

HOUSE BILL NO. 5074

June 22, 2021, Introduced by Reps. Kahle, Howell, Wozniak, Yaroach and Cambensy and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 22215 (MCL 333.22215), as amended by 2002 PA 619.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1** Sec. 22215. (1) The commission shall do all of the following:
- 2** (a) If determined necessary by the commission, revise, add to,
- 3** or delete 1 or more of the covered clinical services listed in
- 4** section 22203. If the commission proposes to add to the covered

1 clinical services listed in section 22203, the commission shall
2 develop proposed review standards and make the review standards
3 available to the public not less than 30 days before conducting a
4 hearing under subsection (3).

5 (b) Develop, approve, disapprove, or revise certificate of
6 need review standards that establish for purposes of section 22225
7 the need, if any, for the initiation, replacement, or expansion of
8 covered clinical services, the acquisition or beginning the
9 operation of a health facility, making changes in bed capacity, or
10 making covered capital expenditures, including conditions,
11 standards, assurances, or information that must be met,
12 demonstrated, or provided by a person who applies for a certificate
13 of need. A certificate of need review standard may also establish
14 ongoing quality assurance requirements including any or all of the
15 requirements specified in section 22225(2)(c). Except for nursing
16 home and hospital long-term care unit bed review standards, ~~by~~
17 ~~January 1, 2004, the commission shall revise all certificate of~~
18 ~~need review standards to~~ **must** include a requirement that each
19 applicant participate in ~~title XIX of the social security act,~~
20 ~~chapter 531, 49 Stat. 620, 1396r-6 and 1396r-8 to 1396v.~~ **42 USC 1396**
21 **to 1396w-5. If the commission proposes to develop, approve,**
22 **disapprove, or revise certificate of need review standards under**
23 **this subsection, the commission shall make the proposed review**
24 **standards available to the public not less than 30 days before**
25 **conducting a hearing under subsection (3).**

26 (c) Direct the department to prepare and submit
27 recommendations regarding commission duties and functions that are
28 of interest to the commission including, but not limited to,
29 specific modifications of proposed actions considered under this

1 section.

2 (d) Approve, disapprove, or revise proposed criteria for
3 determining health facility viability under section 22225.

4 (e) Annually assess the operations and effectiveness of the
5 certificate of need program based on periodic reports from the
6 department and other information available to the commission.

7 (f) By January 1, 2005 ~~, and of~~ every ~~2 years thereafter,~~ **odd**
8 **year**, make recommendations to the joint committee regarding
9 statutory changes to improve or eliminate the certificate of need
10 program.

11 (g) Upon submission by the department, approve, disapprove, or
12 revise standards to be used by the department in designating a
13 regional certificate of need review agency ~~, pursuant to~~ **under**
14 section 22226.

15 (h) Develop, approve, disapprove, or revise certificate of
16 need review standards governing the acquisition of new technology.

17 (i) In accordance with section 22255, approve, disapprove, or
18 revise proposed procedural rules for the certificate of need
19 program.

20 (j) Consider the recommendations of the department and the
21 department of **the** attorney general as to the administrative
22 feasibility and legality of proposed actions under subdivisions
23 (a), (b), and (c).

24 (k) Consider the impact of a proposed restriction on the
25 acquisition of or availability of covered clinical services on the
26 quality, availability, and cost of health services in this state.

27 (l) If the commission determines it necessary, appoint standard
28 advisory committees to assist in the development of proposed
29 certificate of need review standards. A standard advisory committee

1 shall complete its duties under this subdivision and submit its
2 recommendations to the commission within 6 months unless a shorter
3 period of time is specified by the commission when the standard
4 advisory committee is appointed. An individual shall serve on no
5 more than 2 standard advisory committees in any 2-year period. The
6 composition of a standard advisory committee ~~shall~~**must** not include
7 a lobbyist registered under 1978 PA 472, MCL 4.411 to 4.431, but
8 ~~shall~~**must** include all of the following:

9 (i) Experts with professional competence in the subject matter
10 of the proposed standard, who ~~shall~~**must** constitute a 2/3 majority
11 of the standard advisory committee.

12 (ii) Representatives of health care provider organizations
13 concerned with licensed health facilities or licensed health
14 professions.

15 (iii) Representatives of organizations concerned with health
16 care consumers and the purchasers and payers of health care
17 services.

18 (m) In addition to subdivision (b), review and, if necessary,
19 revise each set of certificate of need review standards at least
20 every 3 years.

