

12 (2) If, and only if, the requirements of subsection (1) are
13 met, in order for an application to be approved under this part, an
14 applicant shall also demonstrate to the reasonable satisfaction of
15 the department all of the following:

16 (a) With respect to the method proposed to meet the unmet need
17 identified under subsection (1), that the applicant has considered
18 alternatives to the proposed project and that, in light of the
19 alternatives available for consideration, the chosen alternative is
20 the most efficient and effective method of meeting that unmet need.

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

23 (i) The capital costs of the proposed project will result in
24 the least costly total annual operating costs.

25 (ii) Funds are available to meet the capital and operating
26 needs of the proposed project.

27 (iii) The proposed project utilizes the least costly method of

1 financing, in light of available alternatives.

2 (iv) In the case of a construction project, the applicant
3 stipulates that the applicant will competitively bid capital
4 expenditures among qualified contractors or alternatively, the
5 applicant is proposing an alternative to competitive bidding that
6 will achieve substantially the same results as competitive bidding.

7 (c) The proposed project will be delivered in compliance with
8 applicable operating standards and quality assurance standards
9 approved under section 22215(1)(b), including 1 or more of the
10 following:

11 (i) Mechanisms for assuring appropriate utilization of the
12 project.

13 (ii) Methods for evaluating the effectiveness of the project.

14 (iii) Means of assuring delivery of the project by qualified
15 personnel and in compliance with applicable safety and operating
16 standards.

17 (iv) Evidence of the current and historical compliance with
18 federal and state licensing and certification requirements in this
19 state by the applicant or the applicant's owner, or both, to the
20 degree determined appropriate by the commission in light of the
21 subject of the review standard.

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

24 (d) The health services proposed in the project will be
25 delivered in a health facility that meets the criteria, if any,
26 established by the commission for determining health facility
27 viability, pursuant to this subdivision. The criteria shall be

1 proposed by the department and the office, and approved or
2 disapproved by the commission. At a minimum, the criteria shall
3 specify, to the extent applicable to the applicant, that an
4 applicant shall be considered viable by demonstrating at least 1 of
5 the following:

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

7 (ii) A minimum percentage of combined uncompensated discharges
8 and discharges under title XIX in the health facility's planning
9 area.

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

12 (iv) Evidence that the health facility is the only provider in
13 the health facility's planning area of a service that is considered
14 essential by the commission.

15 (v) An operating margin in an amount determined by the
16 commission.

17 (vi) Other criteria approved by the commission as appropriate
18 for statewide application to determine health facility viability.

19 (e) In the case of a nonprofit health facility, the health
20 facility is in fact governed by a body composed of a majority
21 consumer membership broadly representative of the population
22 served. In the case of a health facility sponsored by a religious
23 organization, or if the nature of the nonprofit health facility is
24 such that the legal rights of its owners or sponsors might be
25 impaired by a requirement as to the composition of its governing
26 body, an advisory board with majority consumer membership broadly
27 representative of the population served may be construed by the

1 department to be equivalent to the governing board described in
2 this subdivision, if the advisory board meets all of the following
3 requirements:

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

6 (ii) The functions of the advisory board are clearly
7 prescribed.

8 (iii) The advisory board is given an opportunity to influence
9 policy formulation by the legally recognized governing body, as
10 determined by the department.

11 (F) IN THE CASE OF A HOSPITAL LICENSED UNDER PART 215 THAT IS
12 RELOCATING BEDS FROM A LICENSED SITE TO A LICENSED SITE IN ANOTHER
13 GEOGRAPHIC LOCATION, THE APPLICANT SUBMITS EVIDENCE OF ADEQUATE
14 ACCESS TO PUBLIC TRANSPORTATION SERVICES, TO THE DEGREE DETERMINED
15 APPROPRIATE BY THE COMMISSION. THE APPLICANT MAY SUBMIT AS EVIDENCE
16 UNDER THIS SUBDIVISION A FORMAL AGREEMENT WITH A PUBLIC TRANSIT
17 AGENCY SERVICING THE AREA OF THE PROJECT THAT IT WILL PROVIDE
18 PUBLIC TRANSPORTATION SERVICES TO THE HOSPITAL.