

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.21551 Temporary delicensure of beds; extension; form and contents of application; amended application; alternative use of space; plans; relicensing of beds; automatic and permanent delicensing; bed inventory; transfer of beds; definitions.

Sec. 21551. (1) A hospital licensed under this article and located in a nonurbanized area may apply to the department to temporarily delicense the following:

(a) Not more than 50% of its licensed beds for not more than 5 years.

(b) If the hospital is a rural emergency hospital, 100% of its licensed beds for not more than 5 years.

(2) A hospital that is granted a temporary delicensure of beds under subsection (1) may apply to the department for an extension of temporary delicensure for those beds for up to an additional 5 years to the extent that the hospital actually met the requirements of subsection (6) during the initial period of delicensure granted under subsection (1). The department shall grant an extension under this subsection unless the department determines under part 222 that there is a demonstrated need for the delicensed beds in the hospital group in which the hospital is located. If the department does not grant an extension under this subsection, the hospital shall request relicensure of the beds under subsection (7) or allow the beds to become permanently delicensed under subsection (8).

(3) Except as otherwise provided in this section, for a period of 90 days after January 1, 1991, if a hospital is located in a distressed area and has an annual indigent volume consisting of not less than 25% indigent patients, the hospital may apply to the department to temporarily delicense not more than 50% of its licensed beds for a period of not more than 2 years. On the receipt of a complete application under this subsection, the department shall temporarily delicense the beds indicated in the application. The department shall not grant an extension of temporary delicensure under this subsection.

(4) An application under subsection (1) or (3) must be on a form provided by the department. The form must contain all of the following information:

(a) The number and location of the specific beds to be delicensed.

(b) The period of time during which the beds will be delicensed.

(c) The alternative use proposed for the space occupied by the beds to be delicensed.

(5) A hospital that files an application under subsection (1) or (3) may file an amended application with the department on a form provided by the department. The hospital shall state on the form the purpose of the amendment. If the hospital meets the requirements of this section, the department shall so amend the hospital's original application.

(6) An alternative use of space made available by the delicensure of beds under this section does not result in a violation of this article or the rules promulgated under this article. Along with the application, an applicant for delicensure under subsection (1) or (3) shall submit to the department plans that indicate to the satisfaction of the department that the space occupied by the beds proposed for temporary delicensure will be used for 1 or more of the following:

(a) An alternative use that over the proposed period of temporary delicensure would defray the depreciation and interest costs that otherwise would be allocated to the space along with the operating expenses related to the alternative use.

(b) To correct a licensing deficiency previously identified by the department.

(c) Nonhospital purposes, including, but not limited to, community service projects, if the depreciation and interest costs for all capital expenditures that would otherwise be allocated to the space, as well as any operating costs related to the proposed alternative use, would not be considered as hospital costs for purposes of reimbursement.

(7) The department shall relicense beds that are temporarily delicensed under this section if all of the following requirements are met:

(a) The hospital files with the department a written request for relicensure not less than 90 days before the earlier of the following:

(i) The expiration of the period for which delicensure was granted.

(ii) The date upon which the hospital is requesting relicensure.

(iii) The last hospital license renewal date in the delicensure period.

(b) The space to be occupied by the relicensed beds is in compliance with this article and the rules promulgated under this article, including all licensure standards in effect at the time of relicensure, or the hospital has a plan of corrections that has been approved by the department.

(8) If a hospital does not meet all of the requirements of subsection (7) or if a hospital decides to allow beds to become permanently delicensed as described in subsection (2), then all of the temporarily delicensed

beds must be automatically and permanently delicensed effective on the last day of the period for which the department granted temporary delicensure.

(9) The department of health and human services shall continue to count beds temporarily delicensed under this section in the department of health and human services' bed inventory for purposes of determining hospital bed need under part 222 in the hospital group in which the beds are located. The department of health and human services shall indicate in the bed inventory which beds are licensed and which beds are temporarily delicensed under this section. The department of health and human services shall not include a hospital's temporarily delicensed beds in the hospital's licensed bed count.

(10) A hospital that is granted temporary delicensure of beds under this section shall not transfer the beds to another site or hospital without first obtaining a certificate of need.

(11) As used in this section:

(a) "Distressed area" means a city that meets all of the following criteria:

(i) Had a negative population change from 2010 to the date of the 2020 federal decennial census.

(ii) From 1972 to 1989, had an increase in its state equalized valuation that is less than the statewide average.

(iii) Has a poverty level that is greater than the statewide average, according to the 1980 federal decennial census.

(iv) Was eligible for an urban development action grant from the United States Department of Housing and Urban Development in 1984 and was listed in 49 FR No. 28 (February 9, 1984) or 49 FR No. 30 (February 13, 1984).

(v) Had an unemployment rate that was higher than the statewide average for 3 of the 5 years from 1981 to 1985.

(b) "Indigent volume" means the ratio of a hospital's indigent charges to its total charges expressed as a percentage as determined by the department of health and human services after November 12, 1990, under chapter 8 of the department of health and human services guidelines titled "Medical Assistance Program Manual".

(c) "Nonurbanized area" means an area that is not an urbanized area.

(d) "Urbanized area" means that term as defined by the Office of Federal Statistical Policy and Standards of the United States Department of Commerce in the appendix entitled "General Procedures and Definitions", 45 FR p. 962 (January 3, 1980), which document is incorporated by reference.

History: Add. 1990, Act 259, Imd. Eff. Oct. 15, 1990;—Am. 1990, Act 331, Imd. Eff. Dec. 21, 1990;—Am. 2022, Act 265, Imd. Eff. Dec. 22, 2022.

Popular name: Act 368