21 (n) If a standard advisory committee is not appointed by the
22 commission and the commission determines it necessary, submit a
23 request to the department to engage the services of private
24 consultants or request the department to contract with any private
25 organization for professional and technical assistance and advice
26 or other services to assist the commission in carrying out its
27 duties and functions under this part.

28 (o) Within 6 months after the appointment and confirmation of
29 the 6 additional commission members under section 22211, develop,

1 approve, or revise certificate of need review standards governing
2 the increase of licensed beds in a hospital licensed under part
3 215, the physical relocation of hospital beds from 1 licensed site
4 to another geographic location, and the replacement of beds in a
5 hospital licensed under part 215.

6 (2) The commission shall exercise its duties under this part
7 to promote and ~~assure~~**ensure** all of the following:

8 (a) The availability and accessibility of quality health
9 services at a reasonable cost and within a reasonable geographic
10 proximity for all people in this state.

11 (b) Appropriate differential consideration of the health care
12 needs of residents in rural counties in ways that do not compromise
13 the quality and affordability of health care services for those
14 residents.

15 (3) Not less than 30 days before final action is taken by the
16 commission under subsection (1)(a), (b), (d), (h), or (o), the
17 commission shall conduct a public hearing on its proposed action.
18 In addition, not less than 30 days before final action is taken by
19 the commission under subsection (1)(a), (b), (d), (h), or (o), the
20 commission chairperson shall submit the proposed action and a
21 concise summary of the expected impact of the proposed action for
22 comment to each member of the joint committee. The commission shall
23 inform the joint committee of the date, time, and location of the
24 next meeting regarding the proposed action. ~~The joint committee~~
25 ~~shall promptly review the proposed action and submit its~~
26 ~~recommendations and concerns to the commission.~~

27 (4) ~~The~~**Within 30 days following a public hearing for a**
28 **proposed action, the** commission chairperson shall submit the
29 proposed final action including a concise summary of the expected

1 impact of the proposed final action **together with a copy of all**
2 **written and recorded public testimony** to the governor and each
3 member of the joint committee. The governor or the legislature may
4 disapprove the proposed final action within 45 days after the date
5 of submission. If the proposed final action is not submitted on a
6 legislative session day, the 45 days commence on the first
7 legislative session day after the proposed final action is
8 submitted. The 45 days ~~shall~~**must** include not less than 9
9 legislative session days. Legislative disapproval ~~shall~~**must** be
10 expressed by concurrent resolution which ~~shall~~**must** be adopted by
11 each house of the legislature. The concurrent resolution ~~shall~~**must**
12 state specific objections to the proposed final action. A proposed
13 final action by the commission under subsection (1)(a), (b), (d),
14 (h), or (o) is not effective if it has been disapproved under this
15 subsection. If the proposed final action is not disapproved under
16 this subsection, it is effective and binding on all persons
17 affected by this part upon the expiration of the 45-day period or
18 on a later date specified in the proposed final action. As used in
19 this subsection, "legislative session day" means each day in which
20 a quorum of either the house of representatives or the senate,
21 following a call to order, officially convenes in Lansing to
22 conduct legislative business.

23 (5) The commission shall not develop, approve, or revise a
24 certificate of need review standard that requires the payment of
25 money or goods or the provision of services unrelated to the
26 proposed project as a condition that must be satisfied by a person
27 seeking a certificate of need for the initiation, replacement, or
28 expansion of covered clinical services, the acquisition or
29 beginning the operation of a health facility, making changes in bed

1 capacity, or making covered capital expenditures. This subsection
2 does not preclude a requirement that each applicant participate in
3 title XIX of the social security act, ~~chapter 531, 49 Stat. 620,~~
4 ~~1396r-6 and 1396r-8 to 1396v,~~ **42 USC 1396 to 1396w-5**, or a
5 requirement that each applicant provide covered clinical services
6 to all patients regardless of his or her ability to pay.

7 (6) If the reports received under section 22221(f) indicate
8 that the certificate of need application fees collected under
9 section 20161 have not been within 10% of $3/4$ the cost to the
10 department of implementing this part, the commission shall make
11 recommendations regarding the revision of those fees so that the
12 certificate of need application fees collected equal approximately
13 $3/4$ of the cost to the department of implementing this part.

14 (7) As used in this section, "joint committee" means the joint
15 committee created under section 22219.