

SENATE BILL No. 1237

March 18, 2010, Introduced by Senators BIRKHOLZ, ALLEN, JACOBS, GILBERT, PAPPAGEORGE, RICHARDVILLE, HARDIMAN, KAHN, HUNTER, GEORGE, CLARKE, GLEASON, SWITALSKI and BARCIA and referred to the Committee on Commerce and Tourism.

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

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

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

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

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

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

27 (ii) Funds are available to meet the capital and operating

1 needs of the proposed project.

2 (iii) The proposed project utilizes the least costly method of
3 financing, in light of available alternatives.

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

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

13 (i) Mechanisms for assuring appropriate utilization of the
14 project.

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

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

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

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

26 (d) The health services proposed in the project will be
27 delivered in a health facility that meets the criteria, if any,

1 established by the commission for determining health facility
2 viability, pursuant to this subdivision. The criteria shall be
3 proposed by the department and the office, and approved or
4 disapproved by the commission. At a minimum, the criteria shall
5 specify, to the extent applicable to the applicant, that an
6 applicant shall be considered viable by demonstrating at least 1 of
7 the following:

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

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

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

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

17 (v) An operating margin in an amount determined by the
18 commission.

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

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

1 body, an advisory board with majority consumer membership broadly
2 representative of the population served may be construed by the
3 department to be equivalent to the governing board described in
4 this subdivision, if the advisory board meets all of the following
5 requirements:

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

8 (ii) The functions of the advisory board are clearly
9 prescribed.

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

13 (F) IN THE CASE OF A HEALTH FACILITY THAT IS RELOCATING BEDS
14 FROM A LICENSED SITE TO ANOTHER GEOGRAPHIC LOCATION, THE APPLICANT
15 SUBMITS EVIDENCE OF ADEQUATE ACCESS TO PUBLIC TRANSPORTATION
16 SERVICES, TO THE DEGREE DETERMINED APPROPRIATE BY THE COMMISSION.
17 THE APPLICANT MAY SUBMIT AS EVIDENCE UNDER THIS SUBDIVISION A
18 FORMAL AGREEMENT WITH A PUBLIC TRANSIT AGENCY SERVICING THE AREA OF
19 THE PROJECT THAT IT WILL PROVIDE PUBLIC TRANSPORTATION SERVICES TO
20 THE HEALTH FACILITY. AS USED IN THIS SUBDIVISION, "HEALTH FACILITY"
21 MEANS THAT TERM AS DEFINED IN SECTION 22205(1)(A), (B), OR (C).