

**SENATE SUBSTITUTE FOR**

**HOUSE BILL NO. 5761**

(As amended by the Senate September 19, 2002)

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 20145, 21523, and 22209 (MCL 333.20145,  
333.21523, and 333.22209), sections 20145 and 22209 as amended by  
1993 PA 88.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 20145. (1) Before contracting for and initiating a  
2 construction project involving new construction, additions, mod-  
3 ernizations, or conversions of a health facility or agency with a  
4 capital expenditure of \$1,000,000.00 or more, a person shall  
5 obtain a construction permit from the department. The DEPARTMENT  
6 SHALL NOT ISSUE THE permit ~~shall not be issued~~ under this sub-  
7 section unless the applicant holds a valid certificate of need if  
8 a certificate of need is required for the project pursuant to  
9 part 222.

**HB 5761S1, As Passed Senate, September 19, 2002**

**HB 5761S1, As Passed Senate, September 19, 2002**

House Bill No. 5761

2

1           (2) To protect the public health, safety, and welfare, the  
2 department may promulgate rules to require construction permits  
3 for projects other than those described in subsection (1) and the  
4 submission of plans for other construction projects to expand or  
5 change service areas and services provided.

6           (3) If a construction project requires a construction permit  
7 under subsection (1) or (2), but does not require a certificate  
8 of need under part 222, the department shall require the appli-  
9 cant to submit information considered necessary by the department  
10 to assure that the capital expenditure for the project is not a  
11 covered capital expenditure as defined in section 22203(9).

12           (4) If a construction project requires a construction permit  
13 under subsection (1), but does not require a certificate of need  
14 under part 222, the department shall require the applicant to  
15 submit information on a 1-page sheet, along with the application  
16 for a construction permit, consisting of all of the following:

17           (a) A short description of the reason for the project and  
18 the funding source.

19           (b) A contact person for further information, including  
20 address and phone number.

21           (c) The estimated resulting increase or decrease in annual  
22 operating costs.

23           (d) The current governing board membership of the  
24 applicant.

25           (e) The entity, if any, that owns the applicant.

26           (5) The information filed under subsection (4) shall be made  
27 publicly available by the department by the same methods used to

**HB 5761S1, As Passed Senate, September 19, 2002**

House Bill No. 5761

3

1 make information about certificate of need applications publicly  
2 available.

3 (6) The review and approval of architectural plans and nar-  
4 rative shall require that the proposed construction project is  
5 designed and constructed in accord with applicable statutory and  
6 other regulatory requirements. IN PERFORMING A CONSTRUCTION  
7 PERMIT REVIEW FOR A HEALTH FACILITY OR AGENCY UNDER THIS SECTION,  
8 THE DEPARTMENT SHALL, AT A MINIMUM, APPLY THE STANDARDS CONTAINED  
9 IN THE DOCUMENT ENTITLED "MINIMUM DESIGN STANDARDS FOR HEALTH  
10 CARE FACILITIES IN MICHIGAN" PUBLISHED BY THE DEPARTMENT AND  
11 DATED MARCH 1998. THE STANDARDS ARE INCORPORATED BY REFERENCE  
12 FOR PURPOSES OF THIS SUBSECTION. THE DEPARTMENT MAY PROMULGATE  
13 RULES THAT ARE MORE STRINGENT THAN THE STANDARDS IF NECESSARY TO  
14 PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE.

15 (7) The department shall promulgate rules to further pre-  
16 scribe the scope of construction projects and other alterations  
17 subject to review under this section.

18 (8) The department may waive the applicability of this sec-  
19 tion to a construction project or alteration if the waiver will  
20 not affect the public health, safety, and welfare.

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

26 (10) The department shall assess a fee for each review  
27 conducted under this section. The fee ~~shall be~~ IS .5% of the

**HB 5761S1, As Passed Senate, September 19, 2002**

House Bill No. 5761

4

1 first \$1,000,000.00 of capital expenditure and .85% of any amount  
2 over \$1,000,000.00 of capital expenditure, up to a maximum of  
3 \$30,000.00.

4 (11) As used in this section, "capital expenditure" means  
5 that term as defined in section 22203(2), except that it does not  
6 include the cost of equipment that is not fixed equipment.

7 Sec. 21523. (1) The rules for operation and maintenance of  
8 hospitals shall not be less strict than those required for certi-  
9 fication of hospitals under ~~Public Law 89-97, 42 U.S.C. 1395x to~~  
10 ~~1395pp~~ PART D OF TITLE XVIII OF THE SOCIAL SECURITY ACT,  
11 CHAPTER 531, 79 STAT. 313, 42 U.S.C. 1395x to 1395yy AND 1395bbb  
12 TO 1395ggg.

