

Act No. 331
Public Acts of 1990
Approved by the Governor
December 20, 1990
Filed with the Secretary of State
December 21, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Rep. Bennane

ENROLLED HOUSE BILL No. 4978

AN ACT to amend sections 20145 and 21551 of Act No. 368 of the Public Acts of 1978, entitled as amended "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for penalties and remedies; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," section 20145 as amended by Act No. 332 of the Public Acts of 1988 and section 21551 as added by Act No. 259 of the Public Acts of 1990, being sections 333.20145 and 333.21551 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 20145 and 21551 of Act No. 368 of the Public Acts of 1978, section 20145 as amended by Act No. 332 of the Public Acts of 1988 and section 21551 as added by Act No. 259 of the Public Acts of 1990, being sections 333.20145 and 333.21551 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 20145. (1) Before contracting for and initiating a construction project involving new construction, additions, modernizations, or conversions of a health facility or agency for which a certificate of need under part 222 is required, a person shall obtain a construction permit from the department. The permit shall not be issued under this subsection unless the applicant holds a valid certificate of need issued pursuant to part 222.

(2) To protect the public health, safety, and welfare, the department may promulgate rules to require construction permits and the submission of plans for other construction projects to expand or change service areas and services provided.

(3) The review and approval of architectural plans and narrative shall require that the proposed construction project is designed and constructed in accord with applicable statutory and other regulatory requirements.

(4) The department shall promulgate rules to further prescribe the scope of construction projects and other alterations subject to review under this section.

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

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

(7) The department shall assess a fee for each review conducted under this section. The fee shall be .005% of the first \$1,000,000.00 of capital expenditure and .0085% of any amount over \$1,000,000.00 of capital expenditure, up to a maximum of \$30,000.00. As used in this subsection, "capital expenditure" means that term as defined in section 22203(2), except that it does not include the cost of equipment that is not fixed equipment.

Sec. 21551. (1) A hospital licensed under this article and located in a nonurbanized area may apply to the department to temporarily delicense not more than 50% 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 subarea 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 pursuant to subsection (7) or allow the beds to become permanently delicensed pursuant to 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. Upon 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) shall be on a form provided by the department. The form shall 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 shall 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 relicensure 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 shall be automatically and permanently delicensed effective on the last day of the period for which the department granted temporary delicensure.

(9) The department shall continue to count beds temporarily delicensed under this section in the department's bed inventory for purposes of determining hospital bed need under part 222 in the subarea in which the beds are located. The department shall indicate in the bed inventory which beds are licensed and which beds are temporary delicensed under this section. The department 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) A hospital that has beds that are subject to a hospital bed reduction plan or to a department action to enforce this article shall not use beds temporarily delicensed under this section to comply with the bed reduction plan.

(12) 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 1970 to the date of the 1980 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 F.R. No. 28 (February 9, 1984) or 49 F.R. 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 social services after November 12, 1990, pursuant to chapter 8 of the department of social services guidelines entitled "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 F.R. p. 962 (January 3, 1980), which document is incorporated by reference.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.