13 (2) The standards ~~and rules~~ relating to construction,  
14 additions, modernization, or conversion OF HOSPITALS shall not be  
15 less strict than ~~those required for federal assistance under the~~  
16 ~~hospital and medical facilities amendments of 1964, 42 U.S.C.~~  
17 ~~291 to 291o~~ THE STANDARDS CONTAINED IN THE DOCUMENT ENTITLED  
18 "MINIMUM DESIGN STANDARDS FOR HEALTH CARE FACILITIES IN MICHIGAN"  
19 PUBLISHED BY THE DEPARTMENT, DATED MARCH 1998.

20 Sec. 22209. (1) Except as otherwise provided in this part,  
21 a person shall not do any of the following without first obtain-  
22 ing a certificate of need:

23 (a) Acquire an existing health facility or begin operation  
24 of a health facility at a site that is not currently licensed for  
25 that type of health facility.

26 (b) Make a change in the bed capacity of a health facility.

**HB 5761S1, As Passed Senate, September 19, 2002**

House Bill No. 5761

5

1 (c) Initiate, replace, or expand a covered clinical  
2 service.

3 (d) Make a covered capital expenditure.

4 (2) A certificate of need is not required for a reduction in  
5 licensed bed capacity or services at a licensed site.

6 (3) An applicant seeking a certificate of need for the  
7 acquisition of an existing health facility may file a single,  
8 consolidated application for the certificate of need if the  
9 project results in the acquisition of an existing health facility  
10 but does not result in an increase or relocation of licensed beds  
11 or the initiation, expansion, or replacement of a covered clini-  
12 cal service. Except as otherwise provided in this subsection, a  
13 person acquiring an existing health facility is subject to the  
14 applicable certificate of need review standards in effect on the  
15 date of the transfer for the covered clinical services provided  
16 by the acquired health facility. The department may except 1 or  
17 more of the covered clinical services listed in section  
18 22203(10)(b), except the covered clinical service listed in sec-  
19 tion 22203(10)(b)(iv), from the minimum volume requirements in  
20 the applicable certificate of need review standards in effect on  
21 the date of the transfer, if the equipment used in the covered  
22 clinical service is unable to meet the minimum volume require-  
23 ments due to the technological incapacity of the equipment. A  
24 covered clinical service excepted by the department under this  
25 subsection is subject to all the other provisions in the applica-  
26 ble certificate of need review standards in effect on the date of  
27 the transfer, except minimum volume requirements.

**HB 5761S1, As Passed Senate, September 19, 2002**

House Bill No. 5761 as amended September 19, 2002

6

1           (4) The center for rural health created in section 2612  
2 shall designate a certificate of need ombudsman to provide tech-  
3 nical assistance and consultation to hospitals and communities  
4 located in rural counties regarding certificate of need proposals  
5 and applications under this part. The ombudsman shall also act  
6 as an advocate for health concerns of rural counties in the  
7 development of certificate of need review standards under this  
8 part.

9           (5) A HOSPITAL LICENSED UNDER PART 215 IS NOT REQUIRED TO  
10 OBTAIN A CERTIFICATE OF NEED TO [REDACTED] PROVIDE 1 OR  
11 MORE OF THE COVERED CLINICAL SERVICES LISTED IN SECTION 22203(10)  
12 OR TO USE LONG-TERM CARE UNIT BEDS OR ACUTE CARE BEDS THAT ARE  
13 OWNED AND LOCATED IN A VETERANS HEALTH CARE FACILITY IF THE HOS-  
14 PITAL SATISFIES EACH OF THE FOLLOWING:

15           (A) THE HOSPITAL HAS AN ACTIVE AFFILIATION WITH THE VETERANS  
16 HEALTH CARE FACILITY.

17           (B) THE HOSPITAL HAS PHYSICIANS WHO HAVE FACULTY APPOINT-  
18 MENTS AT THE VETERANS HEALTH CARE FACILITY.

19           (C) THE HOSPITAL HAS ENTERED INTO A JOINT-USE AGREEMENT WITH  
20 THE VETERANS HEALTH ADMINISTRATION OR ITS DESIGNEE.

21           (D) THE HOSPITAL HAS AN ACTIVE GRANT OR AGREEMENT WITH THE  
22 STATE OR FEDERAL GOVERNMENT TO PROVIDE 1 OR MORE OF THE FOLLOWING  
23 FUNCTIONS CONCERNING BIOTERRORISM, EDUCATION, PATIENT CARE,  
24 RESEARCH, OR TRAINING.

25           (6) AS USED IN THIS SECTION, "JOINT-USE AGREEMENT" MEANS A  
26 WRITTEN AGREEMENT BETWEEN A VETERANS HEALTH CARE FACILITY AND A  
27 HOSPITAL LICENSED UNDER PART 215 FOR THE USE OF THE VETERANS

**HB 5761S1, As Passed Senate, September 19, 2002**

House Bill No. 5761

7

- 1 HEALTH CARE FACILITY'S BEDS OR EQUIPMENT IN PROVIDING THE COVERED
- 2 CLINICAL SERVICES.